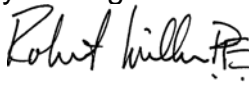




MEMORANDUM

TO: Mayor and Council

CC: Marc A. Ott, City Manager
Robert Goode, P.E., Assistant City Manager

FROM: Robert Spillar, P.E., Director, 
Austin Transportation Department

DATE: Friday, May 31, 2013

SUBJECT: Rideshare Report

On March 7, 2013, the Austin City Council passed resolution 20130307 directing the City Manager to explore ridesharing regulations in other cities and to make recommendations with respect to what ridesharing should be allowed in the City of Austin. The Austin Transportation Department has prepared the attached report with options and recommendations. Staff is available to answer any further questions.

Ridesharing Executive Summary
A report to the Austin City Council from the Austin Transportation Department

On March 7, 2013, the Austin City Council passed resolution 20130307-067, providing the following direction to the City Manager:

“The City Manager is directed to explore ridesharing regulations in other cities and make recommendations on the parameters within which ridesharing should be allowed in the City of Austin.”

The Austin Transportation Department (ATD) investigated ridesharing rules and regulations in a variety of other cities to determine the state of the practice. ATD found that all of the cities contacted indicate an on-going concern with the emergence of new smart phone enabled applications which facilitate private citizens in violating ordinances related to vehicle-for-hire (taxis). Both Houston and San Antonio have taken outright action to either enforce existing regulations against illegal use of these new technologies or are defining the technologies as outside the parameters of the established vehicle-for-hire program for the community (Houston is ticketing and impounding drivers providing service as illegal taxis, and San Antonio has passed ordinances requiring smart phone application dispatching to be licensed as a franchise per their normal vehicle-for-hire program).

East coast cities such as Philadelphia, Washington D.C., and New York City are each actively enforcing their vehicle-for-hire ordinances against what they believe are illegal taxis facilitated by new smart phone enabled dispatch applications. Several are taking direct legal action against providers of smart phone applications providing these services.

Based on staff research, only in California is there confusion related to the entry of smart phone dispatch applications into the market. The State of California, through its California Public Utilities Commission (CPUC), is debating whether or not the State has jurisdiction over these services. This has caused conflict with local communities such as San Francisco which believes it has authority over the regulation of such services within its jurisdiction. San Francisco regulators have taken the stance that smart phone enabled applications, if operating outside one of their authorized taxi providers, are providing illegal taxi services within their city. San Francisco, along with other major cities in California, is awaiting final CPUC rulings on this issue. According to at least one business news source, the CPUC will rule if it has jurisdiction sometime later this summer. Should it rule it does not have jurisdiction, then the individual cities in California are likely to take action against these types of operations.

There is no question that technology is rapidly changing and offering new opportunities to promote policies on alternative transportation options in Austin. Yet there are clear distinctions between a **“car-vanpool”** and a **“vehicle-for-hire”** as evidenced in the Austin City code and with cities across the U.S.

Carpool/Vanpool (car/vanpool): Ridesharing activity occurring when family members, friends, or acquaintances are sharing a common trip, defined as having common origins and common destinations. Compensation for these type of trips is assumed to be a sharing of the actual costs. Insurance coverage remains the responsibility of the driver and private auto insurance typically covers car/vanpool ridesharing activities. The safety of the passenger and the driver is left to the participants' responsibility.

Vehicles-for-hire: Commercially available rideshare transportation services as provided by licensed taxi, limousine, shuttle, charter, pedicab, bus, or authorized electric low speed vehicles, typically regulated by a jurisdiction for safety, performance, and other business practices.

The City has chosen to regulate and monitor for-hire activities (Chapter 13-2) in order to provide for safe, reliable, reasonably priced transportation available equally throughout the community. The regulations offer a citizen safety net, with criminal background checks for drivers, vehicle safety inspections and proper insurance liability for drivers and passengers in the case of an incident or accident.

Some members of our community depend on taxicab services to meet basic mobility needs. Therefore, the City requires that taxi services be available 24 hours a day, 7 days a week. The taximeter is used for all trips within the City so that there will be a consistent price, which could not be artificially raised without notice. In exchange for providing these basic public services and ensuring drivers and vehicles are safe and reliable; the City awards operating permits to drivers and companies.

Thus the question before the community is not whether technology can assist with facilitating ride connections, but rather whether the use of an application is designed for or promotes compensation that exceeds the actual cost of the trip.

The City of Austin regulates how, when and where a person can sell food on the street for public health and safety concerns, but not if a friend offers another friend a meal. Car/vanpools versus vehicles-for-hire regulations follow this same premise.

Staff recommends that the franchise and licensing requirements for vehicles-for-hire, including franchise requirements, be maintained to assure the safety of the traveling public. Further, staff recommends that new technologies be required to work within current City Code, either promoting car/vanpools as defined in this report or obtain a franchise license (or alternatively operate under a current franchise license holder). Staff does not recommend the further regulation of car/vanpools when those activities fall within the scope of such activities as defined in this report. Staff recommends that additional clarification be added to City Code, Chapter 13-2, to improve citizen understanding of ridesharing and to reduce confusion between car/vanpool activities and vehicle-for-hire services. Staff is submitting definitions for approval by Council that would accomplish this latter recommendation.

Ridesharing

A report to the Austin City Council from the Austin Transportation Department

The Austin City Council requested staff to research national best practices with regards to how other jurisdictions are managing companies offering “Ride Sharing” services, with specific interest in smart phone enabled ridesharing companies. On March 7, 2013, City Council passed resolution 20130307-067, providing the following direction to the City Manager:

“The City Manager is directed to explore ridesharing regulations in other cities and make recommendations on the parameters within which ridesharing should be allowed in the City of Austin. The recommendations should include, but no limited to: 1. Insurance, registration, and license requirements; 2. Criminal and driving background checks for drivers; 3. The method of connecting drivers and riders; and 4. Cost-sharing parameters.

The City Manager is further directed to bring the recommendations and proposed ordinance, if any, to Council by June 1, 2013.

The City Manager is directed to issue and enforce cease and desist orders against firms that engage in peer-to-peer ridesharing for compensation, and to use whatever legal and effective means are available to discourage use of peer-to-peer ridesharing for compensation until the public safety and other regulatory concerns have been addressed.”

Experience from Other Cities

Members of the Austin Transportation Department belong to the International Association of Transportation Regulators (IATR), an industry association of government regulators engaged in the management and regulation of the taxi and vehicle-for-hire industry nation-wide.

Representatives from ground transportation companies, including representatives from various smart phone enabled ridesharing (SPER) providers, are also members of this organization. The purpose of the organization is to provide opportunities to share information between jurisdictions on topics facing the industry as a whole. Smart phone enabled ridesharing services represent one issue facing a number of jurisdictions within the organization collectively. The City of Austin, along with other member organizations, requested that the IATR on behalf of its members develop a report expressing the collective knowledge of the organization and its members on these new technologies and companies. The report, entitled: “Rogue Ridesharing Apps & Model Regulations: Illegal Hitchhiking-for-Hire or Sustainable Group Riding?” is available at <http://www.windelsmarx.com/resources/documents/Ridesharing%20Applications%20-%20May%202013%20-%20Daus.pdf> .

The City of Austin, as a member of IATR, contributed information to the above report. City staff members assisted by providing notes based on conversations with peer cities and also by providing examples of our existing City of Austin ordinances and regulations governing vehicles

for hire. By participating in the IATR report, staff gained access to information provided by other members of the IATR identifying what is occurring in those other jurisdictions. Additionally, staff completed further original research, calling peer regulators in other jurisdictions to confirm our understanding of their response to emerging smart phone enabled ridesharing (SPER).

Staff believes the findings of this report and the independent responses collected from peer cities provides a snapshot of industry best practices as it relates to the emerging influence of digital technology on the industry. The unfiltered responses collected by staff are provided below:

- **Philadelphia** – Rideshare applications use any person off the street and their car, neither of which are vetted; criminal and driver checked, trained, inspected, nor insurance verified by regulators. Rideshare apps have not been authorized to offer service to the riding public of Philadelphia and have been cited for running an illegal dispatch operation and operating with uncertified drivers and vehicles. As long as they continue to attempt to remain in operation in Philadelphia, they would face the same response from PPA-TLD Enforcement. (Source: James Ney, Director, Taxicab & Limousine Division, Philadelphia Parking Authority, 3/6/2013)
- **Washington, D.C.** – The DC Taxicab Commission has determined that “these services and the drivers and vehicles associated with them, are public vehicle-for-hire services that must comply with District licensing laws and Commission regulations. The Chairman of the Commission stated “We are concerned the private cars used to provide these services have only ordinary, non-commercial insurance that we believe may deny coverage to passengers in the event of an accident. The Commission will take legal action against any person knowingly flouting District law by connecting passengers to unlicensed vehicles or operators.” (Source: Ron Linton, D.C. Taxicab Commission Chairman, 4/12/2013, *original COA resource included in IATR report*).
- **New York** – Without commenting on any specific app, if an entity exhibits characteristics of for-hire service, such as requiring payments for point-to-point rides with the City of New York, they would need to be licensed.” (Source: New York Times, Allan Fromberg, Deputy Commissioner for Public Affairs, New York Taxicab and Limousine Commission, 3/29/2013)
- **Houston** – Issued one Cease and Desist order indicating the service violates the Houston City Code requiring licensing for providing for-hire services. (Source: Nikki Cooper-Soto, Administrative Manager, City of Houston Administrative and Regulatory Affairs Department)
- **San Antonio** – On March 21, 2013, adopted an ordinance requiring all “smartphone applications” to seek licensing from the department prior to operation within the City of San Antonio. Staff at the city of San Antonio indicates that none of the smart phone application firms has sought licensing under this new ordinance, nor would they likely qualify under their current operating platforms. An excerpt from the San Antonio ordinance provides the following:

No person for compensation or at any charge to a passenger shall by any means (including but not limited to any data or electronic communication, any telephone and cellular service, any software, any application, any internet service, and any physical presence) operate, arrange, dispatch to or solicit a Vehicle-for-hire unless permitted under this chapter. A person is responsible for violations of this chapter by his own conduct, by the conduct of another person if acting with intent to violate this chapter he solicits, encourages, directs, aids or attempts to aid another person to violate this chapter, or by both.

(Source: City of San Antonio City Code, verified by Gary J. Gilbert, Transportation Services Manager, Ground Transportation Unit, San Antonio Police Department)

- **California** - All California cities will be impacted by the actions of the California Public Utilities Commission. We received specific comment from San Francisco, with concurrence from other cities.

San Francisco – The California Public Utilities Commission has issued cease and desist orders to 3 “app providers”. The PUC is in the midst of proceedings on “rideshare apps” and other issues associated with smartphone ride referral services. This proceeding is expected to last another several months. “It has already allowed, in the interim, the continued operation of these entities notwithstanding evidence on record that some of these services do not include the benefit of auto liability insurance, among other safety concerns.” The public doesn’t understand the rights they are waiving; the obligations they are undertaking and the risks they run when they use these services. The businesses we have experiences have misrepresented the nature of their services without any accountability to anyone, and have taken every opportunity to use social media and the press to disparage the taxi industry and the concept of for-hire regulation generally. It has reached the point in San Francisco that nearly every other car on the street has a pink mustache and our taxi industry is, no joke, looking to be on the verge of collapse. Road rage incidents between taxi drivers and these cars is a nightly occurrence. Although there is no way for me to know how many cars have been or are about to be deployed (it is impossible to monitor these services, much less regulate them), at this rate, it won’t be long before their numbers exceed the numbers of our taxi fleet.” It is important to note that this is a transportation management issue as well. It impacts congestion management, pedestrian safety as well as emissions. We are concerned with “Who’s behind the wheel?” and “How much are they charging?” How can you successfully manage traffic when you have no control of the amount of commercial vehicles on the street? There is also a complete lack of data being made available.

(Source: Christiane Hayashi, Deputy Director of Taxi Services, San Francisco Municipal Transportation Agency. 3/5/2013 & 4/22/2013).

In his 2013 State of the City Address, San Francisco Mayor Lee stated, “we’re embracing alternate forms of transportation through the new “Sharing Economy,” with carsharing provided by companies like City Carshare, Zipcar, Getaround and Relay Rides and electric scooter-sharing from SCOOT. And a growing number of San Franciscans look to their smartphones every day to summon a taxi, an Uber sedan, or participate in innovative rideshare services like Sidecar and Lyft.” (Source: 2013 State of the City Address, January 28, 2013, College Track, San Francisco <http://www.sfmayor.org/index.aspx?page=921>).

This statement, hailed by promoters of some smart phone application providers as demonstrated support by the City of San Francisco of their platform, is not consistent with the strategy being pursued by San Francisco regulating authorities. City of Austin Staff investigated the Mayor's statement and received the following response from the San Francisco Municipal Transportation Agency:

“Our Mayor, from a broad economic development perspective, has supported technological innovation and “the sharing economy.” The Mayor's view is not shared by this local taxi regulator when it comes to the specific businesses Lyft and SideCar. To the contrary, I perceive regulatory problems to our transportation system as specified in my letter.

Contrary to representations in recent media articles that I have seen, neither the San Francisco taxi regulator, nor the California Public Utilities Commission that regulates charter party carriers has “cleared” SideCar to operate in San Francisco or in California. To the contrary, it is my understanding that SideCar in particular continues to be subject to a state CPUC cease and desist order because it has not been able to provide evidence of insurance coverage satisfactory to the California PUC.

The San Francisco Municipal Transportation Agency, which is the local taxi local regulator, has not yet acted one way or another in deference to the ongoing inquiry before the state government as to whether these services come within existing state regulation, or whether existing state regulation needs to change to accommodate them. The SFMTA and the San Francisco Airport have been actively engaged in the CPUC rulemaking proceeding however, and have filed multiple statements expressing concerns similar to those expressed in my letter. I would be happy to forward those statements filed before the CPUC, if that would be helpful. They are also available online at www.cpuc.ca.gov, docket number R12-12-011. See filings by SFMTA and the San Francisco International Airport. (Source: Christiane Hayashi, Deputy Director of Taxi Services, San Francisco Municipal Transportation Agency 5/28/2013)

Note: the regulations in California remain fluid and are clearly evolving on a daily basis. On Friday May 24, The San Francisco Business Times reported that “Sidecar (finally) gets CPUC approval for ridesharing”. However the text of that article also stated that “ridesharing services aren't totally out of the woods yet. The CPUC is reviewing rules around ridesharing and will make a decision towards the end of the summer about whether these companies fall under its jurisdiction.” (Source: Lindsay Riddell, San Francisco Business Times, May 24, 20113, <http://www.bizjournals.com/sanfrancisco/blog/2013/05/sidecar-finally-gets-cpuc-approval.html>).

City of Austin staff anticipates that given their previous responses, municipal regulators such as those in San Francisco, will likely to continue to argue that they have jurisdiction to regulate and license what is or is not a legal service within their community or serving their airport.

San Diego and Los Angeles – Currently in proceedings with the California Public Utilities Commission similar to San Francisco.

In addition to staff's assemblage of interviews and information from other jurisdictions, staff reviewed the previous report prepared by Dr. Mundy for the City of Austin and received additional information subsequent to the preparation of that report. Dr. Mundy states:

"Unfortunately our 2011 Transportation Study for the City of Austin did not address transportation apps such as Sidecar. They were simply not part of the market place at that time. However, since that time we have had the opportunity to follow the activities of apps such as Sidecar and Uber and have quickly come to the conclusion that firms like Sidecar are, at a minimum dispatch companies, and in the specific case of Sidecar, and operating taxi company without city authorization. The current resolution before City Council could appear to sanction these illegal operations while the City studies the issues surrounding this type of company and the experiences of other cities. In my strongest opinion, this should not be permitted to happen. Just as in the case of electric go-cart type vehicles, which provided little to no real safety to riders, the City of Austin, by allowing Sidecar to operate, would assume tremendous liability. The City of Austin has a good ground transportation regulatory group and enjoys a very high level of call taxi service from its legal operators. Allowing Sidecar to operate would be detrimental to these existing transportation providers, your driving core, and the residents of Austin that depend upon their services."

Experience from Other Regions (Related to Programs Encouraging Car/Vanpool Activities)

In addition to surveying other jurisdictions as to what they are doing related to smart phone enabled dispatch services within their jurisdictions, staff also surveyed programs in a number of cities that actively seek to promote car/van pool forms of ridesharing. Staff researched on-line programs in the following metropolitan areas and programs:

- **Austin**
 - Metropolitan Planning Organization (MPO) - Commute Solutions
 - Capital Metro MetroRideShare 477-RIDE
- **Houston-Galveston**
 - MPO Nuride (Public-private partnership)
 - Houston METRO Star Ride
- **Dallas**
 - NCTCOG tryparkingit.com
 - Dallas Area Rapid Transit (DART) Vanpool program
- **San Antonio**
 - Alamo Area Council of Governments Commute Solutions
 - VIA Metropolitan Transit Vanpool services

- **Southern California**
 - Commuter Solution
 - Los Angeles, Orange and Ventura Counties 511 Travel Services
 - Inland Empire 511 Travel Services (IE511.org)
- **Seattle/Puget Sound**
 - RideshareOnline.com
- **Birmingham/Montgomery/Mobile**
 - www.commutersmart.org

Each of these regions promotes car/vanpool formation through various governmental entities or public, private partnerships. Commonalities of all these programs center on providing ride matching assistance based on trip definition (starting and ending point, time of day preferences such as smoking or gender of partner). In this way, the programs assure trip commonality in matching potential passengers with drivers.

Another common feature is that programs in these regions provide a trip calculator that allows the user to calculate the cost of his/her trip based on fuel costs, tolls, insurance, and maintenance costs, etc. Each region also typically provides information on alternative travel options such as transit, formal vanpools and bicycling.

Many of these communities currently offer their services through web access for use by their customers in requesting trips and seeking to gain ride matches. Phone based service is also typically provided via an operator. Several of these regions indicate that they are working on smart phone applications that will improve their reach and functionality within their community and within the context of car/vanpool services. Ride match programs typically do not assist with any financial decisions with regards to splitting the cost of the actual trip taken because their function is primarily to pair trips of similar purpose. The responsibility for the travel arrangement remains that of the individuals participating in the car/van pool and is presumed to be associated with splitting the actual costs of the common trip.

Funding for car/vanpool programs in other regions varies by jurisdiction. Those jurisdictions currently identified as those in “non-attainment” for air quality standards typically receive CMAQ (Congestion Mitigation and Air Quality) funding from their state. These funds can be used to fund expanded programs to encourage car/vanpooling within a jurisdiction. Both the Houston/Galveston and Dallas/Ft. Worth regions receive CMAQ funding and use them to encourage car/vanpooling within their region. The City of Austin remains in attainment and does not yet receive CMAQ funding.

Defining Rideshare Activities

Recent public debate regarding ridesharing is resulting in confusion around the terminology of “ridesharing”, “vehicles-for-hire”, and “car– vanpooling”. Based on industry definitions, anytime two or more people share a trip, they are actively engaged in a ridesharing activity. Vehicles-for-hire (licensed taxis, limousines, shuttles, charters, pedicabs, and buses) as well as car and vanpools are forms of ridesharing. Distinction needs to be made between the types of ridesharing occurring in Austin – between a vehicle-for-hire and car or vanpool service -- so that a recommendation on a policy approach on management can be made. For purposes of this response to Council, the following background helps distinguish between the two forms of ridesharing:

- **Carpool/Vanpool (car/vanpool)**: ridesharing activity that occurs when family members, friends, or acquaintances share a common trip, defined as having common origins and common destinations or where the trip is incidental to the overall purpose of the activity. Examples include: two people in same general part of town sharing a commute trip to a common work site or employment center; two or more people meeting up at a common location to then travel to a second location such as a sporting event, employment location, shopping opportunity or other activity; a parent providing rides to another parent’s child to attend an activity, a family traveling together possibly making multiple destination stops, or a care-giver providing a ride to a person under his or her supervision as part of an overall care related job. Compensation for these types of trips is assumed to be a sharing of the actual costs of the trip. Insurance coverage remains the responsibility of the driver and private auto insurance typically covers car/vanpool ridesharing activities. The safety of the passenger and the driver is left to the participants’ responsibility.

Both public and private entities exist to facilitate car/vanpool formation. In Central Texas, both Capital Metro and the Capital Area Metropolitan Planning Organization(CAMPO) offer van and carpool matching programs to coordinate persons making common trips for purposes of ridesharing. Nationally, several private not-for-profit and even for-profit companies provide assistance with ride matching. Both the publicly supported car/vanpool programs as well as the private ones utilize electronic technologies to assist in their business models, including smart phone applications. However, many car/vanpools are simply formed between individuals knowing each other and knowing that they can save costs or achieve an environmental goal by sharing a common trip without the use of sophisticated technology. The key to these activities (whether supported by a third party or not) is that the shared trips are typically for a common purpose, have commonalities in their starting and ending locations, or are incidental to normal day-to-day activities.

- **Vehicles-for-hire:** commercially available rideshare transportation services as provided by licensed taxi, limousine, shuttle, charter, pedicab, bus, or authorized electric low speed vehicles, typically regulated by a jurisdiction for safety, performance, and other business practices. If permitted by the City of Austin, drivers providing vehicle-for-hire service are required to pass criminal and safety background checks certified by the City, maintain a current Class C driver's license from the State of Texas, operate within the parameters granted to them through the franchise or operating authority of their parent company, maintain their vehicle in good working order and within registration, and maintain commercial insurance. Vehicle-for-hire operations in Austin and many other jurisdictions are regulated as to the charges that may be asked of the passenger, how a passenger can be identified and acquired, and how a potential passenger may be treated (discrimination is not allowed).

Vehicles-for-hire are regulated under current City of Austin code. Although this code is identified by many of our peer Cities as one of the best in the country, some sections of the code have not kept pace with emerging technologies and expectations of our citizens. Staff is engaged in a process to modernize the code and has communicated to Council a schedule of planned items to be addressed. In the past year, staff has brought to Council several issues, including the requirement for taxis to have electronic taxi meters, collect and report operational data so that performance can be measured, and the renewal of several franchises. As part of the new franchise agreements, taxi dispatch companies in Austin are required to provide electronic dispatch services for their drivers and customers. The three taxi franchises have surpassed this requirement and are now also providing smart phone applications to supplement electronic dispatching service they provide. Because these smart phone applications connect licensed taxi drivers directly to potential customers, they operate within the context of City Code.

Options for Addressing Smart Phone Enabled Rideshare (SPER) Dispatching Applications

Council requested staff provide options for how SPER dispatching applications could either operate legally under existing City Code or be regulated by new code. Staff has developed four options for Council to consider:

1. **Smart Phone Enabled Rideshare (SPER) providing car/vanpool activities**
 - a. Description – If the companies and drivers participating in the activities provide service that does not cost more than the federal mileage rate, tolls, and parking costs (i.e., the cost of the trip), they are providing car/vanpool activities and would not fall under City Regulation.

- b. Required Changes to City Ordinances – Adopt definition of rideshare that includes a ceiling of the federal mileage rate, tolls, and parking costs for clarification purposes only. Existing City Code is currently interpreted by staff to accommodate and not regulate car/vanpool activities.
- c. Potential Impact – Improved ability of participants to clearly define car/vanpool activities as opposed to vehicle-for-hire type services. Potential decreased opportunity for revenue to SPER’s and their drivers.

2. Regulate SPER’s as Taxi Franchises

- a. Description – City code currently would allow up to two additional franchises, if there has been an established need for additional permits. SPER’s would have to meet franchise requirements, and drivers and vehicles would have to meet standards as currently identified in City Code for taxis. Existing City Code specifies under what conditions Council may find that additional franchises are warranted.

Alternatively, a SPER could partner with an existing franchised or licensed provider of vehicle for service and operate within the parameters of that franchise or authorized operator. For example, Uber has previously partnered with a number of pedicab companies during special events here in Austin and operates within the pedicab regulation (pedicab fares, unlike those for taxis, are negotiable prior to the ride being taken).

- b. Required Changes to City Ordinances – None, however this requirement could be clarified in existing City Code to reduce the potential for on-going confusion on the part of the public.
- c. Potential Impacts –
 - Increased need for staff to manage and monitor activities in the field;
 - Potential impact to current driver’s incomes may be negative if the number of authorized vehicles exceeds the formula-estimated need for service within Austin;
 - Increased costs for SPER’s to provide fixed facilities, reporting and auditing, and insurance.
- d. Note: this is the approach essentially taken by both Houston and San Antonio. Houston is currently enforcing their existing vehicle-for-hire ordinances without distinguishing the difference between a SPER dispatch operation and a more traditional franchise operation. San Antonio has clarified their code to make it clear that such SPER activities, if facilitating drivers to operate for profit, must register as a franchise or obtain a license under their city code.

3. Regulate as a new category of vehicles-for-hire

- a. Description – Make a new category of vehicles-for-hire which decouples drivers and vehicles from higher level organizations (i.e., franchises or licensed operators). Each driver would be required to obtain a permit from the City equivalent to current city chauffeur’s license. They would have to demonstrate that they have insurance for their vehicle that covers the commercial use of that vehicle. Vehicles would be required to have state inspection and be properly registered in Texas. They could then accept dispatch from any source.
- b. Required Changes to City Ordinances – Add to City Code Chapter 13-2 clarification on Council’s intent related to SPER’s and drivers that operate under these systems.
- c. Potential Impacts –
 - Increased need for staff to administer, manage and monitor activities in the field (expanded enforcement requirements);
 - Potential loss of control over trip charges if a taximeter is not required, adding the potential for arbitrary pricing, and loss of 24/7 coverage of entire City;
 - Potential loss of mandate for accessible taxi needs;
 - Potential negative impact to current driver’s incomes, and franchise models.

4. Deregulate all vehicles-for-hire

- a. Description – Remove City Code Section 13-2, removing all regulation of vehicles-for-hire
- b. Required Changes to City Ordinances – Delete City Code Section 13-2
- c. Potential Impact –
 - Decreased need for staff to administer, manage and monitor activities in the field;
 - Loss of management control over unsafe activities or behaviors on the street (the City would no longer have the ability to revoke an operating authority or franchise for systematic unsafe performance on the street; ordinances and traffic safety laws would be the only basis for citation and behavior management on the street);
 - Loss of control over trip charges without taximeter requirement with added potential for arbitrary pricing, no 24/7 coverage of entire City;
 - Alternative accessible taxi program would need to be developed and possibly funded by the City to meet the basic travel needs of persons with disabilities;
 - Potential negative impact to current driver’s incomes, and currently authorized franchises and licensed operators;

- The additional safety requirements placed on existing vehicle-for-hire vehicles would not be enforceable, only safety state inspections required for individual vehicles would be available.
- d. Note: The City of Seattle attempted deregulation in 1979 because it was believed that competition would provide the public with improved service and lower rates. The City found that instead of improved service, service quality declined and rates were often higher. Impacts from the deregulation were viewed as substantially negative and led Seattle to reregulate the taxi industry in 1984. A report on this experience is provided by the International Association of Taxi Regulators (IATR) entitled “Taxicab Deregulation and Regulation in Seattle: Lessons Learned” by Craig Leisy, Manager of the Consumer Affairs Unit for the City of Seattle.

The report can be obtained at:

<http://www.seattle.gov/consumeraffairs/docs/IATR TAXICAB DEREGULATION AND REREGULATION IN SEATTLE 9-11-2001.pdf>

Staff Recommendations

Staff believes that car/vanpools are important elements of the Austin transportation portfolio and market place. The City is actively engaged in trying to promote car/vanpool activities to provide greater capacity on area roadways and thereby reduce congestion, reduce the demand for parking in key activity centers within the region, and to reduce pollution. Staff is working with area partners such as the Capital Area Council of Governments, Capital Metropolitan Planning Organization and Capital Metro to expand the awareness of car/vanpooling tools and options. Staff believes it is NOT in the interest of the city to regulate car/vanpool activities. Further, we believe we have received direction from council that we should continue to support, encourage, and expand the opportunities for car/vanpool activities as part of the transportation and air quality responsibilities of the Austin Transportation Department. Staff recommends that the definition of car/vanpools be enumerated in City Code and the intent of the City to NOT regulate these activities but rather encourage them be clearly defined.

Staff believes that it continues to be in the City of Austin’s and citizens’ best interest that the City regulates the vehicle-for-hire industry. Staff recommends clarifying the definition of vehicles-for-hire, including the definition of compensation, tips, and fares so that citizens can clearly differentiate between vehicles-for-hire and car/vanpool activities. Staff believes that it is in the interest of the City to manage and regulate the industry for purposes of public safety and to assure that a base level of mobility is provided by the industry to all parts of the community regardless of time, geographic location, or circumstance. Further, it is staff’s best recommendation that all rideshare activities either fall into the definition of car/vanpool or vehicles-for-hire. The introduction of smart-phone enabled rideshare (SPER) applications to

assist in either matching like-trips or in the solicitation of customers is demonstrated by both car/vanpool operations and by licensed vehicles-for-hire within Austin. Thus, the issue is not one of a new technology creating a “third space” for ridesharing, rather the question is can citizens reasonably differentiate between a legitimate car/vanpool activity and that provided by licensed vehicle-for-hire providers in Austin.

Staff believes that these two services (car/vanpool or licensed vehicles-for-hire) represent the full spectrum of ridesharing activities possible and that smart phone enabled rideshare (SPER) applications either facilitate legitimate car/vanpool activities where compensation is on the basis of trip cost (now legal under City Code); or they are serving as dispatch for a vehicle-for-hire activity, that if not licensed through a taxi franchise or operating authority, is illegal.

In other words, as soon as a passenger and driver’s individual trips lose a commonality of purpose, they potentially cease to be a car/vanpool and begin to take on the characteristics of a chauffeured trip. As soon as a passenger is encouraged or enabled to over-pay for a trip (i.e., provide profit), tip for the quality of the trip, or compensate a driver for more than what the actual trip costs, then the passenger becomes a customer and the driver a taxi driver. Thus the question is not one of technology creating a new type of ridesharing but rather one of a legal or illegal business transaction as defined in City of Austin Code, Chapter 13-2, Vehicles-for-hire.

Staff recommends that the franchise and licensing requirements for vehicles-for-hire, including franchise requirements, be maintained to assure the safety of the traveling public. Further, staff recommends that new technologies be required to work within current City Code, either promoting car/vanpools as defined previously or obtain a franchise license (or alternatively operate under a current franchise license holder). Staff recommends additional definitions be added to City Code, Chapter 13-2 to improve citizen understanding of ridesharing and to reduce confusion. Staff is submitting to Council improved definitions that represent this recommendation.

Frequently Asked Questions

In an effort to provide a full response to Council, staff has interacted with stakeholders on both sides of the issue related to smart phone enabled rideshare services. We have received a range of comment from members of the Urban Transportation Commission and we have solicited input from ground transportation providers and franchise holders in Austin. We have also received comment provided to City Council, the UTC and the department directly by a number of citizens. Through this process we have repeatedly heard several frequently asked questions related to the issue of this report. The below information tries to respond to those questions and is consistent with the previously provided recommendations:

What is ridesharing and what is not? Ridesharing is any trip making activity where two or more people share a trip. Ridesharing either takes the form of a car- or vanpool or potentially becomes a vehicle-for-hire such as a chauffeured trip, taxi, or charter. Car/vanpools are shared trips between persons with a commonality of purpose (similar start and/or end point, trip is incidental to another activity, and costs are shared). Vehicles-for-hire ridesharing occurs where there is a lack of commonality of purpose (for example someone responding to a demand for travel, independent of their own trip purpose) or when a customer-service provider relationship is created by the exchange of profit beyond the costs of the trip.

How does a Citizen know what the cost of a trip is? The Federal Government provides a definition of the true cost of travel for purposes of reimbursement of travel costs on government contracts or for the purpose of deductions on internal revenue returns. This rate is set by the Internal Revenue Service and adjusted annually to account for changes in the market place. Currently, the Federal Rate is 56.5 cents per mile. It is based on an annual study of the fixed and variable costs of operating an automobile (i.e., fuel costs, insurance, maintenance, etc.). Tolls and parking costs not included in the Federal Rate are typical costs that might also be considered by a participant in a car or vanpool.

It has been recommended by staff that the City is typically not interested in regulating car/vanpool activities when cost is the basis for any exchange of monies between the parties (i.e., a sharing of the costs). Only when a transaction exceeds the notion of “sharing” does the activity tread into the realm of a vehicle-for-hire and run afoul of City Ordinances. Likewise, when an exchange of monies exceeds the actual cost of the trip and creates the potential for the driver to have made a profit for a service rendered, then applicable state sales taxes and federal revenue taxes are then due.

What is the role of technology and what is the interest of the City? Technologies such as smart phone applications are rapidly changing and offering new opportunities to promote policies of using travel alternatives within Austin. Some of these emerging technologies also provide an opportunity for drivers to make a profit, with some new apps allowing unsuspecting passengers and drivers to violate existing City code by becoming their own de facto taxi service provider.

The fundamental question is what is the City’s role in this space? Historically, the City has regulated vehicle for hire services, such as taxis, pedicabs and limousines, in the interest of public safety and equal access to all citizens for safe, reliable, and reasonably priced mobility throughout the community.

In order to provide a citizen safety net, the City has chosen to regulate and monitor for-hire activities, requiring criminal background checks, vehicle safety inspections and proper insurance liability for drivers and passengers in the case of an incident or accident. This is not unlike monitoring a restaurant for compliance with a health code or occupancy requirements. If the City

becomes aware of unsafe conditions, the City is obligated to ensure the public safety by enforcing its regulations.

Likewise, the City monitors the activity of for hire vehicles to assure proper public transportation coverage of all areas of the city, not just the high volume areas; and that Americans with Disability ADA equipped vehicles are provided for those who need access to them. There are members of our community that depend on taxicab services to meet basic mobility needs. Therefore, the City requires that taxi services be available 24 hours a day, 7 days a week. The City requires that they serve the entire City. The taximeter is used for all trips within the City so that there will be a consistent price, which could not be artificially raised without notice. In exchange for these benefits, and assuring drivers and vehicles are safe and reliable for the public, the City awards operating permits to drivers and companies.

At the direction of the Austin City Council, the Austin Transportation Department in coordination with the Austin Police Department has been enforcing current vehicles-for-hire regulations. In the period from January to May 2013, Austin Vehicle-for-hire Officers tested the market twelve times using various smart phone enabled applications to reserve rides. Observation from these market tests and enforcement efforts are provided in the following table. Of the twelve observations, six (or 50 percent) of the vehicle operators tested were observed to have safety issues with their vehicle or failed to produce sufficient evidence of a valid Texas driver's license or Texas auto liability insurance.

In each case, the officer completing the market test did not know the driver nor did they know the driver's trip plan or purpose and therefore could not have had a common trip purpose to that of the driver. In each case, the officer was able to contribute more than the actual cost of the trip that was made (i.e. the driver "made" more than the trip cost to provide). By definition, these trips resulted in a vehicle-for-hire service and based on City Code are to be regulated by staff to assure the safety of the traveling public.

**Austin Transportation Department,
Ground Transportation Enforcement Division Market Test of
Smart Phone Enabled Rideshare (SPER) Applications**

Date	Violation Information	Comments
January 5, 2013	Driver #1 cited for: No Operating Permit No Chauffeur Permit	Driver did not possess a Texas Driver's license and had only an expired vehicle registration.
January 5, 2013	Driver #2 cited for: No Operating Permit No Chauffeur Permit	Driver did not have valid automobile insurance.
March 7, 2013	Driver #1 cited for: No Operating Permit No Chauffeur Permit	Vehicle impounded by APD
March 8, 2013	Driver #1 cited for: No Operating Permit No Chauffeur Permit	
March 8, 2013	Driver #2 cited for: No Operating Permit No Chauffeur Permit	Vehicle impounded by APD. Vehicle observed to not be running well; check engine light was on; SRS light was on.
March 8, 2013	Driver #3 cited for: No Operating Permit No Chauffeur Permit	Vehicle impounded by APD. Driver was operating vehicle while on parole. Vehicle was equipped with an alcohol detection device as part of the ignition system. With this device, the driver is required to breathe into the device to detect the absence of alcohol to start the vehicle.
March 8, 2013	Driver #4 (not cited)	No compensation accepted
March 8, 2013	Driver #5 (not cited)	No compensation accepted
March 9, 2013	Driver #1 cited for: No Operating Permit No Chauffeur Permit	Vehicle impounded by APD. Exterior damage to fender and hood observed as a potentially unsafe condition.
March 9, 2013	Driver #2 cited for: No Operating Permit No Chauffeur Permit	Vehicle impounded by APD. Vehicle was in good running order but driver had a suspended license.
March 10, 2013	Driver #1 cited for: No Operating Permit No Chauffeur Permit	
May 3, 2013	Driver #1 cited for: No Operating Permit No Chauffeur Permit	

Why does the City of Austin regulate vehicles-for-hire? What is the public interest? The interest of the City and the citizens of Austin is to assure that publicly provided ground transportation services are safe, reliable, reasonably priced and available equally throughout the community. There are members of our community that depend on taxicab services to meet basic mobility needs. Therefore, we require that taxi services be available 24 hours a day, 7 days a week. We require that they serve the entire City and not just peak locations such as festivals. The taximeter is used for all trips within the City so that there will be a consistent price, which could not be artificially raised without notice.

What are the ordinances in place that would limit private drivers from carrying passengers for compensation? The current Austin City Code, Chapter 13-2 defines a Ground Transportation Service as providing a driver and vehicle to carry passengers for compensation. It prohibits persons from providing that service, and even representing that they are providing that service, without an Operating Authority from the City. Notwithstanding the source of the trip, the act of transporting for hire without authorization is a violation of City Code.

Chapter 13-2 also lays out the requirements of the companies providing vehicles-for-hire, vehicle and drivers, including the requirement for insurance, registration, licensing, background checks, and methods for determination of appropriate compensation. These are entry level requirements, and in all cases require the City to approve the operating authority prior to operation.

As previously stated, the City tested the market supported by smart phone enabled applications and has not found any of the drivers sampled as having met the minimum requirements to provide ground transportation in Austin. For example, several of the drivers failed to demonstrate that they had valid vehicle insurance required by the state. Furthermore, from information provided by the State of Texas, there is some doubt that even if a driver has normal liability insurance that it would be in effect if an accident occurred while the vehicle is being used to transport passengers for a fare. This is due to the fact that in the State of Texas, private vehicle insurance is void when that vehicle is used for commercial purposes unless a commercial rider is obtained. This is of concern to City Staff if we are charged with assuring the safety of the traveling public.

What would we have to do to make cell phone enabled dispatch services, drivers and vehicles legal, should Council wish to pursue? To allow non-franchised drivers and vehicles to continue to operate legally requires the removal of franchise dispatching requirements in the Austin Code such as those identifying the requirements for vehicle condition, equipment, driver requirements etc. It might be argued that as an alternate to the City Code that staff could put in place a system where an annual inspection is not required, but if a vehicle providing vehicle-for-hire services is approached the vehicle and driver must meet all requirements and proof of insurance. The proof of insurance would need to address the fact that the vehicle is used for commercial activity to demonstrate compliance under State law. However, the efficacy and feasibility of a stop-and-prove enforcement approach is questionable. Staff believes that this

would likely need a significant expansion of the current two-person regulatory staff to randomly check on vehicles and drivers.

If these barriers are removed, what might be the consequences? Staff believes there could be unlimited entry into the market, and no way to control the entry of novice drivers and the exit of more experienced drivers from the taxi industry. In San Francisco, where cell phone enabled application operations promoting vehicle-for-hire styled services have been in place for a year, the regulators report that a significant number of veteran taxi drivers have left the existing franchises where they were required to pay franchise fees and adhere to corporate policies to work for Uber and Sidecar (two of that region's local cell phone enabled dispatch services).

If the drivers can be written tickets for an activity, is it legal to promote that activity? The Austin City Code says a person may not provide or operate a ground transportation service that picks up passengers within the City of Austin or represent the person's business to the public as a ground transportation service unless that person obtains an authority to operate the ground transportation service. Staff believes that recent smart phone enabled dispatch transportation services do in fact represent that they provide transportation services. Staff believes that they enable passengers to compensate drivers for a travel service provided beyond simply the cost of the trip. Because these newer services entering the Austin market do not have an operating authority, staff believes they are currently in violation of City Code. Staff has received direction that we are to effectively enforce City Code.

Can the current smart phone enabled operations be modified to fit within the categories regulated within the existing Code? Staff believes that the current smart phone enabled applications in question operate as dispatch services, identifying potential trips for independent drivers to compete for and serving as bankers, taking the payment and remitting payment to the driver. They attempt to take no liability and place all risk on the passenger and the driver. Although the smart phone enabled dispatchers in Austin represent that they do background checks, carry additional insurance, and track all trips with GPS, the City has not been provided with any reports that substantiate those claims.

Existing services are available, some using smart phone enabled applications that operate within the definition of car/vanpool services. These include those already present in Austin through Commute Solutions. Likewise, several of our peer cities such as Houston have active public private partnerships with nationally based ridesharing companies that promote car/vanpools within the context of their municipal regulations. These services often are financially supported by governmental grants, participation fees, or targeted advertising.

Similarly, existing services are available, including smart phone enabled applications that provide access to the franchised vehicle-for-hire industry in Austin. The City is committed to proactively working with the industry and the citizens of Austin to continuously improve the local vehicle-for-hire operations.