



Memorandum

**TO: HONORABLE MAYOR
AND CITY COUNCIL**

FROM: Deanna J. Santana

**SUBJECT: CARDROOM BALLOT
MEASURE**

DATE: March 1, 2010

Approved

Date

3/1/10

SUPPLEMENTAL REPORT

REASON FOR SUPPLEMENTAL

This report summarizes the input provided by the City's cardrooms, Bay 101 and Garden City, regarding the proposed cardroom ballot measure.

BACKGROUND

On February 16, 2010, the City Council directed to the Administration to link the increase of cardroom tables to an increase of the Cardroom Tax for a ballot measure at the June 8, 2010 General Election. Staff was directed to develop ballot measure language based on the 2010 Community Budget survey Report results which polled an increase in cardroom tables and Cardroom Tax. As part of this referral, the City Council directed staff to obtain input from the two cardrooms regarding the proposed ballot measure. This supplemental report provides a summary of the comments received during the February 24, 2010 meeting regarding the proposed ballot measure. Additionally, a summary of the ballot measure features that the Cardroom's would support is included.

ANALYSIS

On February 24, 2010, City staff met with representatives of both cardrooms to gain input on the proposed Cardroom Ballot Measure:

MEASURE _____

Measure to Preserve Some Essential City Services by Expanding Cardroom Tables and Increasing the Cardroom Tax

To preserve some essential City services such as police, fire, emergency response, parks and libraries; shall gambling be expanded in the City of San Jose, beyond that operated or authorized on January 1, 1996, by a total of 18 cardroom tables, from 80 to 98; and, increase the Cardroom Tax from 13% to 15% of gross revenues; subject to existing audits?	YES	
	NO	

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The cardrooms expressed disagreement with the proposed ballot measure language. Primarily, the cardrooms explained that the ballot measure failed to include the necessary features that are needed to address their continued concerns for business growth and competitiveness. Specifically, both cardrooms requested wholesale conformance with the state gaming guidelines with respect to:

- (1) Increase of tables;
- (2) Ability to play games as approved by the state; and,
- (3) Eliminate the Betting Limit.

The cardrooms agreed that if the City were to follow the state gaming guidelines on the above three issues, both cardrooms would support a 15% tax on all tables. Additionally, one cardroom expressed its continued concern with the City's Cardroom Table Fees and expressed interest in eliminating the Cardroom Table Fee as part of this action. The other cardroom did not agree, although suggested a reduced Cardroom Table Fee. Last, there was concern expressed by both cardrooms that without a more complete ballot measure, that putting into place the additional cardroom tables may not achieve the forecasted revenue because of the business costs associated with supporting each card table.

While the conversation was helpful in obtaining the "bottom line" of what ballot measure features would be needed to obtain their support, City staff expressed concern about the significant policy decision, in such a short timeframe, for the City Council with respect to understanding fully the implications to Title 16, the Gaming Control Ordinance. Additionally, City staff expressed the lack of time for the City Council to engage in such a policy discussion. Additionally, staff has not completed analysis on the attachments referenced later in this report since receipt of them last week.

Bay 101 distributed in writing an outline of its proposed features for a ballot measure at the meeting (Attachment A). Garden City did not express full agreement on the proposed features. Garden City expressed that it would be providing additional input in writing before the March 2, 2010 City Council meeting which is attached (Attachment B). Garden City's written statement will be shared with Bay 101 at the same time that this supplemental report is distributed.


DEANNA J. SANTANA
Deputy City Manager

Attachments:

- (A) Bay 101's "Proposed Features for Ballot Measure"
- (B) Garden City's "Cardroom Ballot Measure"

Bay 101 Proposed Features for Ballot Measure
Proposed City Ballot on Table Increase
February 24, 2010

Table Increase: 9 additional tables for each Cardroom effective July of 2010. If a Cardroom does not take or use its full allocation of nine tables within 6 months (use to be defined by hours/month), the remaining tables shall be given to the other Cardroom. An additional 11 tables shall be automatically given to each Cardroom upon expiration of the statewide moratorium in 2015. As with the original 9 additional tables, if one Cardroom does not take or use its entire allocation within 6 months, the remaining tables will be give to the other Cardroom.

Tournament Tables: Each Cardroom shall be approved for no more than 2 tournaments per day using no more than 20 tournament tables which would not be included in the standard table count (49). Tournament tables shall be separated from live game tables, and no live games would be allowed to be played on these tournament tables under any circumstances. The Cardroom would pay an annual fee for each tournament table of \$5000.

Wagering Limit and Permissible Games: San Jose regulation of permissible games shall conform to state law in regards to both games offered and wagering limits. All games approved for play by the State of California should be allowed in San Jose in accordance with the rules approved by the State of California.

Tax Rate Increase: The current gross receipts tax is 13%. The tax would increase to 15% upon approval of this measure.

Roll Back of Tax Increase: In the event 11 additional tables are not allowed for each Cardroom in 2015, for whatever reason, the tax rate is automatically reduced by 1% to 14% on gaming revenue.

Regulatory Fees: Table fees will be capped at \$10,000 per table and adjusted annually for inflation based upon CPI. Cardclub fees and revenues shall be audited regularly, no less often than every two years, to ensure that the city receives all revenues to which it is entitled and the fees paid by cardclubs are used exclusively for regulation of the clubs and set precisely at the level of cost-recovery.

Memorandum

To: Deanna J. Santana
From: Eric Swallow/ Garden City Casino
Date: 2/26/2010
Re: **CARDROOM BALLOT MEASURE**

The owners, advisors and representatives from Garden City Casino would like to 'thank you' for continuing communications. We are being offered a valuable forum to communicate our concerns related to the obstacles we face in San Jose to effectively operate as a business in the City of San Jose.

The purpose of this correspondence is to reaffirm our position as it relates to the proposed ballot measure and other matters that are currently under consideration. We want to be clear that the position we represent here pertains to the views of Garden City. We do not intend to infringe on Bay 101's opportunity and responsibility to express their own opinions and views. To that end, they did provide a written synopsis of their position which **we do not fully support.**

Our position is simple to explain and very much in line with what the City of San Jose is attempting to do in addressing their budget shortfall. The City is looking to increase their revenue opportunities and Garden City wants to grow its business and remain competitive with other entertainment venues. We believe we can offer a common sense solution which can satisfy both positions.

There is a mistaken notion that the mere addition of 9 gaming tables will create an instant cash flow to be enjoyed by the cardroom and shared with the City by way of increased revenues/profits. The truth is, additional tables in of itself without the elimination of overregulation (example we cannot play all state allowed table games in San Jose) will not create a substantial tax increase nor increased profits for Garden City. Garden City must be allowed to compete on a level playing field with its competitors.

Our solution, eliminate all table fees which only serve as cost recovery to a system that is simply not working and allow the State to handle licensing and regulatory matters. The State has a proven track record for handling both functions on behalf of 89 other cardrooms in the state. We are not aware of any deficiencies as a result of State oversight and in fact many communities enjoy the partnerships they have developed with their cardrooms. We have shared many of these published articles with San Jose staff.

February 26, 2010

Locally, our neighboring competition is allowed much more freedom to operate as legitimate businesses free of overly burdensome regulation.

Garden City is willing to discuss and explore the possibilities with the proposed 2% tax increase with City Staff, but we would like the elimination of all table fees given fare evaluation by policy makers.

We want to be clear, that **we are not** asking for the **REMOVAL** of any regulatory oversight; indeed regulations in our industry are important. San Jose's regulatory scheme goes well beyond what is reasonable and responsible. We cannot play games enjoyed by other clubs, utilize jackpot promotions, or simply hire people in a timely fashion, which then also reduces the City of San Jose's Revenues.

We believe our simple solution will be supported by the independent audit, commissioned by the Mayor in late 2009. We are confident the audit will demonstrate deficiencies in San Jose's regulatory process and beyond that prove the City is operating under the mistaken belief that it is better off with their own division of gaming versus what the State provides.

If Garden City is allowed to operate like its contemporaries in all other local jurisdictions, its revenues will increase which equates to more revenues landing in City coffers. It really is that simple.

Once again we want to thank you Deanna for maintaining dialog by all stakeholders with the goal of establishing a healthy partnership.