

Santa Monica-Malibu PTA Council

**Ballot Measure Analyses 2014
Measures D and LC**

Submitted by Barbara Inatsugu
September 2014

Two competing Charter Amendments related to the operation of Santa Monica Airport and the use of its land have been placed on the Santa Monica 2014 general election ballot as Measure D and Measure LC. Because background information and League positions apply to both, rather than submitting two separate analyses with this information repeated, I am submitting one document that provides the background information and relevant PTA authorities upfront, followed by the individual analyses of Measures D and LC in ballot order, as posted on the SM City Clerk's website.

BACKGROUND

The Santa Monica airport was acquired by the City of Santa Monica in the 1920's, before the housing around it was developed. During WWII, the City leased the airport to the Federal government in support of the war effort. Douglas Aircraft established itself at the airport and became the City's major employer. The property around the airport, in some cases as close as 300 feet from the end of the runway, was developed as housing for Douglas workers. At the end of the war, the federal government's lease ended, Douglas left, and control of the airport was returned to the City. In the postwar years, jet aircraft traffic came to the airport, beginning many decades of controversy and lawsuits regarding the use of the airport and environmental/quality of life impacts. This led to the adoption of the 1984 Settlement Agreement between the City of Santa Monica and the federal government, which, according to a City of Santa Monica staff report, had the effect of resolving all then-pending legal disputes and obligated the City to continue operating the airport until 2015, at which time the Agreement expires. Federal grant conditions governing airport operation expire by 2023. According to a July 8, 2014 staff report, in the next few years, litigation that is currently pending may resolve whether the post-WWII Instrument of Transfer obligates the City to continue operating the airport.

Since 1984, business at the airport has increased, the size of jets and number of jet flights have increased, and people living in the area around the airport have increasingly complained about air pollution, noise, and safety risks.

There have been numerous plane crashes at and around Santa Monica Airport, involving planes over-running the runway, crashing into the adjacent Penmar Golf Course, and two plane crashes into homes. As small single and twin-engine planes have increasingly been replaced with jets, safety, noise and environmental concerns have been raised to a higher level. The most recent accident occurred on September 29, 2013.

"The fiery crash, which occurred as the plane landed after a flight from Idaho, is believed to be the first fatal accident involving a jet in the airport's history. The impact and fire collapsed the hangar's steel roof onto part of the aircraft as well as planes stored inside.

"Residents near the airport and community activists say the crash of the twin-engine Cessna Citation 525A reflects some of their worst fears because the plane came to rest about 150 feet from homes near the northwest section of the airfield." (<http://articles.latimes.com/2013/oct/01/local/la-me-santa-monica-airport-20131001>)

As 2015 approaches, an increasing number of residents around the City have advocated for closure of all or part of the airport. Given the current debate within the City over the future of the airport, the City facilitated a visioning process. Many community members have expressed the opinion that the airport no longer is safe to operate in a densely populated residential area, that it should be closed and the land rededicated to parks, public open spaces, and public recreational facilities, etc.

Concerned about the direction of the City Council and the community, and uncertain about the airport's future, aviation interests have qualified a ballot measure, Measure D, that would serve their interests by maintaining the status quo in the manner described in the analysis below.

The City Council, in turn, has placed a competing initiative, Measure LC, on the ballot with the stated intent of retaining the City's authority to manage the airport, including the authority to close all or part of it, while specifically stating the role of Santa Monica voters in future decisions related to the use and development of airport land.

PTA AUTHORITIES

Resolution: Protection of Children from the Harmful Effects of Aircraft Emissions, adopted by Convention Delegates May 7, 1998.

RESOLVED: That for those schools and communities for which it is determined that children are particularly vulnerable to the harmful effects of toxic emissions from the operation of aircraft, especially in and around airports, the California State PTA and its units, councils and districts urge the appropriate agencies to initiate immediate remedial steps to ensure the protection of school children from these harmful effects;

Resolution: Air Pollution, adopted by Convention Delegates May 3, 1973

RESOLVED: That continuing encouragement be given to legislative and enforcement policies which will promote solutions for the existing problems of air pollution

Position Statement: Environmental Health and Environmental Education, adopted March 2007 – Revised March 2012 – Education and Health Commissions

California State PTA recognizes that protecting the environment and human health is a complex, interconnected and perpetual endeavor. PTA encourages schools, families, and communities to support environmental decision-making processes that are open to all and that are based on stewardship of the environment and concern for the people who live in it, especially the most vulnerable, our children.

Legislative Platform:

General Principle #3: Effective governance system and practices that place a high priority on the needs of children and youth.

Legislative Plank #12: To prevent, control or eliminate hazards to the health, safety and well-being of all children and youth.

Legislative Plank #19: To promote public policies that protect and conserve natural resources and provide a quality environment for present and future generations.

Legislative Plank #20: To improve governance systems and practices in order to effectively serve the needs of children and youth.

SMMPTA Council Ballot Measure Analyses 2014 Measure D

The Question to be asked of voters: MEASURE D – *Shall the Santa-Monica City Charter be amended to require the City to continue to operate the Santa Monica Airport in a manner that supports its aviation uses unless the voters approve the Airport's closure or change in use, and until that voter approval occurs, the City shall be prohibited from imposing additional restrictions on aviation support services to tenants and airport users that inhibit fuel sales or the full use of aviation facilities?*

PROPOSAL

Measure D adds a new provision to the Santa Monica City Charter that would require voter approval before the City could (1) close Santa Monica Airport, wholly or in part, and (2) before making any changes in the use of airport land to non-aviation uses. In other words, as stated in the Question that will be asked of voters (see above), Measure D requires the City to continue operating the airport as it is currently used in every respect unless a vote of the people authorizes otherwise. It defines “voter approval” as “a majority of the voters of the City voting “yes” on a ballot measure approving such a change at a general municipal election.

The measure also has a clause that retroactively requires any City decision made regarding the airport on or after the date in March 2014 that proponents filed their Notice of Intent to Circulate will need voter approval before going into effect. (I.e. any decision *that would require voter approval under this Charter Amendment.*)

Measure D defines the following as persons who would have standing to represent the provisions of Measure D in court if challenged: (1) Any person with a “beneficial interest” in the operation of the airport shall have standing to enforce any provision in a court of competent jurisdiction; (2) the proponents of Measure D shall have standing in California and Federal Courts to defend it from all challenges as to its validity and enforceability.

It also includes a severability clause that would go into effect if any portions of the Measure are invalidated by a court decision, as well as a provision that if two competing measures are placed on the same ballot, they would both go into effect, except where provisions are in conflict—and then the provisions of the measure receiving the most votes would go into effect.

COMMENTS

Santa Monica is a Charter City; our form of government is described in the City Charter. Article 10.04.02.020 *Authority for regulations* of the Charter states that the *Airport Code is adopted pursuant to the City's power as owner, operator, and proprietor of the Airport to regulate the use of the Airport, consistent with the power of the United State Government to control air traffic and aircraft safety. This Code also constitutes the City's police power over ground operations, motor vehicles, and other matters not preempted by state or Federal law.*

Measure D writes into the City Charter a requirement that any and all proposed changes to the current operation of the airport and the use of airport land be placed before the voters.

Concerns are as follow:

- The Measure takes away the City's authority to close the airport wholly or in part by requiring the decision to be made by the voters at a general election. Unless the voters approve airport closure wholly or in part, the City would be required to continue operating the airport “in a manner that supports aviation purposes,” even after the end of the lease in 2015.

- Measures placed on the ballot would bypass the City Council’s current decision making authority and would not be subject to a deliberative process. They would require only an up or down vote. If they have unintended or not understood consequences, it would take another ballot measure and a vote of the people to undo or amend their provisions.
- The measure could limit the City Council’s ability to address environmental concerns and adverse impacts of Airport operations in a timely manner, if at all, as long the Airport remains open.
- There has been much testimony given by scientists and experts over the years about the air toxicity/pollution levels around the airport and its flight paths. Links to information can be provided upon request. Results from EPA’s Lead Modeling Study at the Santa Monica Airport can be found at:
<http://www.smgov.net/uploadedFiles/Departments/Airport/CommissionMeetings/EPA%20Lead%20Modeling%20Study%20Presentation.pdf>
- Measure D essentially bypasses our long-established system of representative government and extensive community participatory process by requiring such decisions to be made at the ballot box, with an up or down vote.
- The placement of a measure on the ballot does not require environmental review. A voter-sponsored initiative is not a “project” subject to the requirements of the California Environmental Quality Act, according to case law established in Friends of Sierra Madre v. City of Sierra Madre, Cal. 4th 165 (2001) (cited in City staff report dated July 22, 2014).
- The City Attorney notes in her Impartial Analysis that *it is unclear whether the measure would interfere with the City’s day to day Airport administration, including administration of Airport leases. If it limits City administration of the Airport, the measure could be legally invalid under the California Constitution, which prohibits initiatives on administrative matters.*

WHAT DO SUPPORTERS AND OPPONENTS SAY?

To read the arguments for and against Measure D, as well as its text and the City Attorney’s Impartial Analysis, go to **<http://www.smvote.org/BallotMeasures/detail.aspx?id=47354>**
Other information has been published in the local press and online.

SUPPORTERS

Signing the ballot arguments in support are: Winston Cenac (Ocean Park Resident), Diedre Powell (Resident of North of Montana), John J. Jerabek (Resident of Wilsire-Montana Neighborhood), David J. Hopkins (Resident of Ocean Park Neighborhood), Christian Fry (Resident of Wilshire-Montana). To access the Campaign website, go to: **www.smvotersdecide.com**

OPPONENTS

Signing the ballot arguments in opposition are: Ted Winterer (SM City Councilmember), Tony Vazquez (SM City Councilmember), Gleam Davis (SM City Councilmember), Mary Marlow (Chair, Santa Monica Transparency Group), John Fairweather (Chair, Committee for Local Control of SM Airport Land-CLCSMAL). To access the Campaign website, go to: **<http://itsourland.org/blog/>**

RECOMMENDATION – OPPOSE

Truthfully, I originally thought my recommendation would be one of neutral or no position, but after reviewing both Measure D and Measure LC, and looking at them through the filter of established PTA authorities, I changed my mind. The provisions of Measure D are not in alignment with PTA authorities and, in some cases, are in direct conflict.

SMMPTA Council Ballot Measure Analyses 2014 Measure LC

The Question to be asked of voters: MEASURE LC -- Shall the City Charter be amended to: (1) prohibit new development on Airport land, except for parks, public open spaces and public recreational facilities, until the voters approve limits on the uses and development that may occur on the land; and (2) affirm the City Council's authority to manage the Airport and to close all or part of it?

PROPOSAL

Measure LC is an amendment to the Santa Monica City Charter that was placed on the ballot by the Santa Monica City Council. Its provisions include the following: (1) a statement that the City Council has the authority to “regulate the use of the Santa Monica Airport, manage Airport leaseholds, condition leases, and permanently close all or part of the Airport to aviation Use” and (2) a restriction on new development if all or part of the airport land is permanently closed to aviation use.

Measure LC explicitly states that if all or part of the airport land is permanently closed to aviation use, new development would not be allowed until “the voters have approved limits on the uses and development that may occur on the land.” It also specifically provides that the development of parks, public open spaces and public recreational facilities, and the maintenance and replacement of existing cultural, arts and education uses do not require voter approval – they are within the decision-making authority of the City Council.

It also includes a severability clause that would go into effect if any portions of the Measure were invalidated by a court decision, as well as a provision that states its express intent “to prevail over, and nullify all provisions of any other charter amendment placed on the same ballot that relates to the subject of the Santa Monica Airport.” As part of the latter provision regarding “any other charter amendment,” it specifically includes the measure by proponents Lauren McCollum, Nikol Kokotakis and Flora Yin, “who requested a ballot title and summary on March 26, 2014 for a proposed initiative which they stated would require voter approval before the City could redevelop Airport land.”

COMMENTS

Santa Monica is a Charter City; that form of government is described in the City Charter. Article 10.04.02.020 *Authority for regulations* of the Charter states that the *Airport Code is adopted pursuant to the City's power as owner, operator, and proprietor of the Airport to regulate the use of the Airport, consistent with the power of the United State Government to control air traffic and aircraft safety. This Code also constitutes the City's police power over ground operations, motor vehicles, and other matters not preempted by state or Federal law.*

Because Measure LC is intended to “fully compete” with and prevail over Measure D, its provisions are, by definition, in conflict with those of Measure D.

Measure LC maintains the City’s authority to close the airport wholly or in part without going to the voters for approval. Unlike Measure D, Measure LC would not require the City to continue operating the airport in a manner that supports aviation purposes, even after the end of the lease in 2015 until a vote of the people says otherwise.

In contrast to Measure D, Measure LC retains the balance of Santa Monica’s long-established system of representative government and extensive community engagement/participation. It could be argued that Measure LC retains a system that is in fact more democratic (note the small “d”) and engages the community more fully in a deliberative public planning process than Measure D, which would take essentially every question to the voters for an up or down vote, without the ability to amend or correct the language being voted on.

As noted in a City staff analysis published in the City Council agenda of July 22, 2014, the voters will approve the parameters that “would guide development of the specific plan. Thus the voters could clearly express their views on the policies for the use of the Airport land. And, the myriad details of the specific plan could be subsequently formulated based on the voters’ guidance and through a full and robust public process.” It should be noted that, according to an earlier staff report (Council meeting of July 8, 2014), this approach is “consistent with the City’s existing land-use law and policy. The Land Use and Circulation Element of the General Plan (LUCE) lists the Airport and Airport Business Park as a district, acknowledges the legal issues, and envisions that a specific plan will be formulated ‘at the appropriate time’.”

Measure LC does not limit the City Council’s ability to address environmental concerns and adverse impacts of Airport operations. In other words, it retains the ability of the City Council to address environmental concerns and adverse impacts of Airport operations without having to take each decision to the voters for an up or down vote. It retains the authority of the Council and flexibility to meet changing community needs – that includes the needs of our children and their families.

The Background Summary provided with the PTA Resolution titled “Protection of Children from the Harmful Effects of Aircraft Emissions” states the following: “Studies show that airports and aircraft emissions are major sources of air pollution. Airports use highly toxic substances to support aviation operations and jet aircraft exhaust adds significantly to reduced air quality. Many airport and aircraft operations are, therefore, harmful to children who attend school and live near airports and near the traffic lanes used by aircraft.”

WHAT DO SUPPORTERS AND OPPONENTS SAY?

To read the arguments for and against Measure LC, as well as its text and the City Attorney’s Impartial Analysis, go to <http://www.smvote.org/BallotMeasures/detail.aspx?id=48691>

Other information has been published in the local press and online.

SUPPORTERS

Signing the ballot arguments in support are: Maryanne LaGuardia (former Regional Commissioner of AYSO), Neil Carrey (former Chair of SM Recreation and Parks Commission), Zina Josephs (President, Friends of Sunset Park), Ted Winterer (City Councilmember; former Ocean Park Association President) - To access the Campaign website, go to: <http://itsourland.org/blog/>

OPPONENTS

Signing the ballot arguments in opposition are: Winston Cenac (Ocean Park Resident), John Jerabek (Resident of Wilshire Montana), Mr. Jeff Faeth (Resident of Ocean Park), Christian Fry (Resident of Wilshire Montana Neighborhood), Deidre Powell (Resident of North of Montana) – To access the Campaign website, go to: smvotersdecide.com

RECOMMENDATION – SUPPORT

Truthfully, I originally thought my recommendation would be one of neutral or no position, but after reviewing both Measure D and Measure LC, and looking at them through the filter of established PTA authorities, I changed my mind.

A review of the provisions of Measure LC shows clear alignment with PTA authorities, providing the authority to take a support position, if the full Council should choose to do so.