

File No. 100759

Committee Item No. 7

Board Item No. _____

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee: Budget and Finance

Date: July 9, 2010

Board of Supervisors Meeting

Date: _____

Cmte Board

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OTHER

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Completed by: Andrea S. Ausberry

Date Friday, July 2, 2010

Completed by: _____

Date _____

An asterisked item represents the cover sheet to a document that exceeds 25 pages. The complete document is in the file.

1 [Submission of Parking Tax Increase and Tax on Valet Services to voters.]

2
3 **Motion ordering submitted to the voters an ordinance authorizing the " Ordinance**
4 **amending Sections 602 and 602.5 of Article 9 of the Business and Tax Regulations**
5 **Code (Tax on Occupancy of Parking Space in Parking Station) to increase the tax rate**
6 **from 15 percent to 25 percent, making the total tax rate, including the existing**
7 **surcharge, 35 percent; amending Section 601 to clarify the definition of "Operator" and**
8 **"Occupant" and to add a new definition of "Valet Parking Service Provider"; and adding**
9 **Section 602B to impose an additional tax of 35 percent on gross receipts from valet**
10 **parking services" at an election to be held on November 2, 2010.**

11
12 **MOVED, That the Board of Supervisors hereby submits the following ordinance to the**
13 **voters of the City and County of San Francisco, at an election to be held on November 2,**
14 **2010.**

15
16 **Ordinance amending Sections 602 and 602.5 of Article 9 of the Business and Tax**
17 **Regulations Code (Tax on Occupancy of Parking Space in Parking Station) to increase**
18 **the tax rate from 15 percent to 25 percent, making the total tax rate, including the**
19 **existing surcharge, 35 percent; amending Section 601 to clarify the definition of**
20 **"Operator" and "Occupant" and to add a new definition of "Valet Parking Service**
21 **Provider," and adding Section 602B to impose an additional tax of 35 percent on gross**
22 **receipts from valet parking services.**

23 **NOTE:** Additions are *single-underline italics Times New Roman*;
24 deletions are ~~*strike-through italics Times New Roman*~~.

25 **Be it ordained by the People of the City and County of San Francisco:**

1 Section 1. Pursuant to Article XIII C of the Constitution of the State of California, this
2 ordinance shall be submitted to the qualified electors of the City and County of San Francisco,
3 at the November 2, 2010 consolidated general election and shall become operative only if
4 approved by the qualified electors at that election.

5 Section 2. The San Francisco Business and Tax Regulations Code is hereby amended
6 by amending Sections 601, 602, and 602.5 and by adding Section 602B to read as follows:

7 SEC. 601. ADDITIONAL DEFINITIONS.

8 When used in this Article the following terms shall mean or include:

9 (a) "Operator." Any person operating a ~~parking station~~ Parking Station in the City and
10 County of San Francisco, including but not limited to, the owner or proprietor of such
11 premises, lessee, sublessee, mortgagee in possession, licensee, a valet parking service, or any
12 other person otherwise operating such ~~parking station~~ Parking Station. A person who otherwise
13 qualifies as an ~~operator~~ Operator as herein defined shall not, by reason of the fact that he was
14 exempt from the tax herein imposed, be exempted from the obligations of an ~~operator~~ Operator
15 hereunder.

16 (b) "Occupant." A person who, for a consideration, uses, possesses or has the right to
17 use or possess any space for the parking of a ~~motor vehicle~~ Motor Vehicle in a ~~parking station~~
18 Parking Station under any lease, concession, permit, right of access, license to use or other
19 agreement or otherwise, including a person who delivers a Motor Vehicle to a valet parking service
20 for parking.

21 (c) "Occupancy." The use or possession or the right to the use or possession of any
22 space for the parking of a ~~motor vehicle~~ Motor Vehicle in a ~~parking station~~ Parking Station.

23 (d) "Parking Station." The term "~~parking station~~ Parking Station" shall include, but is not
24 limited to:

1 (1) Any outdoor space or uncovered plot, place, lot, parcel, yard or enclosure, or
2 any portion thereof, where ~~motor vehicles~~ Motor Vehicles may be parked, stored, housed
3 or kept, for which any charge is made;

4 (2) Any building or structure, or any portion thereof in which ~~motor vehicles~~ Motor
5 Vehicles may be parked, stored, housed or kept, for which any charge is made.

6 (e) "Motor Vehicle." The term "~~motor vehicle~~ Motor Vehicle" includes every self-propelled
7 vehicle operated or suitable for operation on the highway.

8 (f) "Rent." The consideration received for ~~occupancy~~ Occupancy valued in money,
9 whether received in money or otherwise, including all receipts, cash, credits and property or
10 services of any kind or nature, and also the amount for which credit is allowed by the ~~operator~~
11 Operator to the ~~occupant~~ Occupant without any deduction therefrom whatsoever.

12 (g) "Parking Meter." Any device which, when the recording device thereof is set in
13 motion, or immediately following the deposit of any coin, shall register the period of time that
14 any ~~motor vehicle~~ Motor Vehicle may be parked adjacent thereto.

15 (h) "Valet Parking Service Provider." A business that offers valet parking services, such as
16 parking, storing or retrieving Motor Vehicles.

17 SEC. 602. - IMPOSITION AND RATE OF TAX.

18 Subject to the provisions of this Article, there is hereby imposed a tax of ~~1525~~ percent
19 for the ~~rent~~ Rent of every ~~occupancy~~ Occupancy of parking space in a ~~parking station~~ Parking
20 Station in the City and County.

21 SEC. 602.5. - IMPOSITION OF A ~~10~~ 10 PERCENT SURCHARGE.

22 There shall be an additional tax of 10 percent on the ~~rent~~ Rent of every ~~occupancy~~
23 Occupancy of parking space in a ~~parking station~~ Parking Station in the City and County of
24 San Francisco on and after July 1, 1980. The total tax on the ~~rent~~ Rent of every ~~occupancy~~
25 Occupancy after ~~the effective date of this surcharge~~ January 1, 2011 shall be ~~2535~~ percent.

1 When ~~rent~~ Rent is paid, charged, billed or falls due on either a weekly, monthly or other
2 term basis, the ~~rent~~ Rent so paid, charged, billed or falling due shall be subject to the tax of
3 15 percent herein imposed to the extent that it covers any portion of the period prior to July 1,
4 1980, ~~and~~ to the tax of 15 percent herein plus the amount of surcharge imposed to the extent
5 that it covers any portion of the period on and after July 1, 1980, and to the tax of 25 percent
6 herein plus the amount of surcharge imposed to the extent that it covers any portion of the period on
7 and after January 1, 2011, and such payment, charge, bill or ~~rent~~ Rent due shall be apportioned
8 on the basis of the ratio of the number of days falling within said periods to the total number of
9 days covered thereby. Where any tax has been paid hereunder upon any ~~rent~~ Rent without any
10 right of ~~occupancy~~ Occupancy therefor, the Tax Collector may by regulation provide for credit or
11 refund of the amount of such tax upon application therefor as provided in this Code.

12 The surcharge tax so collected shall be deposited in the General Fund subject to
13 appropriation pursuant to the budget and fiscal provisions of the Charter.

14 By adopting this ordinance the People of the City and County of San Francisco do not
15 intend to limit or in any way curtail any powers the Board of Supervisors may exercise as to
16 the subject matter of this ordinance, including, but not limited to, raising the rate of taxation or
17 surcharge, lowering the rate of taxation or surcharge, eliminating the tax or surcharge, or
18 creating or defining new categories of taxpayers under this ordinance.

19 SEC. 602B. ADDITIONAL TAX ON VALET PARKING SERVICES.

20 (a) In addition to the tax on the use or Occupancy of parking space, there is hereby imposed on
21 Valet Parking Service Providers a tax of 35 percent of gross receipts that a Valet Parking Service
22 Provider receives from all charges for valet parking services, including but not limited to any fee or
23 charge, on either an hourly rate, flat fee or other basis for services that a Valet Parking Service
24 Provider provides to park, store or retrieve Motor Vehicles, regardless of who arranges for the services
25 or at what venue the valet parking service offers the services and regardless of whether the valet

1 parking service charges the fee to the person in possession of the vehicle or to someone else. Charges
2 that a parking facility open to the public makes, whether on a transaction by transaction, monthly or
3 other basis, where the vehicle owner drives the vehicle to the entrance of a parking facility and the
4 attendant parks the vehicle are rent for occupancy of parking space and are not charges for valet
5 parking services.

6 (b) The Valet Parking Service Provider shall remit the tax to the Tax Collector in the same
7 manner that it remits the Tax on the Occupancy of Parking Space. The Valet Parking Service Provider
8 may deduct from the tax due on the Occupancy of parking space, any tax that it pays on the Occupancy
9 of parking space in a Parking Station, provided it proves to the satisfaction of the Tax Collector, that
10 the tax deducted has been reported and remitted to the Tax Collector by the Parking Station Operator.

11 Section 3. The operative date of this ordinance will be January 1, 2011.

12
13 APPROVED AS TO FORM:
14 DENNIS J. HERRERA, City Attorney

15 By:


16 JEAN H. ALEXANDER
17 Deputy City Attorney
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25

LEGISLATIVE DIGEST

[Submission of Parking Tax Increase and Tax on Valet Services to voters.]

Ordinance amending Sections 602 and 602.5 of Article 9 of the Business and Tax Regulations Code (Tax on Occupancy of Parking Space in Parking Station) to increase the tax rate from 15 percent to 25 percent, making the total tax rate, including the existing surcharge, 35 percent; amending Section 601 to clarify the definition of "Operator" and "Occupant" and to add a new definition of "Valet Parking Service Provider"; and adding Section 602B to impose an additional tax of 35 percent on gross receipts from valet parking services.

Existing Law

The City currently imposes a 25 percent tax on the cost of parking in most paid parking spaces located in San Francisco. This parking tax does not apply to fees for valet parking services when the valet parking company does not pay for the use of the property where it parks the cars.

Amendments to Current Law

This ordinance would increase from 25 percent to 35 percent the total tax paid for most paid parking spaces located in San Francisco. This ordinance would apply a 35 percent tax to fees for valet parking services, in addition to the Parking Tax. This additional revenue would be deposited in the City's General Fund.

BACKGROUND

Article XIIC of the California Constitution requires that any new, increased, or extended general tax be approved by majority vote of the qualified electors at a general municipal election.

Gavin Newsom | Mayor

Tom Nolan | Chairman

Jerry Lee | Vice-Chairman

Cameron Beach | Director

Malcolm Heinicke | Director

Bruce Oka | Director

Nathaniel P. Ford Sr. | Executive Director/CEO

June 4, 2010

San Francisco Board of Supervisors
City Hall, Room 244
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102

Dear Supervisors:

As you know, recent operating budget shortfalls due to loss of state funding as well as other economic factors have resulted in transit service reductions, fare increases and the inability to fund other transportation projects. Additionally, funds normally used for critical capital projects have had to be made available for operating purposes to prevent even more severe service cuts and fare increases.

In response, on June 1, 2010, the SFMTA Board of Directors adopted a resolution, a copy of which is attached, requesting the Board of Supervisors assistance in two possible ballot measures. The SFMTA Board of Directors also considered other revenue options, but concurred with the SFMTA Citizens' Advisory Council in preferring measures that generate revenues with a strong nexus to transportation.

First, the SFMTA Board of Directors requests the Board of Supervisors' consideration of a November 2010 ballot measure for a 10 percent increase in the Commercial Off-street Parking Tax from 25 percent to 35 percent. This measure, if approved, would generate General Fund revenues, estimated between \$25 to \$30 million annually, 80 percent of which would be allocated to the SFMTA under the Proposition A's mandate.

Second, the SFMTA Board of Directors requests the Board of Supervisors' assistance in enacting a Vehicle License Fee (VLF)¹ for the City. This effort will require approval both at the State and local levels and therefore will be a longer term effort.

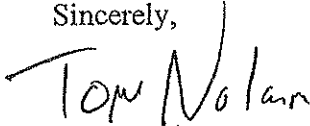
The SFMTA understands the challenges of securing additional resources to sustain and enhance transit service, particularly in the current economic environment. Consistent with the City's Transit First Policy, the SFMTA also recognizes the need to avoid further service reductions. Whether or not one uses Muni, a robust transit system is key to increasing

¹The VLF was established by the state legislature in 1935 in lieu of a property tax on vehicles. The formula for VLF assessment is based upon the purchase price of the vehicle or the value of the vehicle when acquired, adjusted for depreciation. The California Department of Motor Vehicles returns almost all VLF revenue to the cities and counties. After having been reduced from its historical rate of 2 percent, the state temporarily increased the VLF rate from 0.65 percent to 1.15 percent on May 19, 2009 to help address its budget deficit. This temporary rate increase, in effect through June 30, 2011, may be extended for another year depending on the state's budget situation. If approved, the VLF is estimated to generate revenues between \$30 to \$35 million.

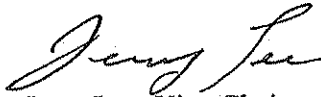
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economic vitality through enhancing access to employment and businesses, reducing traffic congestion and air pollution, avoiding fluctuating gas prices, mitigating climate change and lessening oil dependence. With this in mind, the SFMTA Board of Directors respectfully requests the Board of Supervisors' assistance with these two ballot measures.

Sincerely,



Tom Nolan, Chairman
SFMTA Board of Directors



Jerry Lee, Vice Chairman
SFMTA Board of Directors

enc. SFMTA Board of Directors' Resolution

cc: Mayor Gavin Newsom
SFMTA Board of Directors
Nathaniel P. Ford Sr., Executive Director/CEO

SAN FRANCISCO
MUNICIPAL TRANSPORTATION AGENCY
BOARD OF DIRECTORS

RESOLUTION No. 10-078

WHEREAS, The SFMTA provides essential transportation services, including approximately 700,000 average weekday trips on the Muni system, but recently eliminated 313,000 annual transit service hours (10 percent) due to insufficient funds to pay for day-to-day operating expenses; and,

WHEREAS, The voter-approved Proposition A (2007) states, "The Mayor, the Board of Supervisors, and the Agency (SFMTA) diligently shall seek to develop new sources of funding for the Agency's operations, including sources of funding dedicated to the support of such operations, which can be used to supplement or replace that portion of the Municipal Transportation Fund consisting of appropriations from the General Fund of the City and County"; and,

WHEREAS, Under Proposition A, "Unless prohibited by preemptive state law, the Agency may submit any proposal for increased or reallocated funding to support all or a portion of the operations of the Agency, including, without limitation, a tax or special assessment directly to the electorate for approval, or to the owners of property or businesses to be specially assessed, or to any persons or entities whose approval may be legally required, without further approval of the Mayor or the Board of Supervisors"; and,

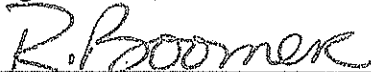
WHEREAS, Consistent with the City's "Transit First" Policy, securing new revenue sources to fund a comprehensive and frequent transit network, as well as other sustainable transportation options such as bicycling and walking, is key to increasing economic vitality through enhancing access to employment and businesses, reducing traffic congestion and air pollution, avoiding high gas prices, mitigating climate change and lessening oil dependence; now, therefore, be it

RESOLVED, That the San Francisco Municipal Transportation Agency Board of Directors urges the Board of Supervisors to seek voter approval for an increase in the Commercial Off-Street Parking Tax from 25% to 35% and proceed with any other necessary legislation required to place this measure on the November 2, 2010, ballot that; and, be it further

RESOLVED, That the San Francisco Municipal Transportation Agency Board of Directors urges the Board of Supervisors to seek State and local approval to increase the Vehicle License fee rate from 1.15% to 2% and proceed with any other necessary legislation required to place this measure on the ballot when the timing is appropriate; and, be it further

RESOLVED, That the funds raised by these measures, if approved by the voters, support SFMTA programs including, but not limited to, the restoration of any lost service hours to the transit system.

I certify that the foregoing resolution was adopted by the San Francisco Municipal Transportation Agency Board of Directors at its meeting of June 1, 2010.


Secretary to the Board of Directors
San Francisco Municipal Transportation Agency

