



**R-26**

**Date:** March 14, 2006

**To:** Honorable Mayor and Members of the City Council

**From:** Councilmember Tonia Reyes Uranga, Seventh District *TU*  
Councilmember Rae Gabelich, Eighth District *RG*

**Subject:** AGENDA ITEM: Late Night Flight Penalties at Long Beach Airport

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The leading cause of complaints regarding operations at Long Beach Airport is late night flights.

During the five-month period from September 2005 to January 2006, there were 99 noise violations recorded at the Long Beach Airport between 10:00 p.m. and 7:00 a.m. Twenty-three of these violations were by commercial carriers and 76 violations were by other aircraft operators, according to Long Beach Airport records.

In addition to these violations, there were 239 non-exempt flights in 2005 that either landed or took off between 10:00 and 11:00 p.m. that had their violations waived under the unanticipated delay exemption of the City's Airport Noise Compatibility Ordinance.

The high number of late night violations in recent months demonstrates that the current City penalty structure does not serve as an effective deterrent of curfew violations.

On October 18, 2005, the City Council unanimously requested the City Attorney and City Manager to report back to the Council on the current fine structure for late night flights, the recent history of late night violations and the City's "bridge time" policy.

On March 6, 2006, the City Attorney's office provided the requested information to the Council in an off-agenda memo, which is included as an attachment to this agenda item.

Among the significant issues covered in the memo are the City's penalty structure for noise violations occurring after the curfew period, the definition of an "unanticipated delay" during the "bridge period" of 10:00 to 11:00 p.m. and the status of the Consent Decrees with JetBlue and American Airlines.

The current penalty structure for violations of the City's Airport Noise Compatibility Ordinance were adopted in 1995 as part of the settlement agreement between the City and the various air carriers involved in federal litigation.

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The first violation by an aircraft operator results in a written notice from the Airport Manager. The second violation also results in a written notice with a demand to prepare and implement a written compliance program. The third violation results in a "surcharge" of \$100 if the violation occurs within 24 months of the requirement to prepare a compliance program, and a \$300 "surcharge" is imposed for each subsequent violation during the next 12 month period.

One of the concerns previously expressed about increasing the penalties for noise violations was that an amendment to the City's airport noise ordinance could jeopardize its protection under the federal Airport Noise and Capacity Act. However, according to the City Attorney's memo:

"In August of 2000, the Board of Port Commissioners for the City of San Diego (operators of San Diego International Airport) received an opinion from the FAA's Chief Counsel opining that an increase in San Diego's "curfew" penalty provisions would not violate the provisions of the Airport Noise and Capacity Act of 1990 (ANCA) provided that the increased penalties were designed to deter curfew violations.

"...the letter received by San Diego from the FAA's Chief Counsel suggests that Long Beach's penalty structure could be revised upward in an effort to reduce total curfew violations."

Based upon the information provided to the Council by the City Attorney, we believe it is important for the Council to take the necessary steps to provide an effective deterrent against late night flight violations at the Long Beach Airport.

**Recommended Actions:**

- 1) Request the City Attorney to draft an amendment to the Airport Noise Compatibility Ordinance to impose a new progressive penalty structure for any noise violation that occurs between 10:00 p.m. and 7:00 a.m.**
- 2) Request the City Attorney to draft written guidelines precisely defining an "unanticipated delay" during the "bridge period" between 10:00 p.m. and 11:00 p.m.. These guidelines should specify that only a delay by weather or by Air Traffic Control at the final point of departure in route to Long Beach would constitute an unanticipated delay.**
- 3) Request the City Manager to work with the City Attorney's office to revise the City's standard lease provisions with all existing and future aircraft operators, including air carriers, to clearly state that a willful failure to abide by the City's Airport Noise Compatibility Ordinance could constitute a material breach of the operator's lease with the City, and could result in a suspension or termination of Airport privileges.**