
M E M O R A N D U M

DATE: August 6, 2004
TO: City Council Members
FROM: Russell Weeks
RE: Briefing and Public Hearing: Proposed Amendments Relating to Ground Transportation and Taxi Businesses
CC: Cindy Gust-Jenson, Rocky Fluhart, Sam Guevara, Tim Campbell, Ed Rutan, Alison McFarlane, Larry Spendlove, Jodi Howick, Larry Bowers

This memorandum is intended to address issues pertaining to two proposed ordinances. Both would amend current City ordinances regulating ground transportation and taxicab businesses in the City and at the Salt Lake City International Airport. The proposed ordinances are scheduled for a briefing during the City Council work session August 10. In addition, the City Council has scheduled a public hearing at its August 10 formal meeting. Due to scheduling conflicts between the August 10 public hearing and ground transportation business owners who said they and their employees would provide transportation that week for the Outdoor Retailers convention, the City Council Chair has recommended continuing the public hearing and taking further comment at the City Council's August 24 meeting.

It should be noted that material contained in this memorandum also was contained in a memorandum for the City Council's July 13 briefing. Council staff has tried to weave new or updated information with the previous material.

Options

- As the City Council Chair recommended, continue the public hearing until August 24.
- After the public hearings conclude, the City Council appears to have a variety of options including:
 1. Adopt the ordinances as proposed.
 2. Do not adopt the proposed ordinances.
 3. Adopt the majority of the ordinances as proposed but withhold action on proposed amendments regarding the definition of "cab day," the minimum use of taxicabs, the increase in the number of authorized taxicabs between October 15 and April 15, and the elimination of the March 1 deadline for taxicab companies to file an annual review of maximum rates until issues involving the taxicab industry can be studied further.
 4. Adopt the proposed ordinances but indicate that it is the City Council's intention to initiate a baseline market analysis of the taxicab and ground transportation industry to determine the potential for deregulating the ground transportation industry in Salt Lake City.

POTENTIAL MOTIONS

- I move that the City Council continue the public hearing until August 24.
- I move that the City Council close the public hearing.

KEY POINTS

- According to the Administration, the proposed amendments are the result of a number of discussions that have occurred over the last 18 months to two years. The Administration has sponsored the discussions. The discussions have included people representing taxi drivers, taxicab companies, limousine drivers, limousine companies, shuttle companies and drivers, managers of Salt Lake City hotels and City staff from the Airport, Attorney's Office, Business Licensing and the Police Department.
- Many of the proposed amendments are designed to clarify how each of the various kinds of ground transportation companies should operate to preserve each company's niche in the ground transportation market.
- Some of the proposed amendments pertain to the operation of taxicabs. Taxicabs operate in the City under certificates of public convenience and necessity. The following language in the *City Code* addresses certificates of public convenience and necessity:

5.05.140 Issuance-Determination Authority:

A. If the Mayor or his/her designee finds that further public transportation for hire in the City serves the public convenience and necessity and that the applicant is fit financially and willing and able to perform such public transportation and to conform to the provisions of this Chapter, then the City shall issue a certificate stating the name and address of the applicant and the number of vehicles authorized under the certificate.

B. In making the above findings, the Mayor or his/her designee shall take into consideration the number of vehicles already in operation, whether existing transportation is adequate to meet the public convenience, the probable effect of the issuance on the present carriers, the probable effect of increased service on local traffic conditions, the character, experience and financial responsibility of the applicant, the number, kind and type of equipment, and the ability of the applicant to earn a fair return on the capital invested.

- The proposed amendments pertaining to *Title 16.60 Motor Vehicle Operation* at the Airport include repealing a variety of regulations in the ordinance and replacing them with a requirement that ground transportation businesses follow "rules and regulations" formulated by the Director of Airports. The Airport has provided copies of the rules and regulations the airport director is contemplating. The copies are attached to this memorandum. Council staff has reviewed the contemplated rules and regulations, and they seem reasonable.
- The proposed ordinances would make the definitions consistent in ordinances regulating ground transportation businesses in the City and at the Airport.

- A proposed amendment to *City Code Chapter 5.72* – which regulates the operation of taxicabs – would change the definition of the term “cab day” to clarify that if a taxicab operated for 16 hours or more, the taxicab’s operation would equal “no more than two cab days.” Previously, a “cab day” was defined as eight “or more hours during any calendar day.”
- Another proposed amendment to the chapter (5.72.150. A – *Minimum Use of Taxicabs Required*) would change the current ordinance’s requirements for the minimum number of cab days that taxicab companies must operate their cabs. The current ordinance requires the companies to operate their cabs a minimum of 104 cab days “during any calendar six months.” The proposed amendment would require the cab companies to operate “80 cab days for 80 percent of all taxicabs authorized under a certificate (of public convenience and necessity)” between April 16 and October 14. The 104-cab-day requirement would remain in effect between October 15 and April 15.
- In conjunction with the proposed amendment above, a proposed amendment to 5.72.140 (*Existing Holder’s Certificates – Ski Season Increases*) would appear to allow the three taxicab companies that currently hold certificates of public convenience and necessity to “increase the number of vehicles authorized in their certificates by fifty percent from October 15 to April 15 of each year.”
- A third proposed amendment to 5.72.457 (*Annual Review of Maximum Rates*) would eliminate the words “No later than March 1 of each year.” The immediate effect of eliminating the words would be to allow taxicab companies holding a certificate of public convenience and necessity to seek an increase in the maximum rate the companies could charge customers. The Administration has indicated that three taxicab companies in Salt Lake City plan to petition for an increase in the maximum rate if the City Council adopts the proposed ordinances. The rate review process is quite detailed, and the Administration may elect to begin the rate review process following the City Council briefing.
- According to the Administration, the Department of Airports employs two full-time personnel to enforce the current ground transportation ordinance and airport rules and regulations pertaining to the ground transportation industry. Outside of the Department of Airports, the City employs less than one-half full-time equivalent employee to address ground transportation/taxicab industry regulations.

ISSUES/QUESTIONS FOR CONSIDERATION

- Would adopting the proposed amendments improve ground transportation service to the public, particularly service provided by taxicabs which are regulated under certificates of public convenience and necessity?
- Is the public satisfied with services it receives from ground transportation businesses?
- Should the City assign more personnel to enforce provisions of existing and future ordinances regulating ground transportation and taxicab businesses?
- A City Council Member has suggested that taxicab companies provide at least one vehicle in their respective fleets to comply with the Americans With Disabilities Act.
- A City Council Member has suggested that a new category of vehicle be added that would fall between a standard taxicab and a limousine. A representative of the three taxicab companies that hold Salt Lake City certificates of public convenience and

necessity indicated to Council staff that proposed amendments regulating limousine service may address that category.

- Would deregulating the taxicab industry in Salt Lake City lead to positive or negative changes and would it lead to a decrease or increase in City personnel necessary to deal with industry issues.
- A proposed amendment to 5.71.250 (*License Required for Operators*) contains language that would require all drivers working for ground transportation businesses to obtain a valid ground transportation vehicle driver's license issued by the city no later than October 1, 2004. The deadline appears to be based upon consideration of the proposed amendments at an earlier date than the current date. If the City Council adopts the proposed amendments, the Council may wish to consider amending the dates in 5.71.250 to give drivers a six-month window to obtain the driver's license.

DISCUSSION-BACKGROUND

This section will attempt to address some specific items listed in the *Key Points* section, then move to a sketch of the taxicab industry in Salt Lake City, and end with a brief discussion of deregulation versus regulation.

ANNUAL REVIEW OF MAXIMUM RATES

Paragraph A of section 5.72.457 currently reads in part:

“No later than March 1 of each year each person holding a certificate of public convenience and necessity to operate taxicabs within the City shall file with the City business license supervisor a petition regarding the adequacy of the existing maximum rates as set forth in Section 5.72.455 of this Article, or its successor section. Said petition shall state whether, in the opinion of the certificate holder, the existing maximum rates are at an appropriate level, or whether such rates should be increased or decreased. If the petition indicates that the said rates should be increased or decreased, the person submitting such petition shall supplement the petition with documentation in support of such increase or decrease, such as evidence of increase or decrease of operating costs, insurance costs, costs of living, and other relevant information. ...”

It appears to Council staff that the current ordinance contemplates receiving an annual report from the companies that hold certificates of public convenience and necessity. The current ordinance does not appear to be solely a mechanism for raising the maximum rate allowed by ordinance. On the other hand, it is unclear why the current ordinance sets a March 1 deadline. The City Council may wish to consider whether it should adopt the proposed amendment or whether it would like to retain requiring an annual report from the holders of certificates of public convenience and necessity and specify a date when those reports should be filed. It should be noted that a representative of the three taxicab companies showed staff a document from the previous administration that indicated the intent of the section was to allow taxicab companies to incrementally raise rates – if necessary – through an annual mechanism instead of seeking larger increases at a single point in time.

It should be noted that if the three taxicab companies petition for an increase in the maximum rate, under the current ordinance the petition first would be heard by a hearing officer “appointed by the Mayor to consider the question of whether or not the existing taxicab rates should be increased, decreased or should remain unchanged.” The hearing officer then would make a recommendation to the City Council, and the Council “may accept, modify, or reject the

hearing officer's recommendation." Nothing in the proposed amendments to the ordinance would change that procedure.

MINIMUM USE OF TAXICABS REQUIRED AND SKI SEASON INCREASE

The two proposed amendments are key issues. Again, the current ordinance requires taxicab companies to operate their cabs a minimum of 104 cab days "during any calendar six months." The proposed amendment to 5.72.150 would require the cab companies to operate "80 cab days for 80 percent of all taxicabs authorized under a certificate (of public convenience and necessity)" between April 16 and October 14. The 104-cab-day minimum requirement would remain in effect between October 15 and April 15. It is City Council staff's understanding that the proposed reduction of the minimum number of cab days was requested by the three cab companies that currently hold certificates of public convenience and necessity.

A couple of items should be noted:

First, when the City Council amended the current ordinance in 1999 the previous administration advocated increasing the minimum number of cab days to "104 cab days during any calendar six months." Before the Council adopted the amendment the minimum number of cab days had been 75 cab days for each six month period. That minimum number had been in effect for decades, according to the Administration.

The previous administration had advocated increasing the minimum number of cab days because of concerns raised by organizations involved with tourism and conventions about the level of taxicab service in Salt Lake City. In addition, the City was preparing to host the 2002 Winter Olympics and wanted to increase available taxicab service during the Winter Games.

A few months after the minimum number of cab days was increased a Salt Lake City hearing officer removed 33 taxicab licenses from the Yellow Cab Drivers Association because he determined that the cab company had not filed for the authority for the licenses under a different section of the *City Code*. Yellow Cab protested the hearing officer's decision and argued that it had not filed for the authority for the licenses because it was not using the 33 licenses at the time the filing was required. Yellow Cab then filed a lawsuit in 3rd District Court against the City to reverse the hearing officer's decision.

The court case has not been resolved. However, it has been suggested by those familiar with the issue, that if the proposed amendment to 5.72.150 is adopted the case could be dismissed.

In addition, in the year 2000 a total of six companies filed applications to obtain certificates of public of convenience and necessity to operate taxicabs in the City. Yellow Cab and City Cab were among the six applicants. The Administration met with the companies in May and has tentatively scheduled a future meeting.

It might be possible that the net effect of adopting the proposed amendment would be the addition of one or more taxicab companies to serve Salt Lake City residents. However, that outcome is unclear as of the writing of this memorandum.

Second, the proposed amendment to 5.72.150 reads: "Likewise, the public convenience and necessity having been demonstrated for the need of additional taxicabs during skiing season,

all holders of existing taxicab certificates shall be allowed to increase the number of vehicles authorized in their certificate by fifty percent from October 15 to April 15 of each year.”

It should be noted that a representative of the three taxicab companies in Salt Lake City told Council staff that the intent of the proposals is to allow the companies to react flexibly to market conditions. In general, the representative said, the winter season warrants more taxicab service; the summer season may require more cabs if large conventions come to the City; and the spring and fall typically are fairly slow seasons for taxicab drivers.

The proposed ski season amendment apparently would reinstate language that was removed when the City Council amended the ordinance in 1999. The previous administration supported removal of the language when the minimum number of required cab days was increased. It should be noted that the three companies that hold existing certificates of public convenience and necessity respectively have licenses under those certificates for 112 cabs (Yellow Cab), 78 cabs (Ute Cab), and 45 cabs (City Cab). Based on City Council staff's calculation a 50 percent increase would allow Yellow Cab to add a maximum of 56 more cabs between October 15 and April 15. Ute Cab and City Cab respectively could add maximums of 39 and 22 more taxicabs between the two dates.

It appears possible that if the 33 licenses removed from Yellow Cab are awarded to another company or companies, those entities could add another 16 cabs between October 15 and April 15 if the ordinance is adopted. However, it should be noted that the proposed amendment reads in part, “all holders of existing taxicab certificates.” At present, there are three holders of existing taxicab certificates. The City Council may wish to consider omitting the word “existing” from the proposed amendment to clarify that a new company or companies could increase their fleets by 50 percent, if the amendment is adopted.

CAB DAY DEFINITION

Under the current ordinance (5.72.010), the definition of “cab day” reads: “Cab day means eight (8) or more hours during any calendar day.” The proposed amendment would change the language to read: “Cab day means any eight (8) hours of a taxicab operation during any calendar day. Sixteen or more hours of taxicab operation during any one calendar day shall constitute no more than two (2) cab days.” It is City Council staff's understanding that the proposed amendment was requested by the three cab companies that currently hold certificates of public convenience and necessity.

It appears that the proposed amendment would make it easier for holders of certificates of public convenience and necessity to meet either the 104-cab-day minimum requirement or the proposed amendment of “80 cab days for 80 percent of all taxicabs authorized under a certificate” between April 16 and October 14. However, a representative of the three taxicab companies in Salt Lake City said the proposed amendment would clarify legislatively that an administrative hearing officer's decision that a “cab day” was only eight hours did not take into account that taxicab drivers usually work 12-hour shifts and that sometimes a taxicab is driven for two shifts of 24 hours. It appears that the Administration and cab companies believe the public's need for 24-hour transportation can be met with the proposed changes.

OTHER DEFINITIONS

The bulk of the proposed amendments to definitions in Chapter 16.60 (*Motor Vehicle Operation at the Airport*) and Chapters 5.71 (*Ground Transportation Requirements*) and 5.72 (*Taxicabs*) are designed to conform the definitions to each of the chapters and to clarify which activities ground transportation businesses at the Airport and in the City can perform.

Perhaps key among the definitions involves “on-demand service.” The proposed definitions would clarify which ground transportation businesses can provide on-demand service in the City and at the Airport. For instance, proposed amendments to the definition of “on-demand service” in Chapters 5.71 and 5.72 allow taxicabs, courtesy vehicles, hotel vehicles and limousines to provide on-demand service. But the definition restricts courtesy vehicles and hotel vehicles to provide on-demand service only to the Airport and not other points within the City. A proposed amendment to Chapter 16.60 defines “on-demand airport service” to distinguish it from “on-demand service” and limits the providers of that service to taxicabs, courtesy vehicles, and hotel vehicles if those businesses are transporting people to points in Salt Lake City. The intent of the definitions appears to be to end conflicts over the question of which businesses can provide on-demand service.

OTHER AIRPORT AMENDMENTS

In large part, other proposed amendments pertaining to ground transportation and motor-vehicle operation at the Airport appear to be designed to remove motor-vehicle operational requirements from the current ordinance and instead give the Director of Airports the authority to establish rules and regulations on those issues.

City Code Chapter 16.04.060 gives the Director of Airports the authority to issue rules and regulations for operating the Airport. Ground transportation companies also operate under an implied agreement to comply with airport rules and regulations under Chapter 16.12.050 titled *Use of Airport Property – Permission Required*.

The Airport Director has provided rules and regulations that would be established if the City Council adopts the proposed amendments. The contemplated rules and regulations are attached to this memorandum.

It should be noted that the Airport has continued to reconfigure its roads and other facilities related to motor-vehicle use in anticipation of ultimately building new terminals at the airport. Allowing the Director of Airports to establish rules and regulations instead of amending existing ordinances may help the Airport plan and react more quickly to changes that would affect motor vehicles.

OTHER ITEMS

It should be noted that a proposed amendment to 5.71.250 (*License Required for Operators*) contains the following language:

“The foregoing notwithstanding, a ground transportation vehicle operator, other than a taxicab operator, who has operated upon the streets of the city prior to the effective date of this ordinance and while in the employ of a ground transportation business duly licensed by the city,

shall have until September 1, 2004 to file an application for, and until October 1, 2004 to obtain and have in force, a valid ground transportation vehicle driver's license issued by the city."

The language is part of a paragraph requiring all drivers in ground transportation businesses to have a ground transportation driver's license issued by the Police Department. Current ordinances require only taxicab drivers to obtain licenses from the Police Department. Obtaining the license requires having the Police Department perform a background checks and other duties. Because the proposed amendment would require all drivers in ground transportation businesses to obtain a license, the amendment gives those drivers until September 1 to apply for a license and until October 1 to have the license. The deadlines appear to be based on an assumption that the proposed amendments would be considered and adopted in March. In other words, the amendment appeared to give the drivers a six-month window to comply with the ordinance. If the Council adopts the amendments, it may wish to consider changing the dates to coincide with the actual date of adoption.

GROUND TRANSPORTATION INDUSTRY AND CITY REGULATION

As noted earlier, the proposed amendments are the result of a number of discussions that have occurred over the last 18 months to two years. The Administration has sponsored the discussions. The discussions have included people representing taxi drivers, taxicab companies, limousine drivers, limousine companies, shuttle companies and drivers, managers of Salt Lake City hotels and City staff from the Airport, Attorney's Office, Business Licensing and the Police Department.

Of those groups, the three taxicab companies traditionally have been sole providers of on-demand service to ground transportation users. As in other cities in the United States, the companies operate under certificates of public convenience and necessity. However, the existence of other kinds of ground transportation businesses such as limousine and shuttle operators and their interest in protecting their market niches may indicate that there is a market for other ground transportation services beyond those provided by taxicabs or the cab companies may not be providing all ground transportation services available.

Again, the three taxicab companies operate under certificates of public convenience and necessity. The three companies that hold existing certificates of public convenience and necessity respectively have licenses under those certificates for 112 cabs (Yellow Cab Drivers Association), 78 cabs (Ute Cab), and 45 cabs (City Cab). According to information provided by the Department of Airports, the three companies operate a mixture of automobiles and vans (although the vans may be separate businesses apart from the taxicab business). Two of the companies each operate a sport-utility vehicle.

A large number of taxicabs are run by "owner-operators," people who own and drive their own vehicles. It should be noted that some "owner-operators" own more than one taxicab and lease the extra cabs to other drivers. Taxi drivers leasing from owner-operators also constitute a fairly large number in Salt Lake City.

All taxi drivers lease the licenses provided under the certificates of public convenience and necessity. According to information provided by a representative of the cab companies, the weekly lease rate at Yellow Cab is \$209 per week but in some instances may rise to \$247 per week. The lease rate at Ute Cab is \$225 per week, and the lease rate at City Cab is \$1,200 a month for an owner-operator. All three companies also lease cabs per day to drivers. The daily lease rate at Yellow Cab and Ute Cab is \$62. The daily lease rate at City Cab is \$65.

In exchange for drivers paying the lease rates, the taxicab companies provide dispatch services, vehicle insurance and shops in which to repair cabs. The companies also negotiate accounts with groups and agencies such as hospitals and private companies that use taxicabs to deliver people and items. Profit for the cab companies comes from the lease of the cab licenses. Profit for the drivers comes from the number of fares and tips. Drivers also pay \$30 for a Salt Lake City cab drivers license; \$40 for a physical and \$30 for a drug test required by the cab companies; \$30 for a Salt Lake County license; and \$20 for a taxi endorsement on state driver's licenses. In addition, drivers pay for all gasoline purchases and all taxes.

Salt Lake City charges the three taxicab companies \$70 each for a base business license fee, \$100 each for a certificate of public convenience and necessity, and \$10 for each employee of the three companies. The City also charges Yellow Cab \$425 for 17 "freight stickers," and City Cab for operating a service station. (City Cab operates gasoline pumps but does not offer drivers discounts, according to a representative of the three companies.) According to the Administration, total City charges are about \$4,000 a year.

Again, it should be noted that the Department of Airports assigns two personnel full-time to enforce ground transportation regulations and airport rules. The Administration estimates that less than one-half full-time equivalent employee outside the airport is assigned to deal with ordinances regulating ground transportation and taxicabs. The estimate does not include City Attorneys who have developed ordinances, attended administrative hearings or meetings involved in the ground transportation industry. Neither does the estimate include Police Department involvement in drivers' background checks or law enforcement involving ground transportation businesses.

DEREGULATION AND REGULATION

Like perhaps a majority of cities in the nation, Salt Lake City regulates its taxicab industry under certificates of public convenience and necessity. According to Ray Mundy, the director of the Center for Transportation Studies at the University of Missouri-St. Louis, the certificates of public convenience and necessity are patterned roughly after federal Interstate Commerce Commission rules. (Council staff and members of the Administration talked to Professor Mundy in a conference telephone call in preparation for the August 10 public hearing.)

Based on the discussion with Professor Mundy and literature available on the Internet, there appear to be two kinds of deregulation in the taxicab industry – one in which any ground transportation business may enter as a taxi business, and one that is more controlled and includes limiting the number of taxicabs available in a specific market.

As City Council staff understands the literature, the first deregulation method was tried in a variety of cities nationwide between the late 1980s and the mid-1990s. The goals of the first method were:

- Produce more taxi service.
- Produce faster response times.
- Create service innovations and service expansion to poorly served neighborhoods.
- Create opportunities for people, particularly ethnic minorities, to enter markets closed by near monopolies.
- Reduce government costs by eliminating oversight of pricing, service and entry.

According to available literature and Professor Mundy that kind of deregulation does not work well. However, City Council staff believes the physical make-up of cities where deregulation was tried also influenced the effect of deregulation. Staff is basing its opinion on a research paper by Keith E. Weiss, PhD, and head of the City Council Research Division in Jacksonville, Florida. Jacksonville was one of the first cities to deregulate its taxicab industry. According to the paper, while some cities saw an increase in the numbers of companies, other cities over time saw the taxicab industry consolidate. “In Jacksonville, two companies hold the vast majority of all permits. It is very possible that current cost trends in advertising, vehicle insurance and financing, community regulations and economies of scale may well continue to make the owner-operator a thing of the past in those cities, like Jacksonville, that do not have a downtown pickup or hail market,” the paper said.

The paper said that cities where deregulation appeared to work best “were with northern and California communities that, in the opinion of this writer, differ significantly from Jacksonville.” The differences included a significant number of people that routinely used transportation for hire or mass transit instead of their own cars; well-run public transportation systems; dense urban cores and suburbs that resulted in low per-trip costs; and established neighborhoods that supported neighborhood businesses instead of shopping in different areas of those cities.

Other literature indicates that deregulation of the taxicab industry actually led to declines in operational efficiency and productivity; increases in rates; declines in driver incomes; and little or no improvement in administrative costs. Two basic points the literature made are: 1.) The taxicab market is not a market in the classical sense where consumers make comparisons based on cost and quality of a good or service. The market usually is a “take the first car in line” market at cab stands and airports that does not invite comparison shopping. 2.) The taxicab market generally serves the wealthy and the poor. In a deregulated market, the poor received less service because many of the new entrants to the market gravitated toward the wealthy customer base at the other end of the spectrum.

Professor Mundy suggested that if a city were to consider deregulating a market, it should deregulate it in such a way that the market does not “fragment” – wholly unrestricted entrance into a market. He described deregulation plus fragmentation as “the worst of all possible worlds.” He said a city might wish to study Los Angeles as a model of a lesser sort of deregulation. That city, he said, specifies a geographic area and then contracts with companies to serve the area. The contract is similar to a franchise or concession and is awarded based on a company’s proposal and ability to deliver on its proposal.

If the City Council decides that deregulation is worthwhile, it may wish to undertake or underwrite a market study to establish a baseline for the taxicab market and explore initiating a franchise/concession form of agreement instead of issuing certificates of public convenience and necessity.

OTHER ISSUES

A representative of the three companies holding certificates of public convenience and necessity met with a City Council Member to discuss taxicab companies providing at least one taxicab each that would be accessible to people with disabilities. The representative estimates that

doing that would require purchasing and equipping a van at a cost of about \$41,000. The representative estimates annual on-going expense at \$131,000.

The City Council Member also discussed initiating a category of taxicab between a standard cab and a limousine. The representative believes that a minor amendment to existing and proposed ordinances would allow all “town cars” to meet the idea broached by the City Council Member. (Please see attachment.)