

Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Robert L. Davis
Jennifer Maguire

SUBJECT: SEE BELOW

DATE: May 22, 2009

Approved

Christine J. Sheppley

Date

5/22/09

SUBJECT: DIVISION OF GAMING CONTROL STAFFING MODEL

RECOMMENDED ACTION:

It is recommended the San Jose City Council approve the following actions:

- (a) Increase the Police Department's 2009-2010 General Fund Personal Services appropriation by \$239,122;
- (b) Increase the Police Department's 2009-2010 General Fund Non-Personal/Equipment appropriation by \$21,608;
- (c) Increase the revenue estimate in the General Fund for Licenses and Permits by \$260,730;
- (d) Authorize the addition of 2.0 Senior Auditor positions in the Police Department Division of Gaming Control;
- (e) Amend the Proposed 2009-2010 Fees and Charges Report to decrease the 2009-2010 proposed Cardrooms Card Table Fee from \$25,527 per table to \$22,238 per table;
- (f) Amend the Proposed 2009-2010 Fees and Charges Report Cardroom License Application Fee Deposit to remove the note under the service description and change the fee as follows: \$10,000 initial deposit for costs + additional time billed at actual costs of the application processing and investigation, billed at top salary step, including benefits and overhead plus any actual costs such as, but not limited to, transportation, travel and lodging for any City employees. Additional deposits after the initial deposit may be required depending on the length and scope of the investigation. At such time as a licensing hearing is requested by the applicant, a further deposit to pay the anticipated costs of the licensing hearing shall be required, including the cost of the hearing officer billed at top salary step, and the cost of services of the City Attorney's Office;
- (g) Amend the Proposed 2009-2010 Fees and Charges Report to add a Cardroom License Application Renewal Fee Deposit and establish the fee as follows: \$5,000 initial deposit for costs + additional time billed at actual costs of the application processing and investigation, billed at top salary step, including benefits and overhead plus any actual costs such as, but not limited to, transportation, travel and lodging for any City employees. Additional deposits may be required after the initial deposit depending on the length and scope of the investigation. At such time as a licensing hearing is requested by the applicant, a further deposit to pay the anticipated costs of the licensing hearing shall be required; including the cost of the hearing officer billed at top salary step, and the cost of services of the City Attorney's Office shall be required;

- (h) Amend the Proposed 2009-2010 Fees and Charges Report to change the Cardroom Permit Amendment Fee as follows: \$5,000 initial deposit per amendment for costs + additional time billed at actual costs of the application processing investigation, and holding the licensing hearing before the hearing officer, billed at top salary step, including benefits and overhead plus any actual costs such as, but not limited to, transportation, travel and lodging for any City employees. Additional deposits after the initial deposit may be required depending on the length and scope of the investigation and application hearing. The final cost of services, including the cost of services of the City Attorney's Office at the application hearing shall also be included in the final fee determination by the Chief of Police at the close of the application hearing;
- (i) Amend the Proposed 2009-2010 Fees and Charges Report to increase the 2009-2010 proposed Work Permit Fees - Work Permit from \$333 per initial issue + fingerprint fees to \$470 per initial issue + fingerprinting fees;
- (j) Amend the Proposed 2009-2010 Fees and Charges Report to decrease the 2009-2010 proposed Work Permit Fees - Renewal from \$333 per renewal + fingerprint fees to \$307 per renewal + fingerprinting fees;
- (k) Amend the Proposed 2009-2010 Fees and Charges Report to increase the General (Non-Criminal) Fingerprinting fee from \$10 per card to \$20 per card;
- (l) Amend the Proposed 2009-2010 Fees and Charges Report under Public Safety Permits – Category I, section 4. Cardrooms to change the name of Appeal Hearing Deposit to Regulatory Action and Cease and Desist Hearing Fee and to change the Fee as follows: Payment of the City's reasonable costs of investigation and prosecution of the case, including attorneys' fees incurred by the City up to the date of the hearing.

BACKGROUND

The Gaming Control Ordinance (Title 16) enacted by the City Council on November 9, 1999, created the Division of Gaming Control (Division) within the Police Department. The Division is charged with carrying out the licensing, work permitting, revenue and tax auditing, regulatory compliance testing, regulation promulgation, and other administrative functions pursuant to the regulatory program. The City levies a thirteen percent gross receipts tax on cardroom gaming revenue. The Division has the primary responsibility among City agencies for ensuring compliance with the cardroom tax through financial and compliance reviews and oversight by the Administrator. The Minimum Internal Control Standards Regulations and Accounting Regulations that took effect on October 21, 2004, with a compliance date of March 15, 2005, are an essential part of the Division's financial oversight over the cardrooms. After these regulations took effect there was a noticeable increase in reported gaming revenue from the cardrooms in comparison with the reported gaming revenue in the preceding three years (see attachment). The gaming revenue increases the cardrooms have seen in the years subsequent to the new regulations taking effect also reflect the fact that strict regulatory controls on cardrooms are consistent with the business interests of the cardrooms.

Recently, in an effort to reduce the backlog in work permit applications and renewal applications, the Department worked with the cardrooms to schedule specific time for cardroom employees to complete the work permit process. As a result, sixty-five (65) permits were issued over a period of five (5) days. During this process, the Department worked closely with both cardrooms in identifying new and renewal applications requiring processing and review. These

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employees were scheduled in large blocks with both Gaming Division and Permits personnel working to process the work permit applications. The Department anticipates the current backlog of new and renewal work permit applications will be eliminated by early June of 2009. It should be noted that due to limited resources available in the Permits Unit relative to the demand for services, persons applying for other licenses and permits administered by the Police Department have also experienced substantial delays before applications are reviewed and processed.

ANALYSIS

The efforts described above were implemented only as a short term fix to the cardroom work permit processing situation. As a long term solution, the Division of Gaming Control will assume the duties of processing all cardroom work permits as a "one stop" shop on or about July 1, 2009. The Division will be equipped with a live scan device (an electronic device that scans and sends fingerprints to obtain criminal history background records of applicants from the California Department of Justice), photo capture station, identification card printer and necessary peripherals in order to efficiently process cardroom work permit applications in a timely manner. The Department anticipates that applicants for cardroom work permits will be able to be interviewed, processed and issued a work permit within approximately two weeks after receipt of a completed application, barring circumstances beyond the control of the Department, such as a delay by the Department of Justice in returning a criminal history record on an individual.

The costs for operating the Gaming Division are funded entirely by annual table fees charged to the cardrooms. The Gaming Division currently includes one Deputy Director (the Administrator of the Division), one Supervising Auditor, one Staff Technician, one Police Sergeant, and three Police Officers. This staffing model has not been adequate to effectively address all of the services that should be provided by the Gaming Division, including the processing of license and work permit applications and renewals.

San Jose Municipal Code Section 16.32.100 of Title 16 provides that gaming license applicants pay the costs incurred in the background investigation. The City has not been regularly billing for these services because the current staffing in the Gaming Division has been funded by the cardroom table fees. Gaming licenses are required for cardroom owners and their key employees (examples of key employees include the cardroom general manager, casino manager, director of security and surveillance, director of human resources). The revised Title 16 (Ordinance No. 28517) adopted by the City Council on April 7, 2009 takes effect on July 2nd. The financial review work associated with licensing is extremely time-consuming and the Gaming Division is currently backlogged with approximately 40 licenses. The licensees are required to renew their licenses once every three (for key employees) or five years (for stockowners), and the Division is in the process of revising its renewal application to streamline the information required for renewal.

In order to address both backlogs and streamline the processes for the cardrooms and their employees, the Department is recommending the creation of a second unit within the Gaming Division for licensing and permitting. The Gaming Division would be split into two sections with only the Gaming Administration Unit funded by the cardroom table fees; and the Gaming License/Work Permit Unit funded by fees recovered from each applicant. The new

License/Work Permit Unit would be tasked with conducting financial background investigations as part of the license application process and the receipt and processing of employee work permits, including fingerprinting. This structure, which is also an effort to mitigate backlog, requires the addition of two Senior Auditor positions. The reallocation of one Police Officer position and 0.5 of a Staff Technician position from the Administrative Unit would reduce the annual cardroom table fees. Costs for the positions in the License/Work Permit Unit would be recovered through the cardroom work permit fees and background investigative fees (for licenses) charged to each applicant. Remaining staff in the Administrative Unit would include 0.5 of a Staff Technician position, one Deputy Director, one Supervising Auditor, one Police Sergeant, and two Police Officers. These positions would continue to be supported by the cardroom table fees.

This action would allow the Department to effectively and efficiently carry out the duties of the Division; reduce the annual table fees imposed on the cardrooms; and recover costs associated with the background investigation of gaming license and work permit applicants. The new structure should also help to ensure that permitting and licensing occurs in a more timely fashion, and facilitates employment at the cardrooms. The responsibilities of the two sections of the Gaming Division would be as follows:

Gaming Administration Unit

- Enforce Title 16, the Gaming Control Ordinance and its rules & regulations
- Promulgate regulations
- Audit the books and records of the cardrooms
- Administrative inspection of the gaming operations
- Investigate customer complaints
- Everything that is required under Title 16 except for Chapter 16.32 (licensing) and Chapter 16.40 (work permits).

Gaming License/Work Permit Unit

- Perform criminal and civil background investigations of license applicants
- Perform financial analyses of stockowners, key employees, funding source owners and other license applicants
- Perform investigations of renewal applicants
- Assist in the preparation of a final recommendation to the Chief of Police regarding any gaming license denial, conditions or revocations and appear before licensing hearings.
- Review and approve all work permit applications
- Provide assistance to cardroom employees as they submit their work permit applications
- Enter each work permittee into the database, which is linked to the City Finance Department and generates an account for the individual
- Collect all appropriate fees associated with the work permit and gaming license application
- Enter the applicant into the photo data base
- Conduct the live scan (digital fingerprinting) of the applicant and forward said information to the Department of Justice

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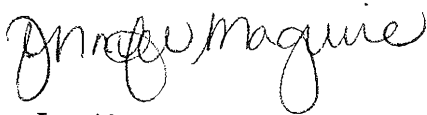
- Check email account from Department of Justice (DOJ) for any fingerprint returns on cardroom applicants
- Once fingerprint returns are received, perform a final review of the cardroom application before issuing appropriate cardroom identification cards for the specific jobs for which they applied
- Assist in the preparation of any work permit denial, conditions or revocation notices and appear before work permit administrative hearings

Additionally, shifting the cardroom work permit function to the new unit under the Division of Gaming Control within the Police Department will allow the Permit Unit staff to increase cost recovery services to its customers and increase the number of taxicab vehicle inspections processed annually, as well as the number of Massage Parlor business permits and licenses.

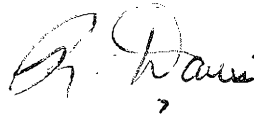
The name change and amendment from the Appeal Hearing Deposit to the Regulatory Action and Cease and Desist Hearing Fee is included in the recommended actions and required to align the fee with the actual activity under the revision to Title 16 (Ordinance No. 28517) adopted by the City Council on April 7, 2009.

COST IMPLICATIONS:

The established fees provide full cost recovery for the Division of Gaming Control and will be reviewed annually for accuracy.



Jennifer Maguire
Budget Director



Robert L. Davis
Chief of Police

RLD:LP

SJPD - Division of Gaming Control
Cardroom Gaming Revenue Analysis 2001 through 2008

BAY 101		13%
	Gaming Revenue	Taxes
2001	40,790,851.00	5,302,810.63
2002	32,684,500.00	4,248,985.00
2003	37,301,912.00	4,849,248.56
2004 ***	40,987,767.50	5,328,409.78
2005 ***	48,788,334.00	6,342,483.42
2006 ***	52,614,415.00	6,839,873.95
2007 ***	54,910,300.00	7,138,339.00
2008 ***	54,832,034.00	7,128,164.42

GARDEN CITY		13%
Year	Gaming Revenue	Taxes
2001	26,996,767.45	3,509,579.77
2002	27,199,597.00	3,535,947.61
2003	26,791,038.00	3,482,834.94
2004 ***	28,719,867.00	3,733,582.71
2005 ***	33,281,133.00	4,326,547.29
2006 ***	36,035,089.00	4,684,561.57
2007 ***	38,176,648.50	4,962,964.31
2008 ***	48,752,104.81	6,337,773.63

Combined Cardrooms		13%
Year	Gaming Revenue	Taxes
2001	67,787,618.45	8,812,390.40
2002	59,884,097.00	7,784,932.61
2003	64,092,950.00	8,332,083.50
2004 ***	69,707,634.50	9,061,992.49
2005 ***	82,069,467.00	10,669,030.71
2006 ***	88,649,504.00	11,524,435.52
2007 ***	93,086,948.50	12,101,303.31
2008 ***	103,584,138.81	13,465,938.05

*** Minimum Internal Control Standards and Accounting Regulations became effective 10/1/2004 with a compliance date of 3/15/05

Attachment A - Police Cardroom Fees

General Services Department-Fee	Date of Last Revision	2008-2009 Adopted Fees	2009-2010 Proposed Fees
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Public Safety Fees - Category I: Fingerprinting

General (Non-Criminal)	2000-2001	\$10 per card	\$20 per card
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Public Safety Permits - Category I: Cardrooms

"Appeal Hearing Deposit" revised as "Regulatory Action and Cease and Desist Hearing Fee"	Pre-2000-2001	The amount of anticipated costs, as determined by the City Attorney on a case-by-case basis, including, but not limited to, the fee charged by hearing officer and any other associated costs of recording the hearing	Payment of the City's reasonable costs of investigation and prosecution of the case, including attorneys' fees incurred by the City up to the date of the hearing
Card Table Fee	2008-2009	\$24,482 per table	\$22,238 per table
Cardroom License Application Fee Deposit	2000-2001	Cost of application processing, investigation, and holding the licensing hearing before the Police Chief, billed at top salary step, including benefits and overhead plus any actual costs such as, but not limited to, transportation, travel, and lodging for any City employees. The amounts will be specified in a guideline Schedule of Costs and Charges that will be published, maintained, and updated by the Administer of Gaming Control.	\$10,000 initial deposit for costs + additional time billed at actual costs of the application processing and investigation, billed at top salary step, including benefits and overhead plus any actual costs such as, but not limited to, transportation, travel and lodging for any City employees. Additional deposits after the initial deposit may be required depending on the length and scope of the investigation. At such time as a licensing hearing is requested by the applicant, a further deposit to pay the anticipated costs of the licensing hearing shall be required, including the cost of the hearing officer billed at top salary step, and the cost of services of the City Attorney's Office
Cardroom License Application Renewal Fee Deposit	N/A	N/A	\$5,000 initial deposit for costs + additional time billed at actual costs of the application processing and investigation, billed at top salary step, including benefits and overhead plus any actual costs such as, but not limited to, transportation, travel and lodging for any City employees. Additional deposits may be required after the initial deposit depending on the length and scope of the investigation. At such time as a licensing hearing is requested by the applicant, a further deposit to pay the anticipated costs of the licensing hearing shall be required; including the cost of the hearing officer billed at top salary step, and the cost of services of the City Attorney's Office shall be required
Cardroom Permit Amendment Fee	2000-2001	\$5,000 per amendment	\$5,000 initial deposit per amendment for costs + additional time billed at actual costs of the application processing investigation, and holding the licensing hearing before the hearing officer, billed at top salary step, including benefits and overhead plus any actual costs such as, but not limited to, transportation, travel and lodging for any City employees. Additional deposits after the initial deposit may be required depending on the length and scope of the investigation and application hearing. The final cost of services, including the cost of services of the City Attorney's Office at the application hearing shall also be included in the final fee determination by the Chief of Police at the close of the application hearing
Work Permit Fees - Renewal	2008-2009	\$307 per renewal + fingerprint fees	No Change
Work Permit Fees - Work Permit	2008-2009	\$307 per initial issue + fingerprint fees	\$470 per initial issue + fingerprint fees