Agenda Report

TO: CITY COUNCIL **DATE: FEBRUARY 25, 2008**

FROM: CITY MANAGER

SUBJECT: TRIP REDUCTION ORDINANCE UPDATE

RECOMMENDATION

It is recommended that the City Council Direct the City Attorney to prepare an ordinance within 60 days amending the Pasadena Municipal Code and the Trip Reduction Ordinance to codify the changes as adopted on March 19, 2007 less the monetary penalties for not achieving the AVR targets.

TRANSPORTATION ADVISORY COMMISSION

The Transportation Advisory Commission (TAC) Trip Reduction Ordinance Update Subcommittee met on January 25. At this meeting, the Subcommittee received public comments from members of the business community who are opposed to the proposed fine for not achieving the proposed Average Vehicle Ridership (AVR) targets.

At the February 7 meeting TAC reviewed the Trip Reduction Ordinance Update and heard public comments from several members of the business community. TAC also heard from the Trip Reduction Ordinance Update Subcommittee members. TAC concurred with the comments of the Subcommittee that the proposed monetary penalties for not achieving the AVR targets does not encourage compliance among the regulated work sites and could be counter productive if regulated businesses opt to pay a fine rather than fund employee trip reduction programs.

TAC approved the following motions regarding the proposed Trip Reduction Ordinance:

1. Recommend that the City Council review the issues associated with the implementation of a daily monetary penalty for properties that do not attain target Average Vehicle Ridership (AVR) targets.
2. Recommend that the City Council remove from the Trip Reduction Ordinance Update the proposed monetary penalty for not achieving the AVR targets proposed in the Ordinance Update.

BACKGROUND

On March 19, 2007, the City Council was presented with recommended amendments to the City's' existing Trip Reduction Ordinance. The recommended amendments primarily lowered the threshold size (from 100,000 sq. ft. to 75,000 sq. ft) for new commercial developments and made large mixed-used residential projects subject to the ordinance. The amendments had been vetted with the development community and reviewed by the Transportation Advisory and Planning Commissions.

In approving the proposed trip reduction ordinance amendments, the City Council went further than staff recommended with regard to the penalty provisions in the ordinance. Council modified staff's penalty provision recommendation to require that businesses regulated by the trip reduction ordinance achieve an average vehicle ridership (AVR) of 1.5 within one year, 1.75 within three years for those sites within Transit Oriented Development Areas, with penalties of $250 per day to follow thereafter until the target AVR was achieved.

The penalty provision originally proposed in the March 2007 report was intended for businesses that did not comply with the trip reduction ordinance through such actions as not drafting and submitting the required Transportation Demand Management (TDM) Plan or for not implementing and annually reporting the status of the development's employee trip reduction program to the City. The AVR goals included in the trip reduction ordinance (1.5 AVR Citywide and 1.75 for projects in the Transit Oriented Development Areas – map attached) amendment were to serve as targets, not requirements, for regulated work sites.

Average Vehicle Ridership (AVR) is the ratio of all employees affected by the trip reduction regulation to the number of vehicles carrying those employees. As an example, a regulated worksite with 100 employees arriving to work during the regulated window of 7:00 am to 9:00 am would need to have to reduce the number of vehicles arriving by 34. A work site with an AVR of 1.5 would have 66 vehicles arriving for each 100 employees (100/66 = 1.5.) To achieve an AVR of 1.75, 43 percent of the employees need to commute to work in a mode other than driving to work alone.

After legal research in to the matter, the City Attorney's Office recommends removal of the required daily penalties for non-attainment of the AVR goals from the draft ordinance. Government Code Sections 65089 and 65089.1 preempt the City's ability to impose punitive measure as part of its trip reduction plan, and limits the City's efforts to measures which "facilitate" and "promote" fewer trips.

The penalty provision included in the proposed trip reduction ordinance amendment (or were) was to ensure compliance with the implementation of the trip reduction ordinance not as a penalty for not attaining the target AVR goals. Staff has identified the following logistical issues related to imposing daily fines for not attaining AVR goals.

- The time element. It takes time for people to make changes in their commute patterns and time to conduct surveys and have them analyzed and reported. It also takes time to affect a change in people's commute habits; this is often an incremental process.

  While being fined on a daily basis until the target AVR is met, an affected property would not be able to conduct follow-up surveys and provide the report to the City in a reasonable timeframe.

- Building tenancy. The TRO regulated property is owned by the primary employer or is the building owned and operated with businesses leasing space. This factor can have a significant impact on the trip reduction program. Where the affected property owner also employs the employees reporting to the site, they can have greater influence over work/employment conditions at the site. The City of Pasadena for example is able to establish two strategies that significantly influence the City's AVR, the 9/80 work week and a solo driving fee. Affected properties that lease space cannot establish work week rules nor can they directly charge individuals for parking, these are employment policies that belong to the tenant.

- Land use of the affected property. Each type of land use has different challenges in establishing effective trip reduction programs. For example, it may be easier for employees who work in an office setting with similar work schedules to carpool compared to employees in restaurants or retail where work schedules may not be as conducive to ridesharing.

- Equity. Regulating a limited number of properties with the potential for substantial fines when all properties in the City of equal size do not have the same requirements. An un-regulated office building subject to the fine would have to pass the cost on to tenants through higher lease rates.

- City staffing. The need to provide thorough and timely site visits and audits of the trip reduction reports submitted to the City will require increased staffing levels.

- Opting out. If a regulated property determines that it will not be able to achieve the target AVR it may determine that the most cost effective business decision is to pay what amounts to an annual fine of $91,250 rather than invest in an employee trip reduction program. The amount of money spent annually by regulated sites varies. The City's Prideshare program has an annual budget of approximately $181,000.

- Level of available transit services in the TOD Areas. The 1.75 AVR goal for regulates sites within the City's Transit Oriented Development Areas was modeled after the 1.75 AVR that the Air Quality Management District sets for regulated businesses located in downtown Los Angeles. While the City of Pasadena is relatively well served by transit with six Metro Gold Line Stations along with nearly a dozen regional transit routes operated by Metro, Foothill Transit and Montebello Transit and the City of Los Angeles Commuter Express, as well as the seven Pasadena Area Rapid Transit System (ARTS) routes the level of transit service available to employees working in Pasadena is not equivalent to the level of transit available to commuters traveling to downtown Los Angeles.

FISCAL IMPACT

The adoption of a Trip Reduction Ordinance that includes the enforcement of penalties for businesses that do not attain the target AVRs will significantly impact staff resources in the Department of Transportation. One additional staff position would be required to review the TDM Plans, notify those businesses that are in non-attainment of the AVR targets and to track the penalty fees due. The cost of this staff position could be partially offset by the fines collected.

Respectfully submitted:

Bernard K. Melekian

BERNARD K. MELEKIAN
City Manager

Prepared by:

Mark Yamarone

Mark Yamarone
Principal Transportation Planner

Approved by:

F.C. Dock

Frederick C. Dock
Director of Transportation

Attachments:

A Transit Oriented Development Areas Map
B March 19, 2007 Agenda Report on the Trip Reduction Ordinance Update