



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Dan McFadden

SUBJECT: Report from the Downtown Working
Group

DATE: March 21, 2007

Approved

Date

3/21/07

At the Public Safety, Finance and Strategic Support Committee of March 15, 2007, the Committee considered the attached report and requested that the item be cross-referenced for full Council consideration.

There was a lengthy discussion at the Committee and staff will be providing more information within 60 days as noted in the below recommendation.

- a) Direction to staff to return to Council within sixty days with specific recommendations related to the Downtown Working Group.

A copy of the staff memorandum is attached for your review. Staff will make a brief presentation at the Council meeting.

DAN McFADDEN
Deputy City Manager
City Manager's Office

Attachment

For questions please contact Dan McFadden, Deputy City Manager at (408) 535-8120.



Memorandum

TO: PUBLIC SAFETY, FINANCE
AND STRATEGIC SUPPORT
COMMITTEE

FROM: Councilmember F. Williams
Chief R. Davis
Co-Chairs DWG

SUBJECT: REPORT FROM THE
DOWNTOWN WORKING GROUP

DATE: February 28, 2007

Approved

Robert L. Davis
Forrest Williams

Date

2/28/07

RECOMMENDATIONS

Direct staff as indicated to return to Council within sixty days with specific recommendations on the following items:

Police (SJPD) & City Attorney (CAO):

1. Initiating an extended hours procedure as a 90 day pilot program.
2. Establishing a program to license promoters.
3. Enforcing a "no-tolerance" policy for problematic shows and promoters.

Planning (PBCE) & City Attorney (CAO):

1. Revising the Conditional Use Permit (CUP) requirements to encourage a diversity of entertainment in the Downtown.
2. Initiating land use and specific zoning policies to delineate entertainment zones in order to reduce potential conflicts between night clubs and Downtown residential uses.
3. Placing a temporary moratorium on large, liquor-only clubs until adequate procedures are developed and brought to Council.

Redevelopment Agency (RDA) and Department of Transportation (DOT)

1. Expanding the Downtown street lighting program, with a specific proposal to address the needs for lighting in the Fountain Alley.
2. Working with the Downtown Parking Board and private lot owners to substantially improve regulation, cleanliness and safety of the Downtown garages.
3. Working with the Downtown Association to devise and implement a program to improve Downtown cleanliness.
4. Improving access to taxis, especially during club closing hours.
5. Providing incentives to designated drivers.

City Manager (CMO):

1. Educating Downtown club owners and operators about the City's Downtown development plan.
2. Working with the Downtown Association to contract with Responsible Hospitality Institute (RHI). The City's share of contract should not exceed ten thousand dollars (\$10,000.00).
3. Creating an agreement where the Downtown clubs will assume a fair share of the additional police staffing costs directly associated with monitoring the clubs.

OUTCOME

The work of the Downtown Working Group (DWG) is best summarized in its mission statement as follows: "To identify an ongoing framework for development and timely implementation of policies and procedures that improve and support the Downtown culture by promoting a clean, safe, and inviting experience for residents, business owners, and visitors alike." Consistent with this mission, the outcome of the DWG will be to:

- Diversify and balance late night entertainment with other uses in the Downtown.
- Provide a safer Downtown.
- Have clubs share in the special police costs associated with their operation.
- Improve communication and co-operation among the Downtown stakeholders.

BACKGROUND

In November, 2005 the City Council, in response to a series of incidents associated with Downtown clubs, adopted an Urgency Ordinance which authorized the San José Police Chief to suspend an entertainment permit to protect public safety. As part of the adoption of the ordinance, Council formed the Urgency Ordinance Task Force composed of Downtown civic and community leaders to address community concerns with the Ordinance.

In June, 2006 the Council approved refinements to the Urgency Ordinance. The Council also adopted the Task Force recommendation to establish a Downtown Working Group to continue the communication among stakeholders of Downtown, and to address the following issues "first and foremost":

1. Curfew enforcement
2. Cruising
3. Concept of a 24-hour Downtown
4. Event promotions
5. Resource-intensive events (e.g., Cinco de Mayo, Bomb concerts, etc.)
6. City strategies (Redevelopment, Housing, Policing and Transportation)

The DWG has met monthly since October, 2006. The DWG consists of a "mix of experts and community representatives" (see Attachment A) It is co-chaired by Councilmember Williams and San José Police Chief Davis, and D.McFadden, Deputy City Manager, serves as staff. Many

of the DWG members and participants have also worked on similar efforts such as the Downtown Safety Task Force. Consequently, the DWG has avoided compiling a long list of “priorities”, and has adopted a work plan that will lead to action on the six items listed above.

ANALYSIS

1. Curfew Enforcement

Downtown has become a gathering place for large numbers of youths in violation of the City’s curfew policy. The Police Department has implemented a program to deliver youths who violate curfew to a temporary command center in Downtown. An adult guardian is then contacted to pick up his/her child. This program has significantly reduced the number of late-night incidents involving curfew violators.

2. Cruising

This has been a problem in Downtown for many years. Cruising blocks traffic, impedes emergency vehicles, and draws a crowd along the sidewalks which is difficult to control. Police Sergeant Kneis has designed a low-cost solution by placing traffic cones to direct vehicles off Santa Clara Street to parking facilities on Third Street and Market Street. While one club owner has objected to this solution, most of the affected business owners support the procedure as an effective response to the cruising problem.

3. Concept of a 24-hour Downtown

A “24-hour Downtown” is clearly a long term goal. What DWG members hope to see in the short term is a 20-hour Downtown that includes more late-night eating establishments and a “soft closing” of the clubs (see below).

a. The Challenge to Diversify and Upgrade Entertainment Venues

The problems with the Downtown clubs are best summarized as follows:

“Downtown’s late night consumer experience has deteriorated in recent years. Our goal must be to reverse this trend...Some special events and nightclub promotions exacerbate security problems and contribute to attracting undesirable crowds to the core...An increase in the number of nightclubs Downtown – combined with the dotcom bust recession, the perceived unfriendly atmosphere, and more competition in the region – has resulted in some clubs lowering standards for dress code, canceling live music, reducing cover charges and subcontracting nights to the highest bidder to keep their businesses open.”(from “Downtown San José Night Culture: Towards Improving the Urban Experience,” a paper prepared by the San José Downtown Association in April 2006)

b. The Challenge to Balance Entertainment and Public Safety

A recent inventory of clubs in the Downtown Entertainment Zone lists 33 clubs with a total capacity of about 10,500 people, including five clubs that exceed 600 occupancy each. The Police Department believes that the larger, disco-only clubs present special

challenges. The Department works closely with the nightclubs to enhance their security procedures. (See Attachment B)

The Entertainment Zone Policing Plan involves forty-five officers and six sergeants on Friday and Saturday nights and selected holidays, with reduced staffing on Thursday and Sunday evenings. Officers volunteer at the end of their regular ten-hour shift and work two hours of overtime. The cost of police overtime directed toward "club policing" is approaching one million dollars a year from the General Fund. There is an ongoing debate on whether the benefits to the Downtown clubs justify the subsidy.

The following summary of basic perceptions of club owners and SJPd, is based on a December, 2002 report by the Downtown Safety Task Force:

On one hand, the Police Department argues that, if left unmonitored, the high density of clubs and the homogeneity of clientele may facilitate large crowds lingering in the area after closing time. These crowds create the potential for large disturbances and a strain on San José Police Department's grave yard shift resources citywide. Therefore, the current practice of enhanced police presence is essential to prevent large-scale disturbances. On the other hand, some clubs are concerned that excessive police presence may create a wrong impression that Downtown San José is unsafe and not all people are welcome. Hence, they propose that while bars and night clubs would not sell or serve alcohol after 2 a.m., they be allowed to stay open for another hour. This "soft closing" plan is expected to allow night club patrons to dissipate over a period of one hour instead of twenty minutes, avoiding much of the traffic and/or crowd control problems under the current police practice. These conflicting views expressed in a report by the Downtown Safety Task Force report still persist four years later.

The Police Department has recently indicated a willingness, in a response to the Mayor's Public Safety Transition Committee findings (January 19, 2007), to consider a trial period for "soft closing" under certain conditions. Of primary concern is the clubs defraying some police costs directly related to monitoring. Every precaution will be made to ensure that no Police officers are subject to the authority or direction of any club owner or operator.

c. Lessons from Other Cities

In December 2006, the DWG heard a presentation from Jim Peters of Responsible Hospitality Institute (RHI). Mr. Peters offered to assist the DWG to review best practices; to develop strategies for better planning, zoning and regulation; and to marshal the resources required to achieve success. The DWG voted to engage RHI to facilitate our goals.

In addition, the DWG also invited the San Francisco Entertainment Commission to share its experience at the February 12, 2007 DWG meeting. The San Francisco Entertainment Commission was started in July 2003 with seven members. The Commission has the powers and duties to accept, review and gather information, and to conduct hearings for

entertainment related permit applications. Additionally, the Entertainment Commission plans and coordinates supervision of city services for major events for which there is no recognized organizer, promoter or sponsor. The Commission has struggled with problems similar to ours, and consequently provides an interesting model for further discussion.

d. Downtown Garages

During the late evening hours (Thursday, Friday, and Saturday) Downtown San José experiences significant night club activity, attracting crowds from throughout the region. The late night activity is having a significant impact on the parking system, including the following inappropriate activity: public drunkenness and drinking, disorderly conduct, urination inside the garages, excessive garbage, loitering, vandalism, theft, and altercations.

The first priority is the safety and security of customers, staff, and the general public. To that end the DOT and SJPD have initiated a comprehensive Parking Garage Security Analysis. In addition, staff is developing a comprehensive cleaning and maintenance program from the parking garages to address the late night activities. DOT and RDA are recommending to the Downtown Parking Board:

1. A flat rate of five dollars (\$5.00) after 10:00 p.m. on Thursday, Friday and Saturday nights at the Market Street, 2nd / San Carlos, 3rd Street, and 4th / San Fernando Garages. This fee will likely reduce problem activity, and provide the resources necessary to cover the higher costs associated with maintaining a secure and clean environment for customers.
2. A flexible strategy regarding closing parking garages to entry after 1:00 a.m. and full closure at 3:00 a.m. to reduce late night loiterers and to provide the necessary time cleaning and maintenance crews need to restore facilities to a condition acceptable to the public on the next business day. Monthly and residential permit holders would retain access 24/7 with their electronic access cards.

4. Event Promotions

The DWG members expect the City to enforce a "No Tolerance" policy toward show producers at public venues, by rejecting shows that cause policing problems. There is also strong support to develop a process to license club promoters who subcontract with club owners in the Downtown. This program would be developed with the business community and administered by the Police Department. It should serve to weed out problem promoters.

5. Resource Intensive Events (e.g., Cinco de Mayo, Bomb concerts, etc.)

The DWG will address large, special events, like Cinco de Mayo and Mardi Gras, within the next few meetings. The issue of Bomb concerts is addressed under #4 above.

6. City Strategies (Redevelopment, Housing, Policing and Transportation)

The DWG has discussed a variety of strategic concerns. Foremost among them is the need to (a) strike a balance between entertainment and residential uses in the Downtown, and (b) improve street lighting and cleanliness.

- a) The number of residential units has increased by approximately 2,500 over the last five years, and is expected to grow by about 4,500 additional units through 2012. It is important that the City establish a framework to address Downtown development in a balanced and integrated way.

“We must prepare for the approaching wave of high-rise housing Downtown. A balance between late night activity and quality of life issues is achieved with careful urban planning that concentrates uses in appropriate districts and considers limits on the number and/or size of clubs for such districts. Review zoning regulations that encourage both a vibrant and energetic night culture and a welcoming urban residential experience...The time to change Downtown night culture is now – before we achieve greater residential densities.” Downtown San José Night Culture article cited above.

- b) Improved lighting and cleanliness are critical to the long term development of Downtown. On January 8, 2007 the Redevelopment Agency made a presentation to the DWG regarding a comprehensive lighting program for the Downtown Core. The program would identify special areas and needs, and encourage pedestrian uses of the Downtown at night. The first phase of the Transit Mall lighting is being completed, and new lighting will soon be installed in Fountain Alley.

Improved cleanliness is another critical goal of the Downtown. The San José Downtown Association, in coordination with the City of San José, has initiated an effort to enhance the cleanliness and attractiveness of Downtown San José. The effort is focused on creating a Property Business Improvement District (PBID) that would combine private and public resources to create a cleaner and more attractive Downtown. The effort would retain existing City of \$635,000 which would be augmented through the proposed \$1.6 million that would be generated from private and public property owners Downtown. The services to be provided include: cleaning services, information and safety ambassador services, and image enhancement through beautification activities. The PBID requires a majority of property owners to sign a petition to enable the process to proceed to actual balloting. The approval process will occur from March through August 2007, with actual service delivery beginning in early 2008.

SUMMARY

Over the past five years there has been a succession of study groups visiting many of the same problems in the Downtown. These reviews have tended to be all-inclusive, compiling a long list of “to-do” items. The goal of the Downtown Working Group is to focus our energy and resources on a short list of high-priority, high-return action items and to implement them over the next six months.

PUBLIC OUTREACH/INTEREST

- Criteria 1:** Requires Council action on the use of public funds equal to \$1 million or greater.
- Criteria 2:** Adoption of a new or revised policy that may have implications for public health, safety, quality of life, or financial/economic vitality of the City.
- Criteria 3:** Consideration of proposed changes to service delivery, programs, staffing that may have impacts to community services and have been identified by staff, Council or a Community group that requires special outreach.

Criteria N/A

A draft of this report has been reviewed and approved by the Downtown Working Group at its publicly noticed meeting on February 12, 2007

COORDINATION

Council District 2, Council District 3, RDA, CAO, PBCE, DOT, CMO, and SJPD.

CEQA

Not a project.


Dan McFadden
Deputy City Manager

For questions, please contact Dan McFadden (408) 535-8120.

Attachments

Attachment A

Members of the Downtown Working Group

Co-chairs: Forrest Williams, Councilmember
Chief Robert Davis, S.J.P.D.

Members: Barbara Attard, Independent Police Auditor
Rick Callender, NAACP
John Conway, S.J. Downtown Association
Dan Fenton, Team San Jose
Victor Garza, La Raza Roundtable
Don Gralnek, Sharks Organization
Sparky Harlan, At-Large Representative
Sam Liccardo, Councilmember
Dan McFadden, City Manager's Office
Angelique Nedrow, City Attorney's Office (*Non-voting Member*)
Mona Onstead, Downtown Residents Association
Frank Penrose, St. James Neighborhood Association
Dave Powell, San Jose Restaurant & Entertainment Association

Attachment B

Entertainment Zone Nightclub Guidelines

1. It is our goal to establish a spirit of cooperation among a community of responsibly run entertainment businesses, so please review and understand your Conditional Use and Entertainment Permits as they contain requirements for security and general operations.
2. Review ABC requirements and Business and Professions code law that is applicable to your business.
3. Keep entry lines well organized and prescreen persons that are intoxicated, belligerent, or who do not meet your club standards. Good screening prevents problems later.
4. Establish policies on security issues and provide training for all personnel.
5. All employees serving in a security function must have the words "Security" or "Staff" on outer clothing in a highly visible way, and a name tag with their real name.
6. Security staff may not consume alcohol or sit at the bar.
7. Underage persons are not allowed on premise consistent with the state law and city permits. Obviously intoxicated persons may not be served and cannot remain on premise.
8. Provide the amount of security staff specified in your entertainment permit, and there must be at least one manager present with a City of San José Entertainment Card present anytime entertainment is taking place.
9. Be aware of what time your entertainment (music) is supposed to end, and alcohol cannot be consumed after 2:00 a.m. You are required to provide security outside your club and in parking lots used by your customers. Upon closing time, clear customers out front and do not let them group up in the roadway, urinate, drink, or create other nuisances that reflect poorly upon your club.
10. Minors on premise will not be tolerated, so train your staff to carefully check identification. Acceptable forms of ID include a driver's license, state issued ID card, federal military ID (except those without a physical description), and some passports. Expired, temporary, altered, or fraudulent ID's are not acceptable. You may adopt a policy that is stricter than what the law allows as long as it does not conflict with existing laws.

Sgt. Brian Kneis, (408) 219-6661