

TO: CITY MANAGER September 6, 2000
FROM: DIRECTOR PLANNING AND BUILDING OUR FILE: 17.812
SUBJECT: **PROPOSED PROVINCIAL GAMING CONTROL ACT - BILL 30**

PURPOSE: To advise Council on the major implications for municipalities of the proposed Gaming Control Act, and to recommend comments to be forwarded to the Provincial Gaming Policy Secretariat and the Union of British Columbia Municipalities.

RECOMMENDATIONS:

1. THAT Council forward the following comments on Bill 30 - Gaming Control Act to the Provincial Gaming Policy Secretariat before 2000 September 15:

a) **Re: Clarity of Decision-Making Processes Around Changes To or Location of Gaming Facilities**

Bill 30 poses a number of uncertainties for local government regarding the location of and changes to existing gaming facilities. It is requested that changes be made to:

- ensure that local governments will continue to have the ability to direct and define the extent, scope and type of casino and bingo gaming permitted within their boundaries, including whether slot machines or other similar devices can be placed within their boundaries, in the same manner currently set out in the MOA with the UBCM, and without threat of Ministerial override.
- enable a local government to approve, or otherwise decline, **any** proposed change to the operation of a gaming facility within its boundaries or, alternatively, provide a broad definition of “substantial change” which includes, but need not be limited to, changes to betting limits, numbers of games/machines, hours of operation, capacity of a facility, and types of games (including the introduction of new table games such as craps, of electronic bingo in particular facilities, or of slot machines or similar devices)
- provide a definition of “adequate consultation” at the local level for the location of or changes to the operation of gaming facilities which allows a local government to choose the method of consultation it deems most appropriate for its community
- provide local government with access to an independent appeal process regarding decisions made by the Gaming Control Authority
- clarify the details of the dispute resolution process between adjacent municipalities regarding location of and changes to existing facilities.

b) Re: Clarity in the Distribution of Gaming Proceeds

Bill 30 does not provide clarity regarding gaming proceeds to be shared with host local governments. It is requested that changes be made to:

- ensure that local governments which are current or future hosts to community casinos will be guaranteed in the long-term at least the same level of gaming revenue from those casinos as is stipulated by existing provincial/municipal agreements

c) Re: Omissions, Oversight or Conflicts

Bill 30 contains several possible oversight or omissions. It is requested that changes be made to:

- include parameters for gaming in the Province, and/or a requirement for wide-spread public consultation on gaming policy and expansion issues
- require the Gaming Control Authority to conduct social and economic impact assessments on larger policy issues such as the potential introduction of VLTs into the Province, or the introduction of slot machines into convenience stores
- ensure that an acceptable annual level of funding for gambling addiction treatment and prevention is available, and will increase with the need for services or increasing government revenues
- establish a minimum gambling age.

2. THAT a copy of this report be forwarded to the Union of British Columbia Municipalities before 2000 September 13.
3. THAT a copy of this report be forwarded to the Community Issues & Social Planning Committee and the Community Policing Committee for their information.
4. THAT a copy of this report be forwarded to Burnaby's four members of the Legislative Assembly and the Medical Health Officer for the Simon Fraser Health Region.

R E P O R T

1.0 INTRODUCTION

On 2000 July 4, Bill 30, the Gaming Control Act, was introduced in the British Columbia Legislature. The intent of the act is to stabilize the gaming industry and gaming policy

"AMENDED"

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c) Re: Omissions, Oversights or Conflicts

Bill 30 contains several possible oversights or omissions. It is requested that changes be made to:

- include parameters for gaming in the Province, and/or a requirement for wide-spread public consultation on gaming policy and expansion issues
- require the Province to conduct social and economic impact assessments on larger policy issues such as the potential introduction of VLTs into the Province, or the introduction of slot machines into convenience stores
- ensure that an acceptable annual level of funding for gambling addiction treatment and prevention is available, and will increase with the need for services or increasing government revenues
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R E P O R T

1.0 INTRODUCTION

On 2000 July 4, Bill 30, the Gaming Control Act, was introduced in the British Columbia Legislature. The intent of the act is to stabilize the gaming industry and gaming policy



environment in the province, and to ensure that the administration of gaming is open and fair. In introducing the Bill, the Minister Responsible for Gaming indicated that it would not be debated in the Legislature before interested parties and the general public had had an opportunity to comment, and a deadline of 2000, September 15 was set for submissions.

At its meeting of 2000 August 28, Council considered a memorandum from the Union of British Columbia Municipalities (UBCM) requesting comments on Bill 30 for inclusion with the UBCM submission to the Province. The comments must be received by the UBCM by 2000, September 13. The UBCM memo included a list of questions which the Province would like respondents to consider in their feedback. Council requested a staff report on the major implications for municipalities of the proposed Act, and on the questions posed by the Province. Those questions include:

- Are the roles and responsibilities of each of the [gaming] agencies clearly defined and set out?
- Are responsibilities and decision-making processes around changes to, or the location of, gaming facilities clear?
- Are the roles of gaming service providers and gaming workers clear? Are the conditions imposed on them clear?
- Are there any apparent inconsistencies in the Act in the roles or responsibilities of agencies, gaming service providers or gaming workers?
- Is the use of gaming proceeds clearly laid out?
- Are there any apparent omissions, oversights or conflicts in the Act?

This report responds to Council's request.

2.0 CONTEXT FOR GAMING LEGISLATION

As Council is aware, the gaming policy environment in British Columbia has been in flux for a number of years. A variety of policy statements and changes to the gaming environment aimed at expanding gaming culminated with the release in February 1999 of a White Paper on Gaming and a draft Gaming Control Act, and the launch of a public consultation process on them. The UBCM participated in the consultation process on the White Paper and the draft Act, as did the City of Burnaby and a number of other municipalities with a particular interest in gaming issues. Burnaby's main concerns, as well as those identified by the UBCM, are discussed below in the context of Bill 30. As a result of feedback received during the 1999 consultation process, the Province announced an end to gaming expansion in 1999 June. At the same time, given the absence of a gaming act and the need to stabilize the gaming policy environment, the Province signed a Memorandum of Agreement on Gaming (MOA) with the UBCM. Through the MOA, municipalities achieved many of the objectives they had been pursuing in relation to the control of gaming. In particular, the MOA:

- affirmed the jurisdiction of local governments, specifically with respect to their land-use and bylaw-making powers

- affirmed the ability of local governments to make decisions as to whether new facilities or relocated facilities would be permitted within their boundaries
- affirmed the ability of local governments to direct and define the extent, scope and type of casino and bingo gaming permitted within their boundaries, including whether slot machines or other similar devices could be placed within their boundaries
- confirmed the sharing of gaming revenue with local governments which are host to gaming facilities.

3.0 PROPOSED GAMING CONTROL ACT - BILL 30

3.1 Highlights

The proposed Gaming Control Act contains some new elements which were not contemplated in the 1999 draft Act, including:

- the establishment of the B.C. Gaming Control Authority, an independent body with the mandate to oversee all major gaming decisions and to protect the public interest and the integrity of gaming in the province
- the accountability of all three gaming agencies - the renamed B.C. Lottery and Casino Corporation (BCLCC), the renamed B.C. Charitable Gaming Commission (BCCGC), and the B.C. Racing Commission (BCRC) - to the Gaming Control Authority.

The proposed Act also reiterates many of the elements outlined in the 1999 draft Act including:

- the continued separation of casino and bingo gaming, with the B.C. Lottery and Casino Corporation assuming responsibility for casino table gaming, slot machines, electronic bingo and lotteries, and the B.C. Charitable Gaming Commission assuming responsibility for paper bingo.
- gaming revenue sharing with local governments with gaming facilities within their boundaries
- guaranteed minimum annual revenues of \$125 million to charitable organizations
- stronger enforcement of gaming laws and regulations through an enhanced role for the Gaming Audit and Investigation Office
- provincial funding for gambling addiction treatment and prevention.

3.2 How Bill 30 Addresses Burnaby's 1999 Concerns

3.2.1 Lack of Host Municipal Jurisdiction Over Gaming Facilities

Burnaby's main concern with the 1999 draft Act was the explicit provincial paramountcy over gaming decisions and expansion, especially in facilities defined as "pre-existing", of which the Gateway Casino on Dominion Street was deemed to be

one. Bill 30 does not differentiate between “pre-existing” and future facilities, and prohibits the Gaming Control Authority from authorizing a new development location, a relocation, or a “substantial change” in operation of a gaming facility without the approval of the relevant local government. The Authority must also be satisfied that consultation has taken place with adjacent local governments, first nations or others that may be materially affected, and that “adequate” community input within its own jurisdiction has been sought and considered by the host local government.

Although it would seem that Bill 30 responds to municipal concerns about respect for their authority and that the intent of the proposed Act is to respect the principles of the MOA, a number of points require clarification.

First, it is not entirely clear from the wording in the proposed Act whether local governments will continue to have the ability to direct and define the extent, scope and type of casino and bingo gaming permitted within their boundaries, including whether slot machines or other similar devices could be placed within their boundaries, in the same manner currently set out in the MOA. The wording appears to allow the Minister Responsible for Gaming to override decisions of the Gaming Control Authority and local governments, in that the Authority must comply with Ministerial directives on matters of general policy, including the extent, scope and type of gaming in the province. Also, the definition of “gaming facility” as a horse race track, a casino gaming facility, or a permanent bingo facility (as opposed to venues such as church halls where social bingos are conducted on an occasional basis), creates a level of uncertainty for local governments as to whether gaming can be expanded through lottery outlets at convenience stores.

Second, assuming that the right of local governments to approve - without Ministerial interference - new developments, relocations and “substantial changes” to the operation of gaming facilities within their boundaries is confirmed, the lack of clarity in Bill 30 as to what constitutes “substantial change” is cause for concern. “Substantial change” is likely to be defined very differently by the Authority and by different local governments, depending on their view of gaming. The simplest way to overcome concerns is to reword the proposed Act to allow local governments control over any proposed changes in operation in gaming facilities within their boundaries. Alternatively, a broad definition of “substantial change”, which includes, but need not be limited to, changes to betting limits, numbers of games/machines, hours of operation, capacity of a facility, and types of games (including the introduction of new table games such as craps, of electronic bingo in particular facilities, or of slot machines or similar devices), should be included in the proposed Act.

Third, Bill 30 does not define “adequate” public consultation. Thus, it is unclear whether the Authority would expect a local government to hold a referendum or undertake surveys as is the requirement with neighbourhood pub applications, or whether the standard process employed in rezoning public hearings would suffice. While a number of methods for gauging public sentiment are available, a local government should be free, within the requirements of the Local Government Act, to determine what method it believes is most appropriate in its community.

3.2.2 Lack of Requirement for Broad Public Consultation on Gaming Policy Changes and Gaming Expansion

Another concern expressed by Burnaby with the 1999 draft Act was the lack of requirement for the Province to engage in broad and ongoing public consultation on gaming policy, regulation and expansion. Through the June 1999 MOA, the Province undertook to consult in a meaningful way with local government in the development of gaming policy changes that may affect local governments, and regarding the form and content of gaming legislation. To its credit, in January 2000 the Province invited the UBCM to serve on a Minister’s Advisory Committee for the Regulation of Gaming, and meaningful consultation on gaming legislation has taken place. However, the proposed Act does not appear to require ongoing consultation with anyone other than municipalities which host gaming facilities. A case can be made that decisions such as whether VLTs should be introduced into British Columbia or whether slot machines should be placed in convenience stores and other locations where lottery tickets are sold are broader issues on which widespread discussion should take place. The Act should include either a requirement for such consultation, or a vision statement outlining the broad parameters for gaming in the Province. At a minimum, local government should seek assurances that the UBCM is welcome to continue serving on an active and empowered Gaming Regulation Advisory Committee.

3.2.3 Lack of Requirement for Social and Economic Impact Assessments on Gaming Expansion

Burnaby’s third concern with the 1999 draft Act was the lack of requirement for social and economic impact assessment studies prior to changes in gaming policies or facilities. The proposed Act does require the Gaming Control Authority, in making decisions about locations, relocations or changes to facilities, to consider:

- the views of the three gaming agencies (BCLCC, BCCGC, BCRC)
- the views of gaming service providers operating other facilities in the relevant communities
- the views of charitable or religious organizations in the relevant communities

- the views of administrators of problem gambling programs or services in affected communities
- any objection filed as part of a dispute resolution process between local governments.

By considering the views of the various interests, the Authority should be able to adequately evaluate the social and economic impacts of specific applications. However, the Authority is not required - although it is empowered - to make enquiries and carry out research into any matter that affects the integrity of gaming. Thus, decisions with important social and economic ramifications could be made without appropriate prior assessment.

3.3 Burnaby RCMP Reaction to Bill 30

The Burnaby RCMP supports a strengthened role for the Gaming Audit and Investigation Office. In their opinion, GAIO should be empowered to the maximum extent possible. With additional authority and resources at the Provincial level, fewer demands will be made on local police resources for gaming-related law enforcement. Local RCMP will co-operate in investigations but much of the time-consuming background work will be carried out by GAIO.

However, the additional law enforcement resources at the Provincial level will not, in the opinion of the RCMP, address the policing side effects of local gaming operations. Because of the crowds attracted to gaming establishments, local RCMP resources can 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, can cause a draw on local police resources. Unless new resources are targeted to the Burnaby RCMP, their ability to deal with the peripheral crimes and nuisances noted above will be constrained.

3.4 How Bill 30 Addresses the UBCM's 1999 Concerns

3.4.1 Gaming Revenue Sharing with Host Local Governments

As Council is aware, the 1999 White Paper proposed that municipalities in which community casinos are located would be eligible to receive 10% of net revenues from the casinos within their boundaries. While lauding the agreement to share revenues, the UBCM objected to a number of stringent requirements for accessing that revenue. The June 1999 MOA reaffirmed the Province's willingness to share gaming revenue, and did so in the absence of the previously proposed requirements. The Province then entered into revenue sharing agreements with host local governments, including the City of Burnaby.

Bill 30 confirms the commitment made under the MOA to share revenues with those local governments which have entered into agreements with the Province and who are not in default of those agreements. However, given that the proposed Act does not stipulate the sharing percentages - which will be prescribed by the Lieutenant Governor in Council - confirmation is required that the arrangements under the proposed Act will respect existing agreements in the long-term. As well, the proposed Act appears to preclude the sharing of revenue with adjacent communities which could be affected by a gaming facility on or close to their borders. This latter issue is being raised by a number of local governments, and will be taken up by the UBCM.

3.4.2 Allocation of Revenues to Charitable Organizations

Bill 30 confirms the existing minimum annual charitable guarantee of \$125 million, indexed annually at the rate of the Consumer Price Index for Vancouver. The proposed Act also appears to ensure a fair and open process, governed by the B.C. Charitable Gaming Commission, for allocating gaming revenues to charities.

3.4.3 Funding for Gambling Addiction Treatment and Prevention

The 1999 draft Act provided for minimum annual funding of \$2 million for gaming-related education and gambling addiction treatment programs. While Bill 30 provides for the funding of prevention and treatment of gaming addiction, the amount dedicated to the programs will be determined by the Province. There is no provision in the proposed Act for a minimum annual expenditure on addiction treatment and prevention, or for that expenditure to increase as need dictates or as government gaming revenues increase.

3.5 Other Concerns with Bill 30

3.5.1 Ability to Appeal Decisions of the Gaming Control Authority

The UBCM has previously recommended that an independent appeal process regarding gaming decisions should be available to local governments. The proposed Act requires the Authority to consider objections to locations, relocations and substantial changes which are registered by adjacent local governments. However, Bill 30 does not appear to provide for an appeal process on an Authority decision - once a decision is made by the Authority, it would appear to be final.

3.5.2 Minimum Gambling Age

The 1999 White Paper proposed that the minimum legal age for gaming be established at 19 years, except for some bingo events. Bill 30 does not appear to establish a minimum gambling age. It does, however, make provision for prohibiting or restricting the presence of minors at a gaming facility or gaming event, as set out by Provincial directives. It may be that different age limits will be established through regulations for different types of gaming activities. This issue requires clarification with the Province.

3.5.3 Dispute Resolution Process

As noted above, in providing an approval for a location, relocation or change to a gaming facility, the Authority must be satisfied that consultation with adjacent jurisdictions has taken place. A non-binding dispute resolution process is noted in the proposed Act, but the lack of detail raises many questions. The details of the process must be clarified with the Province.

3.5.4 General Wording Clarification

There are three sections in Bill 30 where staff have found incomplete or unclear wording. Staff will identify these sections directly to the Gaming Policy Secretariat.

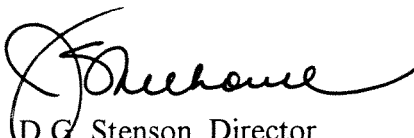
4.0 SUMMARY AND RECOMMENDATIONS

Following a number of years policy changes and announcements, commissioned reports, and public consultation, the Provincial government tabled Bill 30 - the Gaming Control Act - in 2000 July. The Province is inviting feedback on the draft Act until 2000 September 15, and the UBCM is soliciting feedback from member municipalities by 2000 September 13 to guide its submission to the Province.

The introduction of Bill 30 is a positive step in that legislation will help to develop a more stable and certain gaming policy environment for British Columbia. The proposed Act contains many of the positive changes proposed in the draft Act of 1999 including revenue sharing with host local governments, guaranteed revenues to charitable organizations, funding for gambling addiction treatment and prevention, and an enhanced role for the Gaming Audit and Investigation Office. It also contains positive new elements such as the establishment of an independent Gaming Control Authority to protect the integrity of gaming in the Province, and the accountability of all three gaming agencies - the B.C. Lottery and Casino Corporation, the B.C. Charitable Gaming Commission, and the B.C. Racing Commission to

that Authority. However, staff believe that several issues require clarification or reworking in the proposed Act. The issues and concerns discussed in this report can be summarized by responding to three of the questions which were posed by the Province and which were outlined in Section 1 of this report. The recommendations at the beginning of this report reflect the responses to those questions.

It is recommended that Council forward the comments on Bill 30 outlined at the beginning of this report to the Provincial Gaming Policy Secretariat before 2000 September 15.


D.G. Stenson, Director
PLANNING & BUILDING

JS/sa



cc: Deputy City Manager, Corporate Relations
Director Engineering
Director Finance
Director Parks, Recreation and Cultural Services
OIC- Burnaby RCMP