



# Memorandum

**TO:** HONORABLE MAYOR  
AND CITY COUNCIL

**FROM:** Richard Doyle  
City Attorney

**SUBJECT:** Cardroom Measure

**DATE:** March 5, 2010

## **RECOMMENDATION**

Adopt a resolution calling and giving notice of, on the Council's own motion, a Special Municipal Election to be held on June 8, 2010, to submit to the electors of the City of San José a proposed ballot measure to increase the Cardroom Tax, to expand the number of cardroom tables and to make other modifications to the City's Municipal Code regarding permissible card games and betting limits.

## **BACKGROUND**

At the Council meeting on March 2, 2010, the City Council provided direction to the Administration and this Office regarding the language for the proposed cardroom measure. This memorandum provides three alternative measures for City Council consideration. For each alternative, a separate resolution has been prepared that sets forth the language of the ballot question and includes the applicable revisions to the Municipal Code.

## **ANALYSIS**

### ***Council Motion and Policy Issues***

The motion approved by the City Council at the March 2<sup>nd</sup> meeting included the following elements:

1. Raise the cardroom tax from 13% to 15%.
2. Increase the number of card tables by 18, so that each club can have 9 more.
3. Permit the cardrooms to offer any card game which is legal in California and play card games only by rules permitted by State law.
4. Conduct necessary audits and oversight.

The Council discussion centered on the motion's third point regarding the expansion of permitted games and the rules under which they are played. Three policy issues emerged:

1. To what extent does the City wish to increase the number of permitted games from the 21 games currently permitted?
2. Whether the City desires to maintain local regulation of card games that are authorized by State law?
3. Whether the City desires to eliminate betting limits or instead establish a limit higher than the current limit of \$200 per bet?

### ***Alternative Measures***

We drafted three alternatives to provide the City Council with different ways to address these issues. Alternative 1 most closely conforms to the City Council's motion.

Each of the alternatives is the same with respect to increasing the number of tables by 18 and increasing the cardroom tax rate on gross revenues from 13% to 15%. All three alternatives provide that the matters covered are subject to City audit and oversight. The Municipal Code provides that the payment of the Cardroom Tax and the operation of Cardrooms by the Cardroom permittees are subject to audit and oversight by City staff.

The variations in the measures, noted with different colors, are discussed following the measures.

#### **Alternative 1**

##### **Cardroom Measure**

Shall an ordinance be adopted to increase the Cardroom Tax rate on gross revenues from 13% to 15%, increase the number of cardroom tables by 18, **permit any card game authorized under State law consistent with City regulations and betting limits as authorized under State law**, all subject to City audit and oversight?

#### **Alternative 2**

##### **Cardroom Measure**

Shall an ordinance be adopted to increase the Cardroom Tax rate on gross revenues from 13% to 15%, increase the number of cardroom

tables by 18, **permit any card game authorized under State law consistent with City regulations** and **allow the City Council to establish betting limits**, all subject to City audit and oversight?

### **Alternative 3**

#### **Cardroom Measure**

Shall an ordinance be adopted to increase the Cardroom Tax rate on gross revenues from 13% to 15%, increase the number of cardroom tables by 18, **increase the number of permissible card games from 21 to [-----]** and **allow the City Council to establish betting limits**, all subject to City audit and oversight?

### ***Variations Among Measures***

#### **Number of Games**

Alternatives 1 and 2 would expand the number of games from the current 21 to any game authorized under State law consistent with City regulations. If a cardroom permittee desires to increase the number of games that could be played, then the permittee would be required to apply to the Administrator for approval. This preserves the City's ability to regulate how the games are played in San José.

Alternative 3 would increase the current number of permissible games to a specific number to be determined by the City Council if this alternative is selected.

#### **Betting Limits**

Alternative 1 differs from the other alternatives in that the betting limit is linked to State law. State law currently does not impose any limit on bets placed at cardrooms. Accordingly, under this measure, there would be no betting limit unless the State at a later date established betting limits. The current \$200 limit would be eliminated.

Under Alternative 2 and Alternative 3, the City Council would have the authority to establish betting limits by adoption of a resolution. Accordingly, the City Council would have the ability to increase the current betting limit of \$200 per bet. Instead of keeping with a uniform betting limit as is the case currently, this revision would also enable the City Council to set different betting limits, including a no bet limit, for specified games.

#### **Resolution Calling for Special Election**

There are a couple of decision points related to the conduct of the June 8 election for City Council consideration. The proposed resolution provides that rebuttal arguments

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may be printed in the ballot. The City Council, at its discretion, may exclude rebuttal arguments if it wishes; however, the Council will need to provide direction to this Office at the March 9<sup>th</sup> meeting to revise the resolution accordingly.

Additionally, although the proposed revisions to the Municipal Code are an attachment to the draft resolutions, the final resolution need not direct the City Clerk to cause the revisions to the Municipal Code be included in the ballot pamphlet. Instead, the Impartial Analysis of the City Attorney could advise readers that they may obtain a copy of these revisions from the City Clerk at no cost. If the City Council wishes to include the revisions to the Municipal Code in the ballot pamphlet, Council will need to provide direction at the March 9<sup>th</sup> meeting.

### ***Election Schedule***

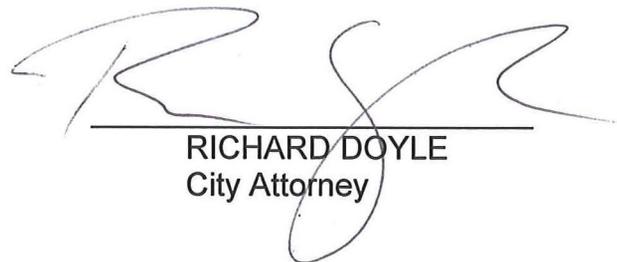
If the City Council approves placement of this measure on the June 8<sup>th</sup> ballot, the Impartial Analysis of the City Attorney and ballot arguments will be due to the City Clerk no later than March 16, 2010. If City Council approves the inclusion of rebuttal arguments, rebuttal arguments will be due to the City Clerk no later than March 23, 2010.

### **COORDINATION**

This item has been coordinated with the Office of the City Manager and the Office of the City Clerk.

### **CEQA**

Resolution No. 65459



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For questions please contact Richard Doyle (408) 535-1900.