



To: General Purposes Committee

Date: January 29, 2004

From: Terry Crowe  
Manager, Policy Planning

File:

Re: **MEETING PROVINCIAL REQUIREMENTS  
PROPOSED RELOCATION OF THE GREAT CANADIAN CASINO**

**Staff Recommendation**

That, as per the Manager, Policy Planning report, dated January 29, 2004:

- (1) the relocation of the Great Canadian Casino from its present location to 8811 River Road, Richmond and the addition of slot machines, be approved, and
- (2) the British Columbia Lottery Corporation (BCLC) and affected Parties be advised of Council's approval, and
- (3) the BCLC be requested to approve the relocation of a casino and the addition of slot machines in Richmond.

Terry Crowe  
Manager, Policy Planning

Att. 2

FOR ORIGINATING DIVISION USE ONLY		
<b>ROUTED TO:</b>	<b>CONCURRENCE</b>	<b>CONCURRENCE OF GENERAL MANAGER</b>
Law .....	Y <input checked="" type="checkbox"/> N <input type="checkbox"/>	

## **Staff Report**

### **Purpose**

The purpose of this report is to indicate the City's progress and results in meeting the BC Gaming Control Act and Gaming Control Regulation requirements to relocate a casino from its present location, to 8811 River Road, Richmond, and to add slot machines.

This reporting includes the required consultation with the public, and adjacent municipalities and the Musqueam First Nations.

### **Origin**

The Great Canadian Casino proposes to relocate a casino, from its present location to 8811 River Road, and to add slot machines.

### **Findings Of Fact**

#### **Legislation Context**

The BC Gaming Control Act and Regulations enable the British Columbia Lottery Corporation (BCLC) to approve the proposed casino relocation and the addition of slot machines.

Prior to the BCLC making a decision, the municipality in which the proposed casino is to be relocated must give its approval to any substantial change of a gaming facility. In this case, the substantial changes would include the relocation of a casino and the addition of slot machines.

Under the provincial Gaming Control Act and Regulation, prior to deciding whether or not to approve the proposed casino changes, Council must:

- seek community input, and
- consult with adjacent municipalities and First Nations regarding whether or not they consider that the change "materially affects" them.

Generally, "materially affected" refer to matters relating new infrastructure, new policing costs, increased traffic, adverse impact on amenities and the character of neighbourhoods, as defined in the BC Gaming Regulations Part 3, Section 11.

#### **Summary Of Consultation Processes**

The required consultation processes are summarized below:

- Public Consultation regarding the City's Gaming Policy
  - On May 29 and June 3, 2002, the Richmond City Council approved a change in its gaming policy to allow a casino and to allow slot machines in Richmond. This policy change was approved after open public consultation.
  - The Council policy on gaming was amended at a public Council meeting on June 9, 2002, for which public notice was given.
- Rezoning Process To Relocate the Existing Casino
 

The Great Canadian Casino started the process to relocate its Casino to 8811 River Road, and to add slot machines some time ago. They applied for a rezoning of the site as far back as

February 11, 1998. One of the published potential uses for the property was the relocated casino.

Before the required public hearing regarding the proposed casino relocation, Council:

- gave written notice to adjacent property owners within 50 metres, and
- publicly advertised the notice, as required under the Local Government Act.

The public hearing was held on March 17, 2003 and generated much interest. On May 12, 2003 the Richmond City Council approved a zoning bylaw amendment to relocate a casino from its current location to 8811 River Road, and to add slot machines.

- Consultation With Adjacent Municipalities and First Nations Regarding The Proposed Casino,

On May 29, 2003, the Province advised the City of the requirement to consult with adjacent municipalities (Vancouver, Burnaby, New Westminster, Delta), and the Musqueam First Nations.

Council approved a consultation program on July 14, 2003 (see **Attachment 1**).

City staff consider that the City has completed all required consultation processes.

### **Analysis**

The BC Gaming Control Act and Regulation define what is required for community, and adjacent municipality and First Nations consultation.

#### Development Approvals Regarding the Casino Relocation and The Addition Of Slot Machines

- Rezoning  
There is a requirement for public notice and one or more public meetings. The Zoning and Development Bylaw amendment required public notice and resulted in a public hearing. Council considered the community representations made at the hearing and decided that the rezoning bylaw should be adopted.
- Development Permit  
There were additional notices given as the issuance of Development Permits relating to the Casino was considered and approved.

#### Consultation Regarding “Materially Affected” With adjacent Municipalities and First Nations

The relevant adjacent municipalities and First Nations all were given notice of the proposed casino relocation.

All adjacent municipalities replied that they considered themselves not to be “materially affected” (see **Attachment 2**).

The Musqueam First Nation was also given notice, and the First Nation’s lawyer to the Mayor setting out five areas in which the Musqueam First Nations they felt they would be “materially affected” by the proposed casino relocation in Richmond.

City staff have the following comments regarding the issues raised by the Musqueam:

*Issue 1. infringing Musqueam aboriginal rights and titles over the land comprising the Bridgeport Site.*

Comment

The City's action in approving the relocation of the Casino and the addition of slot machines does not infringe on aboriginal rights. Any disposition of the lands is a provincial and federal issue, however it is noted that the Casino operators are taking over an existing lease and the land has not been further alienated by the Casino. Further, presumably the land could still be transferred to the Band, but would be subject to the lease.

*Issue 2. prejudicing the Musqueam in their ongoing treaty negotiations, by reducing the amount of land in the Musqueam Traditional Territory available for the settlement of the Musqueam Comprehensive Land Claim.*

Comment

The comments under 1 apply to this point as well.

*Issue 3. prejudicing the Musqueam in their ongoing treaty negotiations with regard to gaming and authority over gaming.*

Comment

The City has no authority over gaming as this is completely under the jurisdiction of the senior governments. The City's decision on whether or not allow the casino relocation is really a land use issue, not a gaming issue.

*Issue 4. adversely affecting Musqueam financial interests in gaming and gaming related business ventures.*

Comment

The current City policy only allows one casino in Richmond; however, a City policy can be changed if Council wishes. The Musqueam, if circumstances warrant, can apply to the City Council to change the policy. In any event, if the band is given the right to have a casino in Richmond, the Province has the power to overrule any City policy that would impact on the casino.

*Issue 5. adversely affecting Musqueam interests in community development directly or indirectly related to gaming.*

Comment

The City is entitled to a percentage of the revenue from the casino as the host city. This percentage is set by the provincial government. The City is currently receiving revenue from the Casino at its current location; this situation does not change as a result of the relocation.

### Summary

Notwithstanding the issues raised by the Musqueam, the City should inform the BC Lottery Corporation that, based on the feedback, it does not consider that the adjoining municipalities and the Musqueam First Nation are “materially affected” as defined by the Gaming Control Act and Regulation. This rationale is based on the City’s view that the Musqueam’s concerns are not within the authority of the City.

### Next Steps

If Council agrees that it has met all provincial gaming casino relocation requirements including proper consultation with the public and, adjacent municipalities and the Musqueam First Nation, the next steps are to:

- approve of the casino relocation and the addition of slot machines,
- in the form prescribed by provincial legislation:
  - advise the BCLC, the Province and affected Parties of Council’s approval, and
  - request the BCLC to approve of casino relocation and the addition of slot machines.

Regarding the “materially affected” consultation with the adjacent municipalities and the Musqueam First Nation, the provincial legislation provides them with an appeal process to the BCLC, if they wish to object.

### Financial Impact

Not applicable

### Conclusion

The City has completed the provincial requirements to relocate a proposed casino and to add slot machines in Richmond including the required public, and adjacent municipality and First Nation consultation processes.

Council should:

- (1) inform the BCLC and the General Manager of the Gaming Policy and Enforcement Branch of the BC Ministry of Public Safety and Solicitor General that it:
  - (a) has completed the required public, and adjoining municipalities and First Nations consultations, and
  - (b) approves of the relocation of the Great Canadian Casino and the addition of slot machines,
- (2) request the approval of the casino relocating and the addition of slot machines.



Terry Crowe  
Manager, Policy Planning (4139)

TTC:pk

## ATTACHMENT 1

## Consultation Program

The Consultation Program was:

- prepared in consultation with the BCLC, and
- approved by the Richmond City Council on July 15, 2003.

<b>Consultation Program with Affected Parties Regarding The Proposed Richmond Casino Relocation</b>	
<b>Approximate Dates (These dates are general and may change based on interpretation by the BCLC)</b>	<b>Activity</b>
<b>July</b>	
<b>by July 31</b>	<ul style="list-style-type: none"> <li>• Richmond advises Affected Parties of the proposed casino relocation (description and City 2002- 2003 casino policy changes and the 2003 rezoning approval to date ).</li> <li>• Richmond sends to the Affected Parties:               <ul style="list-style-type: none"> <li>- a letter requesting:                   <ul style="list-style-type: none"> <li>- their opinions regarding whether or not they think that they will be materially affected by the proposed casino relocation</li> <li>- that they send their response to Richmond.</li> </ul> </li> <li>- relevant information (e.g., the Richmond policy approvals for the proposed casino relocation, the public hearing package).</li> </ul> </li> </ul>
<b>August</b>	
<b>by August 30</b>	<ul style="list-style-type: none"> <li>• Affected Parties directly advise Richmond whether or not they consider that they will be materially affected by the proposed casino relocation.</li> </ul>
<b>September</b>	
<b>by September 30</b>	<ul style="list-style-type: none"> <li>• <b><u>A - If No Concern</u></b></li> <li>• If the Affected Parties indicate that they are not materially affected, Richmond completes a Provincial form advising:               <ul style="list-style-type: none"> <li>- the Gaming Policy &amp; Enforcement Branch, Ministry of Public Safety and the Solicitor General (the enforcement agency), and</li> <li>- BCLC</li> <li>- with copies to the Affected Parties.</li> </ul> </li> <li>• The Affected Parties have 10 days appeal to the BCLC.</li> <li>• <b><u>B - If There Is A Concern</u></b></li> <li>• If the Affected Parties indicate that they consider themselves to be materially affected, Richmond will meet with the Affected Parties (e.g., staff), to attempt to address their concerns.</li> <li>• <b><u>B 1 - If their concerns are addressed</u></b></li> <li>• Richmond completes the proper form and advises:               <ul style="list-style-type: none"> <li>- the Gaming Policy &amp; Enforcement Branch, Ministry of Public Safety and the Solicitor General (the enforcement agency), and</li> <li>- BCLC</li> <li>- with copies to the Affected Parties.</li> </ul> </li> <li>• The Affected Parties have 10 days appeal to the BCLC.</li> <li>• <b><u>B2 - If their concerns are not addressed</u></b></li> <li>• Richmond completes the proper form and advises:               <ul style="list-style-type: none"> <li>- the Gaming Policy &amp; Enforcement Branch, Ministry of Public Safety and the Solicitor General (the enforcement agency), and</li> <li>- BCLC</li> <li>- with copies to the Affected Parties.</li> </ul> </li> <li>• The Affected Parties have 10 days appeal to the BCLC.</li> </ul>
<b>October</b>	

<b>Consultation Program with Affected Parties Regarding The Proposed Richmond Casino Relocation</b>	
<b>Approximate Dates (These dates are general and may change based on interpretation by the BCLC)</b>	<b>Activity</b>
	<ul style="list-style-type: none"> <li>The Affected Parties have 10 days from the date of receiving Richmond's letter (see above) to file a written objection with BCLC setting out how they will be materially affected.</li> </ul>
<b>by October 31</b>	<ul style="list-style-type: none"> <li>BCLC reviews the information and within 30 days after the BCLC receives the objection, it may, if the objection is valid, require Richmond to participate in a form of non-binding dispute resolution with the objecting Affected Party.</li> <li>BCLC notifies the Affected Parties of the need for dispute resolution.</li> <li>BCLC establishes a non binding arbitration process, time, place etc.</li> </ul>
<b>November</b>	
<b>by November 30</b>	<ul style="list-style-type: none"> <li>The non-binding arbitration process occurs.</li> <li>The dispute resolution process must be held in less than 60 days from the date on which BCLC notified the Affected Parties of the need for dispute resolution.</li> </ul>
	<ul style="list-style-type: none"> <li>The Arbitrator reports the results of the arbitration process to BCLC, within 60 days of BCLC initially requiring Richmond to participate in the dispute resolution process.</li> </ul>
<b>December</b>	
<b>by December 31</b>	<ul style="list-style-type: none"> <li>BCLC must consider the dispute resolution information</li> <li>BCLC makes a final decision within 30 days of receiving the Arbitrator's dispute resolution report</li> </ul>

Prepared by:  
Policy Planning  
City of Richmond

## ATTACHMENT 2

**Summary of The Consultation Process  
Between the City of Richmond, Adjacent Municipalities and the Musqueam First nation**

**Purpose**

To summarize the consultation process to December 2003.

<b>Affected Party</b>	<b>City Request Sent... (Asks for a reply by August 31, 2003)</b>	<b>Replies</b>	<b>Answer</b>
Delta	July 21, 2003	August 11, 2003	No Objection
New Westminster	July 21, 2003	August 26, 2003	No Objection
Burnaby	July 21, 2003	August 27, 2003	No Objection
Vancouver	July 21, 2003	September 11, 2003	No Objection
Musqueam First Nation (MB)	July 21, 2003		
August 1, 2003	MB requests City to meet on August 18, 2003 to: <ul style="list-style-type: none"> <li>- discuss the proposed relocation of Great Canadian Casino to Bridgepoint, and</li> <li>- apprise City of the Band's concerns.</li> <li>- This is to be an information meeting.</li> </ul>		
August 14, 2004	<ul style="list-style-type: none"> <li>- City learns that it sent its request and information to the wrong MB address by mistake</li> <li>- request and information resent</li> </ul>		
August 15, 2003	<ul style="list-style-type: none"> <li>- MB receives City's request and information</li> </ul>		
August 18, 2003	<ul style="list-style-type: none"> <li>- MB and City staff meet to discuss, generally, the situation and background information</li> </ul>		
August 27, 2003	<ul style="list-style-type: none"> <li>- MB notifies City that its response will not be until September 30, 2003</li> </ul>		
September 30, 2003	<ul style="list-style-type: none"> <li>- MB letter questions meaning of "materially Affected"</li> <li>- requests City intent of phrase</li> </ul>		
October 3, 2003	<ul style="list-style-type: none"> <li>- MB letter to many</li> <li>- asserts right to Bridgepoint</li> </ul>		
October 9, 2003	<ul style="list-style-type: none"> <li>- City request a meeting date</li> </ul>		
October 30, 2003	<ul style="list-style-type: none"> <li>- MB letter to Richmond</li> <li>- wants to clarify meaning of "materially affected" before any meeting</li> </ul>		
October 30, 2003	<ul style="list-style-type: none"> <li>- MB letter to many</li> <li>- asserts aboriginal rights and title to Bridgepoint properties</li> <li>- request that many contact MB to make arrangement to commence consultations</li> </ul>		
November 6, 2003	City proposes to the MB, the following possible meeting dates: <ol style="list-style-type: none"> <li>1. Friday Nov 14 - 4-5:30 pm</li> </ol>		



Affected Party	City Request Sent... (Asks for a reply by August 31, 2003)	Replies	Answer
	2. Wednesday Nov 19 - 10am-noon 3. Wednesday Nov 19 - 3:30 - 5:00 pm 4. Friday Nov 21 - 2 - 4pm		
November 10, 2003	- MB Council to review City's suggested dates and to pick one		
November 14, 2004	MD advises that it will be meeting with their legal team on Nov. 21/03, with a view towards confirming meeting dates thereafter.		
November 21, 2003	- MB to suggest possible meeting dates		
November 25, 2003	- MB contacts City to arrange a meeting date - meeting scheduled for Dec 4, 2003		
December 4, 2003	- MB – City staff meeting		MB raise objections

Prepared by:  
 Policy Planning  
 City of Richmond