



Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: Dan McFadden, Deputy City
Manager

SUBJECT: 60 DAY STATUS REPORT ON
DOWNTOWN WORKING GROUP

DATE: June 4, 2007

Approved

Date

6/5/07

COUNCIL DISTRICT: City-Wide

RECOMMENDATION

Acceptance of this status report and direction to staff to proceed with the implementation of the Downtown Working Group Program.

BACKGROUND:

In November 2005, the City Council adopted an urgency ordinance which authorized the San Jose Police Chief to summarily suspend an entertainment permit to protect public safety. As part of the adoption of the ordinance, the 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 City Council approved refinement to the Urgency Ordinance and adopted the Task Force recommendations to establish a Downtown Working Group (DWG) to continue the communication among stakeholders of Downtown and to address issues involving curfew enforcement, cruising, the concept of a 24-hour Downtown, event promotions, resource-intensive events, and City strategies.

On March 15, 2007 the DWG provided the Public Safety, Finance, and Strategic Support Committee with a report from the DWG dated February 28, 2007, containing proposals to improve the nightlife experience in downtown San Jose for residents, business owners, and visitors. On March 27, 2007 the City Council considered the DWG report and directed staff to return within 60 days with the recommendations addressing the DWG proposals.

ANALYSIS

Extended Hours in the Downtown Entertainment Zone

A. Pilot Project

A recent inventory of clubs in the Downtown Entertainment Zone (EZ) lists 33 entertainment venues with a total capacity of about 10,500 people. Liquor licenses issued by the California Department of Alcohol Beverage Control require that bars and nightclubs cease selling alcohol at 2:00 a.m. In addition to state requirements, City Conditional Use Permits and entertainment permits go further and require clubs to cease service of alcohol at 1:30 a.m. and close by 2:00 a.m. At 2:00 a.m., large crowds generated by the simultaneous exodus of club patrons, create the potential for large disturbances and place a strain on Police Department staff resources. Staff has prepared an ordinance that proposes a 90 day pilot program to allow extended operating hours for restaurants, bars and nightclubs. **This ordinance is on today's City Council agenda for consideration immediately following this item.**

The pilot program would allow restaurants legally operating until 2:00 a.m. to operate until 3:00 a.m. in a twelve-block area (see Attachment A. Restaurant, Bar and Nightclub Pilot Program Area). Bars and nightclubs that are currently operating legally until 2:00 a.m. are proposed to be allowed to operate until 3:00 a.m.; 90 minutes after they cease selling alcohol, in an approximately six-block area located with the larger restaurant pilot program area (see Attachment A). This "soft closing" pilot program would allow patrons to dissipate over a longer period of time and give bar and nightclub patrons an option of obtaining food and non-alcoholic beverages in nearby restaurants after the service of alcohol ceases with the intent of reducing crowd control programs. The Police Department has indicated that such a program would entail additional police overtime costs associated with extending the shifts of police personnel assigned to the area to cover the additional hour of club operations.

The proposed ordinance provides for an initial 90 day pilot period allowing the City to assess the extent to which the extended hours provide a benefit in regard to security and crowd control and to identify the police staffing costs associated with the extended hours of operation. Staff will strive to complete the evaluation in the first 90 days. The proposed ordinance would allow the City Council to adopt a resolution to extend the pilot for up to an additional 90 days, should the Council choose to consider a permanent pilot program. The City would assume the police costs for the first 90 days, and any additional costs beyond the initial 90 days will be expected to be shared by the participant clubs and restaurants.

B. Incremental Police Costs

In June 1997, the San Jose City Council approved the first Entertainment Zone Policing Plan (EZPP). The EZPP was developed to eliminate secondary employment of Police Officers at nightclubs in the downtown area. This plan sought in part to recover the costs of policing the EZ through fees paid by nightclubs, based on the nightclub operation and regulations that

existed on their Entertainment Permit, Conditional Use Permit, occupancy, and an inspection by the Department. The benchmark fee was designed to match the fees paid to officers already working secondary employment for the nightclubs.

Though approved by the City Council, the EZPP was not fully implemented; the nightclubs were never required to pay the full costs associated with policing the EZ. As a result, the Police Department has incurred major overtime expenditures amounting to an annual cost of approximately \$1.2 million to maintain public safety in the EZ.

Policing the EZ is a very complex issue. Current City data shows that total EZ establishment occupancy to exceed 10,000 patrons. To ensure public safety, a pool of approximately thirty to fifty officers is necessary to monitor the area Thursday through Sunday nights. Thursday evening averages 21 officers and five sergeants, Friday and Saturday evening averages 44 officers and six sergeants, and Sunday evening averages five officers and one sergeant, depending upon the season and scheduled events. Officers, after working their regular ten-hour shift, work two hours of Entertainment Zone overtime to focus police resources at nightclubs' closing times. Officers make arrests as necessary, issue citations and enforce curfew laws. To transition to a 3:00 a.m. closing, will further extend the shift of EZ officers and will require an increase in overtime hours.

There is an expectation that the "soft closing" procedure will improve the situation and eventually reduce police costs. At the conclusion of this pilot, the late nightclubs will be expected to assume an equitable share of special policing costs in the EZ going forward. Staff anticipates beginning outreach to club owners in the fall to seek community input on implementing a full cost sharing plan. City funds would also need to be budgeted to support a cost sharing program with club owners, as funds have not been appropriated for any police overtime beyond the 90 day pilot project.

Staff will request that the City Council adopt the proposed ordinance amending the San Jose Municipal Code to authorize a limited pilot program to allow bars and nightclubs within the specified area to remain open until 3:00 a.m. The proposed ordinance would allow bars and nightclubs legally operating until 2:00 a.m. within the specified pilot program area to remain open one additional hour, until 3:00 a.m., during all days of the week for the pilot program.

C. Licensing Promotions

The Police Department and the City Attorney are working on a process to license promoters as a method for weeding out problem promotions. Specific recommendations will come forward to Council in the EZ pilot program report.

D. Moratorium on Large Liquor (48) License Clubs

The City Attorney and Planning, Building and Code Enforcement (PBCE) will be coming forward in August to the City Council with specific recommendation on restrictive zoning

and regulations following additional work by the Downtown Working Group on a preferred approach, and outreach to the property owners in the Downtown Core.

E. Review of Existing Policies

The Planning, Building and Code Enforcement (PBCE) staff will be assessing the necessary updates to the current policies for late night uses and bars, night clubs and restaurants following the work of the DWG and the conclusions from the Responsible Hospitality Institute (R.H.I) consultant.

Responsible Hospitality Institute (RHI)

The City Council directed staff to return to Council with specific recommendations on engaging RHI to assist the City. The San Jose Downtown Association (SJDA), with the agreement of the City and the Redevelopment Agency, has negotiated a contract with RHI to conduct a Downtown San Jose Hospitality Zone Assessment (HZA). The goal is to complete the process in 3 months. RDA, the City, and the Downtown Association will each contribute \$7,000 toward the \$21,000 contract.

The HZA process that will result in a detailed examination of the six core elements of a hospitality zone:

- Music and Entertainment
- Security, Service and Safety
- Community Policing
- Multi-use Sidewalks
- Late-Night Transportation Systems
- Quality of Life

The HZA will examine current and future trends and issues from the perspectives of four primary stakeholder groups – hospitality, safety, development and community, and best practices in other communities. Information gathered will be used to strategize the planning, management and policing of District 3 hospitality zones.

RHI will organize and facilitate a series of roundtable focus groups with representatives from the District 3 hospitality businesses, especially those operating in the evening and late night and recommend solutions to the DWG on Council directives:

- Initiating an extended hours procedure
- Establishing a program to license promoters
- Enforcing a “no tolerance” policy for problematic shows and promoters

The process will involve the following:

- Meet with stakeholders from city administration and hospitality businesses to review and endorse the plan, and assist in communication and outreach to assure the highest level of participation,
- Tour of the late-night venues including observation of closing time activity,
- Facilitate three scheduled meetings to discuss and develop strategies that can be recommended, or items that will require more development during the HZA,
- Prepare of a report with proposed strategies approved by participants and presented to the influentials who will then, in turn, present the report to the DWG.

It is staff's expectation that RHI will be a major resource in implementing and evaluating the pilot project, and especially in providing a review of the best practices of other cities. Discussions will be facilitated by RHI to educate Downtown club and restaurants owners on the benefit of working together for a better Downtown, and to develop partnerships and a common vision among entertainment business owners and the City.

Parking Garage Security

Public parking garages form the first impression with visitors to the Downtown. The parking system has a goal to ensure clean, safe, and inviting parking facilities. Unsafe operations may expose the City to unacceptable risk. In April, staff completed an assessment of security at parking garages and developed recommendations for enhanced safety for garage patrons and their vehicles. These recommendations include enhanced security patrol late night by SJPD, enhanced daytime and special event patrol by private security, installation of security devices to deter inappropriate activity and create a safer environment, and a \$5.00 flat fee for entries after 10:00 p.m. Thursday through Saturday night to act as a deterrent against loitering, and to fund the security and cleaning enhancements to achieve the goals of the parking system.

The Downtown Working Group, at its May 15th meeting, received a report on the enhanced security plan and recommendations. At the meeting, reaction was mixed with some members raising concerns about different patrons being treated differently, and advocated a similar rate structure for all patrons, at all times in the evening. Some members of the public indicated that the \$5 fee might be beneficial from the standpoint of funding the enhancements, and not impacting the customers coming earlier in the evening for restaurants and other activities.

The enhanced security plan was approved by the Downtown Parking Board (DPB) at its May 16, 2007 meeting on a 4 to 3 vote. The enhanced security plan was also presented and accepted by the Transportation & Environment Committee at its May 29th meeting, and will be presented to the City Council on June 12, 2007.

Review of On-Street Parking Restrictions

At the DWG meeting on May 14, DOT staff provided an overview of the late night (no parking between 2 a.m. and 6 a.m.) parking restrictions on the streets of downtown. The current restrictions enable streets to be swept effectively by prohibiting cars from parking on sweep nights, and assist the Police Department in late night crowd control. DOT and SJPD will use the

proposed pilot period for the 3 am night club closing to evaluate the current restrictions to identify the alternatives, what implementation issues exist (e.g. sign changes/cost, sweeping schedules, etc), and will determine the best course of action at the end of the pilot project. In the interim, staff will adjust street sweeping schedules to occur on weeknights, and will suspend patrol of the 2 am to 6 am restrictions in the downtown core on Friday through Sunday.

Transportation Alternatives in Late Evenings

A. Public Transportation

DOT staff has requested VTA to review the current late night transit service model as part of their overall service model review to determine if a modified schedule and service level makes sense from a operations, cost, and service standpoint. VTA staff will attend the June 11, 2007, DWG meeting to discuss current transit services, and any alternatives that may better serve Downtown late night, while effectively fitting modifications with their overall service plan.

B. Taxis

The availability of taxi services at specific times and appropriate locations is very important for downtown tourists and visitors. Currently, there are 11 taxi stands providing 34 vehicle spaces throughout downtown to meet the taxi service needs of visitors and businesses. As part of the working group process, staff will work with taxicab companies and downtown businesses to improve communication on the availability of cabs, the visibility of existing taxicab stands through improved signage, and the opportunity to expand the number of taxicab stands late night to serve entertainment venues better. Determining the costs associated with the changes, and who will cover the costs will be included in this review

Staff intends to participate with RHI in the Downtown Community Roundtables to identify and better serve "late night" transportation needs in the Downtown.

POLICY ALTERNATIVES

Not applicable

PUBLIC OUTREACH/INTEREST

- Criteria 1:** Requires Council action on the use of public funds equal to \$1 million or great.
- 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.

Staff will take a number of steps to educate downtown business owners on the benefit of working together for a better Downtown, and to develop partnerships and a common vision among entertainment business owners and the City. The process will involve conducting outreach to:

- Club owners, at the conclusion of the “soft closing” pilot program, to seek community input on implementing a full cost sharing plan for special policing costs,
- Property owners in the Downtown Core on the preferred approach to restrictive zoning and regulations regarding a moratorium on large liquor (48 license) clubs,
- Businesses to strategize the planning, management and policing of District 3 hospitality zones.

COORDINATION

This report has been coordinated with the Office of the City Attorney, Redevelopment Agency, Police Department, Planning Building and Code Enforcement, and the Department of Transportation.

FISCAL POLICY ALIGNMENT

This action is consistently aligned with Council approved direction to develop recommendations on the DWG’s proposals to improve the nightlife experience in downtown San Jose for residents, business owners, and visitors.

COST SUMMARY/IMPLICATIONS

See Section B. Incremental Police Costs.

BUDGET REFERENCE

The Mayor’s June Budget Message recommends funding of \$167,425 for the 90-day pilot project as outlined in Amended Budget Document #27. With Council approval of the Message, a City-Wide appropriation would be established for the pilot project, with \$105,000 allocated to Police overtime, \$12,425 to Police Permit Unit staffing for the licensing of promoters, and \$50,000 for Planning, Building and Code Enforcement staffing for regulatory changes and noticing and newspaper advertising.



Dan McFadden
Deputy City Manager

HONORABLE MAYOR AND CITY COUNCIL

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

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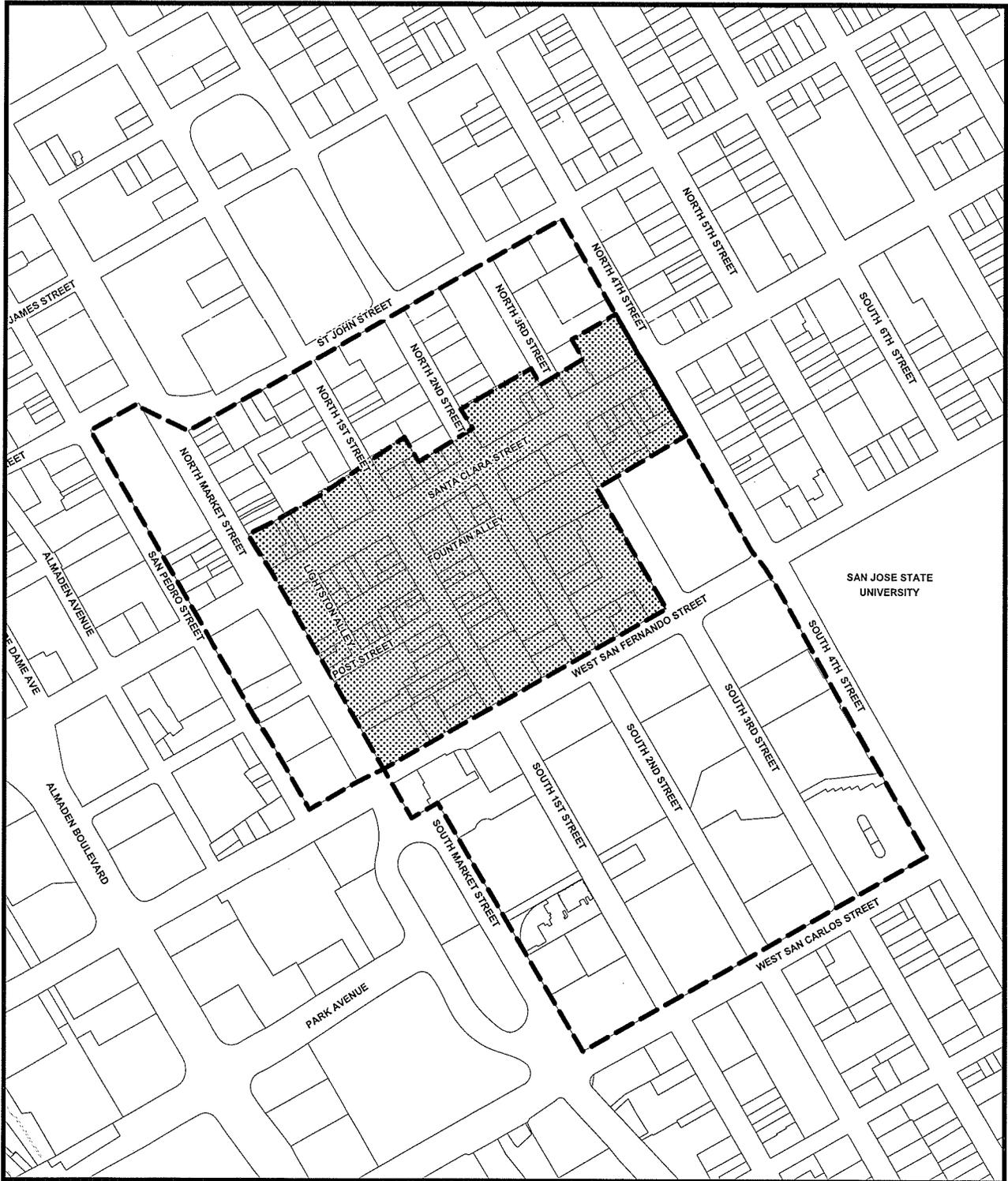
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ATTACHMENT A

Restaurant, Bar and Nightclub Soft Closing Pilot Program Area



-  Pilot Program Area for Restaurants
-  Pilot Program Area for Restaurants, Bars and Nightclubs