



Memorandum

TO: RULES AND OPEN GOVERNMENT
COMMITTEE

FROM: Councilmembers Torres & Doan

SUBJECT: CARDROOM STATUS REPORT

DATE: 2/21/24

Approved

Date: 2/21/24

RECOMMENDATION

1. Accept the status update on Measure H
2. Direct Staff to prepare a Manager's Budget Addendum (MBA) that analyzes City and State regulations on the two San José Cardrooms and further evaluates possible modernization of the local regulations, thereby reducing or possibly eliminating of the existing regulatory fee.
3. In addition, direct the City Manager to meet with the two Cardrooms and update the Council, through an Informational Memorandum, on existing efforts by the two Cardroom to help with the following,:
 - a. Promote awareness and prevention of gambling disorder and make treatment available to those negatively impacted by problem gambling amongst minority communities, especially the Asian Community that are disproportionately negatively affected by gaming;
 - b. Evaluate the effectiveness of the funds currently allocated to non-profit organizations to deal with problem gaming and see if those funds can have a greater impact or are better allocated.
4. Direct the City Manager to include an update on enforcement efforts against illegal gaming operations in San José during the next Public Safety, Finance, and Strategic Support Committee through the San Jose Police Department Bi-Monthly Operations Update.

DISCUSSION

The City of San José has a long history with its two local cardrooms. Bay101 (originally known as Sutter's) has been open since 1929, and Casino M8trix (founded as the Garden City Casino) has been operating since 1946. In the 2023-2024 Adopted Budget, the two cardrooms would deliver \$32 million to the General Fund- the single largest category of business tax revenue generation for the City of San José. Without the two cardrooms, the City would be financially strained to deliver upon our stated goal of addressing homelessness, housing affordability, repaving streets, and more.

Measure H & Business Fairness

During the November 2020 election, nearly 73% of San José voters approved of Measure H. The ballot measure increased cardroom taxes by 1.5% and enacted a new tax on the gross revenues of Third-Party Proposition Player Services in exchange for 30 new gaming tables citywide. It is estimated that the Third-Party taxes alone will bring in \$8 million annually in new monies that the City has not realized in decades past, while the 1.5% increase in the cardroom taxes will bring an estimated \$2 million annually to the City.

While José voters overwhelmingly passed Measure H, the California Gambling Control Commission ruled in 2021 that Measure H was not compliant with state law and rejected the expansion of gaming tables. Despite losing the gaming tables, which is one of the central pillars of the ballot measure, the City enacted Measure H taxes nonetheless. The City's cardrooms are stuck in the unenviable position of paying more taxes without the tables approved by the voters and the corresponding revenue increase.

Fundamentally, this action violates the fairness principle. The cardroom businesses and their operators agreed to higher and new taxes in exchange for gaming tables that never materialized. By enacting Measure H in its totality, these businesses have been financially harmed with little or no recourse. It sends a strong anti-business, anti-jobs, and anti-voter message to the community. Business should be encouraged in making new economic development investments in the City of San José has had a chronic jobs housing imbalance, and this type of behavior will not be correcting the problem. We believe it is essential that we act fairly and seek to strike a balance in taking steps to make the City more business-friendly, especially when the card rooms provide money to fund critical city services.

It is not our recommendation to suspend Measure H, which the City Council has the power to do per the City Attorney's Impartial Analysis of Measure H: "If approved, the cardroom tax rate increase and the new tax on [Third Party Proposition Player Services] would be effective on January 1, 2021 and would continue until repealed by the voters or suspended in whole or in part by the City Council."

It will not be financially responsible to deplete the General Fund in the midst of projected deficits. According to the City Manager's 2024-2025 Operating Budget Development Planning Memorandum, the General Fund is expected to face a shortfall ranging from \$25 to \$35 million for the 2025-2026 Fiscal Year. Instead, we propose to eliminate duplicative regulations between the City and the State, and take one step towards fixing this unfair circumstance. I am not ready to trade vital city services that we are obligated to provide our citizens to benefit business but I do believe that fairness must be an underlying principle in all policy enacted here at City Hall. To that end we must look to other sources that accomplish fairness without reducing essential services.

Cardroom Regulations

For the 2023-2024 Fiscal Year, the Cardroom Regulation Fee is \$954,190.00 per cardroom in the City of San Jose. The Fee funds civilian staff services related to the administration of Gaming Control, which issues regulations (Title 16.06.040) related to:

1. Fingerprints, photographs, releases for criminal arrest, conviction, and releases for financial/credit/business/employment history related to the scope of information required for licensing and permitting;
2. Audits and reviews of cardroom operations;
3. Investigations related to work permit cases involving granting, renewal, suspension, revocation, etc.
4. Minimum security and surveillance controls;
5. Financial and Compliance audits and reporting; and more.

Overall, the purpose of Title 16 of the San Jose Municipal Code is to have civilian staff monitor gaming activity at cardrooms and to conduct audits, all of which the state does. The Division of Gaming Control does not enforce actions on illegal gaming and does not conduct criminal investigations of illicit activities. The Division is duplicating the state regulatory framework. No other city in the State has a similar regulatory structure or burdensome fee.

The City Council has consistently reviewed “cleaning up” and removing unnecessary, duplicative regulations to be more aligned with the state. The policy recommendations in this Memorandum would be consistent with past City Council directions to align more with state regulations and eliminate redundant and burdensome regulations on businesses. The Cardroom Regulation Fee should be eliminated in its entirety, especially its funding because it does not engage in enforcement against illegal gaming or illicit activities in San José.

Finally, we propose that staff coordinate with cardroom businesses to create a mutually agreed upon and appropriate fee not to exceed 15% of the current Cardroom Regulation Fee charged. Such an agreement would establish a fund that would actually take enforcement actions against illegal gaming to educate minority communities on the negative social ills of problem gaming. While this work is underway, staff should also evaluate the effectiveness of funding allocated to non-profit organizations working to address problem gaming and whether the funds could have a greater impact elsewhere.

The signers of this memorandum have not had, and will not have, any private conversation with any other member of the City Council, or that member's staff, concerning any action discussed in the memorandum, and that each signer's staff members have not had and have been instructed not to have any such conversation with any other member of the City Council or that member's staff.