City of San Antonio

Agenda Memorandum

File Number: 14-3076

Agenda Item Number: 1.

Agenda Date: 12/3/2014

In Control: City Council B Session

DEPARTMENT: Police

DEPARTMENT HEAD: William P. McManus

COUNCIL DISTRICTS IMPACTED: Citywide

SUBJECT:

Transportation Network Companies and Chapter 33

SUMMARY:

Transportation Network Companies (TNC) entered the San Antonio vehicle for hire market in March of this year. They continue to operate although Cease and Desist letters were issued by Chief McManus. The nature of the vehicle for hire industry has changed with the introduction of the TNCs and Chapter 33 of the City Code requires revision to keep pace with the change in the industry.

BACKGROUND INFORMATION:

Transportation Network Companies (TNC) have developed applications that match drivers with passengers who pay the driver, through the app, with a credit card. The TNC collects the fares, keeps a percentage and forwards the rest to the driver. The two TNCs currently operating in San Antonio are Lyft and Uber and although their business models differ, they share similar processes for on-boarding drivers, inspecting vehicles, providing training, and insuring against accidents.

The Police Department has briefed the Public Safety Committee on four separate occasions, providing an overview of the TNCs business model, the regulations contained in Chapter 33, and the traditional industry's position regarding revising Chapter 33. The Department also held meetings with the Transportation Advisory Board (TAB) and ground transportation industry stakeholders throughout the months April, June, and July. During these meetings, the local industry remained adamant that they were opposed to any revisions to Chapter 33 although both Lyft and Uber expressed a willingness to work towards revising Chapter 33 to fit their

business model.

Staff also researched other cities' and states' ordinances and processes. California and Colorado have passed state regulations for TNCs. Seattle, WA; Minneapolis, MN; Chicago, IL; Baton Rouge, LA; Tulsa, OK; Austin and Houston, TX, and the District of Columbia have revised their municipal code to address the TNC business model. Dallas, TX and Nashville, TN are currently reviewing their ordinances and holding meetings with stakeholders.

In review of these regulations, a common approach to regulating the TNCs was identified; (1) Regulations for TNCs were adopted separate from traditional vehicle for hire industries, (2) Responsibility for driver screening and vehicle safety inspections were placed on the TNCs; (3) No "caps" were place on the number of TNCs permitted to operate; (4) Insurance requirements for TNCs were equal to or greater than traditional vehicle for hire industries; and (5) TNC rates of fare were unregulated (Chicago, IL exception).

On August 13, 2014, at the Public Safety Committee Meeting, the Police Department recommended revisions to Chapter 33 at the conclusion of which, the Committee called for the creation of a TNC task force (TNCTF). The TNCTF members were appointed by members of the Public Safety Committee to develop recommendations for the Committee on TNC regulations with respect to (1) Disability Access, (2) Insurance Requirements, (3) Driver Requirements, and (4) Vehicle Requirements.

The TNCTF met six times between September 24 and November 3, 2014. At each of the first four meetings, members of the task force were briefed by City staff on the various regulations adopted by other cities and states across the country after which they engaged in discussion on each topic. In the final two meetings the TNCTF developed recommendations by voting on a variety of regulation options, some of which were provided by City staff and others by members of the TNCTF. In many cases the votes were very closely split, however, with the exception of a few items, the task force did come to a majority vote on most of the options discussed. A preponderance of the task force recommendations are closely in line with the proposal staff made to the Public Safety Committee in August.

Through this process the Department has developed and refined the following proposed changes to Chapter 33 for the City Code:

Disability Access

- Include TNCs in the Vehicles for Hire (VFH) requirement to comply with the ADA
  - Add additional language strengthening specific requirements such as a prohibition on charging additional fees to passengers because of a disability, refusing a ride due to a service animal, etc)
- Require TNCs that cannot provide a Wheelchair Accessible Vehicle (WAV) to provide the customer with a referral to provider than can
- WAV vehicles used on a TNC platform must meet the same requirements required of WAV enabled vehicles used as taxi cabs (as currently outlined in Chapter 33)

Insurance Requirements

TNCs must assure the following insurance is in place for each vehicle during the following periods

- While not logged in (period one):
  - Driver's personal insurance at the state minimum requirement ($30,000 bodily, $60,000 bodily injury per accident, and $25,000 property damage)
- While logged into the platform, but without yet having accepted a ride (period two):
  - Primary personal or commercial insurance in the amounts of ($50,000 bodily, $100,000 bodily injury per accident, and $25,000 property damage)

- TNC shall maintain excess coverage insuring the TNC and driver at $200,000 per occurrence
- While logged on to the platform and having accepted a ride (period three):
  - TNC commercial insurance is primary in the amount of $1,000,000 for death, bodily injury and property damage.
  - TNC must provide $1,000,000 in uninsured/underinsured motorist coverage
- Insurance coverage may be provided by the TNC, the driver, or a combination of both

Driver Requirements

- Pass 10-print identity verification and criminal background checks (conducted through the City)
  - TNCs to conduct driver history checks and other background information checks (right to work in US, ability to read/write/speak English, etc), and attest such requirements are met subject to audit by the City
- TNC drivers must pass all drug testing requirements currently in Chapter 33 for other VFH drivers
- TNC drivers must be at least 18 years of age

Vehicle Requirements

- TNCs to attest that initial and annual vehicle inspections were conducted on each vehicle by a third party ASE certified auto repair shop certifying each vehicle met City standards, subject to audit
- TNC vehicles are subject to random vehicle inspections, by the City

Permits and Fees

- Annual vehicle permit fee $160
- Biennial driver permit fee $15
- No cap on vehicle permits or drivers per platform

ISSUE:

Technology and innovation have changed the dynamics of the vehicle for hire industry requiring revisions to Chapter 33 to embrace this change without compromising the public safety concerns for screening drivers, assuring vehicle safety and establishing insurance standards.

ALTERNATIVES:

Staff is recommending a per vehicle / driver permit fee, which is based on a known staff to vehicle/driver ratio and easy to adjust staffing to meet workload. Alternatives for City Council to consider include: 1) flat rate annual company permit fee, which is difficult to calculate because of the many variables to consider; 2) a percentage of revenue fee, which requires additional accounting staff to audit companies' revenues and receipts, which may result in annual adjustments to correct any disparity in the revenue and expenditure balance; and 3) a per trip fee, which requires additional accounting staff to audit companies revenues and receipts and would also result in annual adjustments to maintain a revenue and expenditure balance.

FISCAL IMPACT:

Based on what comparative cities have seen SAPD estimates approximately 300-500 vehicles and drivers will register for permits during fiscal year 2015. Assuming the above listed rates, staff projects FY2015 revenues from permit fees between $50,250 to $83,750. In order to process this many permits and validate compliance

with Ordinance, Rules and Regulations, SAPD will require an additional transportation inspector. The projected cost for this inspector is $48,319 (nine months) in FY2015 and $46,589 in FY2016 (full twelve months).

RECOMMENDATION:

The Department recommends proceeding to full Council on December 11, 2014, with the proposed changes to Chapter 33 shown above, as well as a one year review of the changes to Chapter 33.