

RD:PAD:MAN
7/9/2008

DRAFT

RESOLUTION NO. _____

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE CALLING AND GIVING NOTICE OF, ON ITS OWN MOTION, THE SUBMISSION TO THE ELECTORS OF THE CITY OF SAN JOSE, AT THE SPECIAL MUNICIPAL ELECTION TO BE HELD ON NOVEMBER 4, 2008, A BALLOT MEASURE PROPOSAL TO INCREASE THE CITY'S BUSINESS TAX ON CARDROOMS

WHEREAS, Charter Section 1600 authorizes the City Council to set the date for a Special Municipal Election; and

WHEREAS, the City Council desires to submit to the electors of the City of San Jose at a Special Municipal Election a ballot measure proposal to amend Sections 4.77.020 and 4.77.030 to the Municipal Code to increase the City's business tax on cardrooms.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF SAN JOSE THAT:

SECTION 1. A Special Municipal Election is hereby called and ordered to be held in the City of San Jose on November 4, 2008, for the purpose of voting on a ballot measure proposal to amend Sections 4.77.020 and 4.77.030 to the Municipal Code to allow an increase in the City's business tax on cardrooms. The actual language of the proposed Code amendment is attached to this Resolution as Exhibit A.

SECTION 2. The proposed ballot measure will be placed on the ballot for the November 4, 2008 election in the following form:

THE SAN JOSE VITAL CITY SERVICES PRESERVATION MEASURE

To help prevent cuts in general City services such as police and fire, street maintenance, parks and libraries, shall an ordinance be adopted to increase the existing business tax on card room revenues from 13% to 18%, and to clarify the definition of revenues, subject to existing annual audits?

YES	
NO	

SECTION 3. The City Council hereby requests the Board of Supervisors of the County of Santa Clara, California to permit the Registrar of Voters in Santa Clara County to

render to the City of San Jose such services as the City Clerk of the City of San Jose may request relating to the conduct of the above-described Special Municipal Election with respect to the following matters:

Coordination of election precincts, polling places, voting booths, voting systems and election officers; Printing and mailing of voter pamphlets; Preparation of tabulation of result of votes cast.

SECTION 4. The City Council hereby requests that the Registrar of Voters of the County of Santa Clara consolidate the Special Municipal Election called and ordered to be held on November 4, 2008, with any other election that may be held on that date.

SECTION 5. The City Council hereby authorizes the Board of Supervisors of Santa Clara County, California to canvass the returns of the Special Municipal Election.

SECTION 6. The City Council hereby directs the City Clerk to reimburse the County of Santa Clara in full for any of the above-mentioned services which may be performed by the Registrar of Voters, upon presentation of a bill to the City, with funds already appropriated to the City Clerk for election purposes.

SECTION 7. The City Council hereby directs the City Clerk to take all actions necessary in order to facilitate the Special Municipal Election in the time frame specified herein and comply with provisions of the Elections Code of the State of California, City Charter, Ordinances, Resolutions and Policies with regard to the conduct of the Special Municipal Election.

SECTION 8. Pursuant to Section 12111 of the California Elections Code and Section 6061 of the California Government Code, the City Council hereby directs the City Clerk to (a) cause a synopsis of the proposed measure and the actual text of proposed amended Municipal Code Sections 4.77.020 and 4.77.030 to be published in the San Jose Mercury News, a newspaper of regular circulation within the City of San Jose; (b) consolidate the Notice of Measure to be Voted with the Notice of Election into a single notice; (c) cause copies of the proposed measure, [along with the actual text of proposed amended Municipal Code Sections 4.77.020 and 4.77.030,] to be printed in convenient pamphlet form and in type of not less than 10-point; (d) cause copies of that pamphlet to be mailed to each of the qualified electors of the City of San Jose; and (e) do all other things required by law to submit the specified measure [and the actual text of proposed amended Municipal Code Sections 4.77.020 and 4.77.030] to the electors of the City of San Jose at the Special Municipal Election; [including causing the actual text of the proposed Municipal Code Sections 4.77.020 and 4.77.030 to be made available in the Office of the City Clerk at no cost and posted on the City Clerk's website.]

SECTION 9. Pursuant to Section 9282 and 9285 of the California Elections Code, the City Council hereby approves the submittal of direct arguments for and against the ballot measure, if any, but determines that rebuttal arguments will not be allowed.

SECTION 10. The City Council hereby directs the City Clerk to transmit a copy of any measure qualifying for placement on the ballot to the City Attorney for preparation of an impartial analysis.

ADOPTED this _____ day of _____, 2008, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

CHUCK REED
Mayor

ATTEST:

LEE PRICE, MMC
City Clerk

EXHIBIT A

BE IT ORDAINED BY THE PEOPLE OF THE CITY OF SAN JOSE:

Part 1

SECTION 1. Section 77.020 of Title 4 of the San Jose Municipal Code is hereby amended as follows:

4.77.020 Definitions.

For purposes of this chapter, the words and phrases used in this chapter shall have the meaning ascribed to them in Title 16 of this Code unless they are specifically defined in this chapter or unless the context clearly requires to the contrary:

A. "Average number of employees" means the average number of employees employed in the city in the applicant's business in the one year immediately preceding the commencement of the year for which the tax is being collected, and shall be determined in accordance with the provisions of Section 4.76.030 and 4.76.040 of the San Jose Municipal Code.

B. "Employee" means each and every person engaged in the operation or conduct of any business, whether as owner, member of the owner's family, partner, associate, agent, manager or solicitor, and each and every other person employed or working in such business for a wage, salary, commission or room and board or any other remuneration.

C. "Permittee" means a person who has been issued a cardroom permit under Title 16 of this Code.

D. "Gross Gaming Revenue Derived from Cardroom Business" means the gross receipts or income received by a Cardroom Permittee that is derived from the conduct of gaming in a Permitted Cardroom under Title 16 of this Code. Such income includes, but is not limited to, all card table collections in the card table drop boxes, all table fees, tournament administrative fees, and any other fees or other compensation that the Cardroom derives from persons as a consideration for being allowed to gamble at a card table on the premises of a Permitted Cardroom, compensation received from Funding Sources also known as Third Party Providers of Proposition Player Services or from Funded Players also known as Third Party Proposition Players, or any other compensation received for conducting gaming in a Permittee Cardroom, or any other income or revenue that could only be received by a Cardroom Permittee in connection with gaming.

SECTION 2. Section 77.030 of Title 4 of the San Jose Municipal Code is hereby amended as follows:

4.77.030 Payment of tax.

A. Each permittee operating a cardroom shall pay an annual minimum tax of one hundred fifty dollars (\$150.00) per year, plus an additional tax in the amount of eighteen dollars (\$18.00) per employee based on the average number of employees, not to exceed a maximum of twenty-five thousand dollars (\$25,000.00) (hereinafter the "base tax").

B. In addition to the base tax, each permittee operating a cardroom with total annual gross revenues in excess of ten thousand dollars (\$10,000.00) shall pay a monthly tax in an amount equal to eighteen percent (18%) of total monthly Gross Gaming Revenue Derived from Cardroom Business.

Part 2

SECTION 3. Subject to Existing Annual Audits

Pursuant to Section 1215 of the City's Charter, as may be amended, the revenues from the tax imposed by this Chapter shall be subject to the annual audit performed by the City's independent auditor of the City's municipal books, records accounts and fiscal procedures and which is reported in the City's Comprehensive Annual Financial Report.