

TO: CITY MANAGER March 03, 1999

FROM: DIRECTOR PLANNING AND BUILDING OUR FILE: 17.812

**SUBJECT: PROPOSED CHANGES TO GAMING POLICY AND
ADMINISTRATION IN BRITISH COLUMBIA**

PURPOSE: To advise Council of the major implications for municipalities of the Province's recent White Paper on Gaming and the proposed Gaming Control Act, and to recommend comments to be forwarded to the Province.

RECOMMENDATIONS:

1. **THAT** Council forward to the Province comments on the proposed changes to the legislative and regulatory framework for gaming in British Columbia as outlined below:
 - a. **THAT** Council express concern over the lack of genuine consultation on the proposed Gaming Control Act with both municipal governments and the general public, and request the Province to extend the timeline for Stage Two consultations;
 - b. **THAT** Council convey to the Province the importance of genuine and meaningful consultation with stakeholders and the general public before future policy and gaming expansion decisions are taken, and request that requirements for such consultation be included in the Gaming Control Act;
 - c. **THAT** Council convey to the Province the need to respect the land use, business licensing and other authority of municipalities with respect to both pre-existing and future gaming facilities, (including jurisdiction over the types of gaming to be carried on within), and request that requirements for local approval for any location, operational or other types of changes to pre-existing and future gaming facilities be included in the Gaming Control Act;
 - d. **THAT** Council convey to the Province the need for additional information and discussion on the social and economic impacts of gaming before further expansion is considered, and request that requirements for social and economic impact assessments be included in the Gaming Control Act;

- e. THAT Council urge the Province to give serious consideration to the comments forwarded by the UBCM regarding the White Paper and proposed Gaming Control Act.
2. THAT copies of Council's submission to the Province be forwarded to the Union of British Columbia Municipalities (UBCM), Burnaby's four Members of the Legislative Assembly, and the Medical Health Officer for Simon Fraser Health Region.

REPORT

1. INTRODUCTION

On 1999 February 2, the Province released its *Report On Gaming Legislation and Regulation in British Columbia* (Gaming Report). The document consists of a draft Gaming Control Act and a White Paper on Gaming. The document contains thirty-nine recommendations which, if adopted, would form the basis for gaming policy and administration in the province. Written comments from stakeholders and the general public on the recommended changes to the gaming framework were invited, provided they were received by the Province on or before 1999 March 15.

At its meeting of 1999 February 8, Council requested a staff report on the major implications for municipalities of the changes outlined in the White Paper and draft Gaming Control Act. This report responds to that request.

2. BACKGROUND

As Council is aware, in 1997 March, the Provincial government announced a new gaming policy intended to expand the charitable gaming industry and to facilitate both the introduction of slot machines and the establishment of for-profit destination gaming facilities. To give effect to this policy, the Province initiated a Request for Proposals (RFP) in 1997 August for new gaming facilities.

In 1998 April, the Province announced an interim gaming framework to govern gaming in British Columbia while a review/consultation process was carried out. The review process was intended to culminate in the introduction of a gaming act in 1999. The interim framework was rendered necessary by a successful court challenge, by a non-profit gaming organization, of the method implemented by the Province in 1997 for collecting and distributing charitable gaming revenue. The interim framework separated casino and bingo gaming, which would henceforth be conducted under different sections of the Criminal Code of Canada. The conduct and management of casino gaming was transferred to the British Columbia Lottery Corporation (and its contractors) to be conducted as government, rather

than charitable, gaming. Charities were to continue to be licensed to conduct and manage charitable bingo events. Charity revenues were to be derived from charitable bingo activities and a charitable trust funded by slot machine and government casino table game revenues. Charities were guaranteed revenues of \$125 million in 1998/99 from these two sources. The RFP process begun in 1997 August continued under the interim framework, and has resulted in approval in principle for ten new gaming establishments in the province.

The consultation and review process initiated in 1998 has consisted of two stages:

- **Stage One:** consultation with key stakeholders, public officials and other interested parties during the summer and autumn of 1998. The UBCM, as one of the key stakeholders, forwarded a submission on behalf of municipalities. This first stage of the process has culminated in the development of the White Paper and the draft Gaming Control Act.
- **Stage Two:** the current opportunity for the general public and interested parties to comment on the White Paper and draft act.

3. HIGHLIGHTS OF PROVINCIAL GAMING REPORT

3.1 Introduction of Provincial Gaming Act

The White Paper recommends the introduction of the Gaming Control Act to ensure a stable legal foundation for gaming in the province, to resolve jurisdictional issues and to clarify regulatory responsibilities. The introduction of a gaming act was recommended by Provincial gaming reviews in 1987, 1992, and 1994, and was promised when the interim framework was established in spring 1998. The need for a gaming act has also been stressed by the UBCM for a number of years, and was reflected in its submission to Stage One of the review process in 1998 autumn.

3.2 Provincial Paramouncy Over Gaming

The Province is proposing that the Provincial minister responsible for gaming have clear authority over the scope and scale of gaming. This recommendation is counter to UBCM and local government requests that the right of local governments to determine the extent and type of gaming in their communities be recognized in the gaming act. This issue will be discussed in greater detail in Section 4 of this report.

3.3 Continued Separation of Casino and Bingo Gaming

The Province is proposing that the separation of casino and bingo gaming introduced under the interim framework continue. A renamed B.C. Lottery and Casino Corporation (BCLCC) would assume responsibility for casino table gaming, slot machines, and lotteries. Charities would conduct and manage bingo activities,

including paper and technology-assisted bingo, ticket raffles, and social occasion casinos, subject to licensing by the B.C. Gaming Commission. The Commission would retain responsibility for reviewing, approving and monitoring applications by charities for access to gaming venues and revenues.

Facilities formerly known as "charitable casinos" would be renamed "community casinos". In future, aside from the ancillary land uses, such as hotels and golf courses, generally associated with and the availability of alcohol on the premises of destination casino facilities, there would be little visible distinction between community and destination casinos. The two types of casinos would be allowed the same types and numbers of table games and slot machines.

3.4 Guaranteed Charitable Revenues

The Province is proposing that charities be guaranteed gaming revenues of \$125 million initially. At maturity of the industry and thereafter, the charitable revenue guarantee would equal an amount equal to one-third of the Province's net revenue from casino gaming. The guaranteed charity revenue would derive from charitable bingo activities and a share of government gaming revenues from both community and destination casinos. The inclusion of revenues from destination casinos in the fund from which charities would draw their guarantee would be a change from the revenue distribution models announced in 1997 and 1998, in which charities derived no financial benefit from the operation of destination casinos. The recommendation regarding charitable revenue guarantees would seem to respond to the UBCM's request in its Stage One submission that provision be made in the gaming act for a formula to determine the annual allocation of revenue to charities, and that the formula reflect the increase in government gaming revenue.

3.5 Host Local Governments to Receive Casino Revenues

The Province is proposing that municipalities in which community casinos are located be eligible to receive 10% of net revenues from those individual casino operations within their boundaries. The funds are intended to assist local governments to mitigate the increased municipal costs generated by gaming establishments (policing, traffic and parking management, bylaw enforcement), and to benefit the local community generally. The Province estimates that the City of Burnaby would receive \$2.8 million in the first year of full operations at Burnaby's two casinos as a result of this decision. The Province estimates that Burnaby's revenues would increase to \$3.3 million within 5 years.

For those municipalities which have signaled approval of the facilities within their boundaries, the revenue would flow automatically. This provision would apply to Burnaby. However, those local governments which oppose gaming and gaming expansion would have to indicate, by prescribed resolution, that they wish to receive

the 10% revenue share. Funds not requested by qualifying local governments would be earmarked for other local governments and distributed annually by the Minister Responsible for Gaming.

This recommendation would appear to respond to the UBCM's Stage One request that all local host governments of gaming facilities receive a share of gaming revenue, and not only those governments hosting destination facilities. Under the proposed plan, however, host governments of destination facilities would receive a larger proportion of revenues than hosts of community facilities (16.7% vs. 10%). The Province rationalizes this difference by noting that a destination casino complex - simply because of the size implications generated by the ancillary uses - has the potential to generate a greater impact on local infrastructure and traffic patterns.

3.6 Funding for Gambling Addiction Treatment and Prevention

The draft Gaming Control Act provides for minimum annual funding of \$2 million for gaming-related education and gaming addiction treatment programs. Currently, the program includes a 24 hour toll-free gambling help line for immediate personal help, brochures and posters, and counselors located at more than twenty offices throughout the province. Additional annual funding would be contingent on recommendations from the Ministry for Children and Families, the ministry responsible for program delivery. Those recommendations would be based on annual reports from Adult Addiction Services on the incidence of problem gambling and the services provided, and on recommendations from an advisory committee. The UBCM's Stage One submission recommended funding for gambling addiction programs, but requested that such funding be tied to increases in government gaming revenues.

3.7 Stronger Enforcement of Gaming Laws and Regulations

The draft Gaming Control Act outlines a strengthened role for the Gaming Audit and Investigation Office (GAIO) in enforcing provincial gaming laws and regulations. The draft act also provides for minimum annual funding of \$1.5 million for a special police and prosecutorial unit related to gaming. While the latter would be intended primarily to deal with gaming-related offences under the Criminal Code of Canada, there would be some areas of mutual interest between it and GAIO.

3.8 Introduction of Minimum Legal Gambling Age

The Province is proposing that the minimum legal age for gaming be established at 19 years, except for some bingo events.

4. MAJOR IMPLICATIONS FOR MUNICIPAL GOVERNMENTS

Given the complexity of the issue, there could be numerous implications for municipal governments if the recommendations of the White Paper were adopted and the proposed Gaming Control Act were introduced. Given the very tight timeline for the Stage Two consultation, this staff report highlights only the main concerns and implications of the proposed changes for British Columbia municipalities.

4.1 Short Timeline for Stage Two Consultation

The Province's six week timeline for responding to the proposals in the White Paper and the draft Gaming Control Act is inadequate. The Gaming Report is both complex and voluminous, a factor which could preclude much of the general public and many municipalities from responding in a comprehensive and thoughtful manner. The UBCM has formally requested that the timeline for Stage Two consultations be extended, given the rather limited consultation during Stage One and the controversial nature of the gaming issue. At this point, the Province has not responded to that request.

4.2 Provincial Paramourtey Over Gaming Decisions and Expansion

The White Paper recommends that "the minister responsible for gaming should have clear authority under the Act to approve gaming expansion and types of gaming". Details in the proposed Act reflect that intent. Such authority raises a number of concerns for municipal governments, including those outlined below.

4.2.1 Lack of Requirement for Ongoing Public Consultation Regarding Gaming

In its Stage One submission, the UBCM recommended that the proposed Gaming Act include the requirement for a broad ongoing consultation process - including both the general public and the UBCM - as an essential component of gaming policy development.

There is no indication in either the White Paper or the draft Gaming Control Act that ongoing consultation with either stakeholders or the general public on gaming policy and gaming expansion will be required.

4.2.2 Lack of Host Municipal Jurisdiction Over Gaming Facilities

The UBCM's Stage One submission recommended that the right of local governments to determine the extent and type of gaming in their communities be recognized in the Gaming Control Act.

The draft act stipulates that local government approval would be required for the establishment of future gaming facilities, as was the case in the RFP process. However, there is no provision for municipal jurisdiction over betting limits or types of games to be conducted within either pre-existing or future facilities. Pre-existing and future gaming facilities are accompanied by a "gaming package", which includes Provincially-decided betting limits, and types and maximum numbers of games. While the Province has the authority to over-ride municipal bylaws related to zoning, hours of operation, parking, noise and other issues, there is no specific authority in the draft act for it to do so for other than pre-existing facilities. That authority would be activated, according to the draft act, only if the minister were to notify the municipality in writing that the minister considers a municipal enactment to impede either the BCLCC or a registered gaming services provider in the exercise of their rights. The Gateway Casino at 4331 Dominion Street in Burnaby is explicitly defined in the draft act as a "pre-existing" facility. The community casino and charitable bingo hall approved for Burnaby under the RFP process are not classed as pre-existing facilities.

With regard to the relocation of facilities, it is staff's understanding that relocation across municipal boundaries of either a pre-existing or future facility would require the approval of the new host government. For proposed relocations of pre-existing facilities within the same jurisdiction, the past practice of consulting with host governments is expected to continue. However, as in the past, the Province reserves the right to approve such relocations. This situation would apply to the Gateway Casino on Dominion Street. For proposed relocations of non-pre-existing facilities within the same jurisdiction the Minister Responsible for Gaming has not been provided with specific authority to approve a relocation without local government consent. This situation would apply to the community casino and charitable bingo hall approved in the RFP process.

The draft act provides for Provincial consultation with materially-affected municipalities, regional districts or First Nations on the development of a casino facility in a nearby jurisdiction. As in the RFP process, such input would not be binding on the Province, although approval would not likely be given unless the proponent demonstrated that the concerns had been addressed.

The chart below details the authority for decision-making over various aspects of gaming operations in pre-existing, non-pre-existing and future facilities.

| Authority over Gaming | Pre-Existing Facilities eg. Gateway | Non Pre-Existing Facilities eg. Halifax, Middlegate | Future Facilities |
|--|--|--|-------------------|
| Expansion: types of games, bet limits | Province | Province | Province |
| Zoning, hours of operation, parking, noise | Municipality subject to Provincial over ride | Municipality | Municipality |
| Relocation from other jurisdiction | Municipality | Municipality | Municipality |
| Relocation within same jurisdiction | Province based on consultation with Municipality | Municipality | Municipality |

4.2.3 Lack of Requirement for Social/Economic Impact Assessments Before Expansion

The UBCM Stage One submission recommended that economic and social impact assessment studies be conducted both prior to the introduction of new or expanded gaming venues, and on a regular and ongoing basis. As noted in previous gaming reports to Council, much has been written about the addictive nature of video lottery terminals, a slot machine variant, and about the personal and community social and economic consequences of gambling addiction. Concerns have also been expressed by critics about lack of real economic growth deriving from gaming facilities, as local cash is simply diverted away from existing local businesses. There is no indication in the draft act that social or economic impact assessment studies, other than the annual reports on the incidence of problem gambling noted above, will be required at any time.

4.3 Police Resources to Address Gaming Impacts at Local Level

The Burnaby RCMP supports proposals for a strengthened role for GAIO and the establishment of a special police unit to enforce Provincial gaming laws and regulations, and gaming-related offences under the Criminal Code. In their opinion, GAIO should be empowered to the maximum extent possible. With additional authority and resources at the Provincial level, fewer demands would be made on local police resources for gaming-related law enforcement. Local RCMP would cooperate in investigations but much of the time-consuming background work would be carried out by GAIO and the special unit. New Provincial resources for gaming-related prosecutions could improve the efficiency and effectiveness of those prosecutions, and also free up local Crown Counsel resources for other important matters of local interest.

However, the additional law enforcement resources at the Provincial level would not, in the opinion of the RCMP, address the policing side effects of local gaming operations. Because of the large crowds attracted to gaming establishments, local RCMP resources would be expended in responding to thefts (from and of vehicles), robbery with violence, traffic problems and other public disorder or nuisance activities. As well, some of the social consequences of gambling addiction, such as family violence and fraud, would cause a draw on local police resources. All of these circumstances would represent new pressure on local RCMP resources, as Burnaby has not been host to a gaming establishment for several years. A charitable bingo hall is now operating at Middlegate Shopping Centre, the Gateway Casino on Dominion Street is expected to begin operating in 1999 March, and a second community casino has been approved by the Province for Burnaby. Unless considerable new resources are targeted to the Burnaby RCMP, their ability to deal with the peripheral crimes and nuisances noted above will be constrained.

5. OTHER CONCERNS TO BE RAISED BY THE UBCM

The UBCM is preparing a submission to Stage Two of the review and consultation process. In addition to the concerns outlined above, the UBCM submission will also comment on the following issues of concern to municipal governments:

5.1 Funding for Gambling Addiction Programs

There are concerns that the proposed funding for gambling addiction programs will be inadequate, particularly for youths, among whom gambling addiction is reported to be growing at a rapid rate. As noted above, the UBCM recommended ongoing funding be tied to increases in Provincial gaming revenue. The draft act, however, targets a minimum of \$2 million annually to such programs, with decisions about increased funding to be contingent on reports from the Ministry for Children and Families.

5.2 Process for Forwarding Revenue to Local Governments

UBCM is concerned about the lack of clarity as to the process and criteria for distributing "unsolicited" local government funds to other local governments. It is also concerned about the rigidity of the process for municipalities which oppose gaming expansion to solicit the earmarked funds.

5.3 Creation of Charitable Associations

UBCM is concerned about the possible negative implications of the White Paper recommendation to replace bingo associations with charitable associations subject to the Income Tax Act. It is unclear whether charities which do not meet the stipulations of the Income Tax Act would still be eligible to be licensed to receive

gaming revenues. Obviously, organizations which no longer have access to gaming revenues would either have to seek replacement funding elsewhere - perhaps from local governments - or cut back on their programming.

5.4 Limited Accountability of New British Columbia Lottery and Casino Corporation

UBCM is concerned that there appear to be no checks or requirements for accountability on the new BCLCC, which will oversee all government gaming in the province, except for an annual report to the minister or the Legislature. More stringent reporting requirements have been placed on the Gaming Commission, which will oversee charitable bingo activities.

5.5 Illegal VLTs

UBCM is concerned about the lack of emphasis in the Gaming Report on a solution to the problem of illegal VLTs. UBCM notes that while VLTs were purported to be the main problem, the focus seems to have shifted to Internet gaming and lottery ticket resales.

5.6 First Nations Gaming

UBCM is concerned about the continued lack of clarity regarding First Nations gaming, noting that the Gaming Report contains no discussion on the issue.


6. CONCLUSIONS AND RECOMMENDATIONS

The Province recently released a White Paper on Gaming and a draft Gaming Control Act for comment by the general public. The recommendations set out in the White Paper and the draft act will, if adopted, form the basis for gambling policy and administration in the province. However, the timeline for submitting comments is very short. The proposed changes raise a number of serious concerns for municipalities including:

- Provincial paramountcy over gaming decisions and expansion, including a lack of requirement for public consultation on future gaming policy decisions, a possible erosion of municipal jurisdiction over casinos already existing within their boundaries, as well as absence of municipal jurisdiction over types of gaming to be conducted in casinos, and a lack of requirement for social and economic impact assessments before gaming expansion is undertaken
- impact of expanded gaming on police resources at the local level.

Staff recommend that Council forward the following comments to the Province regarding the proposed changes to the gaming framework in British Columbia:

- a. THAT Council express concern over the lack of genuine consultation on the proposed Gaming Control Act with both municipal governments and the general public, and request the Province to extend the timeline for Stage Two consultations;
- b. THAT Council convey to the Province the importance of genuine and meaningful consultation with stakeholders and the general public before future policy and gaming expansion decisions are taken, and request that requirements for such consultation be included in the Gaming Control Act;
- c. THAT Council convey to the Province the need to respect the land use, business licensing and other authority of municipalities with respect to both pre-existing and future gaming facilities, (including jurisdiction over the types of gaming to be carried on within), and request that requirements for local approval for any locational, operational or other types of changes to pre-existing and future gaming facilities be included in the Gaming Control Act;
- d. THAT Council convey to the Province the need for additional information and discussion on the social and economic impacts of gaming before further expansion is considered, and request that requirements for social and economic impact assessments be included in the Gaming Control Act.
- e. THAT Council urge the Province to consider the comments forwarded by the UBCM regarding the White Paper and proposed Gaming Control Act,


D.G. Stenson, Director
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cc: Deputy City Manager, Corporate Relations
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