



# Memorandum

**TO:** HONORABLE MAYOR &  
CITY COUNCIL

**FROM:** Councilmember Sam Liccardo

**SUBJECT:** SEE BELOW

**DATE:** 3/23/10

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Approved *Sam Liccardo* Date *3/23/10*

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**SUBJECT: SUBJECT: AN ORDINANCE OF THE CITY OF SAN JOSE AMENDING PROVISIONS OF CHAPTER 20.70 AND 20.100 OF TITLE 20 OF THE SAN JOSE MUNICIPAL CODE TO ESTABLISH THE CITY COUNCIL AS THE DECISION MAKING BODY FOR CONDITIONAL USE PERMITS FOR DRINKING ESTABLISHMENTS THAT OPERATE AFTER MIDNIGHT AND HAVE AN OCCUPANCY GREATER THAN 250 PERSONS WITHIN THE CD DOWNTOWN PRIMARY COMMERCIAL ZONING DISTRICT, AND FUTHER DIRECTION TO AMEND CITY COUNCIL POLICY 6-23 (GUIDELINES FOR EVOLUTION OF NIGHTCLUBS AND BARS).**

## RECOMMENDATION

1) Approve the Ordinance as described in the staff recommendation, with the following change to paragraph B:

- a. Mandate that all Public Drinking Establishments, regardless of occupancy load, have a "Management Plan" to obtain a Conditional Use Permit. The Plan may vary in length or detail based on the size /occupancy of the establishment.

## ANALYSIS

### **A. Successes of the Downtown Effort**

I echo the sense of accomplishment reflected in the staff report. Through the drumbeat of difficult economic news all around us, it seems all the more timely to recognize the remarkable

successes achieved through the collaborative efforts between the City and the Downtown community to improve nightlife in our core.

In the last couple of years, we have witnessed an unprecedented collaborative effort among the City, Police, downtown club owners, residents, and other stakeholders. As many of us confronted these issues in 2007, we saw a Downtown culture dominated by fly-by-night promoters and pack-the-house DJ's, San Jose's clubs drew big crowds with inadequate security to manage them. Tensions escalated between overworked officers and thousands of club-goers of varying states of sobriety, particularly around closing time.

Since then, a series of initiatives have emerged, focused on increasing the accountability of the clubs, improving the quality of the experience for Downtown visitors, and softening the interaction of police with club patrons. Council has since passed many of these measures, emphasizing such changes as:

- creating a licensing scheme to force entertainment promoters to submit to background checks and assume greater responsibility for security;
- reducing the number of police deployed in the downtown core;
- enhancing security, lighting, and cleanliness of downtown parking garages with user fees;
- assessing clubs for police overtime costs;
- implementing a deployment model that gets the officers out of their cars and on to the sidewalks, in more interactive manner;
- streamlining permit processes by consolidating CUP and entertainment permit requirements
- creating a "soft closing" pilot to enable patrons to leave at a leisurely pace at closing time rather than feeling "pushed" out;
- reducing limitations on downtown food vendors;
- improving training for bartenders and bouncers to reduce over-serving and address problem behaviors before the police become involved; and
- easing restrictions on "sidewalk cafes" to promote them throughout our streetscape.

Today, we consider new measures that will promote a model of nightlife focused on smaller venues, requiring Council deliberation for approval of larger clubs, to ensure adequate measures for crowd management.

By most accounts, the quality of the "street experience" has improved Downtown. Club, bar and restaurant owners engage in frequent dialogue with the Police and the City Manager's Office. We've seen the emergence of efforts to promote live music in many venues, and the promotion of venues that appeal a greater diversity of ages. Best of all, the number of incidents requiring police involvement has trended downward.

I want to thank the many folks who worked so effectively to shape and implement these measures.

First and foremost, I want to thank the City Manager for her personal engagement on this issue. After several "false starts" in which I pushed Council initiatives that failed to gain traction in the

form of implementation, the City Manager exerted the leadership to assign Paul Krutko to coordinate the various departments on these issues. By 2009, she also formed an effective working group under her direction.

Under Paul Krutko's guidance, and with the hiring of Lee Wilcox, the tone and quality of the conversation between nightclubs, the City, and the Police, has improved dramatically. I'd like to highlight several other people who have made especially significant contributions:

- **Lee Wilcox, Downtown Coordinator**
- **Kim Walesh, Chief Strategist**
- **Assistant Chief Dan Katz, Dep. Chief Phan Ngo, Capt. Eddie Garcia, Lt. Jeff Marozick and Lt. Larry McGrady, San Jose Police Department**
- **Angelique Nedrow and Rene Gurza, City Attorney's Office**
- **Joe Horwedel, Laurel Prevetti, Jeannie Hamilton and Carol Hamilton, Planning Dept.**
- **Scott Kneis, Blage Zelalich, and other staff at the San Jose Downtown Association**
- **John Conway, Dave Powell, and Ben Soriano, business owners, and other members of the San Jose Restaurant and Entertainment Association**

## **B. Management Plans**

The current staff recommendation requires only clubs with an occupancy load of over 250 persons to create a Management Plan. Although I recognize the unique challenges posed by larger clubs, we've sought to expand the accountability and responsibility of all bar and club owners, to ensure a safe, high-quality experience for downtown residents and visitors. I recommend that the City uniformly require a Management Plan of all CUP applicants, to ensure wide adoption of "best practices." Of course, the City Manager will retain the discretion to require more or fewer details in any Management Plan, as the size and unique attributes of the establishment requires.