
M E M O R A N D U M

DATE: December 10, 2004
TO: City Council Members
FROM: Russell Weeks
RE: Proposed Ordinance: Amendment to *City Code* Section 5.72.457 titled *Annual Review of Taxicab Minimum Rates*
CC: Cindy Gust-Jenson, Rocky Fluhart, Sam Guevara, David Dobbins, Ed Rutan, Tim Campbell, Gary Mumford, Melanie Reif, Larry Spendlove, Laurie Donnell

This memorandum is intended to address issues pertaining to a proposed ordinance to amend *City Code* Section 5.72.457 titled *Annual Review of Taxicab Minimum Rates*. The proposed amendment was discussed at the City Council's work session December 7. The Administration revised the proposed ordinance after the discussion to give taxicab companies holding City-issued certificates of public convenience and necessity the option of applying annually for rate increases or reductions.

OPTIONS

- Adopt the proposed ordinance.
- Do not adopt the proposed ordinance.
- Adopt the proposed ordinance but retain the word "shall" instead of "may," and omit the words "decreased" and "decrease" from the third sentence in Paragraph A. The option would keep the existing requirement that holders of City-issued certificates of public convenience and necessity in effect notify the City each year on the status of taxicab rates. However, by omitting the words "decreased" and "decrease" from the third sentence taxicab companies would pay a \$100 fee for filing a petition only if they seek a rate increase.

POTENTIAL MOTIONS

- I move that the City Council adopt the ordinance amending Salt Lake City Code Section 5.72.457 pertaining to the annual review of maximum rates for taxicabs.
- I move that the City Council consider the next item on the agenda.
- I move that the City Council adopt the ordinance amending Salt Lake City Code Section 5.72.457 pertaining to the annual review of maximum rates for taxicabs with the following amendments:
 1. In the first sentence of Paragraph A the word "shall" shall be retained instead of the proposed substitute word.

2. The words, "decreased" and "decrease" shall be omitted from the third sentence of Paragraph A so that the sentence shall read: "If the petition indicates that the said rates should be increased, the person submitting such petition shall supplement the petition with documentation in support of such increase, such as evidence of increase of operating costs, insurance costs, costs of living and other relevant information."

KEY POINTS

- The proposed ordinance would amend the first sentence of the first paragraph of Section 5.72.457 titled *Annual Review of Maximum Rates*. Under the current ordinance the sentence reads: "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."
- The proposed ordinance's amendments would change the sentence quoted above to read: "Each person holding a certificate of public convenience and necessity to operate taxicabs within the City may file with the City business license supervisor once during the calendar year 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."
- The net effects of the proposed ordinance would be threefold. First, substituting the word "shall" with "may" would make it optional for the holders of certificates of public convenience and necessity to file with the City each year "a petition regarding the adequacy of the existing maximum rates." Second, eliminating the March 1 deadline in the current sentence would allow holders of certificates of public convenience and necessity to file at any time during the year. Third, the addition of the words "once during the calendar year" would appear to limit the filing of "a petition regarding the adequacy of the existing maximum rates to once a year for each company holding City-issued certificates of public convenience and necessity."
- The proposed amendments to the first sentence of Paragraph A are the only amendments proposed for Section 5.72.457. The rest of the section contained in the current City Code would remain in effect, including Paragraph D, which says in part: "The decision of the hearing officer ... shall act as a recommendation to the City Council. ... The City Council may accept, modify, or reject the hearing officer's recommendations."
- The proposed ordinance was part of a package of proposed amendments the Administration forwarded to the City Council earlier this year. The Council adopted some of the proposed amendments at its August 24 meeting. However, the proposed amendment pertaining to maximum taxicab rates was not among the amendments the City Council adopted.
- The last time the City Council adopted an ordinance raising taxicab rates was 1999 – not 1998 as previously written. The Council's based its decision in part on recommendations by a hearing officer who presided over a public hearing.
- City Council staff is close to having a contract with a consultant to study the taxicab/ground transportation industry. A draft scope of services includes the following items:
 1. Consultant shall provide a comparison of service rates of taxicab and shuttle operating in Salt Lake City with cities having equivalent markets and within the Intermountain West and the Pacific Northwest regions.

2. Consultant shall determine whether taxicab drivers are making wages at or near national averages for taxicab drivers.

ISSUES/QUESTIONS FOR CONSIDERATION

Should holders of City-issued certificates of public convenience and necessity be obliged to report annually to the city on the financial status of their industry?

As the issuer of certificates of public convenience and necessity, what is the best way for the City to monitor the financial status of industries that receive those certificates?

Should the holder of a City-issued certificate of public convenience and necessity be required to pay a \$100 filing fee if the holder plans to decrease rates charged the public, particularly if the holder does not have to pay a filing fee if it informs the City that current rates charged the public are adequate?

It is likely that the City Council will hire a consultant to study Salt Lake City's taxicab/ground transportation industry. The study will be expected to address comparisons of Salt Lake City's market for taxicabs and ground transportation companies with equivalent markets nationwide and in the Intermountain West and Pacific Northwest regions. Would the proposed ordinance be better addressed after the City Council has the results of the planned study?

On the other hand, the current ordinance specifies that the City Council "may accept, modify, or reject the hearing officer's recommendations" relating to proposed rate increases. Given the City Council's authority under the current ordinance, the results of hearings held on the taxicab companies' petition for a rate increase could be considered in conjunction with any study a consultant may undertake. In addition, information provided by the taxicab companies and any expert witnesses in preparation for the public hearing on a rate increase might be available for study by any consultant the City Council may hire.

BACKGROUND/DISCUSSION

The version of the proposed amendments contained in City Council packets is the result of the December 7 Administration briefing of the City Council about the proposed amendments to City Code Section 5.72.457.

As indicated, the proposed ordinance would change the first sentence of Section 5.72.457 Paragraph A from:

"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."

To:

"Each person holding a certificate of public convenience and necessity to operate taxicabs within the City *may* file with the City business license supervisor *once during the calendar year* 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." (*Italics* indicate substitute or additional language to the current ordinance.)

Council staff has identified what it believes are three effects of the proposed changes:

1. Substituting the word "shall" with "may" would make it optional for the holders of certificates of public convenience and necessity to file with the City each year "a petition regarding the adequacy of the existing maximum rates."
2. Eliminating the March 1 deadline in the current sentence would allow holders of certificates of public convenience and necessity to file at any time during the year.
3. Adding the words "once during the calendar year" would appear to limit the filing of "a petition regarding the adequacy of the existing maximum rates" to once a year for each company holding City-issued certificates of public convenience and necessity.

It should be noted that according to a March 2, 1999, City Council staff report, that Section 5.72.455 was proposed by the then-Administration and adopted "to eliminate the existing situation" in which taxicab companies applied for a rate increase in August 1997 and received a favorable recommendation from a hearing officer in November 1997. The City Council had yet to adopt the recommended increases as of March 2, 1999, and did not adopt the increases until later that spring.

It appears to City Council staff that the original intent of the current ordinance was to have a mechanism where the taxicab companies holding certificates of public convenience and necessity could report annually on whether rates charged the public should remain as is, go up or go down. The proposed ordinance would make that reporting optional for taxicab companies.

Council staff has identified a third option and written an alternate motion if there is sentiment on the City Council to require taxicab companies to report annually on whether cab rates are adequate. The alternate motion would retain the word "shall" in the first sentence of paragraph A, but it would delete the words "decreased" and "decrease" from the Paragraph A's third sentence.

In the current ordinance the sentence reads, "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."

Under the alternate motion the sentence would read, "If the petition indicates that the said rates should be increased, the person submitting such petition shall supplement the petition with documentation in support of such increase, such as evidence of increase of operating costs, insurance costs, costs of living, and other relevant information."

The reason for the alternate motion is in Paragraph A's fourth sentence. The sentence reads, "Each person filing said statement shall at the time of filing, pay a filing fee to the City business license supervisor of one hundred dollars (\$100.00) to cover the City's costs of processing the statement and of conducting the subsequent hearing thereon."

Perhaps the overarching question for the City Council to consider is: Is Section 7.72.457 a mechanism for the annual reporting of the status of taxicab rates, or is it only a mechanism for taxicab companies to seek rate increases? If it is only the latter, the Administration's proposed ordinance meets that criterion. If it is the former, then is it good public policy to charge a company for proposing to decrease rates to the public, particularly when there is no charge for a petition that indicates that rates should remain the same as the previous year.