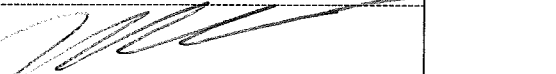


Hamilton

INFORMATION REPORT

TO: Mayor and Members General Issues Committee	WARD(S) AFFECTED: CITY WIDE
COMMITTEE DATE: September 6, 2012	
SUBJECT/REPORT NO: Casino Approval Process, Bill 76 being an Act to Amend the Ontario Lottery and Gaming Corporation Act of 1999 (LS12023) (City Wide)	
SUBMITTED BY: R. Sabo Acting City Solicitor City Manager's Office, Legal Services Division	PREPARED BY: Ron Sabo x4520
SIGNATURE: 	

Council Direction: Council at its meeting of August 16, 2012 referred correspondence Item 5.10 on its agenda and directed a report from Legal Services Division to the next General Issues Committee on the correspondence sent by a Member of Provincial Parliament and seeking endorsement of their Private Members Bill (Bill 76).

Information: Council received correspondence with a First Reading version of Bill 76, which seeks the amend the Ontario Lottery and Gaming Corporation Act, 1999, S. O. 1999 c. 12 Schedule L (the "Act"). As of the date of writing this report (August 23, 2012) the Bill was carried on Second Reading and is currently being considered by the Standing Committee on Finance and Economic Affairs. The proposed title of the Bill will be "Ensuring Local Voices in New Casino Gambling Development Act, 2012", and referred to below as the "Bill". The correspondence included a draft resolution endorsing the Bill. The Explanatory Note describes the Bill's effect as:

"The Bill amends the Ontario Lottery and Gaming Corporation Act, 1999 to adopt by reference the rule set out in the current regulations made under the Act that a casino or charity casino cannot be established in a municipality or on a First Nation reserve unless the electors in the municipality or the members of the council, as the case may be, approve the establishment by way of a referendum."

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The Bill proposes returning to a process under a revoked regulation, which contains conditions to be met before Ontario Lottery and Gaming Corporation (the Corporation) can approve a new casino in a municipality. The conditions imposed under the Bill include a referendum of municipal electors in favour of the casino and Council approvals. For a municipality, the stages and approvals required under the Bill are:

- (1) the referendum is held as part of a municipal election and in accordance with the Municipal Elections Act, 1996,
- (2) a majority of the electors who vote on the question are in favour of the casino,
- (3) Council votes within 60 days of the referendum in support of the casino, and
- (4) also within 60 days or such longer period as the Corporation permits, Council agrees with the Corporation on the revenue sharing plan for the casino.

(Section 5 of Ontario Regulation 347/00 effective Jan. 1, 2003 to May 13, 2012).

All four requirements above must be satisfied, including *both* the electors in the referendum and Council in a resolution must give their approval.

The current regulation contains a simpler process which prohibits the Corporation from approving a gaming site (including a casino) unless (1) Council has sought public input and (2) Council passes a resolution supporting the establishment of the gaming site. (Clause 3 of subsection 2(2) of Ontario Regulation 81/12).

There are a number of conditions to be met for a new casino other than the municipal approvals described above, including an obligation that the Corporation develop a suitable business case.

Committee may wish to consider the following points before deciding whether or not to endorse the Bill;

- (1) The content of the Bill is likely to be changed: The 1st reading version of the Bill contains a number of drafting issues. The content issues are both clerical and substantive and which include failing to address content of the current Act and regulations. The major substantive issue is the use of definitions which potentially fail to make a distinction where slot machines are involved. The definition issue is material to Hamilton's situation because the current gaming site at Flamborough

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Downs is likely a “slot machine facility” under the Bill’s definition, and so generally would not be addressed in the Bill. The definition issue makes it difficult to determine what qualifies as a “casino”. Any proposal by the Ontario Lottery and Gaming Corporation which involves changing Flamboro Downs into a casino would be affected by the content on the Bill. Some or all of the Bill’s drafting issues are likely to be addressed if the Bill progresses further through the process of becoming law, but that means the content of the Bill will be changed potentially after Council’s endorsement.

- (2) The City of Hamilton is not a gaming “Greenfield” as it already has a gaming site at Flamboro Downs, but also has a gaming zone extending outside City boundaries. The Bill adds powers to refuse a new casino within the municipal boundaries but not for the preservation of existing gaming sites. Council recently approved a resolution (see “Historical Background” below) which seeks to preserve Flamboro Downs and request the province assist with its gaming viability. The Bill does not address the elimination of a gaming site or “Slot Machine Facility” such as Flamboro Downs or its related horse racing lottery scheme, only the approval of a new casino. As above, the Bill would impact on the establishment of a new casino at the site of Flamboro Downs, by requiring additional conditions including a referendum with timing that could substantially delay the process. The Bill does not speak to the current approach to the province’s identification of gaming zones, which in Hamilton’s case go beyond the municipal borders. These issues with the Bill as written would only give the City of Hamilton and its citizens power in respect to opposing new casino’s within City borders. The local gaming zone boundaries would allow a casino to be located in the vicinity of Hamilton and in place of Flamboro Downs so that Hamilton could be without both. A casino located nearby but not in Hamilton would have gaming impacts but not necessarily provide the same revenue or employment consequences for Hamilton and with the elimination of Flamboro Downs would have other impacts on horse racing and related industry. Again these concerns may be areas where the Bill will be amended, however the current version of the Bill does not fully address Council’s stated interests, Hamilton’s gaming situation, or add a power for municipal council to control the location of casino’s which may impact the City.

Historical Background: Council Approval on April 11, 2012 of the following Motion:

“7.2 Confirmation of Hamilton City Council’s Support for Flamboro Downs Slot & Race Track

WHEREAS Hamilton has an existing casino/slots and horse track facility located in Flamborough for 30 years;

AND WHEREAS the operator of this facility, Great Canadian Gaming Corporation, as an important business partner has committed and invested \$80 million into the facility and local economy in support of the slots and race track;

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AND WHEREAS Flamboro Downs facility contributes significantly to the \$1.5 billion local agri-business economy in Hamilton, is an important Hamilton Tourism partner, employs many Flamborough/Hamilton residents, provides financial viability to local horse breeders, equipment and feed suppliers, veterinarians and farmers who's very existence is dependant on the race facility, as well as contributing to the spill over economy generated by Flamboro Downs;

AND WHEREAS the city of Hamilton has benefited by approximately \$4 million annually in tax revenues, as well as tax revenues generated by affiliated area businesses;

THEREFORE BE IT RESOLVED:

- (a) That Hamilton City Council confirms its support of Flamboro Downs Slots and Race Track, Great Canadian Gaming Corporation, the Ontario Horse Race Industry Association (OHRIA) and other affiliated associations, as well as the local area farms and businesses; and,
- (b) That, notwithstanding discussions about any other gambling facilities in Hamilton, the existing Flamboro Downs facility remains Council's number one priority; and,
- (c) That Hamilton City Council request the Government of Ontario to continue to work with the slots and horse race combined facilities (Ontario Slots and Racetracks Program) identified as viable, to continue a joint business venture, to look at new formulas to keep operations such as Flamboro Downs Slots and Race Track sustainable to the benefit of our community.
- (d) That this resolution be circulated to the Legislative Assembly of Ontario, the Association of Municipalities of Ontario (AMO), the Ontario Horse Race Industry Association "