



Memorandum

TO: TRANSPORTATION AND
ENVIRONMENT COMMITTEE

FROM: James R. Helmer

SUBJECT: TAXICAB SERVICE MODEL
UPDATE

DATE: 05-29-07

Approved

Date

5/20/07

RECOMMENDATION

Accept the status report on the Taxicab Service Model and staff recommendations on the issues of Leasability, Transferability and Driver/Vehicle Caps.

BACKGROUND

On September 7, 2005, the new Taxicab Service Model was initiated and Taxi San José (TSJ) began providing On-Demand Ground Transportation Dispatch Services at Mineta San José International Airport (Airport) to all 14 San José taxicab companies and the individual drivers with Airport-issued permits affiliated with those companies. Various other service model elements, including customer service training for drivers, were also initiated.

On December 4, 2006, City staff provided the Building Better Transportation (BBT) Committee, with an update regarding the above Taxicab Service Model. At that time, staff suggested a follow-up report to the Transportation Committee regarding the Taxicab Service Model and the issues of Driver Testing, Leasability, Transferability and Driver/Vehicle Caps as discussed as part of the Taxi Advisory Team (TAT) workplan. In addition, staff pointed out that the next report to the Transportation Committee would address the status of the On-Demand Dispatch Service at the Airport, including recommendations for on-going operations of the Taxicab Service Model. The BBT Committee approved these recommendations and this report meets Council direction.

ANALYSIS

San Jose Police Department Testing Issues

One of the core values of the Taxicab Service Model is to provide excellent customer service. A valuable tool in the effort to provide a high level of customer service has been the implementation and administration of a Customer Service Training program. In an effort to ensure that driver training was having a positive impact on the industry the San Jose Police

Department, in their capacity as the administrator for driver permit issuance and maintenance, sought to ensure that driver training was achieving the desired results by recommending the reinstatement of a bi-annual permit renewal testing program.

The taxi driver renewal exam was recommended for implementation as a method to verify that all permitted taxicab drivers are at a minimum competency level in the subject areas of knowledge of state and local traffic laws and safe driving practices, as is required by the San Jose Municipal Code. A testing process at permit renewal would assure that taxi drivers remain knowledgeable regarding changes in vehicular laws and Municipal Code updates. Renewal testing would also encourage drivers to maintain their education in driver safety techniques, which are perishable skills.

Although the San Jose Municipal Code has always allowed the renewal testing process, it has not been in actual practice for several years due to staffing deficiencies. Reinstating the taxi driver renewal exam would ensure that all permitted taxi drivers in San Jose have met an acceptable standard of proficiency in knowledge related to the taxi driver occupation. Continuing education among taxi drivers would promote professionalism in the taxi industry and enhance the City's customer service reputation, which is a primary goal of the Taxicab Service Model.

The renewal test would be a written exam, consisting of 25 multiple-choice questions administered at the time of a driver's regular biannual permit renewal. The renewal test questions will be derived from the same study materials referenced for the original written taxicab driver exam: the San Jose Municipal Code, Title 6, the California Vehicle Code, and the California Driver Handbook. The test would not be timed, and no specific appointment would be required. However, taxicab permit staff would proctor the test.

Drivers would be able access study materials at any time, free of charge, by:

- requesting training literature from their company or the police department
- picking up the Driver's handbook from their local Dept. of Motor Vehicles Office,
- logging into the City of San Jose website at <http://www.sanjoseca.gov> for Municipal Code reference material
- logging into the California Department of Motor Vehicles website at <http://www.dmv.ca.gov/> for California Vehicle Code references.

A pass rate of 70% or over would be required for a driver to renew their permit. If a driver does not pass the test, a 30-day temporary permit would be issued and the driver would have 2 more opportunities to come in during those 30 days and retake the test. If the driver is unable to pass the renewal test after 3 attempts, then it would be necessary for that driver to make a new application for a taxi driver permit and complete the standard testing process for new applicants.

The renewal testing recommendation has lead to significant discussion amongst industry stakeholders, including the Taxicab Advisory Team, SJPd, DOT, Airport, Taxicab Companies and Drivers. As a result, and with an eye toward ensuring that any program moving forward is successful, it was determined that the implementation of the renewal testing would be postponed

pending additional stakeholder outreach. No implementation date has been set. The TAT will continue to include renewal testing as part of the TAT Workplan and agendize further discussion at upcoming meetings before bringing a recommendation for implementation to a future Transportation and Environment Committee meeting.

Leaseability/Transferability/Caps

The TAT established a series of working groups to discuss and consider the feasibility and methodology of accommodating the lease and potential transfer of Airport Access Permits, as well as the establishment of a cap on the number of Taxi drivers and vehicles. The working groups held a series of meetings and presented ideas and possible approaches to the TAT. At the same time, staff, developed a potential methodology and strategy for the Transferability of Airport Access Permits, in response to City Council direction set forth during the initial adoption of the Taxicab Service Model. The findings of the working groups for each issue, along with corresponding staff recommendations are detailed in Attachment A, "Evaluation of Taxicab/Airport Permit Leaseability, Transferability, and Caps," which clearly outlines the background, stakeholder discussion, and recommended actions related to each issue.

It is important to note that this evaluation was brought before the Airport Commission on May 7, 2007 for their consideration and action. The Commission voted to support all of staff's recommendations. Staff requests Council adoption of Attachment A and its accompanying recommendations.

Taxicab Service Model/Taxi San José Dispatch Operations

Airport staff monitored Taxi San Jose (TSJ) operations over the past several months based on criteria described in January 2007 memo to TSJ Chair Dan Fenton. The memo described the four main categories of the review criteria including reports, operations, procedural items and communications/training. The criteria were established to monitor areas fully under the control and management of the TSJ organization that did not require City staff action to be attainable and successful.

Reports

Reports, for the most part, have been submitted in a timely manner and with consistent formatting, however accuracy has been at issue in some of the reporting. For example, daily reports, when totaled, did not equal the monthly reports submitted by TSJ, resulting in discrepancies with the trip fee collections by the companies. Additionally, the reporting by TSJ staff of Estimated Time of Arrival (ETA) calls, the times when TSJ requests additional drivers from non-assigned Airport Service days to assist with customer service needs at the Airport, were not consistently provided by TSJ in a regular or accurate manner.

The largest concern for report accuracy relates to the keying of data in the field into the frontline PDA equipment. Due, in large part, to the staffing levels and the rushes of trips taken by taxis, the real time entries into the system are not consistently accurate. This distorts the actual activity

levels during peak periods and the flow of vehicles through the curbside locations. Additionally, long delays are reported between the dispatching of vehicles from the staging lots and the arrivals to the Terminal locations, which are not fully explained through the reports presented to staff. The combination of these accuracy and input issues creates a concern with the overall accuracy of the trip numbers and the service provided to our passengers.

Operations

The four topics considered under the operations category included permit controls, staffing, and customer service and vehicle shortages. Verification of permits is not being conducted on a consistent basis. TSJ staff has admitted that they do not check permits regularly and there was a specific incident that brought this to light where a driver had lost his company Permit but had been allowed to operate for over two months without being stopped or locked out by TSJ.

Staffing has been a consistent issue throughout the term of the agreement. Starter “helpers” have not always been in place per their schedule and staff shortages are not addressed quickly, with several instances of staffing shortages reported. During one period, seven of eight days within a two-week period were not covered to the levels submitted in the TSJ schedules.

While customer service has shown some increased attention and improvement, the Airport is still experiencing several ‘no cabs’ and ‘customers waited over 5 minutes’ incident reports per month. There were numerous incidents of cabs being released too early from Terminal A and/or not remaining at Terminal C for late night flights during the review period. Peak period reaction has shown some improvement over the last month with increased emphasis on preparing for increased passenger volumes and proper placement of staff.

Vehicle shortages are not always responded to in an expedient manner. ETA’s are not always reported and do not appear to be proactively issued. The approved emergency plan should have been used at least twice and was not used during the recent Taxi Driver job action until City staff told TSJ to use their procedures when customers were waiting.

Procedural Issues

Monitoring of procedural compliance shows that several procedures are not being consistently applied. Voucher procedures have been discussed and revised through discussion with TSJ several times, yet the procedures are not enforced. It also appears that the TSJ staff is not regulating the drivers’ responsibility to stay with their vehicles as several issues have arisen that could have been avoided if drivers were kept near their vehicles. Additionally, issues related to releasing vehicles from the staging lot in large volumes and manual reporting of vehicles have established procedures that are not being implemented when necessary.

Finally, fair treatment by TSJ of the door-to-door shuttles and the taxis has become an important issue as the shuttle drivers staged a job action on May 16 due to their perception of unfair treatment by TSJ and specifically one of their supervisors.

Communications/Training

Staff observations conclude that communications continues to be a challenge for TSJ. Lack of consistent enforcement and knowledge of the procedures and policies by their staff shows a concern with training and follow-through towards supervisors and front line staff. Industry communication, beyond the taxi drivers, seems inconsistent and limited. Regular taxi company and door-to-door shuttle meetings have not been held.

Communications between Airport staff and TSJ has been strained, at times, and meetings to bridge the issues have started again to improve the flow of information and to meet the common goal to improve the level of customer service provided to the passengers.

One-Year Option Extension

While staff has documented concerns with TSJ related to operating the On-Demand Dispatch Services Agreement, there is a realization that a new program and process related to the challenging taxi industry will encounter difficulties during the initial implementation and operation. Dan Fenton, Chair of TSJ, has committed to the resolution of these issues and has been instrumental in maintaining the direction of TSJ from the outset. He has committed to providing the services necessary to ensure the levels of service required by the Airport's passengers. He has and will continue to meet with Staff to ensure an action plan is in place to provide the improvements necessary and Staff will return to City Council should any action be required outside of the current agreement. Staff is moving forward, as authorized by City Council in 2005, to implement the first one-year option period for the Agreement.

Company Contract and Driver Airport Access Permit Extensions

The contracts between the City and the taxi companies expire in September 2007. They may be extended on a year-to-year basis. Staff will be moving forward to extend the contracts of all companies that are in compliance with the requirements of their contracts and the Model Study approved by City Council in 2004. Companies that are not in compliance will not be offered the one-year extension to their contract. The requirements include:

- Operating a minimum fleet of 15 vehicles,
- Operating a computer aided dispatch system,
- Completion of customer service training by all drivers working under Airport Permits,
- Conducting a minimum of 25% of their Airport trips with alternative fuel vehicles, and
- Current on all fees and charges due to the City.

Airport Access Permits for the 300 alternate-day permits, 195 issued to drivers and 105 issued to companies, will also be offered one-year extensions. The 105 company permits will be reallocated to the companies whose contracts have been extended, based on the number of off-Airport trips reported to the City over the past year.

Taxicab Advisory Team Structure/Workplan

The Taxicab Advisory Team (TAT) was originally established in 2001. At its inception the TAT was created to serve as the oversight and dispute resolution body for the Taxicab industry. The group was intended to be balanced in its representation of affected stakeholders in order to ensure that all perspectives were being considered. The TAT was established with fifteen members representing the following groups:

- Three Owners and/or their representatives
- Three Drivers and/or their representatives
- Four customer representatives (Downtown Business Assoc., Hotel Industry, Convention/Visitors Bureau, and Disability Advisory Commission)
- Five City Administrators (a representative from the CMO that would serve as Chair, and representatives from DOT, SJP, Airport, and CAE)

Each appointee was asked to serve for a two-year period to maintain continuity. At the outset the TAT met on a quarterly basis (August, November, February, and May), with specific topics of discussion identified for each meeting. The TAT was then required to provide an annual report to City Council in the fall of each year.

Over time the TAT evolved into a less formal body. The meetings were held more frequently, on a monthly rather than quarterly basis, and while each of the stakeholder groups continued to be represented, the group representatives changed without formal appointment. In addition, the TAT decision-making process became more consensus oriented rather than driven by a majority of stakeholder votes.

This format served the committee when acting on the less contentious issues, however, recent action by driver representatives to refrain from participating in TAT meetings has called the current structure into question. Consequently, staff recommends that Council consider re-establishing the original formal appointee format for the TAT and appoint individuals to fulfill the respective stakeholder terms. This would re-establish the TAT's formal oversight responsibilities and offer all stakeholders an opportunity for meaningful participation.

The TAT continues to update its workplan. Future topics include:

- Industry Advertising and Alternative Revenue Sources
- Installation of Informational Pouches in Taxicab Vehicles
- City of San José Regulatory Costs and Taxicab Industry Fees

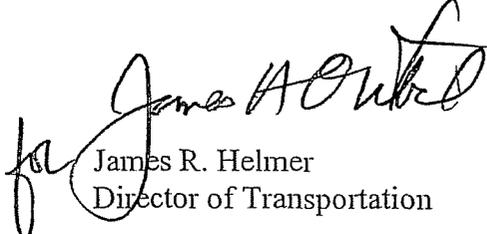
Staff will report on TAT workplan progress at subsequent Transportation and Environment Committee meetings.

PUBLIC OUTREACH

Staff has presented to and sought feedback regarding major elements of this report from Taxi San Jose and the Taxicab Advisory Team.

COORDINATION

This report has been developed by the Departments of Transportation, Airport, and Police, and coordinated with the City of San Jose's Airport Commission and the City Attorney's Office.


for James R. Helmer
Director of Transportation

Attachment A

Evaluation of Taxicab/Airport Permit Leaseability, Transferability, and Caps

The purpose of this document is to evaluate three specific taxicab industry items – leaseability, transferability, and driver and vehicle caps. Each of these items has been considered during the development of the new Taxicab Service Model. In approving the current Taxicab Service Model, the City Council referred two of the three items (transferability and driver/vehicle caps) to staff for further review and follow up.

BACKGROUND AND HISTORY

Through the spring and summer of 2005, staff and the taxicab industry invested significant resources to ensure the effective implementation of the new Taxicab Service Model. The volume and complexity of implementation issues – from competitive procurement of a starter and dispatch service, to developing and executing driver permits and company contracts, to refining data and communication systems – limited the time that staff and the industry have had available to effectively work on other customer service, industry and regulatory issues.

Following a reasonably successful implementation of the new service model in the fall of 2005, taxicab driver training was implemented in the Spring of 2006 as part of the overall effort to improve the quality of the taxicab industry and its customer service. Almost 400 of the 500 drivers received the training. However, other components of the proposed customer service program such as enhanced industry marketing and business development, and the installation of information display pouches in taxicab vehicles, have not been advanced by the taxicab industry. By most accounts though, the new taxicab service model has been highly successful when measured against the stated goals of the service model.

Since the Taxicab Service Model was approved in May of 2004, the Taxicab Advisory Team (TAT) has continued to meet on a monthly basis to work on issues that are important to the City and the taxicab industry. During the semi-annual development of the workplan for the City Council Transportation Committee, staff has reported on the status and progress of the Taxicab Service Model and other regulatory and industry issues. The feedback from the Committee has been positive to date.

In response to the three items that are the focus of this evaluation, it is important to note several actions that have already occurred. The current Taxicab Service Model already provides a system of leaseability for companies and limited leaseability for drivers with Airport permits. Further, in May of 2005 and again in August of 2005, staff at the direction of the City Council, agendized a proposal that would have created a temporary cap on the number of Citywide taxicab driver permits and vehicles. The item was deferred and dropped in August 2005 pending the outcome of the implementation of the new taxicab service model. In September of 2005, with the implementation of the new taxicab service model, permit caps were established at the Airport based upon the consultant's recommendation to ensure that there was a sufficient supply of cabs while minimizing taxicab wait times. The Airport market more naturally lent itself to the regulation of the number of permits than did the Citywide market because there is the ability to control access and the average number of trips is seasonally consistent.

In the fall of 2006, staff placed the issues of leaseability, transferability, and driver and vehicle caps on the TAT Workplan. The TAT created three sub-committees to frame the three issues and return back to the full TAT with input and recommendations. This report reflects the work of the sub-committees, and includes staff's recommendation to the full TAT regarding how to proceed on these issues.

ANALYSIS

This section of the report describes the elements of the three items under review, the work and discussions that the TAT sub-committees conducted, and staff's recommendations. The current Taxicab Service Model was established with the goals of expanding access to the Airport and enhancing service to the downtown, neighborhoods, and customers in general. The service model was also designed to create more equity and balance within the taxicab industry, between companies and drivers, and to improve driver's opportunity to earn more income. Finally, the service model needed to be efficient and manageable from a City regulatory perspective, given limited staff resources and lack of cost recovery of the fees charged to this industry. The evaluation of leaseability, transferability, and driver and vehicle caps must occur within the framework of the goals of the Taxicab Service Model in order to be effective.

1. Leaseability of Airport Taxicab Driver Permits

Leasing taxicab permits and vehicles was exclusively within the realm of taxicab companies prior to implementation of the current Taxicab Service Model. With implementation of the current Taxicab Service Model, drivers were granted limited leasing provisions with their Airport taxicab driver permit. Drivers with Airport taxicab permits can lease their permits two times for up to a total of three months in a twelve-month period. The current permit holder remains accountable for all permit requirements, including the actions of the lessee. The lessee must also be a permitted taxicab driver in the City of San José. The remaining terms of the lease are between the parties executing the lease, including monetary compensation. Companies have the ability to lease Airport permits under their control, and are similarly accountable for all requirements.

The TAT sub-committee on leaseability met to discuss the issue on October 3rd, 30th and November 29th, 2006. The sub-committee determined at its first meeting that since no overall cap existed for Citywide taxicab driver permits, the only current market for leaseability was at the Airport. Airport driver permits are limited to 300 (150 each alternate day) thus creating a potential market for drivers without Airport permits. The sub-committee also achieved consensus that the permit holder (driver or company) would remain accountable for meeting all permit requirements.

Taxicab drivers on the sub-committee proposed that Airport permitted drivers have authority to:

- Lease their permit at any time.
- Lease their permit to a second shift driver on the same day they worked their permit.
- Extend the total lease time from the current three months to six months.

Significant discussion occurred on the above proposals and other ideas include:

- Extending lease periods from the current three months to four months.
- Requiring the permit holder to service (actually drive) their permit 66% of their overall required 130 days (5 of every 14 days = 130). The 66% requirement would result in service being directly provided by the primary driver 86 days a year each at the Airport and in the City (172 total).
- Authorizing drivers to lease permits only on their assigned Airport days that they choose to not work themselves to avoid overcrowding of taxicabs serving the Airport.
- Lease Airport Access permits only to drivers currently on the Airport Permit Waiting List.

The sub-committee also discussed the potential impacts and challenges associated with the proposals and changes to the current system of leaseability. Those discussions included:

- Authorizing a 2nd shift lease would likely reduce the average number of trips per day that all Airport permitted drivers receive because it would likely add an additional driver at a time when the primary driver normally does not work. Prior to the implementation of the Taxicab Service Model, a total of 343 cabs had access to the Airport each day, with an average of 225 cabs working per day. These cabs averaged 1,025 trips per day for a per driver average of 4.55. Currently, 150 cabs have access to the Airport on any given day. The average trips have remained constant at roughly 1,025 per day, however, the average number of trips per driver have increased to an average of 6.83 per driver per day.
- Market forces would determine the fees that would be paid by lessee drivers. The City, unless it became more heavily involved in regulating this aspect of the industry, would not be able to monitor lease transactions, and the associated impact to driver income.
- Drivers on the waiting list will likely wait a much longer period of time to receive an Airport taxicab driver permit as existing permit holders would likely see alternative opportunities to generate income, without having to actually drive a taxicab vehicle, and thus would likely hold on to permits longer than they might otherwise. To date under the current taxicab service model, 23 drivers have declined Airport permits and 17 have returned them, allowing 40 drivers on the waiting list to gain the opportunity to service the Airport.
- Primary permitted drivers must remain accountable for all permit provisions. Extended and frequent leasing of the permit increases the likelihood that all permit provisions will not be met, and infractions would occur that must be resolved with the primary permit

holder. The likely impact of allowing leasing in excess of three to four months per year is an increased difficulty, if not impossibility, of contacting the primary permit holder to resolve potential issues or infractions by the lessee (e.g. the main reason drivers initially requested leaseability in its current form was to enable lengthy trips to other countries).

- Leasing for a 2nd shift at the Airport has the potential to attract drivers that normally serve the Downtown, neighborhoods, and dispatch calls, which may result in reduced service to non-airport passengers throughout San José.

Follow-up discussions on the topic with the Taxi Advisory Team (TAT) on April 20, 2007 included the following comments:

- Several companies indicated they are not utilizing their multiple driver leasing provision with any regularity, and as a result would agree to make their leasing provisions consistent with the drivers provisions.
- At the same time, several companies suggested that they would not engage in second shifting of any kind.
- All companies were unified in their opposition to having limits placed on the number of times per year that a company permit could be given to a new/different driver.

Staff Recommendations to Taxicab Advisory Team on Leaseability

1. Extend the maximum lease timeframe for drivers from three months to four months, without limits on the number of times a permit can be leased per year.
2. Only authorize the extended lease period to drivers who are in full compliance with all permit obligations.
3. Establish the minimum annual service days at 86 days for on-and off-Airport days for a total of 172 City-wide.
4. Second shifting of driver or company permits should not be allowed under any circumstances to ensure that driver trip volumes do not drop to pre-model averages.

2. Transferability of Airport Taxicab Driver Permits

Transferability refers to the sale, exchange or relinquishment of Airport taxicab driver permits from a current Airport permitted driver to a driver that only has a City taxicab driver permit. As part of the approval of the current Taxicab Service Model, the City Council directed the development of a legal methodology and implementation plan for transferability of permits within the system. The direction also required that information be included on the anticipated impacts and important considerations of implementing a new system.

A TAT sub-committee on transferability met to discuss the issue on November 1, 2006. The sub-committee discussed a variety of potential transfer methods and criteria. Providing context for the entire transferability discussion was the fact that the Taxicab Service Model was designed to provide working drivers an opportunity to generate additional income through a more equitable regulatory system that provided flexibility to drivers to choose the company they affiliate with based upon the income opportunities and fees established by the company. It was not a service model designed to provide financial benefits for non-driving activities such as transferability. As a result, the City did not charge an acquisition fee to the primary permit holder. The Airport permits were assigned free of charge to drivers based upon their ranking on a list established by the number of trips a driver served Airport customers during the service model study period. A waiting list has since been established, via lottery, of drivers wishing to obtain their own Airport permit. As Airport permits become available, they are assigned to drivers in order on the waiting list free of charge. As mentioned previously, 40 drivers from the waiting list have received permits.

Participants in the sub-committee process identified several potential strategies upon which to base a transfer methodology. The first proposed method of transfer would occur when an Airport permit holder no longer wants to continue servicing the permit. The permittee would return the permit to the Airport, and drivers on the existing waiting list would be given the opportunity to acquire the permit in the order they appear on the list similar to the current method, after paying a transfer fee. The significant difference from the current method is that the transfer would result in the payment of a second City established transfer fee to the Airport, with 50% of the fee being paid to the permit holder initiating the transfer. The remaining 50% would be used by the Airport to offset the costs of managing taxicab programs.

The second potential method of transfer could be used when an Airport permit holder no longer wants to continue servicing the permit. Similar to the method described above, the permit holder would return their permit to the Airport and the permit would be transferred through a competitive bidding process by those on the waiting list, or all City permitted taxicab drivers. In this instance, the transfer would result in the payment of the proposed bid amount of the highest bidder to the Airport, with a 50% of the fee being paid to the permit holder initiating the transfer. The remaining 50% would be used by the Airport to offset the costs of managing the taxicab programs.

It is important to note that the original offering of Airport driver permits occurred without having assigned any value or potential monetary benefit at the time of the initial distribution. Staff recommends that, in the event that some form of transferability of Airport permits is adopted, the City and the Airport consider a re-distribution all 195 of the Airport Access Permits through a lottery system. This system will allow all drivers an opportunity to obtain a permit provided that they meet the overall criteria.

Considerations of Transferability of Airport Driver Permits

At the time of approval of the new Taxicab Service Model in 2004, the City Council recommended consideration of transferability of Airport permits only after an evaluation of the

effectiveness of the Taxicab Service Model. Any evaluation of the new system should consider how it is working both at the Airport and Citywide. A major objective of the alternate day rotation system and allocation of company Airport permits based on City trip volumes is to improve service for the City (non-airport) market. Thus, prior to considering transferability, the new system should be shown to be effective in both providing the desired level of service at the Airport, and in improving dispatch response times and service quality for non-Airport trips. There has been monitoring of the new system, yet a final determination on the overall effectiveness of the new system cannot be made quickly. The proposed system includes a 2-year transition period (thru September 2007), and that period of time and possibly an additional year are needed before the long-term success of the new system can be fully determined.

Concerns with Transferability of Airport Driver Permits

Transferability of Airport driver permits is not part of the recommended service model largely due to the counterproductive impacts of transferability on driver incomes beyond an initial, potential windfall for the group of current drivers that received permits in the initial allocation; and due to the constraints that transferability would create for further modification of the taxi service model to changing City needs.

Fundamentally, transferability means that certain drivers receiving permits would benefit at the possible expense of existing drivers that do not receive a permit in the initial allocation and future generations of drivers. A major issue in the current study has been driver incomes; a major feature of the recommended service model is to control the number of cabs serving the Airport as a way to improve driver productivity and driver incomes. Drivers are hoping that these controls will translate into a value to their Airport permits. If this develops, drivers holding Airport permits could sell the permits to other drivers and thus profit from having held the permits.

While this may be desirable from the perspective of the drivers who have been issued the initial Airport permits, the effect would be to reduce the incomes of drivers that want to work the Airport in the future. Existing drivers not receiving permits in the initial allocation, and future drivers, would have to make an upfront payment to gain access to the Airport through a driver permit; putting them at a distinct disadvantage to current Airport permitted drivers. The payments would come from personal savings or loans. If loans are not available, the need for building up personal savings poses a barrier to entry for future drivers. If loans are available, payment on the loans then reduces the net income of those drivers making loan payments – potentially quite substantial, as seen in New York, Chicago, Boston and other major cities where a medallion system has been adopted.

In effect, permit transferability may result in the City facing the same problems with driver incomes that the proposed service model is designed to address. The new service model would thus be a short-term “fix” without lasting impact on the incomes of drivers who serve the Airport, exactly the opposite of the intended result.

Transferability also is likely to create obstacles to modifying the regulatory system to meet unforeseeable changing circumstances. The value of permits from transferability creates very strong incentives for permit holders to resist changes to the system, however beneficial they might be. It is notable that in major medallion cities, taxi drivers and owners resisted increasing the number of taxicabs for decades on the fear that an increase would hurt medallion values. In fact, however, medallion values and the position of the industry were strengthened by the issuance of additional medallions because customers could be better served, industry market share increased, which in turn translated into increased medallion values. However, staff's position on transferability is that taxicab permits are City owned permits whose rights should not be privatized. The Taxicab Service Model is organized in a manner that emphasizes that the appropriate place for profit in the taxi industry is the result of providing excellent service to the customer.

Staff Recommendations on Transferability of Airport Permits

1. As the initial two year phase of the taxicab service model nears completion, staff recommends that the current system where drivers gain access to Airport permits based upon service, and their position on a waiting list be maintained, as opposed to a system where drivers buy and sell permits through an open market or regulated transfer process. Current drivers gained access to Airport permits through service, without any charge, as a means of encouraging their long-term service commitment. Future drivers on the waiting list should be provided the same opportunity. Staff analysis of the issue, and recommendation, provides the requested information to meet City Council direction to develop a legal methodology for transferability, including the anticipated impacts and important considerations of a new system.
2. In his letter dated April 27, 2007, Ron Lind, President of United Food & Commercial Workers Local 5 states that the staff's analysis on Transferability is flawed, however, they make no statements as to how Transferability could be implemented or how the staff's recommendations should be modified.

3. Taxicab Driver and Vehicle Permit Caps

As part of the approval process of the Taxicab Service Model, the City Council directed that staff return to the City Council Transportation Committee with the framework for an administrative methodology for adjusting the number of Citywide taxicab permits. In the interim, there shall be no increase in the overall number of Citywide taxicab permits using March 1, 2004 as the baseline. Staff provided a status report to the City Council Transportation Committee on November 1, 2004 identifying the that number of taxicab driver permits had reached the level of 571 and the number of taxicab vehicle licenses had reached the level of 572. At the November 16, 2004 City Council meeting, staff was directed to draft an ordinance for City Council approval that would temporarily limit the number of citywide taxicab driver permits at 571 and the number of taxicab vehicles at 572. In response to this direction staff agendized an item for City Council consideration on May 17, 2005. The item was deferred twice to May 24th, 2005

and August 23rd, 2005 before being dropped. Staff has continued to monitor driver and vehicle numbers and has provided status reports to the TAT from March 1st, 2004 to the present. Police Department data has consistently shown that driver permits and taxicab license numbers have remained constant at or near 500 for both drivers and vehicles.

Background on Taxicab Driver and Vehicle Caps

The TAT sub-committee on Driver and Vehicle Caps met on November 13th, 2006 and January 17, 2007. Before the sub-committee discussions on a cap are presented, it is important that information and analysis on the subject place the issue in context. The goal of a cap on the number of permitted taxicabs in the City would be to address a perceived oversupply of taxicabs. The information below identifies what factors should be considered, and how the setting of a cap might occur, in the event that it is determined that setting a cap is the best course of action for the taxi industry and the City.

Setting and maintaining a cap must adequately address two issues. First, the factors to be used in the analysis that would lead to setting a cap must be clearly identified and be shown to have a direct impact on driver income. Second, a methodology must be developed for the on-going administration of a cap and the issuance of additional permits when demand for taxicab service increases beyond the taxicab industry's capacity to meet it.

Challenges with the Use of Caps, Particularly on the Citywide Market

A cap on the number of taxicabs on a Citywide basis is not part of the recommended service model for the following reasons:

- Caps reduce incentives to expand markets and improve customer response times.
- The inherently difficult and imprecise nature of the analysis used to determine caps.
- Caps increase regulatory burden and costs created by administering and reviewing cap levels.

Caps Reduce Incentives to Expand the Market

A primary goal of the recommended service model is to create incentives for cab companies to market their services and increase trip volumes for drivers. Caps undercut incentives for companies to improve and market their services, since they are prohibited from expanding in size as warranted by increased demand. Comparisons with other cities indicate that the demand for cab service in San José is partially depressed by high fares and slow response times, and capping the market will not improve this situation. San Jose's taxicab fare is among the highest fares in the nation, and in fact has the highest rate of the 13 largest taxicab markets in the US. In addition, in terms of customer satisfaction with wait times, it is one of the lowest rated aspects of service in this industry, with 35% of Downtown businesses rating response times as poor. When compared to San Diego, Seattle, Fairfax County VA, and Montgomery County MD, the average number of daily dispatched trips per 100,000 population is significantly lower in San Jose. It should also be kept in mind that San José has a number of factors that make future growth an

expected reality including: the Airport Masterplan, the City's Economic Development Strategy, future developments in Downtown, and new and updated regional malls.

Setting Caps is Difficult and Imprecise Work

Caps require a difficult and imprecise evaluation of the number of cabs necessary to serve current demand. The optimal balance between the number of cabs and trip volumes is affected by numerous factors including the efficiency of dispatch procedures and geographic and time-of-day variations in demand. Setting the number of Airport permits at 300 has required extensive analysis; the task of setting a Citywide cap is several orders of magnitude more difficult, and must take into account that San Jose's cabs are also the primary fleets that serve many of the other cities in Santa Clara County.

The Airport has fairly precise taxicab data, by time of day and day of week. The Taxicab Advisory Team (TAT) extensively analyzed and debated what the appropriate number of cabs at the Airport should be. After two months of debate, the TAT could not agree on the appropriate number. The current Airport companies thought that 350 alternate day permits were needed to adequately serve Airport customers. Drivers were of the opinion that 240 could adequately meet customer needs. Staff determined that 300 permits (60 of which are proposed on a provisional basis until actual experience is obtained) would be the appropriate number to meet customer needs and ensure productive Airport days for drivers. Attempting to establish a similar number for the City given all the variables would be a difficult and costly exercise.

Regulatory Burden and Cost of Setting Caps is High

Capping the number of taxicabs will likely result in the City regulating other economic aspects of the taxicab industry, principally the gate fees that cab companies charge drivers. San Francisco, Chicago and New York have all found it necessary to regulate gate fees as well as the number of cabs, when the goal attempting to be achieved is higher driver incomes. The results from each of these cities, in terms of impact on driver income, have been mixed.

Finally, the level of regulation incurred by caps and possibly gate fee regulation is costly and burdensome. In 2004, San Jose had a \$750,000 shortfall in cost recovery for taxicab regulation. Staff has implemented a new service model, with improved regulatory oversight, all within existing staffing levels. Given the overall budget shortfall the City is attempting to balance by June 30th, proposing the addition of staff to regulate an industry that is well short of cost recovery remains counterproductive. Analysis of caps cannot be undertaken without additional staff or consultant resources, and fees on the industry. But if fees are to be raised, they should first be allocated toward reducing the City's current shortfall between regulatory costs and fee revenue, and not on adding new regulatory activities.

Relevant Factors for Setting a Cap on Taxicab Drivers and Vehicles

Setting caps on drivers or vehicles should be based on an analysis of the following factors:

- Trip volumes (both airport and non-airport trips) and market demand
- Customer response times and customer satisfaction
- Number of cabs and utilization rate
- Number of drivers (full-time, part-time and not working)
- Driver productivity and driver income
- Rate of (customer) fares
- Gate fees charged to drivers by companies
- Company marketing and promotion
- Driver movement between companies

Based on these factors, it could be assessed whether market conditions suggest that a cap is necessary. If it was determined that market conditions were favorable enough, no cap would need to be considered. If it is determined that market conditions were not improving, staff would then be authorized to begin the process of making a determination to set a cap. If the City Council were to direct staff to declare a cap, objective criteria would need to be used to ensure a fair and defensible process in the setting of a cap, requiring further consultation with the City Attorney's Office.

Administration and Adjustment of a Cap

Were a cap to be instituted, there would necessarily be periodic (annual or every other year) reviews of whether the number of authorized taxicabs were sufficient to meet customer demand. The review should be conducted at the request of taxicab companies, drivers, taxicab users (including residents and the business community) or the relevant Departments of the Transportation and Aviation Services City Service Area.

Given the costs that would be created by a review process if a cap were set, it is recommended that a fee be charged to each taxicab company, based on the number of taxicabs in use at the company, including affiliated cabs, and on each permitted driver on a cost recovery basis. Companies and drivers would share the cost of the review. For example, if the total cost of a review was \$60,000, and there were 480 taxicabs and 480 permitted drivers, the cost would be \$61 per cab, including affiliated cabs (paid by companies) and \$61 per driver (paid by drivers).

Citywide or Company Specific Caps

A key consideration in setting and administering a cap concerns whether the cap applies to the industry as a whole or to individual companies. Generally, other jurisdictions have set their caps citywide. The advantages of the citywide approach are its simplicity and uniformity.

The disadvantage is that a citywide cap is unfair to cab companies that are not the source of the oversupply of cabs. While some companies may have an oversupply of cabs relative to dispatch

calls, other companies may appropriately balance supply and demand. These latter companies most likely have effectively marketed and promoted their services and thus increased dispatch calls, trips per driver, driver productivity and driver income. It would be unfair and likely counterproductive to cap the ability of some companies to grow – and their incentive to improve their operations – due to problems at other companies. Thus, in order to maintain the current service model incentives for companies to market, promote and attract new customers, if the City Council determines a cap to be an appropriate regulatory tool for the City to use, it is suggested that it be considered on a company-specific basis rather than industry-wide.

An additional consideration in administering a cap concerns the start-up of new companies. A key element in the proposed service model is allowing new companies to enter the market and compete with existing cab companies. San José has seen one new company enter the market in recent years and compete effectively and build its business and reputation. In order to maintain this key feature of the recommended service model, it is recommended that new companies be allowed to enter the market, even in the event that a cap is instituted, if they show a market need, a credible business plan to meet the market need, and have a commitment from 5 or more drivers (15 after the 2-year transition period that ends in September 2007) to be affiliated with the company within a designated period of time.

Experience in Other Jurisdictions with Caps

The experience of three jurisdictions illustrates alternative ways that periodic reviews on the number of authorized taxicabs are conducted.

San Francisco – The San Francisco Taxicab Commission conducts an annual review of the number of taxicabs in the city/county. The review this year will include a mail survey of taxi users, test calls to cab companies to measure dispatch response times, and observations of taxi availability for flag drops on Downtown streets and at hotel taxi stands. The Taxi Commission will publish the results and hold a hearing. If the Taxi Commission votes to issue additional medallions, the City Controller conducts an analysis of the financial impact on the industry and recommends to the Board of Supervisors whether fares and gate fee caps should be adjusted. The cost to the Taxi Commission including consultant and staff time is projected to be \$50,000 to \$60,000. The cost for the City Controller to complete their portion of this analysis was not available and the results of the analysis are typically limited in terms of the depth of analysis.

Denver – The Colorado Public Utilities Commission regulates Taxicabs in Colorado. Reviews of the number of taxicabs are conducted in response to applications for operating authority from existing or new taxi companies. Applicants must prove the need for additional cabs; companies typically attempt to do so through letters of support from the public and hotels and the testimony of witnesses (consumers and/or experts). Administrative law judges conduct the hearings and make a recommendation to the PUC based on the hearing record. PUC staff has not conducted independent studies. Costs include the time of judges and court reporters; no cost estimate is available.

Las Vegas – The Nevada Taxicab Authority, which regulates taxicabs in Las Vegas, collects detailed statistics on trips, revenues, average fares and shifts worked from each of the 16 cab companies on a monthly basis. In 1996, the Taxicab Authority adopted a formula for issuance of additional taxicab medallion licenses based on the number of taxi trips. Additional medallions are issued based on increases in the number of trips. Taxicab Authority staff conduct analyses of the industry data and report to the Taxicab Authority Board, which makes the final decision after hearing testimony from companies, drivers and other interested parties. The Taxicab Authority has regularly issued new medallions, most recently a May 2003 allocation of three medallions per company. An estimate of costs of the analyses and reviews is not available.

Sub-Committee Proposals on Driver and Vehicle Caps

During the first sub-committee meeting, the stakeholders representing drivers and the local union proposed the following:

- A cap on vehicle licenses at 475.
- A reduction of driver permits.

After lengthy discussion, the following impacts and challenges to implementing a cap on taxicab drivers or taxicab vehicles were brought forward:

- Setting a fixed cap may limit the ability to provide acceptable customer response times both on and off airport. (Acceptable response times identified in the Taxicab Regulatory and Service Model Study were 20 minutes from the request for service for off airport service calls or within 5 minutes of the requested pick-up time. On airport service wait times should be 5 minutes or less.)
- Setting a cap would limit taxicab companies' ability to grow their customer base.
- How would taxicab companies that are losing drivers, but not necessarily customers, meet customer demand if a cap on drivers has been hit?

Taxicab companies present at the sub-committee meeting were opposed to setting caps on both drivers and vehicles. It was pointed out that the City does not limit other industries from acquiring resources and equipment to respond to market demands. The taxicab companies indicated that their primary revenue transaction was to lease vehicles, and access to a customer base by contractual drivers. Should a cap be established it would:

- Limit a company's ability to generate business and market share.
- Adversely impact taxicab companies in their ability to meet trip demands.
- Adversely impact a company's ability to increase their fleet size, which further limits their ability to generate a return on their business investment.
- Drivers moving from one company to another may not be able to be replaced by the primary company and this could adversely impact customer service response times if the primary company does not have sufficient drivers to handle their call volume.
- If only vehicles were capped, then the remaining vehicles would have a much heavier demand and may create a necessity to operate a single vehicle 2-3 shifts a day.

- Replacement vehicles for those cabs out of service for repair or because of an accident may be limited or non-existent.

Staff Recommendation/Potential Impacts of Caps on Airport Access Permits

1) Self-Regulation: Given the industry's apparent self-regulation at 475 to 500 vehicles and drivers, there is no urgent reason for establishing a cap at this time. Reports of extended wait times for cab service in the downtown and at the airport have been reported during special events when the draw on cabs at both the airport and in the City is high. This is an indicator that there are insufficient cabs at certain times and that a cap would only increase poor response times if a cap were instituted and the numbers of available cabs were further reduced. Data shows that daily driver trip volumes have increased since the inception of the Taxicab Service Model. The pre-model average of approximately 4 trips per day has increased to a current average of approximately 7 trips a day.

2) Company Plan/Offer: Consistent with initiation of the service model in September 2005, staff will require taxicab companies to provide current and prospective drivers with a company plan and offer designed to inform drivers of the advantages, opportunities, marketing, and expected trip volume as well as the specific fees to be charged. The company plan and offer is designed to generate competition among companies for driver's services. This process along with the permitting of drivers, and providing access to all San Jose taxicab companies at the Airport provided for lower driver fees by companies, and the creation of a company that is majority owned by drivers.

3) Cost Recovery Shortfall: As was documented during approval of the service model in 2004, the current regulatory costs of the taxicab industry are not recouped through industry fees. The General, Airport, and Transportation Funds absorb the shortfall. Any expansion of regulatory requirements, like the implementation of a cap, would only exacerbate the existing shortfall, in an environment where further budget reductions are being recommended in the 2007-08 Proposed City Budget.

4) Increase Regulatory Cost Per Driver: If caps are instituted the shared cost of regulatory fees would need to be spread among a smaller driver base, and potentially significantly increasing individual driver costs.

5) UFCW Local #5 Comments Regarding Caps: In their April 27, 2007 letter UFCW Local #5 suggests "the emphasis of any analysis of appropriate supply and demand should focus on a solution around distribution of current cabs at appropriate times." This suggests that either the Airport or the City of San Jose have the regulatory capability to deploy cabs during high volume periods, which they do not. In addition, Taxicab Companies regard drivers as independent contractors and not employees, and therefore do not control their working hours in any way that would accommodate the union's recommendation. At present, the Taxicab Service Model regularly experiences cab shortages at the Airport during peak demand periods. It is clear that any reduction in the current number of cabs/drivers would significantly increase wait times as a result. It is important to note that, along with driver incomes, customer service is a central component of a successful taxicab service model.