

THIS PRINT COVERS CALENDAR ITEM NO. :

**SAN FRANCISCO
MUNICIPAL TRANSPORTATION AGENCY**

DIVISION: Administration, Taxis and Accessible Services

BRIEF DESCRIPTION:

Requesting the San Francisco Municipal Transportation Agency Board of Directors to adopt amendments to Transportation Code, Division II, Article 1100 governing Motor Vehicles for Hire to further implement the Taxi Medallion Sales Pilot Program by establishing the Taxi Advisory Council as a temporary advisory passive meeting body to the SFMTA Board of Directors.

SUMMARY:

- SFMTA staff has worked with the San Francisco taxi industry over the past year to develop a proposal for the reform of the San Francisco Taxi Medallion system.
- The proposed amendments to Transportation Code, Division II, Article 1100 represent the staff recommendation that a temporary Taxi Advisory Council be established as an advisory passive meeting body in order to monitor the Taxi Medallion Sales Pilot Program and, by December 31, 2010, to make recommendations to the SFMTA Board of Directors for long term reform of the San Francisco taxi Medallion system.

ENCLOSURES:

1. SFMTAB Resolution
2. Proposed Amendments to Article 1100

APPROVALS:

DATE

DIRECTOR OF DIVISION PREPARING ITEM _____

FINANCE _____

EXECUTIVE DIRECTOR/CEO _____

SECRETARY _____

ADOPTED RESOLUTION

BE RETURNED TO Chris Hayashi

ASSIGNED SFMTAB CALENDAR DATE: _____

PAGE 2

PURPOSE

To establish a temporary Taxi Advisory Council as a passive meeting body for the purpose of monitoring the implementation of the Taxi Medallion Sales Pilot Program (“Pilot Program”) and, by December 31, 2010, to make recommendations for the long-term reform of the system of distribution of Medallions in San Francisco.

GOAL

Objective 3.1: Improve economic vitality by growing relationships with businesses, community, and stakeholder groups.

These amendments would establish a group of representatives from diverse taxi industry interest groups for the purpose of monitoring the issues that arise during the Taxi Medallion Sales Pilot Program and the effects of the Pilot Program on different elements of the industry. It would provide a continuing and regularly scheduled public forum for industry members and the public to have meaningful dialogue with the SFMTA about San Francisco Medallion reform. It would allow the industry to formally present its analysis, conclusions and recommendations to the SFMTA Board based on industry knowledge and the experience of the Pilot Program. It would provide a venue in which majority and dissenting views may be fully discussed and presented, both during meetings of the body and in the final written report of the body to the SFMTA Board.

DESCRIPTION

The primary purpose of the proposed amendments is to establish a temporary advisory passive meeting body to monitor the implementation of the Taxi Medallion Sales Pilot Program, through which the SFMTA Board of Directors has authorized the purchase and sale of certain taxi Medallions.

The Pilot Program has potentially significant effects on many segments of the taxi industry. For example:

- Drivers without Medallions will have to look at their long-term prospects in the industry in a fundamentally different way, since there will be no more sign-ups for the Medallion Waiting List and Medallions may become available for purchase. The sale of Medallions may tend to push the industry toward long-term leasing of taxis instead of the “gas and gates” model. “Gas and gates” drivers may find that there are fewer shifts available for them to work.
- Companies may find that their comparatively profitable “gas and gates” way of doing business is supplanted by long-term lease arrangements over which they have less control (and correspondingly greater risk of liability) and from which they derive less revenue. If so, adjustments in the standard ways of doing business across the San Francisco taxi industry will be necessary.
- Medallion holders who are eligible to sell their Medallions will suddenly have to make economic decisions they have not been faced with before. Those who are not eligible to sell their Medallions may also look into how to generate more income from their Medallions, and this new entrepreneurial spirit may have ripple effects on Drivers and companies associated with those Medallions.

PAGE 3

Accordingly, the Pilot Program staff recommendation included the creation of an industry group to monitor the Pilot Program, with a report and recommendations for a long-term Medallion reform solution due to the SFMTA Board of Directors no later than December 31, 2010. While the staff recommendation did not address the permanence of the recommended body, in these proposed amendments staff recommends that this advisory body be temporary with a single, two-year term, and could later be established as a permanent body. As with the Pilot Program itself, the experience of the temporary advisory passive meeting body would inform a later decision about forming a more permanent group, such as how different interest groups within the industry should be represented, the term of appointment of members, grounds and procedures for removal of members, the identity of the appointing officer and the procedures for application and appointment.

Staff recommends that the make-up of the Taxi Advisory Council be as follows:

1. Three representatives of largest three Color Scheme Permit Holders
2. Three representatives of other Color Scheme Permit Holders
3. Three Medallion Holders who do not represent any Color Scheme and who are not employed as a manager, dispatcher, cashier or mechanic or administrative staff by any Color Scheme.
4. Three Drivers without Medallions who are not on the Waiting List
5. Three Drivers without Medallions who are on the Waiting List.

This proposed make-up of the Taxi Advisory Council would be representative of diverse interests in the industry, and would not allow any particular interest group to dominate the decision-making process.

Note that there is no public representation on this proposed Taxi Advisory Council. That is because the issues presented and potential effects of the Pilot Program relate to the economic ebb and flow within the taxi industry, the relative role of the different parties in that industry and the resulting need for changes to business plans and operations. Ramp taxis are not included in the Taxi Medallion Sales Pilot Program, and the Pilot Program does not make any change to the City's paratransit system. SFMTA staff intends to address taxi service quality issues separately from the Taxi Medallion Sales Pilot Program.

The City Attorney has reviewed this report.

ALTERNATIVES CONSIDERED

Staff conducted extensive outreach events over the past 12 months to discuss options for Taxi Medallion reform. These meetings were conducted on-site at One South Van Ness, as well as at Color Scheme sites at time of Driver shift changes and the San Francisco International Airport taxi holding lot. Staff also met with the Boards of Directors of two cab companies, attended (and continues to attend) meetings of industry groups when invited, including the San Francisco Taxi Coalition, the Medallion Holders' Association and the San Francisco Cab Drivers' Association.

PAGE 4

During that process, one of the goals identified by the group was the improved representation of the taxi industry at the SFMTA and before the SFMTA Board. This proposed Taxi Advisory Council is a first step to address that goal. If this group is not formed, the SFMTA staff and Board of Directors will have less factual information and fewer informed recommendations to guide its taxi-related policies going forward. The taxi industry would have less access to information about the day-to-day implementation of the Pilot Program, and fewer venues to provide information to the SFMTA staff and the Board about the successes and failures of the Pilot Program.

FUNDING IMPACT

There is no funding impact associated with forming a temporary Taxi Advisory Council.

OTHER APPROVALS RECEIVED OR STILL REQUIRED

None.

RECOMMENDATION

Staff recommends that the SFMTA Board adopt the proposed amendments to Transportation Code Division II, Article 1100.

SAN FRANCISCO
MUNICIPAL TRANSPORTATION AGENCY
BOARD OF DIRECTORS

RESOLUTION No. _____

WHEREAS, SFMTA staff has conducted extensive outreach in public meetings and at taxi company facilities on the subject of reform of the San Francisco taxi industry; and,

WHEREAS, During SFMTA outreach events, members of the taxi industry identified the goal of increasing industry representation at the SFMTA and before the SFMTA Board of Directors; and,

WHEREAS, The Taxi Medallion Sales Pilot Program represents an opportunity to collect information, monitor results and elicit industry recommendations for the purpose of adopting a long-term taxi Medallion reform solution; and

WHEREAS, The Taxi Medallion Sales Pilot Program represents a compromise position between many diverse interests of the San Francisco taxi industry; and

WHEREAS, SFMTA staff recommends that a temporary Taxi Advisory Council representing diverse interests within the San Francisco taxi industry be established in order to monitor the Taxi Medallion Sales Pilot Program, and that it be given until December 31, 2010 to make written recommendations to the SFMTA Board of Directors for long-term reform of the San Francisco taxi Medallion system; now, therefore, be it

RESOLVED, The Board of Directors approves and adopts amendments to Article 1100 of Division II of the Transportation Code, regulating Motor Vehicles for Hire.

I certify that the foregoing resolution was adopted by the San Francisco Municipal Transportation Agency Board of Directors at its meeting of _____.

Secretary to the Board of Directors
San Francisco Municipal Transportation Agency

FILE NO.

RESOLUTION NO.

[Taxi Advisory Council.]

Resolution amending Article 1100 of Division II of the San Francisco Transportation Code to create a Taxi Advisory Council.

NOTE: Additions are single-underline Times New Roman;
deletions are ~~strike-through Times New Roman~~.

The Municipal Transportation Agency Board of Directors of the City and County of San Francisco enacts the following regulations:

Section 1. Article 1100 of Division II of the Transportation Code is hereby amended by amending Section 1109, to read as follows:

SEC. 1109. CONDITIONS APPLICABLE TO TAXI AND RAMP TAXI MEDALLIONS

(a) Affiliation With Color Scheme Required; Color Scheme Change

(1) A Medallion Holder shall be deemed affiliated with a particular Color Scheme when the SFMTA approves his or her application pursuant to this Article, and shall entitle the Medallion Holder to the right to the use of that Color Scheme's trade dress and place of business. Color Schemes shall not unreasonably withhold the use of the trade dress and place of business once affiliation has been approved.

(2) Affiliation with a Color Scheme and/or the failure of a Color Scheme to comply with this Article does not relieve the Medallion Holder of his or her responsibility to comply with all requirements of this Article applicable to the Medallion Holder.

(3) A Medallion Holder may apply to the SFMTA for a change in affiliation. The applicant's choice of Color Scheme shall be subject to the prior approval of the SFMTA. A Medallion Holder's request for affiliation with a Color Scheme shall be approved unless the Color Scheme is on Administrative Probation pursuant to Section 1118(g). The SFMTA may

delay or deny a change in Color Scheme affiliation by a Medallion Holder if a court of competent jurisdiction issues a temporary or permanent order to prohibit or delay the transfer.

(b) Use of Dispatch Service

All Medallion Holders affiliated with a Color Scheme must utilize the same Dispatch Service.

(c) Full-Time Driving Requirement

(1) Every Medallion Holder subject to the provisions of this section 1109(c) shall be a Full-Time Driver.

(2) Exception for Certain Permits

Notwithstanding any contrary provision in this Article, the requirements set forth in this Subsection 1109(c) shall not apply to any person holding a Medallion issued on or before June 6, 1978.

(3) Declaration Required

No permit to operate a Taxi or Ramp Taxi shall be granted unless the Medallion Holder shall declare under penalty of perjury his or her intention actively and personally to engage as a Full-Time Driver.

(4) Qualifying Vehicle

All Medallion Holders must drive the Taxi or Ramp Taxi associated with their Medallion when complying with Subsection 1109(c) unless that vehicle is unavailable.

(5) Medallion Holders Responsible for Documenting Compliance

A Medallion Holder has the responsibility to maintain his or her own business records, including Waybills. Only written Waybills completed in compliance with all requirements may be used to meet the Full-Time Driving requirement. Failure of a Color Scheme to maintain business records, including Waybills, as required by this Article shall not excuse a Medallion Holder from proving that he or she has satisfied this Subsection 1109(c) or any other requirement.

(6) Partial Years

During the year that a Medallion is first issued or any year in which operation of the Medallion was temporarily suspended with the approval of the SFMTA in accordance with Section 1105(9), the number of driving hours required to meet the Full-Time Driving Requirement shall be reduced by the same proportion as the ratio of the Permit Holder's excused driving hours to the hours remaining in the calendar year.

(7) Exception for Color Scheme Key Personnel

(A) Alternative Driving Requirement

Medallion Holders who are designated as "Key Personnel" by a Color Scheme may satisfy the Full-Time Driving requirement by driving 120 hours per year and performing 1,500 hours of work per year as Key Personnel for the Color Scheme.

(B) Written Designation of Key Personnel

Each Color Scheme seeking to designate one or more of its employees for a calendar year pursuant to this Subsection 1109(c)(7) must file a written designation by December 1st of the preceding year. A Permit Holder may not be designated as Key Personnel by more than one Color Scheme during a calendar year. The SFMTA will only recognize as Key Personnel only those Medallion Holders named in a completed designation form filed by the Color Scheme as of December 1st.

(C) Number of Key Personnel Designated at a Color Scheme

Each Color Scheme will be entitled to designate Key Personnel in accordance with the number of Medallions affiliated with that Color Scheme. The number of Medallions affiliated with a particular Color Scheme for a calendar year shall be determined as of December 1st of the previous year, based on the records of the SFMTA. Only individuals already holding a Medallion by December 1 of that year may be considered for Key Personnel designation. The number of designated Key Personnel at a Color Scheme may not be increased or decreased

during the subsequent calendar year even if the number of Medallions affiliated with that Color Scheme changes during the year.

A Color Scheme with 1 to 10 Medallions may not designate anyone as Key Personnel.

A Color Scheme with 11 to 20 Medallions may designate one person.

A Color Scheme with 21 to 40 Medallions may designate two people.

A Color Scheme with 41 to 60 Medallions may designate three people.

A Color Scheme with 61 to 80 Medallions may designate four people.

A Color Scheme with 81 to 100 Medallions may designate five people.

A Color Scheme with 101 to 150 Medallions may designate six people.

A Color Scheme with 151 to 200 Medallions may designate seven people.

A Color Scheme with 201 to 300 Medallions may designate eight people.

A Color Scheme with 301 to 400 Medallions may designate nine people.

A Color Scheme with over 400 Medallions may designate nine people, plus one additional person for every 100 Medallions over 400.

(D) Statement of Work by Key Personnel

No later than February 1st of each year, each Color Scheme that has designated one or more employees as Key Personnel must submit a written Statement of Work on a form provided by SFMTA, demonstrating the number of hours during the previous calendar year that each of its designated Key Personnel worked on tasks related to the business of the Color Scheme, including but not limited to, office duties, dispatching, cashiering, or performing management duties. The Statement of Work shall be signed under penalty of perjury by both the Color Scheme and the Medallion Holder designated as Key Personnel. The Color Scheme shall be responsible for submitting proof of employment with the Statement of Work, which shall consist of state or federal tax forms filed with the appropriate regulatory agency. A Medallion

Holder and/or Color Scheme that submit a falsely sworn Statement of Work shall be subject to automatic revocation of his or her Permit.

(E) Partial Completion of Requirements

If a Medallion Holder performs at least 750 hours of work as designated Key Personnel for the a Color Scheme during the year but less than 1,500 hours, the Permit Holder shall be entitled to partial credit against the Full-Time Driving requirement on a pro rata basis. The credit shall correspond to the percentage of 1,500 hours that the designated Permit Holder worked for the company in such capacity. If a Permit Holder does not perform at least 750 hours of work as designated personnel for the Color Scheme during the year, the Permit Holder shall not be entitled to any credit against the Full-Time Driving requirement.

(F) Ramped Taxi Permit Holders Ineligible

Ramped Taxi Permit Holders are not eligible to be designated as Key Personnel.

(d) Corporate Medallion Holders

(1) Permits Void in Event of Transfer or Sale of Permit Holder

Any Medallion held by a Permit Holder that is not a natural person shall be deemed null and void and revoked if any of the following circumstances has occurred since the issuance of the Medallion:

(A) If the Medallion Holder is or was sold or transferred at any time after June 6, 1978. For the purposes of this Section, a sale or transfer occurs upon a cumulative sale or transfer of either 10 percent or more of the stock or other ownership of the Medallion Holder, or 10 percent of the Permit Holder's assets since June 6, 1978, unless such sale or transfer has the prior written approval of the SFMTA.

(B) If the management or control of the Permit Holder is or has been transferred for consideration since the issuance of the permit;

(C) If the Medallion Holder's rights to receive income derived from the lease of a permit is assigned, transferred or sold.

(e) Taxi Medallion Sales Pilot Program

(1) Qualified Taxi Medallion Sellers

Any Medallion held by a natural person who: (1) has attained or will attain the age of 70 years old or older as of December 31, 2010; or (2) has a bona fide disability that permanently prevents him or her from satisfying the Full-Time Driving requirement, and has notified the SFMTA of that disability by completing the prescribed application and providing the prescribed documentation on or before December 31, 2010, is eligible for sale in accordance with this subsection (e).

(2) Qualified Taxi Medallion Buyers

The SFMTA shall authorize Medallion sales under the Pilot Program only to Driver Permit Holders who meet all eligibility requirements for Medallion ownership in Sections 1103 and 1104 of this Article. The SFMTA shall make offers of sale to such qualified Driver Permit Holders in the order of seniority on the Waiting List, and then in the order of A-Card Seniority.

(3) Fixed Medallion Sale Price

Any Medallion sold pursuant to this subsection (e) shall be sold at a price established by the SFMTA. The initial Medallion Sale Price shall be established by the Director of Transportation after a public hearing and shall not exceed \$400,000. In setting the initial Medallion Sale Price, the Director of Transportation shall consider the commercial loan terms available to Medallion applicants, the affordability of the monthly payments under such loans, the anticipated business revenue to be generated from a Medallion, and other factors relevant to the economic dimensions of the sale. Upon setting the initial Medallion Sale Price, the Director of Transportation shall notify the SFMTA Board and the public of the Sale Price. The Director of Transportation shall adjust the Medallion Sale Price annually in accordance with the percentage increase in the Consumer Price Index for Urban Wage Earners for the San Francisco Bay Area over the preceding year. The Director of Transportation may increase or decrease the Medallion Sale Price at any time in accordance with the procedure for setting the initial Medallion Sale Price.

(4) Medallion Transfer Fees

The seller of a Medallion shall pay to the SFMTA the Medallion Sale Transfer Fee and the Driver Fund Transfer Fee. The SFMTA shall deposit the Driver Fund Transfer Fee into the Driver Fund.

(5) Medallion Sales by City

The SFMTA may sell up to 60 Medallions that have been returned to the SFMTA for any reason to qualified Driver Permit Holders at the Medallion Sale Price as part of the Taxi Medallion Sales Pilot Program. The SFMTA shall be responsible for payment of the Driver Fund Transfer Fee for each such Medallion sold. The SFMTA shall continue to issue Medallions to applicants in accordance with Sections 1103 and 1104 of this Article during the pendency of the Taxi Medallion Sales Pilot Program.

(6) Taxi Medallion Purchase and Sale Procedures

Medallions shall be purchased and sold under the Pilot Program in accordance with procedures adopted by the SFMTA.

(7) Purchased Medallions Subject to all Regulations

A Medallion acquired pursuant to this subsection (e) remains subject to all applicable laws and regulations and may be suspended or revoked for cause.

(8) Resale of Medallions

Medallions acquired pursuant to this subsection (e) are eligible for resale by the purchaser in accordance with the provisions of this subsection (e).

(9) Ramp Taxi Medallions

If any Ramp Taxi Medallion Holder who would qualify to sell a Medallion under subsection (e)(1) notifies the SFMTA that he or she elects to sell the Medallion, the SFMTA shall exchange the Ramp Taxi Medallion for a Taxi Medallion to be sold by the Medallion Holder. Such exchange shall not diminish the size of the Ramp Taxi fleet. No Ramp Taxi Medallion shall be sold pursuant to this subsection (e).

(10) Driver Fund

The SFMTA shall establish a Driver Fund. The SFMTA shall deposit all Driver Fund Transfer Fees into the Fund and may, in its sole and absolute discretion, elect to deposit other monies into the Fund. Monies in the Driver Fund may be expended by the SFMTA.

(11) Taxi Medallion Sales Pilot Program Advisory Council

~~Reserved.~~

(A) The SFMTA shall establish a Taxi Advisory Council ("Advisory Council"), which shall monitor the issues that arise during the Taxi Medallion Sales Pilot Program, evaluate the effects of the Pilot Program on all sectors of the taxi industry, and provide advice to the SFMTA Board of Directors and the Director of Transportation.

(B) The Advisory Council shall consist of 15 members appointed by the Director of Transportation. Three of the members shall be representatives of each of the following companies: Yellow Cab Cooperative, Luxor Cab Company and DeSoto Cab Company. Three of the members shall be representatives of other Color Scheme Permit Holders. Three of the members shall be Medallion Holders who do not represent a Color Scheme, and who are not employed as managers, dispatchers, cashiers, mechanics, or administrative staff of a Color Scheme. Three of the members shall be Drivers who are not Medallion Holders and who are not on the Waiting List. Three of the members shall be Drivers who are not Medallion Holders and who are on the Waiting List. Members shall serve for a term of two years and shall serve at the pleasure of the Director of Transportation. In the event that a vacancy occurs during a member's term, the Director of Transportation shall appoint a successor for the unexpired term.

(C) The Advisory Council shall prepare and provide to the Director of Transportation, no later than December 31, 2010, a report containing its assessment of the Taxi Medallion Sales Pilot Program and its recommendations regarding a long-term Medallion reform program. The Advisory Council shall be staffed by personnel from the Taxi Services section of the SFMTA.

(D) The Advisory Council shall terminate by operation of law two years year after the date that all members have been appointed, unless the SFMTA Board by resolution extends the term of the Council.

APPROVED AS TO FORM:
DENNIS J. HERRERA, City Attorney

By: _____
Mariam Morley
Deputy City Attorney

I certify that the foregoing resolution was adopted by the San Francisco Municipal Transportation Agency Board of Directors at its meeting of _____ .

Secretary to the Board of Directors
San Francisco Municipal Transportation Agency