THE CITY OF SAN DIEGO

OFFICE OF THE INDEPENDENT BUDGET ANALYST REPORT

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Public Safety & Neighborhood Services Meeting Date: February 15, 2012

Item Number: 7

Taxicab Permitting Policy & Revenue Generation

OVERVIEW

At the November 2, 2011 Public Safety and Neighborhood Services Committee (PS&NS) meeting, True North Research presented its findings and recommendations in their "Taxicab Permitting Process Study" regarding the issuance process for taxicab permits in accordance with Council Policy 500-02, "Taxicab Permits". At the meeting, the Committee requested that City staff return with taxicab permitting recommendations and that the IBA explore revenue options associated with taxicab permitting, particularly relating to permit transfers that could possibly be used to provide additional funding for regulatory oversight, training, and advancing the taxicab industry.

At the February 15, 2012 PS&NS meeting, Transportation & Storm Water Department staff will request the acceptance of the study conducted by True North Research and recommend that the Committee approve amendments to Council Policy 500-02. These amendments will:

- Replace the current growth formula in Council Policy 500-02 with that developed by the consultant.
- Stipulate the issuance of new permits when the calculated value for permit supply is 40 or greater than the current number of active permits.
- Institute the assessment of demand and trip activity in the San Diego taxicab market every three years to inform a recalculation of the appropriate supply.
- Establish customer service enhancing screening criteria for new permit issuance and permit transfers.
- Establish a "hybrid" method of permit distribution, where applicants who meet screening criteria can participate in one of two lotteries separately conducted for taxicab companies and individual drivers. 60% of new permits would be distributed to companies and 40% to individual lease drivers.

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The staff report also discusses other issues raised by the consultant pertaining to permit transfer taxes, permit transfer "sales", and taxicab permit auctions. Staff does not recommend implementing permit transfer taxes on the "sale" of taxicab permits or permit auctions as an alternate method of permit issuance. This report provides additional information relating to permit transfer taxes or fees on the "sale" of taxicab permits and taxicab permit auctions as a method for permit issuance for consideration.

FISCAL/POLICY DISCUSSION

Permit Transfer Sales and Fees in San Diego

As stated in the consultant report, *"It's worth noting that neither the MTS nor the City of San Diego receive any direct revenue from the "sale" of a taxicab permits."* Although the City of San Diego owns the permit, and issues a privilege to participate in the San Diego taxicab market, permit holders profit from the transfer of these permits by charging a premium to the recipient of the permit. According to the consultant report, the price paid for permits ranges between $35,000 and $110,000. The price ranges depending on the demand for permits within the San Diego market, as well as whether the permit will be accompanied with a San Diego County Regional Airport Authority (SDCRAA) issued taxicab permit allowing for airport access[1]. These "sales" take place outside of the purview of MTS, which only approves the transfer based on the transferee satisfactorily meeting requirements including a background check, passing a vehicle inspection, and the payment of cost recovery fees, typically by the transferor, for the administration of the transfer. Transfer fee amounts can range from 1,992 to $4,400 depending on the conditions of the transfer. These conditions would include whether it is the transfer of a one-year transferable permit issued prior to the adoption of Council Policy 500-02, or a five-year transferable permit issued after the Council Policy and whether it is a corporate or non-corporate transfer. The fees are intended to recover the costs associated with the administration of the transfer. See **Attachment 1** for the 2012 MTS fee schedule for transfers. In 2010, MTS administered 95[2] transfers, and in 2011, 76. The transfer fee revenue collection by MTS totaled $167,588 in 2010 and $132,363 in 2011.

Permit Transfer Sales, Fees, and Tax Models

Our office reviewed the transfer fee and tax policies of a sample of 10 cities within the U.S. that have medallion and taxicab permit systems (as contrasted with open entry, franchise, and certificate systems) to identify cities with a transfer fee or tax model different from the City of San Diego, in that it generates revenue above the cost recovery associated with the transfer administration process. Although the sampled cities differed greatly in the type and amount of the fees applied to taxicab permit transfers, and whether they allowed transfers within their jurisdictions, a number of the cities sampled that allow transfers contained a cost recovery

[1] In order to provide taxicab services at the airport, both a SDCRAA issued permit and a taxicab permit issued by SDMTS on the behalf of the City of San Diego are required.
[2] 56 of these transfers were related to the sale of a total of 300 permits over three years by Yellow Cab as a result of a change of their business model from a permit holder to a dispatch service provider.

model. Three cities, San Francisco, New York, and Chicago, were identified for illustrative purposes in applying a fee or tax above cost recovery. Within these cities, transfer fees or taxes are applied to the value of the permit sale.

San Francisco Taxi Medallion Sales Pilot Program

In 2010, by Board of Directors resolution, the San Francisco Municipal Transportation Authority (SFMTA) implemented the Taxi Medallion Sales Pilot Program allowing for older permit holders, age of 70 and above[3], and disabled holders to sell their permit. Before the implementation of the pilot program, permit transfer and/or sales were not allowed. As a part of the program, the SFMTA allows the sale of the qualified permit holder's permit at a predetermined price set by SFMTA to a buyer on a wait list for a permit in order on the list, and then based on driver seniority status. The selling price for the transfer, not to exceed $400,000, is predetermined by SFMTA based on the terms of the commercial loan available to applicants, the affordability of the loan payments, the business revenue estimated to be generated by the medallion, and other factors. Consumer Price Index adjustments are allowed annually. The initial price was set at $250,000. The seller is responsible for paying 20% of the purchase price of the medallion as a 15% Medallion Sale Transfer Fee and a 5% Driver Fund Transfer Fee. The Driver Fund, overseen by SFMTA, is purposed to support programs enhancing driver work conditions, among other objectives. Buyers needing financing are paired with a lender qualified by SFMTA, with the lender agreeing to specific terms and conditions in adherence to the program requirements to finance the sale. There is also a buyer assistance program where SFMTA may require that a seller provides down payment assistance to the buyer, requiring a deposit of an amount of up to 15% of the purchase price of the medallion, using the proceeds from the sale of the medallion. The money is then kept in a deposit account with the lender, until the buyer accumulates 20% equity through loan payments, or the medallion is sold by the buyer. It is important to note that permit transferees can only be drivers, not corporations, and are required to fulfill mandated driver hours before they can lease the permit to other drivers. As noted in the staff report, the legality of the pilot program is being challenged in court, one reason being the claim that the transfer fee is a tax. Since the beginning of the program in 2010, 198 transfers have taken place. The transfer fee revenue is budgeted at $10 million annually.

New York City Transfer Tax

In New York City, the Taxi and Limousine Commission regulates the taxicab industry. Medallion holders interested in transferring their medallion must get the approval from the Commission. This process includes the submission of application materials, including disclosures regarding the source of the funds for the purchase of the medallion, and the buyer meeting established licensing and ownership criteria. Transfers are taxed at 5% of the total price that the buyer has agreed to pay the medallion holder. The buyer is expected to pay the transfer tax. In 2011, there were 295 transfers involving individual and corporation medallion holders, and in 2010, 323. The prices of the medallions in these transfers ranged from average monthly values of $583,000 to $1,000,000 over the two year period. Revenue generated from the transfer tax in 2011 totaled $11,009,146 and, in 2010, $10,467,709.

[3] Minimum age requirement recently lowered to 65 years.

City of Chicago Transfer Fee
In the City of Chicago, the Department of Business Affairs and Consumer Protection handles regulatory matters associated with the taxicab industry. Transferors and transferees interested in transferring a taxicab license are subject to approval by the Commissioner of the department, insuring the transferee meets all regulatory requirements. A transfer fee is applied to the purchase price of the license or the average market value, whichever is higher. The average market price is determined by the Commissioner based on the average price for licenses in previous year transactions. The amount of the fee varies depending on the how long the transferor has been in possession of the license, ranging from 25% (for less than one year) to 5% (for two or more years) of the purchase price or market value. In 2011, 337 transfers occurred, while in 2010, 365 occurred. The average market value for taxicab license transfers in the Chicago market was $213,954 in 2011.

Hypothetical Revenue Generation Scenarios
If the City of San Diego were to implement a transfer fee or tax of 5%, the City would generate $133,000 in revenue, based on the total transfers in 2011 of 76, assuming an average premium of $35,000 per permit. Assuming a higher average permit value of $110,000, the City would generate $418,000. If the City were to implement a transfer fee or tax of 20%, that would generate $532,000 in revenue, assuming an average premium of $35,000, and $1,672,000, assuming an average premium of $110,000. The chart below summarizes the hypothetical transfer fee or tax scenarios above and the average tax per transfer.

Hypothetical Revenue Generation Scenarios			
Rate	***Permit Value***	***Revenue***	***Avg Per Permit***
5%	$35,000	$133,000	$1,750
5%	$110,000	$418,000	$5,500
20%	$35,000	$532,000	$7,000
20%	$110,000	$1,672,000	$22,000

These revenue scenarios are completely hypothetical in nature and would vary depending on supply and demand factors impacting permit values and transfer activity within the San Diego market.

Legal Considerations
In accordance with Propositions 218 and 26, a transfer fee above that necessary to recover administrative expenses could be considered a tax. Implementing a transfer tax in the City of San Diego could require a majority vote if it is used for general purposes and a two-thirds vote if the revenue generated will be used for a specified purpose. The Committee may wish to request that the City Attorney's Office opine regarding this matter.

Transfer Fee/Tax Considerations
The staff report does not recommend permit transfer taxes or the City's involvement in permit transfer sales. The report states that transfer taxes would increase the tax and fee burden in the taxicab industry, and would pose a challenge for the City or MTS in quantifying and verifying. The impacts of additional transfer fees or taxes would have to be studied and weighed against the revenue benefits for the City in deciding whether to implement such a policy. Some areas that

would have to be explored are: who should pay (the transferor or transferee), the impact on the sale value of the permit, the impact on the frequency of permit transfers, the pass-through effect that it would have on lease drivers, and the additional regulatory oversight involved.

<u>Policy Considerations Regarding Auctions</u>

The consultant and staff do not recommend taxicab permit auctions, citing that auctions can generate revenue, but have a number of disadvantages. They cite the following six reasons:

1. *Auction revenue is a tax in California under Propositions 218 and 26, subject to a vote of the people.*
2. *Auctions may tempt the City to seek revenue by putting more taxicabs on the street than is healthy for the industry, thereby exacerbating the oversupply of taxicabs and reducing income to drivers and permit holders. Customer service would decline and auction revenue would diminish as taxicab permits became less valuable.*
3. *An auction would result in new permits going to those with the greatest ability to pay, rather than being awarded in lottery where all qualifiers have an equal chance.*
4. *The winners of auctions may use loans to finance their winning bids, risking usury and default.*
5. *Also, where auctions are held, the high bidders are typically absentee investors who leave the management of the taxicab business to others. It also creates a permanent class of lease drivers who have little hope of becoming permit holders. Part of the success of our local taxicab industry is the small, family-managed business model of actively involved permit holders, as well as providing permit opportunities for lease drivers.*
6. *The City does not use auctions as a distribution method for any other form of City permit or privilege. Currently, the City only holds auctions for surplus or abandoned equipment and property.*

Some of these cited disadvantages can be mitigated by carefully constructed policies intended to lessen the shortfalls associated with auctions, while providing the benefit of revenue generation for the city. Aside from the first and last disadvantage noted, those listed 2-5 can be mitigated if auctions or a permit sale lottery were at play with the following policies:

- Adhering to the formula recommended by the consultant and staff report for determining taxicab supply in order to appropriately limit taxicab supply. This would control against the temptation to introduce more supply in pursuit of revenue generation which could have the adverse effects of reducing customer service levels and reducing the value of permits.
- The City could pre-select/screen loan providers to select those that will offer financing for bidders adhering to lending standards that protect the buyer from usury.
- The City could set the price for the purchase of a permit that is at a level supportable by industry activity. Setting the price is appropriate for a lottery where the selected buyer could purchase the permit at a price predetermined by the City based on a market analysis in consideration of available financing and the affordability of loan payments for a small, family-managed taxicab business. This would maintain the amounts financed at a reasonable level that can be supported by the buyer.

Legal Considerations
The Office of the General Counsel of MTS and the City Attorney's Office have both opined that the auction of taxicab permits as a method for taxicab permit issuance would require a vote of the people under California Constitution art. XIIIC (Proposition 218) in that it would raise revenue above that necessary to recover the cost of permit administration and oversight, thus making it a tax. In addition, beyond the date of the issuance of these opinions in 2006 and 2009, respectively, the adoption of Proposition 26 in 2010 imposes further limitations on the requirements of a vote of the people for fees above cost recovery, defining them essentially as taxes, requiring a majority vote if it is used for general purposes, and a two-thirds vote if the revenue generated will be used for a specified purpose.

CONCLUSION

At the November 2, 2011 PS&NS Committee meeting, the Committee requested that the IBA explore revenue options associated with taxicab permitting, particularly relating to permit transfers that could possibly be used to provide additional funding for regulatory oversight, training, and advancing the taxicab industry. This report provides additional information relating to permit transfer fee and tax models in other cities and taxicab permit auctions for Committee consideration when amending Council Policy 500-02. A number of cities sampled for our report had cost recovery fees limiting revenue to only cover administrative expenses. We identified three cities that apply fee or taxes beyond cost recovery, generating substantial revenue for their respective agencies. We also discuss ways to address some of the shortfalls that are associated with using auctions as a method of permit distribution. However, there are legal considerations associated with the institution of transfer taxes and distributing permits through auctions within the City of San Diego.

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Attachment: 1. MTS 2012 Permit Transfer Fees

ATTACHMENT 1

MTS 2012 Permit Transfer Fees

Fee	Amount
1. Annual Regulatory Fee per Vehicle	$500
2. Permit Application	
2.1 Permit application, all except one-year transferable taxicab	$3,000
2.1.1 Plus each permit in excess of one	$300
2.1.2 Plus additional charge if applicant is a corporation	$500
2.1.3 Initial permit issuance per vehicle regulatory fee (in lieu of Item No. 1)	
2.1.4 If proprietor or executive officer has less than two years as MTS/city permit holder	200% of Item No. 1
2.1.5 In more than two years experience	100% of Item No. 1 prorated
2.2 Permit application, one-year transferable taxicab	$1,750
2.2.1 Plus each permit in excess of one	$200
2.2.2 Plus additional charge if applicant is a corporation	$400
2.2.3 Initial permit issuance per vehicle regulatory fee (in lieu of Item No.1)	
2.2.4 If proprietor or executive officer has less tan two years as MTS/city permit holder	200% of Item No.1
2.2.5 If more than two years experience	100% of Item No. 1 prorated
4. Operational Requests	
4.1 Transfer clearance	
4.1.1 Tranfer clearance (one-year transferable taxicab permit)	$200
4.1.2 Transfer clearance (five-year transferable taxicab permit)	$500