



# Memorandum

**TO: HONORABLE MAYOR  
AND CITY COUNCIL**

**FROM: Deanna J. Santana**

**SUBJECT: CARDROOM BALLOT  
MEASURE**

**DATE: February 23, 2010**

Approved

Date

2/23/10

## RECOMMENDATION

- a) Council discussion and consideration of a cardroom ballot measure;
- b) (1) Refer to the March 9, 2010 City Council Agenda the following action:  
Adoption of a resolution calling and giving notice, on its own motion, to submit to the electors of the City of San Jose the following proposed ballot measure for the June 8, 2010 General Election:

### 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	

- (2) Direct the City Attorney to submit final ballot measure language to the City Clerk by March 12, 2010 for submission to the Registrar of Voters for the June 8, 2010 General Election ballot.
- c) Council discussion and input on the preliminary community outreach strategy to provide information to the public regarding the proposed ballot measure.
- d) Direction to the Administration to return to the City Council with a recommendation for addressing the Betting Limit, upon further analysis of options, by June 2010.

## OUTCOME

On February 16, 2010, the City Council's referral was to link the increase of cardroom tables to an increase of the Cardroom Tax, for which voter approval is required. Approval of the proposed ballot measure language would result in voter consideration of the above

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ballot measure at the June 8, 2010 General Election. If approved by voters, the City would be authorized to put into place the following:

- 1) Increase the Cardroom Tax from 13% to 15% on gross revenue; and,
- 2) Expand the total number of cardroom tables by 18, resulting in an increase from 80 to 98.

If the ballot measure is not placed on the ballot, the City would maintain the Cardroom Tax rate of 13% on gross revenue and would continue to allow the City's two cardrooms to operate 80 cardroom tables.

Further, the Administration would be directed to bring forward to the City Council a recommendation with how to address concerns regarding the Betting Limit, based on further analysis of options.

**BACKGROUND**

Prior to a full discussion on the proposed ballot measure language, it is important to review the status of the Administration's work with the City's two cardroom businesses (cardrooms) over the past six months to address regulation and operational concerns. This effort provides a context for the request to proceed with a ballot measure for the June 2010 General Election ballot. Following this review, in the Analysis section of this report, a full evaluation of the proposed ballot measure is discussed.

**City Efforts to Address Cardroom Business Concerns**

At the October 20, 2009 City Council meeting, staff requested that a proposal for restructuring the Police Department's Division of Gaming Control, including fees and adjustments, be rescinded. Staff continued meeting with the two local cardroom businesses (Bay 101 and Garden City) to further an effort that had begun last spring to review the current regulatory structure and costs. The goal of the meetings was to address various issues that had surfaced with respect to fee structures, and the methodology for issuing gaming licenses and permits.

A meeting was held with representatives of the City's two cardroom businesses during the week of August 17, 2009. As noted in the October 20, 2009 staff report, while there had been conceptual agreement with the approach to de-link Cardroom Table Fees from the cost of licensing, it became clear that a fuller evaluation of the Division of Gaming Control and licensing methodologies was needed. At that session, staff noted that prior to any structural changes, staff wanted the opportunity to evaluate its processes and continue discussions with gaming businesses, toward developing a refined and improved approach for resolving the host of issues outlined in October 2009 report. The City Council approved this recommendation.

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Shortly after the October 2009 City Council meeting, the Administration and the two cardroom businesses began meeting monthly. At the first meeting, a priority work plan was established and the following is a discussion of, and a status report on, each of those efforts. It is important to note that the four items on the work plan are not listed in any particular order:

- (1) Review of Cardroom regulation and cost;
- (2) Increase the number of cardroom tables;
- (3) Expand the number of permissible games allowed by the City or simply allow the play of games approved by the State; and,
- (4) Increase or eliminate the \$200 betting limit.

Below is discussion on the status of each of the work plan items:

**1. *Review of Cardroom Regulation and Cost***

**Issue:** The cardrooms expressed concern about the level and cost of regulation, as compared to other California cities where cardrooms are allowed to operate, and that the City's level of regulation impacts business competitiveness. Additionally, concern exists about the Cardroom Table Fees, which are charged annually at \$25,527 per table to financially support all City regulatory functions.

**Status:** In October 2009, the City Council directed the City Auditor to conduct an audit of the City's efficiency and effectiveness of the cardroom regulatory function. Following that direction, the City Auditor joined the referenced meetings and provided a proposed schedule and scope for the audit. In January 2010, the City Auditor provided a status report to the attendees, with the expectation that preliminary audit findings would be shared with the cardrooms in March 2010. Since that time, the City Auditor has met with each cardroom to discuss potential process improvements, and the City Manager's Office has set a meeting on March 26, 2010 for a collective review of the preliminary audit findings.

At the January meeting, the Administration shared with the cardrooms the City Auditor's findings in the recently completed Civilianization Audit for the Police Department which specifically recommended that four sworn positions in the Gaming Control Unit be evaluated as potential candidates for civilianization. The completion of the cardroom regulatory audit, coupled with the findings of the Civilianization Audit, will be evaluated in the context of any budget reduction proposals that may impact direct or indirect support to the Division of Gaming Control and opportunities to streamline regulatory practices.

**2. *Expand the Number of Cardroom Tables***

**Issue:** The cardrooms expressed a desire to address business growth opportunities. One cardroom, in particular, expressed strongly the desire to expand the number of cardroom tables indicating that the 40 table limit per cardroom limits their potential for business

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growth. Title 16, Gaming Control Ordinance, (Title 16) outlines the local requirement associated with expanding gambling within the City and reads as follows:

**Table 1: Title 16, Gaming Control Ordinance, Section 16.04.030**

<p><b>16.04.030 Expansion of gambling.</b></p> <p>A. The city council shall not take any action to expand the amount of cardroom gambling in the city <b><u>unless and until otherwise authorized by a vote of the people.</u></b></p> <p>B. For purposes of this section, "expansion" shall mean:</p> <ol style="list-style-type: none"><li>1. Any <b><u>increase in the number</u></b> of cardrooms <b><u>or card tables</u></b> as specified in Section <u>16.04.020</u> above;</li><li>2. Any <b><u>increase in bet limits</u></b> as specified in this title;</li><li>3. The use of slot machines or devices, or gambling devices as defined by state gambling law;</li><li>4. Any form of gambling which was not allowed under this code on or before June 30, 1996, or which is prohibited under state gambling law on or before June 30, 1996; or</li><li>5. Any <b><u>increase in the total number of games</u></b> beyond the twenty-one authorized pursuant to Resolution Number 63771, adopted June 9, 1992.</li></ol> <p>C. Nothing herein shall limit the authority of the administrator to substitute games on a one-for-one basis or to modify the rules of a permissible game consistent with the provisions of this title.</p> <p>(Ord. 28517.)</p>
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It should also be noted that state law permits an increase of less than 25% in cardroom tables over the number of tables currently authorized by an action of a City Council, California Business & Professions Code [Section 19961(a)(2) and (b)(3)].

**Status:** See Analysis Section for a full discussion.

**3. Expand Permissible Games**

**Issue:** Because there are a number of card games approved by the State and played in other cities that have not been approved in San Jose, and a number of variations in games approved in San Jose, the cardrooms expressed a desire to expand the number of permissible games beyond the twenty-one authorized in Title 16 to allow the cardrooms to play any games approved by the State of California.

Section 16.04.030 C of the City's Municipal Code states, "*Nothing herein shall limit the authority of the administrator to substitute games on a one-for-one basis or to modify the rules of a permissible game consistent with the provisions of this title.*" Additional modifications to the City's regulatory practices must be approved by the California Gambling Control Commission.

**Status:** During fall 2009, the San Jose Police Department (SJPD) developed an alternative approach for addressing the above concerns.

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After obtaining input from the cardrooms, in December 2009, the SJPD successfully implemented an administrative remedy to address the cardrooms' concerns and related regulatory issues. The SJPD's administrative remedy allows for the approval of a card game, and the multiple variations of that game, to be counted as one game toward the twenty-one card games allowed in Title 16.

This approach was approved by the California Gambling Control Commission and the Administration believes that it is viewed favorably by the two cardrooms. At the January 2010 meeting, it was acknowledged by the cardrooms that implementation was going well, albeit with the potential for concerns in future years should cardrooms ever achieve a full twenty-one card game complement, with related variations.

**4. Increase or Eliminate Betting Limit**

**Issue:** The cardrooms requested to increase or eliminate the betting limit. Any changes to the betting limit would require voter approval, or an amendment to Title 16 to allow the City Council to approve such changes. Currently, the limit is set at \$200 per bet, and the cardrooms shared that the average bet is about \$50. Other California cardrooms permit much higher betting limits or have none at all, a practice which is allowed by state law. The ordinance provision which deals with betting limits dates back to at least 1972, and was most recently increased in 1983 to \$200 per bet. A 1997 City Council staff report states that "*Most cities with card clubs do not have betting limits*" (Council Agenda: 4/15/1997, Item 9a).

The City imposed a betting limit as a measure to limit the gambling losses for an individual. When the City Council replaced the existing cardroom ordinance under Chapter 6.22 of the Municipal Code with Title 16, the Council kept the pre-existing betting limit. The \$200 betting limit was passed for publication by the City Council on December 6, 1983 (Ordinance No. 21507). That ordinance raised the limit from \$80 per bet to \$200 per bet. There had been even smaller limits on bets prior to the \$80 cap. For example, Ordinance No. 20208, passed for publication on July 15, 1980 raised the bet limit from \$20 to \$80.

**Status:** Staff discussed the betting limits with the cardroom representatives at the January 2010 meeting. In order to proceed with further evaluation of this issue, the City requested additional information regarding potential betting limit levels or alternative approaches from each cardroom, and at this time the City is awaiting that information.

Based on preliminary analysis and the Gaming Administrator's input, part of this concern is based on wagering progression and statistical probability theory that results in an advantage to the funding sources; it appears that a betting limit for certain betting structures or strategies does not necessarily accomplish the original goals set out by the City Council, e.g., the City imposed a betting limit as a measure to limit the gambling losses for an individual.

The Administration believes that there are likely additional considerations to review beyond the wager progression and statistical probability theory; however, additional analysis of

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options to modernize the betting limit issue is warranted. In light of these recent discussions, staff suggests that the Administration be directed to return by June 2010 to the City Council with a recommendation for the City Council to consider. One readily available option for the City Council to consider would be to allow an increase in the betting limit based an increase in the California Consumer Price Index (CPI), with annual increases linked to the California CPI. Consideration of this option would mean an increase of the betting limit to \$453 per bet.

**ANALYSIS**

As noted above, this section of the report outlines the policy considerations for the City Council with respect to placing a measure on the June 8, 2010 General Election ballot that would result in an expansion of card tables, from 80 to 98, and an increase in the Cardroom Tax from 13% to 15% of gross revenues. Specifically, this section discusses the following:

- Cardroom Economic Performance;
- Ballot Measure (e.g. Voter Requirement; Community Budget Survey; Fiscal Impact; Ballot Measure Language and Schedule; and, Cardroom Input);
- Cardroom Charitable Contribution Allocation Fund;
- Public Safety Concerns; and,
- Preliminary Community Outreach Strategy.

***Cardroom Economic Performance***

It should be recognized that the gaming businesses contribute a significant amount of revenue to the City’s General Fund. Gaming businesses pay a Cardroom Tax, aside from Table Fees, that is based on 13% of gross revenue. For comparison purposes, the Cardroom Tax exceeds the Sales Tax generated from a number of economic segments as illustrated below:

**Table 2: Economic Composition and Performance Analysis**

<b>Economic Segment</b>	<b>Benchmark Year (FY 2009) [Millions]</b>
<b><i>Cardrooms – Business Tax</i></b>	<b><i>\$13.7</i></b>
Restaurants - Sales Tax	12.5
Department Stores – Sales Tax	12.0
Service Stations – Sales Tax	10.5
Auto Sales – Sales Tax	7.8
Miscellaneous Retail – Sales Tax	7.2

*Note:* The same information was provided in the October 2009 staff report, but was based on 2008 Benchmark Year.

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It should be noted that as part of the 2009-2010 City Manager's Mid-Year Budget Report, staff shared that the City has recently observed a decrease in revenue generated from the Cardroom Tax. Based on these collection trends, 2009-2010 receipts are expected to fall below the 2008-2009 level by approximately 7% to \$12.7 million.

While there has been a recent decline, gaming revenue has experienced strong growth in recent years, with an overall increase of approximately 50% since 2001, as demonstrated below:

**Table 3: Gaming Revenue and 13% Cardroom Tax**

<b>Fiscal Year</b>	<b>Gaming Revenue</b>	<b>% Change</b>	<b>13% Tax (Revenue to City)</b>
2001	\$64,678,277		\$8,408,176
2002	66,304,592	2.5%	8,619,597
2003	59,215,892	-10.7%	7,698,066
2004	66,160,069	11.7%	8,600,809
2005	75,526,269	14.2%	9,818,415
2006	86,126,677	14.0%	11,196,468
2007	96,432,923	12.0%	12,536,280
2008	98,634,008	2.3%	12,822,421
2009	105,064,131	6.5%	13,658,337
2010 est.	97,692,308	-7.0%	12,700,000

Based on the estimated 2010 figures, on average, a cardroom table will generate approximately \$1.22 million per year in revenue for a cardroom and, based on a 13% Cardroom Tax rate, \$159,000 in revenue per table for the City.

***Ballot Measure***

***Voter Requirement:*** As background, Title 16 was enacted by the City Council on November 9, 1999. Title 16 provides for the City's gaming control regulatory program and outlines the local requirement associated with expanding gaming within the City. Title 16, Section 16.04.030, states that the City Council shall not take any action to expand gaming in the City unless authorized by a vote of the people. For the purpose of this requirement, expansion is defined to include an increase in: cardrooms or cardroom tables; bet limits; total number of games; use of slot machines or devices; and, any form of gambling which is not allowed under Title 16 (See Table 1).

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It should also be noted that state law permits an increase of less than 25% in cardroom tables over the number of tables currently authorized by an action of a City Council, California Business & Professions Code [Section 19961(a)(2) and (b)(3)].

On February 16, 2010, the City Council's referral was to link the increase of cardroom tables to an increase of the Cardroom Tax, for which voter approval is required. The voter approval rate needed to pass this measure is 50% + 1 (majority vote).

**2010 Community Budget Survey Report Results:** In December, staff developed survey questions to be incorporated into the 2010 Community Budget Survey to understand the level of community support for such ballot measures. Specifically, the survey question was developed for the purposes of providing information on how likely voters may respond to a cardroom ballot measure (Attachment A).

Both draft and final survey questions were shared with the cardrooms in December and the results of the survey were also shared with the cardrooms in January 2010. On February 9, 2010, the City Council heard a presentation from Mr. David Metz of Fairbanks, Maslin, Maullin, Metz & Associates (FM3). The results of the 2010 Community Survey, a measure assessment survey, found that when likely voters were read the concept statement listed in Attachment A:

- 54% of likely voters indicated that they would support increasing the number of tables allowed,
- 64% of likely voters indicated that they would support increasing the tax on cardroom revenues in San Jose from 13% to 15% and increasing the number of tables allowed.

From viewing the results, voters had a clear preference for the proposal which included the increase on the tax on cardroom revenues coupled with the expansion of cardroom tables.

**Fiscal Impact:** There are various tax structures that could be proposed regarding the Cardroom Tax. Given the time constraints to complete this memorandum, two possible scenarios are noted below for the City Council to consider or to serve as a base toward developing alternative options: (1) 15% tax on all tables and (2) a progressive tax structure.

The goal of this section is to outline "order of magnitude" with respect to the potential revenue that can be generated. It should be noted that there are some assumptions with respect to the new, ongoing forecasted revenue, which are noted in each scenario. Scenario 1 is consistent with the proposed ballot measure language, while Scenario 2 presents lower tax increases and associated revenues.

***Scenario 1: Expand Number of Tables from 80 to 98 AND Tax All Tables at 15% Rate***

Currently, the Cardroom Tax is expected to generate \$12.7 million annually for the General Fund. Based on this collection trend, the revenue projections have been updated and this scenario is expected to generate the following:

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**Table 4: Fiscal Impacts of Proposed Cardroom Tax Modifications**

<b>Proposed Modification</b>	<b>Estimated New, Ongoing Annual Revenue (Both Cardrooms)</b>	<b>Assumptions</b>
Increase Tax Rate from 13% to 15%	\$1.95M	<ul style="list-style-type: none"><li>• Increase tax rate for existing 80 tables</li><li>• Previous \$2M additional revenue calculation was based on \$13M annual Cardroom Tax collections, which is now based on \$12.7M</li></ul>
Increase Number of Tables from 80 to 98	\$3.30M	<ul style="list-style-type: none"><li>• Both cardrooms would fully utilize additional tables</li><li>• Assumes 15% tax rate*</li></ul>
<b>TOTAL</b>	<b>\$5.25M</b>	

\*At the Mayor's 2010-2011 Budget Message Workshop, the additional revenue from increasing the number of card tables was shown as \$2.9 million based on the 13% tax rate. Council's recent referral to link both the increase of cardroom tables and increase in tax results in these new figures.

The revenue estimate above assumes the 18 new card tables would be fully utilized by the two cardrooms, which one cardroom has already expressed that would be unlikely due to existing facility space constraints. **If those tables are not used, the additional revenue projected above for increasing the number of tables would be reduced from \$3.30 million to \$1.65 million, making for a total new, ongoing revenue projection of \$3.6M annually.**<sup>1</sup>

***Scenario 2: Expand Number of Tables from 80 to 98 AND Establish a Progressive Tax Structure***

One cardroom expressed a desire to expand the number of cardroom tables citing that the 40 table limit per cardroom negatively impacts its business growth. However, there was concern about the increase of the Cardroom Tax from 13% to 15% to all collected revenues and suggestions were focused on exploring a progressive tax structure whereby the 15% tax rate would be imposed on revenues generated over and beyond a certain threshold.

<sup>1</sup>As a part of the Administration's review, staff explored whether one cardroom could utilize all 18 tables. Based on Municipal Code Section 16.04.020, the number of card tables at any one cardroom shall be forty, unless and until otherwise authorized by a vote of the people. The Business and Professions Code, Section 19961, appears to allow an increase in the number of tables beyond 25% if approved by a majority of the electors voting thereon although it is unclear whether that vote could go into effect until B&P Code Section 19962 is repealed which is currently set to occur on January 1, 2015.

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Listed below are some progressive tax structures for further discussion. In both options presented, the additional revenue would be significantly reduced from the potential \$5.25 million figure presented in Scenario 1.

**Table 5: Preliminary Options for a Progressive Tax Structure**

<b>Option</b>	<b>Estimated New, Ongoing Annual Revenue (Both Cardrooms)</b>	<b>Assumptions</b>
A. New Tables Taxed at 15% Rate only	\$3.30M	<ul style="list-style-type: none"><li>• Both cardrooms would fully utilize additional 18 tables</li><li>• Assumes 15% tax rate for 18 new tables only</li></ul>
B. ½ Tables Taxed at 15% Tax Rate (50 tables total)	\$4.10M	<ul style="list-style-type: none"><li>• Both cardrooms would fully utilize additional 18 tables</li><li>• Assumes 15% tax rate for 50 of the 98 tables AND 13% tax rate for 48 of the 98 tables. <i>Note:</i> The above 50/48 table split is based on each table being authorized up to 49 tables, which would result in 25 tables being taxed at 15% and 24 tables being taxed at 13% per cardroom</li></ul>

The revenue estimates above assume the 18 new card tables would be fully utilized by the two cardrooms. As previously discussed, one cardroom has expressed that the use of the additional tables would be unlikely due to existing facility space constraints. **If those tables are not used, the additional revenue projected in the options above would be reduced from \$3.30 million to \$1.65 million for Option A and from \$4.1 million to \$2.6 million for Option B.**

Last, the Administration would need to develop an appropriate method for implementing either of the progressive tax structures to ensure that the appropriate revenue flows back to the City.

**Ballot Measure Language and Schedule:** As noted at the February 16<sup>th</sup> City Council Study Session, the City would need to prepare and submit final ballot language to the Registrar of Voters by March 12, 2010 for inclusion in the June 8, 2010 General Election ballot. Supporting, Opposing, and Neutral statements, including the City Attorney’s statement, would be due to the Registrar of Voters by March 24, 2010.

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Based on the above discussion, it is proposed that the City Council consider the following ballot language:

**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	

City Council approval of the above ballot measure language would result in the placement of a ballot measure on the June 8, 2010 General Election ballot by the Santa Clara County Registrar of Voters. Voters would consider the ballot measure on June 8th and the results would be certified shortly thereafter.

**Cardroom Input:** The 2009 settlement agreement between the City and gaming businesses resolved many outstanding issues and presented an opportunity to explore additional issues noted above. The continued discussions allow for both parties to reconcile the important value placed on public safety and business sustainability, and a productive forum now exists to vet issues and brainstorm options for evaluation.

A 2008 memorandum authored by Mayor Chuck Reed on a cardroom tax (Council Agenda: 8/5/08, Item 3.7), documented the following:

Following the Council's action in June to move ahead with a card club tax increase, I was informed that the card clubs would mount a substantial campaign in opposition to a tax increase unless the measure also included an increase in the number of tables allowed. The clubs said they might support a smaller increase in the tax with an increase in tables in each club. (Page 2)

To continue to foster open communication and information sharing, in absence of formal City Council action, the City Manager's Office initiated a very preliminary discussion at the January 2010 meeting to seek reactions or input regarding a ballot measure that linked an expansion of cardroom tables and increase in the Cardroom Tax from 13% to 15%.

One cardroom expressed a desire to expand the number of cardroom tables citing that the 40 table limit per cardroom negatively impacts business growth. There was concern about the increase of the Cardroom Tax and suggestions were focused on exploring a progressive tax structure whereby the 15% tax rate would be imposed on revenues generated over and beyond a certain threshold. The other cardroom noted that an expansion of the number of cardroom tables is not its highest priority and expressed concern about the proposed

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Cardroom Tax increase. That cardroom reiterated that changes to the City's regulatory practices are its highest priority.

Following the City Council's action on February 16th, staff contacted both cardrooms to set a meeting on February 24, 2010 to solicit input. A summary of the meeting will follow in a supplemental memo prior to the March 2, 2010 City Council meeting.

***Cardroom Charitable Contribution Allocation Fund***

On March 20, 2009, City Council accepted the settlement agreement between the City of San José and the two local cardrooms, Bay 101 and Garden City. The Settlement Agreement provides for the payment of \$500,000 per cardroom for each of three fiscal years, 2009/2010-2011/2012, to non-profit organizations that address some of the social problems associated with problem gambling. The City Council directed the Department of Parks, Recreation and Neighborhood Services to develop and bring to the Healthy Neighborhoods Leadership Committee (HNLC) for approval a framework for administering the Cardroom Charitable Contributions (CCC). On June 11, 2009, the HNLC approved a work plan for the distribution of the CCC. The work plan included three areas: 1) the development of an Allocation Plan, 2) the identification of a third-party administrator, and 3) community outreach.

On October 15, 2009, the HNLC approved the CCC 2010-2012 Allocation Plan and the selection process for identifying qualified providers for the two cardrooms' consideration. In December 2009, the HNLC approved the CCC funding recommendation. The highest-ranked proposal was from Asian Americans for Community Involvement (AACI), with a consortium of providers that includes Asian American Recovery Services, Breathe California, and the UCLA Gambling Studies Program. At the end of January 2010, AACI sent a draft of the contract to the cardrooms and is waiting for review and comment to finalize.

Although payments are to be made by the cardroom establishments directly to the non-profit organizations, the City offered to conduct a competitive process to identify effective non-profit organizations capable of delivering services outlined in the Plan. In addition, annual reports to the HNLC will be provided that reviews the allocation of grants, services rendered and relevant metrics.

***Public Safety Concerns***

On May 12, 2009, the SJPD presented its "*Annual Review of the Impact of Cardroom Gambling on Crime in the City of San Jose*" which covered the period July 1, 2007 to June 30, 2008. The review noted an increase in "calls for service<sup>2</sup>" and "reported incidents<sup>3</sup>"

<sup>2</sup> Calls for Service are call requiring dispatch of a patrol unit.

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both at Bay 101 and Garden City cardrooms compared to the previous fiscal reporting period. Listed below is a general summary of key data disclosed in the previously issued report (Council Agenda: 5/12/09, Item 8.1).

**Table 5: Summary of SJPD Activity at Cardrooms**

Type	2005-2006	2006-2007	2007-2008
Calls for Service	322	391	455
Reported Incidents	224	287	311
Arrests Resulting from Calls for Service	54	48	60

The referenced report concluded that both cardrooms were diligent with respect to their reporting of suspected crimes and/or irregularities to the SJPD. It should be noted that the reflected data does not show crimes or related activity that took place off-premises and that the above statistics reflect on-premise activity only. Also, it is difficult to quantify the social costs of gambling and impact to the City which is not addressed above.

***Preliminary Community Outreach Strategy***

Title 16 of the Municipal Code sets the policy for Gaming Control Regulations for the City of San Jose, and states that there shall be no expansion of Cardroom Gambling in the City without first obtaining the majority approval of the voters.

The role of the Administration, with respect to any ballot measures, is to provide information to the public. As it relates to campaign activities, the Administration is prohibited from participating in campaigns in support or opposition of any ballot measure. The role of the City Attorney's Office is to develop the ballot measure statement that will be considered by the City Council and placed on the ballot if so approved and directed by the City Council. The City Attorney's Office is also responsible for developing a neutral statement on the ballot measure to provide factual information regarding the ballot measure that is generally accompanied by support, neutral or opposition statements, if submitted.

Additionally, as staff contemplates the best approach to ensure that the public receives information regarding a potential cardroom ballot measure, the Administration will be guided by the City Council approved "Community Engagement Process" for significant policy actions. In addition, staff will ensure that all the appropriate information is posted to the City's website and emailed to the City's roster of community groups, neighborhood associations, businesses, and other identified stakeholder groups. Staff will also be available to respond to general information questions raised by the public as needed.

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<sup>3</sup> Reported Incidents include incidents that may or may not have resulted in an arrest(s). Not all calls for service result in a reported incident.

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At this time, it is unknown whether any independent campaigns in support or opposition of the proposed ballot measure exist. Last, it is unknown whether any fund raising strategies and/or activities have been developed; however, these are both beyond the purview of the Administration.

**FISCAL IMPACT**

Placing a ballot measure on the June 8, 2010 General Election ballot would cost the City of San Jose approximately \$500,000. The City Clerk has an existing non-personal appropriation of \$1.4 million in 2009-2010 dedicated for General Elections, which is available to cover the costs for the Mayor and Council District elections and one ballot measure.

Based on an estimate from the Santa Clara County Registrar of Voters, this budget amount may fall short of the current estimate of \$1.58 million for these election costs. If necessary, a budget adjustment will be brought forward at year-end.

See the previous "Fiscal Impact" section specific to the potential new, ongoing revenue that could be achieved based on the tax option selected by the City Council. If the recommended proposed ballot measure is placed on the ballot, and approved by the voters, additional General Fund revenue of up to \$5.25 million annually is expected to be generated.

**COORDINATION**

This memorandum has been coordinated with the Police Department, Finance Department, City Manager's Budget Office, and City Attorney's Office. Additionally, as noted, the Cardrooms were notified of the City Council's referral following the February 16<sup>th</sup> City Council-Senior Staff Budget Workshop and a meeting was set on February 24, 2010 to obtain their input. A summary of the meeting will follow in a supplemental memo prior to the March 2, 2010 City Council meeting.

  
DEANNA J. SANTANA  
Deputy City Manager

Attachment (1): Community Budget Survey Cardroom Question

# ATTACHMENT A

## Community Budget Survey Cardroom Question

9. Next, I would like to ask you about a proposal the Mayor and City Council may consider. This proposal would raise funds and help prevent cuts in City services like police, fire, street repair, parks and libraries by

(SPLIT SAMPLE C) increasing the number of tables that card rooms are allowed to operate in the City.

(SPLIT SAMPLE D) increasing the tax on card room revenues in San Jose from 13 percent to 15 percent and increasing the number of tables that card rooms are allowed to operate in the City.

(RESUME ASKING ALL RESPONDENTS)

Does this sound like something you would support or oppose? (IF SUPPORT/OPPOSE, ASK: "Is that strongly SUPPORT/OPPOSE or somewhat?")

	SPLIT C	SPLIT D	OVERALL
TOTAL SUPPORT -----	55%	64%	59%
Strongly support -----	32%	45%	39%
Somewhat support -----	23%	19%	21%
 TOTAL OPPOSE -----	 38%	 30%	 34%
Somewhat oppose -----	10%	7%	9%
Strongly oppose -----	28%	23%	25%
(DON'T READ) DK/NA -----	7%	6%	7%

SOURCE: 2010 Community Budget Survey, page 5