



City of Sunnyvale

Agenda Item-No Attachments (PDF)

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REPORT TO COUNCIL

SUBJECT

Introduce an Ordinance to Award a Non-Exclusive Taxicab Franchise to A Orange Cab, Inc., DBA Orange Cab

BACKGROUND

A taxicab franchise application and required fees have been received from A Orange Cab, Inc. doing business as (dba) Orange Cab.

There are currently five valid taxicab companies franchised to operate within the City of Sunnyvale. They are: Checker Cab, California Cab, Green Cab, Silicon Valley Cab, and Orange Cab.

A Orange Cab, Inc. acknowledges and accepts the requirements of the Sunnyvale Municipal Code as well as the City's taxicab franchise agreement. A Orange Cab, Inc. is also aware of the right of the City of Sunnyvale to revoke or suspend the taxicab franchise if it is determined that there is a violation or non-compliance of the terms contained in Sunnyvale Municipal Code Chapter 5.36.

EXISTING POLICY

General Plan

Chapter 3: Land Use and Transportation (LT)

Goal LT-5: Effective, Safe, Pleasant and Convenient Transportation - Attain a transportation system that is effective, safe, pleasant and convenient

Policy LT-5.5: Support a variety of transportation modes.

The term "non-exclusive franchise" as used in the Sunnyvale Municipal Code means that the city does not limit the number of like franchises in operation at one time. If an applicant meets the provisions as outlined in the Sunnyvale Municipal Code, then the franchise to operate a taxicab service may be awarded by City Council.

The City's non-exclusive franchise requirements are derived from Sunnyvale Municipal Code Chapter 5.36. It is unlawful to operate any taxicab in the City unless the owner applies for and obtains a franchise to do so. The City Council may deny a franchise to any applicant if:

1. The applicant has been convicted of certain criminal offenses.
2. The proposed color scheme or other insignia may tend to confuse the identification with other franchises already operating within the city.
3. The applicant has been in violation of any law or Municipal Code regulation relating to the conduct of a taxicab business.
4. The applicant has had a taxicab license revoked or suspended in the City of Sunnyvale or any other jurisdiction within five years prior to the date of application.
5. Any other reasonable cause exists which, within the City Council's sound discretion,

would render the proposed operation undesirable to the City of Sunnyvale.

A franchise may be awarded for a term of two years, with an option for the Director of Public Safety to approve up to two, two-year extensions for a franchisee that is in good standing. At the expiration of the total term, a new franchise must be approved by the Council under the provisions of Sunnyvale Municipal Code Chapter 5.36.

ENVIRONMENTAL REVIEW

The action being considered is exempt from the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines section 15061 (b) (3) as the activity is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA.

DISCUSSION

A Orange Cab Co., Inc. DBA Orange Cab has previously operated with a valid franchise agreement, which was awarded on by City Council on March 24, 2015.

On February 6, 2017, staff notified the franchise owner of the impending expiration of the franchise agreement. Notification of expiration is intended to give franchisees ample time to submit an application, and for staff to review the application, prior to the expiration of the franchise. It is normally done 90 days prior to the expiration; in this instance, staff workload caused a delay in notification, as the agreement was effective on March 15, 2015 and expired on March 14, 2017.

On February 22, 2017, staff contacted the manager of the franchise via telephone to determine whether the franchisee intended to submit an application. At that time, the franchise owner was out of the country and had not been available to provide direction to his manager.

On March 7, 2017, the Director of Public Safety sent written notice to the franchise owner advising that the franchise would indeed expire on March 14, 2017, and providing direction to cease operation in Sunnyvale on March 15, 2017, requiring the owner to the return all vehicle and driver permits on that date. In addition, the franchisee had failed to complete by March 1, 2017 annual vehicle inspections associated with the existing required by Sunnyvale Municipal Code Section 5.36.270(a). Non-compliance penalties were appropriately assessed.

On Friday, March 10, 2017, the franchise owner submitted an application to renew the taxicab franchise in person at the Department of Public Safety. The franchisee was allowed, pursuant to section 5.36.120 of the Sunnyvale Municipal Code, to continue operations under the terms of the old franchise until the City Council take action on a new franchise. The Director of Public Safety authorized extension of the franchise agreement on March 13, 2017; the franchise is therefore in effect until Council makes a determination based on this report.

A Orange Cab Co., Inc. DBA Orange Cab has submitted an application to renew the franchise agreement and Department of Public Safety staff has worked with the applicant to correct the previous violation of Sunnyvale Municipal Code Section 5.36.270(a). All permitted taxicabs completed the inspection process as of April 11, 2017.

The franchise application contained information and documentation as illustrated in the following

table to demonstrate compliance with the criteria identified in Sunnyvale Municipal Code Chapter 5.36, as outlined below. Staff conducted a review of the information provided by the franchise owner, and upon confirmation that the application was complete, scheduled a public hearing in accordance with Sunnyvale Municipal Code Section 5.36.060.

SMC Section	Description of Requirement	Status
5.36.040	Applicant has paid the required franchise application fee.	Met
5.36.050	Applicant has at least five (5) vehicles.	Met
5.36.050	Taxicabs have unique color scheme.	Met
5.36.050	Applicant shows sufficient experience to operate franchise.	Met
5.36.050	All drivers for the franchise will be permitted by DPS.	Met
5.36.050	All drivers will be subject to random drug testing requirements.	Met
5.36.220	Applicant has a toll-free phone number and sufficient phone lines for dispatch.	Met
5.36.280	Applicant has filed its fare schedule with DPS.	Met
5.36.300	Applicant has a valid insurance policy with \$1.0 million combined single limit liability for bodily injury and property damage per any one accident	Met
5.36.320	All vehicles have a taximeter which was inspected by Santa Clara Co. Weights and Measures.	Met
5.36.360	Applicant has undergone a criminal history check. There were no convictions for felony, narcotics, or crimes of moral turpitude.	Met

Staff review of the franchise application and history includes the following notes regarding A Orange Cab Co., Inc. DBA Orange Cab:

1. Insurance - A Orange Cab Co., Inc. DBA Orange Cab has provided a valid certificate of insurance with liability coverage provided by Ohio Insurance Company and Security National Insurance Company (AM Trust) that names the City of Sunnyvale as additional insured. Staff reviewed the Certificate of Insurance and found that the coverage provided meets the requirements of the Municipal Code. The company understands that it may not operate without proper insurance.
2. Franchise History - A Orange Cab Co., Inc. DBA Orange Cab is currently doing business in San Jose, Santa Clara, Palo Alto and Sunnyvale. The franchise owner, Mr. Jorawar Singh, has been employed in this business since 2004. The franchise recently incurred non-compliance penalties for failure to have taxicabs inspected before March 1 (SMC Section 5.36.270). The franchise owner was out of the country for an extended period, and took steps to correct the violations upon his return. Other than this infraction, the owner has shown a willingness to comply with the provisions of operating a taxicab franchise pursuant to Sunnyvale Municipal Code Chapter 5.36.

The proposed term for the franchise is May 15, 2017 through May 14, 2019, with the option for the Director of Public Safety to approve two, two-year extensions pursuant to Sunnyvale Municipal Code Section 5.36.120 if the franchise is in good standing, for a total possible term of May 15, 2017 through May 14, 2023.

FISCAL IMPACT

Franchise fees, vehicle fees, and driver permit fees are calculated based on full cost recovery; the fiscal impact of awarding a taxicab franchise is therefore predictably nominal, and can be absorbed in the General Fund.

PUBLIC CONTACT

Public contact was made by posting the Council agenda on the City's official-notice bulletin board outside City Hall, at the Sunnyvale Senior Center, Community Center and Department of Public Safety; and by making the agenda and report available at the Sunnyvale Public Library, the Office of the City Clerk and on the City's website.

ALTERNATIVES

1. Introduce an Ordinance to Award a Non-exclusive Taxicab Franchise to A Orange Cab Co., Inc. DBA Orange Cab and authorize the City Manager to execute the franchise agreement.
2. Do not introduce an Ordinance to Award a Non-exclusive Taxicab Franchise to A Orange Cab Co., Inc. DBA Orange Cab or authorize the City Manager to execute the franchise agreement.

STAFF RECOMMENDATION

Alternative 1: Introduce an Ordinance to Award a Non-exclusive Taxicab Franchise to A Orange Cab Co., Inc. DBA Orange Cab and authorize the City Manager to execute the franchise agreement.

Prepared by: Elaine Ketell, Management Analyst

Reviewed by: Chief Phan S. Ngo, Director, Department of Public Safety

Reviewed by: Walter C. Rossmann, Assistant City Manager

Approved by: Deanna J. Santana, City Manager

ATTACHMENTS

1. Taxicab Franchise Agreement
2. Ordinance for Non-Exclusive Taxicab Franchise- A Orange Cab Co., Inc. DBA Orange Cab
3. March 13, 2017 Letter Extending Franchise Agreement