

CITY OF LAS VEGAS, NEW MEXICO

RESOLUTION NO. 10-78

A GOVERNMENTAL RESOLUTION STATING AN OBJECTION TO THE LOW ALTITUDE TACTICAL NAVIGATION (LATN) PROPOSAL IN THE CITY OF LAS VEGAS

WHEREAS: The City of Las Vegas is a heavily populated area within the Sangre de Cristo mountain terrain where the LATN low-altitude flights would adversely affect the quality of life in our community; and

WHEREAS: The City of Las Vegas is the home of the New Mexico Behavioral Health Institute, a facility that houses approximately 360 in-patient residents with unique and significant psychiatric and other medical conditions, and hundreds of residents who are outpatient clients with similar diagnoses, many of whom could be negatively affected by the effects of the low-altitude flights; and

WHEREAS: Many residents of the Las Vegas community are active-duty military or veterans, some of whom suffer from Post Traumatic Stress Disorder (PTSD), the symptoms of which can be triggered by the sounds of “combat” which would accompany the LATN project, where military aircraft would be flying as low as 200 feet off the ground at night; and

WHEREAS: Surrounding our community is the Las Vegas National Wildlife Refuge, designated for the preservation and protection of our wildlife habitat and endangered species, and as a flyway for migrating birds, where the LATN low-fly zone could pose a danger of bird strikes by the aircraft; and the Refuge hosts nesting areas where sound stressors are known to have negative consequences on reproduction, particularly for avian populations; and with a high probability of disrupting the natural reproduction cycles of animals, including mating and reproductive patterns of wildlife, including nesting birds (e.g., neo-tropical birds who come here specifically to nest) who experts say would likely leave and not come back if exposed to significant stress such as loud, low flying aircraft; and

WHEREAS: On August 24th, 1965 the Las Vegas and Maxwell Wildlife Refuges were established by the authority of the Migratory Bird Conservation Act (16 USC 712d) for use as an inviolate sanctuary and for other management purposes for migratory birds; and as it is a winter refuge of great importance along an essential central flyway; and where during Spring and Fall the Las Vegas Refuge attracts approximately 15,000 ducks, 8,000 Canada Geese, 5,000 Snow and Ross’s Geese, and 2,500 Sandhill Cranes; and where some of the species are protected under the Endangered Species Act (e.g., Bald Eagle, Whooping Crane, Willow Flycatcher, Least Tern, and Mountain Plover); and where there are Candidate Species for which the Las Vegas Refuge is part of their historic range, as well as other Species of Concern (e.g., Pale Townsend Big-Eared Bat, Occult Little Brown Bat, Baird’s Sparrow, Black Tern, Ferruginous Hawk, Loggerhead Shrike, Northern Goshawk, Broad-billed Hummingbird, Gray Vireo, Peregrine Falcon, and Swift Fox) – all of whom could have their migrating patterns, mating patterns, and reproductive patterns negatively affected by low-flying aircraft; and

WHEREAS: The Code of Federal Regulations (50 CFR part 27.34 Aircraft) prohibits unauthorized operation of aircraft at altitudes resulting in harassment of wildlife, and the LATN proposal falls within these prohibited altitude levels; and The Endangered Species Act requires that such species be protected at the individual level where a “taking” is not allowed -- to “take” is to “harass, harm, pursue,

hunt, shoot, wound, kill, trap, capture, or collect, or attempt to engage in any such conduct” (16 U.S.C. §1532(19)); and the U.S. Secretary of the Interior has defined harm as “an act or omission which actually injures or kills wildlife, including acts which annoy it to such an extent as to significantly disrupt essential behavioral patterns” (TVA v. Hill, 437 U.S. 153, 184-185, n. 30, 1978) (ORNL/TM-2000/289, ES-5048, “Ecological Risk Assessment Framework for Low-Altitude Overflights by Fixed-Wing and Rotary-Wing Military Aircraft”); and

WHEREAS: Our region is known for its game animal hunting grounds, and game animals could suffer negative consequences of low-altitude flights, such as disruptions to rut and calving for the elk; and these sensitive cycles for the elk population are so significant and well known that particular roads are closed throughout New Mexico during certain times of the year, particularly in the Spring, specifically to protect the calving areas, as tranquility during this time is critical for their survival; and

WHEREAS: Directly adjacent to Las Vegas, and very much an active part of our community is the United World College, which hosts 200 students from more than 80 countries, and where some of those students have arrived here from war zones where they have been traumatized and lost loved ones to war, and could thereby be negatively affected by low-flying military aircraft; and

WHEREAS: Tourism is critical to the economic development and stability of our region, and people come to our community for the peace and quiet it offers, and because low-flying military aircraft would disturb that tranquility and have potential negative effects on our already struggling economy; and

WHEREAS: The New Mexico Environment Department, under the leadership of Secretary Ron Curry, has found perchlorate to be pervasive in New Mexico’s water supply, and whereby perchlorate is a main ingredient in the jet fuel of the military aircraft that would be flown over the proposed LATN area, and these aircraft could add to the water contamination, including during their mid-air fueling practice sessions where jet fuel could potentially fall to the ground onto crops, agricultural fields, waterways, homes, rural schools, livestock, wildlife, etc.; and

WHEREAS: The air pollution caused by C-130s and their 4-prop engines, the CV-22 Osprey, and other yet undisclosed aircraft that would be participating in the LATN fly-overs, including perchlorate and heavy metals, as well as the chaff that could potentially be used during fly-overs (containing microfilaments of fiberglass and aluminum) could have negative effects on atmospheric conditions and water quality (e.g., aluminum is identified by the State of NM as a water quality contaminant, as are other heavy metals and pollutants from jet fuel, whereby state and federal standards have been set and are not to be exceeded); and

WHEREAS: The CV-22 Osprey aircraft has a record of crashes which have led to injuries and deaths of crew members and civilians, and the definitive causes of some of those crashes have not yet been determined, and some of those incidents have occurred as recently as this year (31 May 2010, wind from an Osprey in New York City blew tree branches into people and injured 10; 30 May 2010 Osprey prop rotors caused tree branches to hit a crowd of 150 people; 8 April 2010 Osprey crashed in Afghanistan killing four and injuring 16; and a recent Osprey crash at Cannon Air Force Base); and

WHEREAS: October 4, 2010 is not enough time for people in the proposed LATN area to prepare their comments, and some do not yet even know about this proposal, and are therefore disenfranchised by not being able to access the LATN information in a timely manner, so the LATN comment deadline should be extended until at least early next year; and

WHEREAS: Many of our community members speak Spanish only or Spanish as their first language, and no LATN project information has been provided to them in Spanish; and

WHEREAS: There will be significant environmental and other impacts from the LATN plan, so an EIS (Environmental Impact Statement), which requires more rigorous scientific analysis, should be done rather than an EA (Environmental Assessment), which has a much lower scientific threshold; and

WHEREAS: Some residents who have already experienced these low flyovers in our area report the following: sudden loud noise that comes without warning, being startled awake during sleep, thinking a plane is crashing, experiencing fear, having anxiety attacks, animals becoming agitated, windows rattling, hiding under a table for protection, unable to hear on the phone, feeling as if being in a war zone; and

WHEREAS: Las Vegas hosts a municipal airport, as well as a regional hospital where medical airlifts are a very common occurrence, and the LATN proposal would add the potential for both facilities to be at risk of accidents especially since many of the LATN flights will be flying below RADAR (200-300 feet from ground level) and at 250 knots, and with the Osprey capable of flying twice the speed of a helicopter; and

WHEREAS: Local firefighters, first responders, and our local regional hospital are not equipped with the proper gear and training to handle military aircraft crash rescues and high-intensity jet fuel fires;

WHEREAS: Sparks from LATN's proposed simulated low-altitude combat trainings, as well as possible aircraft crashes in this area, could lead to forest fires in an area which is already suffering from significant and long-standing drought conditions where a fire could get out of control very quickly; and

WHEREAS: The city's watershed supplies drinking water for approximately 90% of the city, and the risk of fire, as well as pollution from the LATN aircraft could put our water supply in noncompliance with the Clean Water Act; and

WHEREAS: Cannon Air Force Base says they will be training pilots in how to fly C-130s, CV-22 Ospreys and other aircraft while "simulating real-world combat conditions" in varied terrain and challenging weather conditions, which brings significant risk of accidents; and flying at altitudes "between 200 and 3,000 feet above ground level, with the majority of flights taking place at 500 feet"; at "airspeeds below 250 knots"; with "approximately three training flights per day...with the majority of flights occurring after dusk on weekdays"; "approximately 688 flights annually"; across northern NM and southern CO; and with an indefinite time frame, is simply too much of a burden to put on our already over-burdened and disenfranchised population;

NOW, THEREFORE, BE IT RESOLVED THAT I, MAYOR ALFONSO E. ORTIZ, JR., AND THE GOVERNING BODY OF THE CITY OF LAS VEGAS, NEW MEXICO, CONCLUDE:

THE CITY OF LAS VEGAS DOES NOT SUPPORT LOW ALTITUDE TACTICAL NAVIGATION (LATN) PLAN within the City of Las Vegas, San Miguel County area of New Mexico.

DONE this 21st day of September 2010.

Mayor Alfonso E. Ortiz, Jr.

ATTEST:

Casandra Fresquez, City Clerk

Approved as to Legal Sufficiency:

Dave Romero, Jr., City Attorney

[PASSED by Las Vegas, NM City Council ,
unanimous vote, 21 September 2010]