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# M E M O R A N D U M

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**DATE:** May 9, 2006  
**TO:** City Council Members  
**FROM:** Russell Weeks  
**RE:** Proposed Budget: Parking Services License Tax  
**CC:** Cindy Gust-Jenson, Rocky Fluhart, Steve Fawcett, Ed Rutan, Ray Williams, Orion Goff, Nancy Tessman, Gordon Hoskins, Gary Mumford, Russ Pack, Edna Drake, Mary Beth Thompson

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This memorandum pertains to a proposal in the Mayor's Recommended Budget Fiscal Year 2006-2007 to increase and expand the base of an annual parking services business license tax. The issue will be part of City Council budget discussion items on May 11.

## **KEY POINTS**

- The *Mayor's Recommended Budget* and the Administration's transmittal propose to amend *City Code* 5.04.200 to change an annual 2 percent gross revenue license tax to a 50-cent-per-vehicle tax on businesses that "primarily" provide paid parking for public facilities that are "wholly or partially funded by public moneys."<sup>1</sup> Under the current ordinance, only businesses providing off-street parking services for the Salt Lake City International Airport must pay the gross license fee.<sup>2</sup>
- The City Council would have to amend the City Code to implement the proposed increase and expansion.
- The Administration estimates that seven business operating nine parking facilities would be affected by the proposed ordinance amendment. However, more businesses might be affected.
- The Administration projects the proposed license tax increase would more than double the current fiscal year's estimated revenue of \$440,000. (According to the Administration, actual revenue in the current fiscal year from the gross-revenue license fee is closer to \$500,000.) The *Mayor's Recommended Budget* projects the proposed increase would generate and additional \$560,000 in the next fiscal year for a total of \$1 million.<sup>3</sup>
- The Administration has been conservative in its estimates of potential revenue. According to the Administration, there will not be enough data available to obtain an exact amount of revenue generated until after the proposed ordinance has been in effect for a year.

## **OPTIONS**

- Adopt the proposed ordinance.
- Do not adopt the proposed ordinance.
- Amend the proposed ordinance.

## **POTENTIAL MOTIONS**

Council staff will prepare motions after City Council discussion of the issue.

## **ISSUES/QUESTIONS FOR CONSIDERATION**

- The City Council may wish to request clarification from the Administration about whether the ordinance as written would apply only to the seven businesses the Administration projects that the ordinance would affect.
- The Administration has indicated orally that its goal is to have the fee affect only parking service businesses that serve public buildings funded wholly with public funds.
- Is there an estimate of revenue that might be derived from the businesses serving the Salt Palace Convention Center and the Scott M. Matheson Courthouse? Have Salt Lake County and Utah governments been contacted about the proposed ordinance amendments?
- According to the Administration transmittal, the Administration is seeking an increase in the license fee because current revenue from the license fee “does not match the cost of providing City services to the parking service businesses.”<sup>4</sup> According to the Administration, City costs for businesses that might be affected by the proposed tax are indirect costs pertaining to the General Fund, such as public safety.

## **Discussion/Background**

The City Council appears to have three options in considering the proposed amendment:

- Leaving the current ordinance in place.
- Amending the current ordinance to change the 2 percent gross revenue tax to a per-vehicle tax.
- Adopting the proposed ordinance.

The first option would appear to generate revenue between \$440,000 and \$500,000 a year. The figures are Administration estimates mentioned previously in this memorandum. The option would affect the businesses that already pay the gross-revenue tax. The affected businesses are those serving the Salt Lake City International Airport. The affected businesses are Ampco Systems Parking, which manages parking at the Airport, and Diamond Parking, Park ‘n’ Jet, and Thrifty Rent-A-Car, which also provide off-site parking for Airport customers, according to Airport officials. According to the Administration, *City Code* Section 5.04.200 originally was enacted to defray General Fund costs associated with the Airport.

The second option could be to amend *City Code* Section 5.04.200 to change the 2 percent gross-revenue tax to a per vehicle tax but not expand the tax to facilities other than the Airport. The Administration lists this option as an alternative to the proposed amendments. The second option would limit the effect of the ordinance to charging “only businesses serving the Airport.”<sup>5</sup> Under the option if the City Council chose to increase the tax, it could choose a level based on the Administration’s 20-cents-per-vehicle estimate. The estimate is based on the 2 percent gross revenue tax that Ampco Parking Systems already pays divided by the number of vehicles that pass through the Airport parking exit toll gates that Ampco manages. If the City Council adopted a 50-cent-per-vehicle tax, under optimum conditions it would appear that the tax would generate \$1.1 million. (Administration estimate of 20-cents per vehicle equals \$440,000 multiplied by two plus \$220,000 which is one-half of \$440,000). The City Council would have the option of not increasing the tax to 50 cents per vehicle and setting a level between 20 cents per vehicle and 50 cents per vehicle.

The third option is to adopt the ordinance proposed by the Administration. In addition to changing the annual fee to a 50-cent per vehicle fee instead of a gross revenue fee, the Administration proposes to expand the fee citywide to “all businesses providing parking to public facilities ... rather than only on those providing parking to the airport.”<sup>6</sup> Under that option the ordinance would affect Ampco Parking Systems and the lots at the Airport and Gallivan Square; Diamond Parking at the Airport and the Scott M. Matheson Courthouse; Park ‘n’ Jet at the Airport; Thrifty Rent-A-Car at the Airport; Central Parking Corporation at the Salt Lake City Main Library; the Salt Lake Bees at Franklin-Covey Field; and SMG at the Salt Palace Convention Center.

Again, according to the Administration, the intent is to apply the per vehicle tax only on those businesses that provide parking for public facilities built entirely with public funds. One question that may need to be explored is: are those facilities the only ones of their kind in Salt Lake City? For instance, are the Capitol and Rose Wagner theaters the same kind of facilities, and would businesses where patrons park also fall under the proposed ordinance? The proposed ordinance also defines a “parking service business” as “a business that primarily provides off-street parking services for a public facility that is wholly or partially funded by public moneys” and that charges for providing parking for vehicles. A question to explore, then, is: Does the definition unintentionally expand the Administration’s intent?

It should be noted that the definition of “parking service business” follows to the letter the definition in *Utah Code* 10-1-203(5) (a). It also should be noted that under *Utah Code* 10-1-203(5)(a), “The governing body of a municipality may by ordinance raise revenue by levying and collecting a license fee or tax on ... a parking service business.”<sup>7</sup>

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<sup>1</sup> Proposed Ordinance, Page 2, Paragraph E.

<sup>2</sup> Please see Attachment No. 1.

<sup>3</sup> Recommended Budget, Page B-18, Licenses and Permits Category, Line 3.

<sup>4</sup> Transmittal issue paper, Analysis section, Second sentence.

<sup>5</sup> Transmittal issue paper, Analysis section, and last sentence.

<sup>6</sup> Transmittal issue paper, Analysis section, last sentence.

<sup>7</sup> Please see Attachment No.2, italicized sections.

SALT LAKE CITY ORDINANCE

No. \_\_\_\_\_ of 2006

(Amending the Airport Parking Services License Tax to Collect Taxes from both Airport Parking Service Operators and from Parking Service Businesses that Provide Off-street Parking for Public Facilities)

AN ORDINANCE AMENDING 5.04.200, *SALT LAKE CITY CODE*,  
PERTAINING TO THE AIRPORT PARKING SERVICES LICENSE TAX.

WHEREAS, the City Council finds that the proposed ordinance is in the best interest of the City.

Now, Therefore, be it ordained by the City Council of Salt Lake City, Utah, as follows:

SECTION 1. Subsection 5.04.200, *Salt Lake City Code*, pertaining to the airport parking services license tax is amended to read as follows:

**5.04.200 Airport Parking Services and Parking Service Businesses License Tax:**

A. There is levied upon every operator of vehicle parking serving the Salt Lake City international airport an annual license tax equal to fifty cents (\$.50) per paid vehicle whenever a paid vehicle parks at the Salt Lake City international airport.~~two percent (2%) of the gross revenue derived from the operation of those services.~~

B. There is levied upon every parking service business an annual license tax equal to fifty cents (\$.50) per paid vehicle whenever a paid vehicle parks at public facility off-street parking operated by the parking service business within the City.

CB. "Operator" means any private person or entity who operates vehicle parking serving the Salt Lake City international airport ~~and receives gross revenue pursuant~~

thereto, whether as owner, lessee, agent, joint venture, manager, concessionaire or otherwise.

DC. "Vehicle parking serving the Salt Lake City international airport" means any space provided by an operator in a publicly or privately owned lot or other facility for parking or storing motor vehicles, motorcycles, trailers, bicycles or other similar means of conveyance for passenger or property in exchange for consideration in any form, including a direct charge to customers or a charge to any party for tokens or other instruments that permit use of the lot or other facility, and where:

1. The lot or other facility is located within the property boundaries of the Salt Lake City international airport; or
2. The lot or other facility provides or arranges for shuttle services or other means that transport passengers or property to the Salt Lake City international airport.

ED. "Parking service business" means a business: that primarily provides off-street parking services for a public facility that is wholly or partially funded by public moneys; that provides parking for one or more vehicles; and that charges a fee for parking"~~Gross revenue", for purposes of this section, means all revenue received by an operator which is derived from vehicle parking serving the Salt Lake City international airport, without any deductions therefrom.~~

~~E. — Any operator who receives revenue from vehicle parking serving the Salt Lake City international airport and from no other operation or enterprise whatsoever shall be entitled to credit, against the amount of taxes paid hereunder, the amount of license taxes due the city under section 5.04.070 of this chapter, or its successor.~~

F. Within forty five (45) days after the end of each month in a calendar year, the operator or parking service business taxed hereunder shall file with the city treasurer a report of the number of paid vehicles parking at the operator's Salt Lake City international airport facilities or at the parking service business' public facility off-street parking ~~its gross revenue derived from vehicle parking serving the Salt Lake City international airport~~ during that calendar month, together with a computation of the tax levied hereunder against the operator or parking service business. Coincidental with the filing of such report, the operator shall pay to the city treasurer the amount of the tax due for that calendar month.

SECTION 2. This ordinance shall take effect immediately upon the date of its first publication.

Passed by the City Council of Salt Lake City, Utah this \_\_\_\_\_ day of \_\_\_\_\_, 2006.

\_\_\_\_\_  
CHAIRPERSON

ATTEST:

\_\_\_\_\_  
CHIEF DEPUTY CITY RECORDER

Transmitted to Mayor on \_\_\_\_\_.

Mayor's Action: \_\_\_\_\_ Approved. \_\_\_\_\_ Vetoed.

MAYOR

ATTEST:

\_\_\_\_\_  
CHIEF DEPUTY CITY RECORDER

(SEAL)

Bill No. \_\_\_\_\_ of 2006.

Published: \_\_\_\_\_.

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## **Current Ordinance**

### **5.04.200 Airport Parking Services License Tax:**

A. There is levied upon every operator of vehicle parking serving the Salt Lake City international airport an annual license tax equal to two percent (2%) of the gross revenue derived from the operation of those services.

B. "Operator" means any private person or entity who operates vehicle parking serving the Salt Lake City international airport and receives gross revenue pursuant thereto, whether as owner, lessee, agent, joint venture, manager, concessionaire or otherwise.

C. "Vehicle parking serving the Salt Lake City international airport" means any space provided by an operator in a publicly or privately owned lot or other facility for parking or storing motor vehicles, motorcycles, trailers, bicycles or other similar means of conveyance for passenger or property in exchange for consideration in any form, including a direct charge to customers or a charge to any party for tokens or other instruments that permit use of the lot or other facility, and where:

1. The lot or other facility is located within the property boundaries of the Salt Lake City international airport; or
2. The lot or other facility provides or arranges for shuttle services or other means that transport passengers or property to the Salt Lake City international airport.

D. "Gross revenue", for purposes of this section, means all revenue received by an operator which is derived from vehicle parking serving the Salt Lake City international airport, without any deductions therefrom.

E. Any operator who receives revenue from vehicle parking serving the Salt Lake City international airport and from no other operation or enterprise whatsoever shall be entitled to credit, against the amount of taxes paid hereunder, the amount of license taxes due the city under section 5.04.070 of this chapter, or its successor.

F. Within forty five (45) days after the end of each month in a calendar year, the operator taxed hereunder shall file with the city treasurer a report of its gross revenue derived from vehicle parking serving the Salt Lake City international airport during that calendar month, together with a computation of the tax levied hereunder against the operator. Coincidental with the filing of such report, the operator shall pay to the city treasurer the amount of the tax due for that calendar month. (Ord. 45-94 § 1, 1994)



## Utah Code: 10-1-203

### **10-1-203. License fees and taxes -- Disproportionate rental fee -- Application information to be transmitted to the county assessor.**

(1) For the purpose of this section:

(a) "business" means any enterprise carried on for the purpose of gain or economic profit, except that the acts of employees rendering services to employers are not included in this definition;

(b) "telecommunications provider" is as defined in Section **10-1-402**; and

(c) "telecommunications tax or fee" is as defined in Section **10-1-402**.

(2) Except as provided in Subsections (3) through (5), the governing body of a municipality may license for the purpose of regulation and revenue any business within the limits of the municipality and may regulate that business by ordinance.

(3) (a) The governing body of a municipality may raise revenue by levying and collecting a municipal energy sales or use tax as provided in Part 3, Municipal Energy Sales and Use Tax Act, except a municipality may not levy or collect a franchise tax or fee on an energy supplier other than the municipal energy sales and use tax provided in Part 3, Municipal Energy Sales and Use Tax Act.

(b) (i) Subsection (3)(a) does not affect the validity of a franchise agreement as defined in Subsection **10-1-303(6)**, that is in effect on July 1, 1997, or a future franchise.

(ii) A franchise agreement as defined in Subsection **10-1-303(6)** in effect on January 1, 1997, or a future franchise shall remain in full force and effect.

(c) A municipality that collects a contractual franchise fee pursuant to a franchise agreement as defined in Subsection **10-1-303(6)** with an energy supplier that is in effect on July 1, 1997, may continue to collect that fee as provided in Subsection **10-1-310(2)**.

(d) (i) Subject to the requirements of Subsection (3)(d)(ii), a franchise agreement as defined in Subsection **10-1-303(6)** between a municipality and an energy supplier may contain a provision that:

(A) requires the energy supplier by agreement to pay a contractual franchise fee that is otherwise prohibited under Part 3, Municipal Energy Sales and Use Tax Act; and

(B) imposes the contractual franchise fee on or after the day on which Part 3, Municipal Energy Sales and Use Tax is:

(I) repealed, invalidated, or the maximum allowable rate provided in Section **10-1-305** is reduced; and

(II) is not superseded by a law imposing a substantially equivalent tax.

(ii) A municipality may not charge a contractual franchise fee under the provisions permitted by Subsection (3)(b)(i) unless the municipality charges an equal contractual franchise fee or a tax on all energy suppliers.

(4) (a) Subject to Subsection (4)(b), beginning July 1, 2004, the governing body of a municipality may raise revenue by levying and providing for the collection of a municipal telecommunications license tax as provided in Part 4, Municipal Telecommunications License Tax Act.

(b) A municipality may not levy or collect a telecommunications tax or fee on a telecommunications provider except as provided in Part 4, Municipal Telecommunications

License Tax Act.

**(5) (a) The governing body of a municipality may by ordinance raise revenue by levying and collecting a license fee or tax on:**

**(i) a parking service business in an amount that is less than or equal to:**

**(A) \$1 per vehicle that parks at the parking service business; or**

**(B) 2% of the gross receipts of the parking service business;**

(ii) a public assembly facility in an amount that is less than or equal to \$1 per ticket purchased from the public assembly facility; and

(iii) subject to the limitations of Subsections (5)(c), (d), and (e) a business that causes disproportionate costs of municipal services or for which the municipality provides an enhanced level of municipal services in an amount that is reasonably related to the costs of the municipal services provided by the municipality.

(b) For purposes of this Subsection (5):

(i) "Municipal services" include:

(A) public utilities; or

(B) services for:

(I) police;

(II) fire;

(III) storm water runoff;

(IV) traffic control;

(V) parking;

(VI) transportation;

(VII) beautification; or

(VIII) snow removal.

**(ii) "Parking service business" means a business:**

**(A) that primarily provides off-street parking services for a public facility that is wholly or partially funded by public moneys;**

**(B) that provides parking for one or more vehicles; and**

**(C) that charges a fee for parking.**

(iii) "Public assembly facility" means a business operating an assembly facility that:

(A) is wholly or partially funded by public moneys; and

(B) requires a person attending an event at the assembly facility to purchase a ticket.

(c) Before the governing body of a municipality imposes a license fee or tax on a business that causes disproportionate costs of municipal services under Subsection (5)(a)(iii), the governing body of the municipality shall adopt an ordinance defining for purposes of the tax under Subsection (5)(a)(iii) what constitutes disproportionate costs and what amounts are reasonably related to the costs of the municipal services provided by the municipality.

(d) Before the governing body of a municipality imposes a license fee or tax on a business for which it provides an enhanced level of municipal services under Subsection (5)(a)(iii), the governing body of the municipality shall adopt an ordinance defining for purposes of the tax under Subsection (5)(a)(iii) what constitutes the basic level of municipal services in the municipality and what amounts are reasonably related to the costs of providing an enhanced level of municipal services in the municipality.

(e) (i) For purposes of this Subsection (5)(e):

(A) "Disproportionate rental fee" means a license fee or tax on rental housing based on the disproportionate costs of municipal services caused by the rental housing or on an enhanced level of municipal services provided to the rental housing.

(B) "Municipal services study" means a study conducted by a municipality of the cost of all municipal services that the municipality provides to the applicable rental housing.

(C) "Rental housing cost" means the municipality's cost:

(I) of providing municipal services to the rental housing;

- (II) that is reasonably attributable to the rental housing; and
- (III) that would not have occurred in the absence of the rental housing.
- (ii) (A) Each municipality that levies and collects a disproportionate rental fee that exceeds \$17 per unit per year or that intends to impose a disproportionate rental fee for the first time shall:
  - (I) before January 1, 2007 and except as provided in Subsection (5)(e)(iv), conduct a municipal services study; and
  - (II) conduct an updated municipal services study every four years after the first municipal services study.
  - (B) Each municipality that levies and collects a disproportionate rental fee that is \$17 or less per unit per year and that intends to increase its disproportionate rental fee shall conduct a municipal services study before increasing its disproportionate rental fee.
- (iii) (A) Beginning January 1, 2007, a disproportionate rental fee may not exceed the rental housing cost, as determined in a municipal services study.
  - (B) Subsection (5)(e)(iii)(A) does not apply to a municipality whose disproportionate rental fee is \$17 or less and that does not increase its disproportionate rental fee.
- (iv) The requirement under Subsection (5)(e)(ii)(A)(I) to conduct a municipal services study before January 1, 2007, does not apply to a municipality that levies and collects a disproportionate rental fee that exceeds \$17 per unit per year if the municipality:
  - (A) has implemented, before January 1, 2005, a program that provides a reduction in the disproportionate rental fee for each landlord that implements measures to reduce crime in the rental housing;
  - (B) does not decrease the amount of the disproportionate rental fee reduction provided in a program described in Subsection (5)(e)(iv)(A); and
  - (C) does not increase its disproportionate rental fee.
- (6) All license fees and taxes shall be uniform in respect to the class upon which they are imposed.
- (7) The governing body shall transmit the information from each approved business license application to the county assessor within 60 days following the approval of the application.
- (8) If challenged in court, an ordinance enacted by a municipality before January 1, 1994, imposing a business license fee or tax on rental dwellings under this section shall be upheld unless the business license fee or tax is found to impose an unreasonable burden on the fee or tax payer.

Amended by Chapter 193, 2005 General Session