

Agenda Report

TO: CITY COUNCIL

DATE: AUGUST 2, 1999

FROM: CITY MANAGER

SUBJECT: REVISION OF POLICE TOWING FRANCHISE SYSTEM

RECOMMENDATION

It is recommended that the City Council direct the City Attorney to modify the Police Towing Franchise System as specified in Pasadena Municipal Code chapter 10.46, from a non-exclusive to an exclusive franchise.

BACKGROUND

In January 1997, the City Council, acting on the recommendation of the City Manager, established a non-exclusive franchise for vehicle impound and storage services. The impetus for the franchise was an amendment to the California Vehicle Code that established a mandatory thirty-day impound for vehicles operated by unlicensed drivers.

One of the effects of this new regulation was to increase the amount of revenue available to towing and storage operators through an increase in the number of vehicles impounded as well as a general lengthening of storage time, for which they charge a daily fee. The potential revenue available to towing operators was deemed sufficient to warrant the establishment of a franchise whereby operators would pay a fee to the City for the right to provide these services for the Police Department. Prior to the change in regulation, towing operators paid no fee to the City.

It should be noted that other cities have established franchises for police towing services. The City of Montebello recently completed the bid process for the award of an exclusive franchise. The franchise fee established by Montebello is based on the number of vehicles impounded per month and is expected to exceed \$100,000 per year.

In Los Angeles, the Police Commission awards one exclusive franchise for each of the City's eighteen police divisions. The amount of revenue available to towing operators who hold a franchise is so significant, up to \$2 million per year, that firms seeking such agreements have sued the City of Los Angeles to put the contracts out for competitive bidding.

Staff's prior recommendation to establish a non-exclusive franchise, as opposed to an exclusive, was based primarily on the fact that the City had been using three local businesses to perform these services and an exclusive franchise would negatively impact two of these local operators. Additionally, staff had concerns as to whether any single operator could provide the necessary level of resources to meet the City's needs.

In April 1998, non-exclusive franchises were awarded to S. N. Ward & Sons, Johnnies Tow Service and Master Tow Service. Each franchise had a term of one year, and pursuant to the terms of the franchise agreement, each franchisee was to pay the City \$50,000, payable in quarterly installments of \$12,500.

At the conclusion of the first quarter, the City received only \$6,200 from each franchisee. In addition, the franchisees, acting through joint legal counsel, requested a reduction in the franchisee fee due to the failure to generate anticipated income. City staff met with representatives of the franchises and it was agreed that since the franchisee fee was established based on the projected gross revenue collected as a result of the franchise, an audit would be performed by the City to determine whether such revenue was actually being achieved. Accordingly, the City selected a single franchisee to serve as a representative of the three, and in February 1999, the audit was conducted.

The results of the audit concluded that the originally anticipated revenues were being collected. Nevertheless, it was determined that other factors may impact the ability of the franchisees to each pay the \$50,000 fee. The franchise agreements expired on April 6, 1999, and no additional fees beyond the initial payment of \$6,200 per franchisee have been received.

Staff has considered ways in which the franchise could be modified to minimize a repeat of this situation. One alternative would be to preserve the non-exclusive nature of the franchise and simply lower the franchise fee. This approach, however, would likely result in a lower amount of revenue provided to the City than staff believes is possible. Therefore, staff recommends changing the franchise from a non-exclusive to an exclusive. Under an exclusive franchise system, operators interested in obtaining the franchise would have to bid against one another in terms of the amount of revenue to be provided to the City. Such competition is judged to be the best way in which the City can be sure of securing the greatest level of revenue. Moreover, by establishing an exclusive franchise, the City is able to offer potential operators the option of proposing alternate fee structures such as a fixed annual fee, a percentage of gross receipts or a per car fee. This sort of flexibility is not possible under a non-exclusive arrangement where all operators would be required to pay an equal amount.

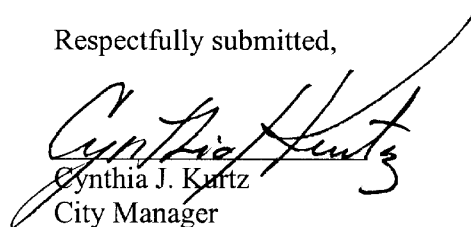
As mentioned previously, one of the considerations in establishing the franchise originally as a non-exclusive was whether any single operator possessed the necessary level of resources to meet the City's needs. Staff believes that while this remains somewhat of a concern, potential franchisees either currently possess the necessary resources or given the economic benefit of the franchise, will obtain any needed additional resources.

Should the recommend changes to the Police Towing Franchise System be approved, staff will issue a new request for proposals. Once proposals are submitted, they will be evaluated by staff to determine which proposer offers the City the greatest amount of revenue. Staff will then return to the City Council requesting approval of a resolution of intent to award an exclusive franchise and hold a public hearing. Following the public hearing, the franchise may be awarded by adopting an ordinance by the affirmative votes of not less than six Council Members.

FISCAL IMPACT


There is a negligible cost associated with modifying the towing franchise from a non-exclusive to an exclusive. The towing franchise and the associated franchise fees do not increase the costs paid by vehicle owners, as these rates are fixed and established by City Council. The current rates of \$75 per impound and \$15 per day are consistent with the fees charged by other agencies in the southern California area, including the Highway Patrol, City of Los Angeles and Los Angeles County. In essence, the franchise requires service providers to share a portion of the revenue they receive as a direct result of the City granting them the right to perform services on its behalf.

Respectfully submitted,



Cynthia J. Kutz
City Manager

Approved by:



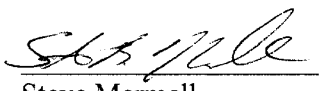
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