CITY OF HAYWARD
AGENDA REPORT

AGENDA DATE 10/10/06
AGENDA ITEM 5
WORK SESSION ITEM _____

TO: Mayor and City Council

FROM: City Attorney

SUBJECT: Introduction of an Ordinance Amending the Hayward Municipal Code Relating To The Card Club Ordinance

RECOMMENDATION:

It is recommended that the City Council introduce the attached ordinance amending the card club regulations pertaining to the transfer of the operating permit.

BACKGROUND:

On September 19, 2006, the Hayward City Council held a work session in order to provide direction to staff regarding the transferring of Ms. Bousson's interest in the permit to operate the Palace Card Room to her three adult children as part of an estate planning activity. Ms. Bousson also requested the Council to consider allowing the Palace Card Club to move to another location within the City of Hayward and to expand the operation from 8 tables to 12 tables at the new location.

At the conclusion of the work session, Council directed staff to prepare an amendment to the Card Club Ordinance that would allow Ms. Bousson to transfer her operating permit to her three adult children – Charles Blanchard, Cathy Aganon, and Pamela Roberts. The City Manager suggested that the remaining two issues be considered in the context of a land use application should one be filed.

Staff has prepared the attached amendment that would allow Ms. Bousson to transfer her sole interest in the operating permit for the Palace Card Room to her three adult children as a non-divisible interest in the operating permit. In other words, each child has an undivided interest rather than a one third interest in the permit. The proposed amendment does not allow the subsequent transfer of any of Mr. Blanchard, Ms. Aganon, or Ms. Robert's interest to any other person or entity. If one of the children dies, the remaining children would retain the operating permit.

Prepared by:

Jeffrey A. Cambra

Jeffrey A. Cambra, Assistant City Attorney

Recommended by:

Michael O'Toole, City Attorney

Approved by:

Jesús Armas, City Manager

Exhibit:

DRAFT

ORDINANCE NO. 06-__

AN ORDINANCE AMENDING CHAPTER 4, ARTICLE 3 OF THE HAYWARD MUNICIPAL CODE, BY THE ADDITION OF SECTION 4-3.16 (c) RELATING TO THE PALACE CARD ROOM PERMIT

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF HAYWARD DOES ORDAIN AS FOLLOWS:

Introduction: Nothing in this amendment to the Municipal Code shall be interpreted to create a divisible interest in the card club operating permit, a new card club operating permit or greater rights that currently exist in the existing card club permit.

Section 1. Chapter 4 of the Hayward Municipal Code is hereby amended to add sub-section (c) to section 4-3.16 thereto, referring to the Palace Card Room Permit to read in full as follows.

"(c) Notwithstanding subsection (a) of this section, Katherine Bousson, the current holder of the operating permit for the Palace Card Room located at 22821 Mission Boulevard, Hayward, California, may transfer her interest in the operating license to her three children-Charles Blanchard, Cathy Aganon, and Pamela Roberts. Each of the above named individuals will have an indivisible interest in the operating permit which shall terminate upon the individual's death.

Section 2. Severance. Should any part of this ordinance be declared by a final decision by a court or tribunal of competent jurisdiction to be unconstitutional, invalid, or beyond the authority of the City, such decision shall not affect the validity of the remainder of this ordinance, which shall continue in full force and effect, provided that the remainder of the ordinance, absent the unexcised portion, can be reasonably interpreted to give effect to the intentions of the City Council.

Section 3. In accordance with the provisions of Section 620 of the City Charter, this ordinance shall become effective 30 days from and after the date of its adoption.

INTRODUCED at a regular meeting of the City Council of the City of Hayward, held the_____ day of_____, 2006, by Council Member_____.

ADOPTED at a regular meeting of the City Council of the City of Hayward, held the_____ day of_____, 2006, by the following votes of members of said City Council.

AYES: COUNCIL MEMBERS:
MAYOR:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

APPROVED: _____
Mayor of the City of Hayward

DATE: _____

ATTEST: _____
City Clerk of the City of Hayward

APPROVED AS TO FORM:

_____
City Attorney of the City of Hayward