

APPENDIX K

TO: UBCM Members
FROM: UBCM Executive
DATE: September 16, 1996
RE: **LOCAL GOVERNMENT AND GAMING POLICY**

ITEM #6(c)
September 19, 1996
B.C. COMMUNITIES AGENDA

1. DECISION REQUEST

This report provides an overview of gaming policy in BC and proposes recommendations to address local government concerns with respect to consultation and gaming expansion.

2. INTRODUCTION

For the past three years, UBCM members have continued to consider and endorse resolutions requesting a role for local government in gaming policy. This year is no exception. In response to the two resolutions received this year, C12 and C13, the UBCM Executive decided to prepare this policy paper to provide local governments with an opportunity to confirm their policy position on gaming and respond to new concerns with respect to gaming expansion.

The first section of the paper provides a comparison of BC's gaming activities to other Canadian provinces. Key gaming agencies in BC are outlined in section two with specific reference to local government consultation processes where applicable. In the third section the importance of local government consultation is highlighted and recommendations have been put forward in the final section to address local government concerns.

3. OVERVIEW OF GAMING POLICY

BC DIFFERENT AS GAMING EXPANDS ACROSS CANADA

In this period of financial restraint and growing deficits, expansion of gaming activities has been viewed by most Canadian provinces as an attractive way to generate much needed revenues. All provinces, but British Columbia, have legislated the widespread introduction of VLTs (video lottery terminals - a variation of slot machines) in pubs and bars, charity and First Nation Casinos, racetracks and, in some provinces, in corner stores. Revenue to the provinces in 1995 from all forms of gaming ranges from over \$1.5 billion in Ontario to approximately \$270 million in British Columbia.¹

Since 1993 eleven new Las Vegas style casinos have opened including Canada's first Riverboat casino serving overflow crowds at the Windsor Casino. Saskatchewan and Ontario opened one new "government" casino and one First Nations casino each, Manitoba and Nova Scotia have two new casino sites each and three new casinos have opened in Quebec. Plans for more Canadian casinos have been announced including three more First Nations casinos in Saskatchewan, four First Nations casinos in Alberta, and a second Ontario "government" operation in Niagara Falls. Alberta will add slot machines to its charitable casinos and Ontario will introduce an unspecified number of charitable casinos with VLTs and is increasing the number of First Nations casinos without slot machines.

THE BC EXPERIENCE

¹ Ontario Lottery Corporation, Memorandum, September 12, 1996

British Columbia has adopted a more cautious and moderate approach to gambling. Two successive governments have prohibited charitable gaming expansion since 1987 when a moratorium was imposed. In October 1994, the government announced plans for moderate gaming expansion in their policy paper *Report of the Gaming Policy Review*. The electronic bingo program is still under development and no date has been announced for its introduction. The announced VLT program was canceled when a large number of communities voiced their opposition including the endorsement of resolutions and bylaws by local governments prohibiting the electronic gaming devices in their communities. The first stage of the casino expansion program began with a call for gaming management companies application of eligibility of registration in January 1996. In October 1996, the second stage will begin with calls for proposals for new locations for charitable and First Nations casinos. The application process for the expansion of bingo locations began in September 1996.

The three key gaming agencies in BC; the BC Gaming Commission, the BC Racing Commission and the BC Lottery Corporation, all report to the Minister of Finance. A new agency, the Gaming Audit and Investigation Office (GAIO) has been established and reports to the Attorney General. This agency is responsible for background investigations of all persons and companies involved in the gaming industry, the audit of gaming proceeds from charitable and First Nations gaming and will respond to requests for investigation and audit from the BC Lottery Corporation, the Attorney General and the Minister responsible for gaming.

Over the past few years, BC local governments have established clear policy positions with respect to gaming. In 1993 UBCM members endorsed resolution A22 which called upon the provincial government to consult and cooperate with local government in the development of a new gaming policy; to recognize local government authority over land use development within its boundaries and to cover any financial costs to local government associated with any change in gaming policy. Similar policy stances were adopted through a Special Resolution in 1994 and again last year with the endorsement of resolution B5. Key issues for local government have been identified as follows:

- municipal participation in the evaluation of community impacts prior to any gaming expansion;
- municipal endorsement must be received prior to locating any new gaming facilities;
- revenue generated from any new gaming activity, including First Nations, must be shared with the local governments for mitigating measures; and
- any new proposals for gaming must specifically address the potential effects on charitable gaming.

These key points were conveyed to the provincial government during its gaming policy review in October 1994 and reiterated in discussions throughout 1995 with Gaming Policy staff, who had been charged with the responsibility of developing a comprehensive gaming policy for BC. One of the key areas of discussion between UBCM and Gaming Policy staff, was on the issue of introduction of VLTs. UBCM continued to press provincial staff to ensure that local government approval must be received prior to the introduction of VLTs in any community. An agreement was never concluded since the program did not proceed.

At the same time, local governments began to individually express their disapproval of VLTs through council resolutions. In response to this mounting pressure, the Minister responsible for gaming stated in May 1995 that the VLT program the government had announced earlier would not be introduced anywhere in British Columbia. Shortly thereafter the Minister indicated that there would be no major changes to gaming policy in BC and directed the BC Gaming Commission to ensure its decisions and policies reflected this 'moderate' approach with the provincial government "rejecting Vegas-style casinos and video lottery terminals."² This 'moderate' expansion of gaming activities would include; expansion in types of games, increase in bet limits at existing charitable casinos (to compete with establishments south of the border) introduction of electronic bingo and increases in the number of charitable casinos with specific consideration given to First Nations gaming.

The Gaming Policy Branch, which conducted the review of gaming and prepared the Report, was to oversee implementation of the Report's policy decisions. The Branch was dissolved before a coordinated provincial policy on gaming had been established or the implementation process was completed. The planned

² Provincial Government News Release "Government Directs Commission to Ensure Gaming Remains Moderate." June 28, 1995

comprehensive Gaming Act was not introduced. While individual decisions were made about the types of gaming expansion, no policy was established to guide the overall development of gaming in BC. Agencies such as the BC Gaming Commission, BC Lotteries Corporation and the BC Racing Commission continue to operate in the absence of any provincial gaming policy to govern their collective activities.

The Gaming Policy Branch has recently been reestablished with a new mandate that includes informing the Minister of Finance, responsible for gaming, of all gaming issues and assessing the overall impact of gaming policy decisions of the individual agencies; BC Gaming Commission, BC Racing Commission and the BC Lottery Corporation. A planned gaming policy coordinating committee, with representation from the three gaming agencies, is not yet functional. As each of these agencies continues to expand their present menu of gaming activities, local governments become unclear about:

- which agency is responsible for what games;
- how much is still considered ‘moderate’;
- who to go to when concerns arise in the community about new gaming initiatives or locations; and
- what consultative process is available to local governments in determining what level and types of gaming activity will be permitted in their community.

4. ROLE OF LOCAL GOVERNMENT IN BC GAMING POLICY

This section will provide an overview of the roles and responsibilities of each of the gaming agencies and the present level of consultations between the agencies and local government.

BC RACING COMMISSION

The BC Racing Commission governed by the Horse Racing Tax Act, is responsible for governing, controlling and regulating horse racing. The regulation of wagering and the number of races allocated is determined by the federal Department of Agriculture. The federal government and the province receive a tax based on the amount wagered. The Commission also approves Teletheatre viewing and wagering locations throughout the province. A portion of revenue from the Teletheatre program is allocated to the horse racing industry for enhancement and improvements. Its purpose is to promote, through regulation, a high standard of harness and thoroughbred racing and to maintain the confidence of the betting public in the industry. BC was one of the last provinces in Canada to authorize off-track betting. In 1994 televised simulcasting (teletheatre) was introduced at Cloverdale Raceway, Hastings Park and Sandown and allows pari-mutuel bettors to view and wager on live races around the world. In addition, the Racing Commission has approved 21 Teletheatre outlets in hotels and “sports bars” in communities throughout the province. The televised broadcasts will include live horse races from BC race tracks as well as international races.

The Racing Commission has legal jurisdiction for approval of Teletheatre and racetrack locations. A policy has been instituted for applications for new locations. A letter is sent to the affected local government requesting their assurance that the application meets all zoning and other bylaw requirements. In cases where a local government identifies additional concerns the Commission will meet with the council. The Commission has on one occasion exercised its power and overruled a local government, deeming the council's objections to be “unreasonable”.

BC LOTTERY CORPORATION

The BC Lottery Corporation derives its legal authority as an agent of the Crown by the Lottery Corporation Act, 1985. It has legislative authority to develop, undertake, organize, conduct and manage lottery schemes on behalf of the provincial government. Where authorized by the Minister, the Corporation can supply any person (or business) with computer software, tickets or any other technology, equipment, or supplies related to the conduct of lotteries.

The corporation markets Breakopen (pulltabs) tickets sold at adult only locations and bingo halls as well as manages the contract and security controls for the bingo paper used in charitable bingo halls. The Starship Electronic Bingo program in Vancouver intended initially as a pilot project has continued for the past seven

years as British Columbia's only electronic bingo facility. The original equipment was designed and built by the Corporation as a prototype for future expansion of electronic bingo. Over 2500 lottery terminals are leased by the Corporation to retail outlets throughout BC for the sale of Lotto 649 type lottery tickets and Club Keno. This is controlled by an "on-line" computer hook-up to the head office in Kamloops. The Lottery Corporation has no policy for consultation with local government.

Each lottery outlet offers a variety of games and presently there is no statute specifying what age individuals must be to purchase lottery tickets. However, the Corporation has established its own policy with its retail outlet operators that they are not to sell tickets to individuals under the age of 16. Signage is posted at each outlet outlining the rules and regulations governing the BC Lottery Corporation operations. If any complaints are made to the Corporation about retailers selling to individuals in violation of this policy, follow up action is taken by territory managers with the owner of the retail outlet.

The issue of age was most recently raised as a concern by UBCM members with the introduction of Club Keno in November 1995. Club Keno, unlike other lotteries such as 649, is actually played at the retail site. Players make their number selections and in five minutes a tote board at the outlet will display a set of winning numbers. Concerns have been raised about the age of the players and the amount of time that these individuals spend at the outlet playing the game. Approximately twenty UBCM members have written letters requesting that the legal age for any gaming activity be set at 19 in keeping with the age for other adult-oriented activities such as drinking and smoking. (See Appendix A for referred resolutions.)

BC GAMING COMMISSION

The BC Gaming Commission established in 1987, is an administrative agency "arms-length" from government. The Commission is responsible for policy, regulation, licensing (Terms and Conditions of Licensing), enforcement and registration of gaming management companies and personnel. Gaming activity regulated by the Commission includes charitable casinos, bingos, ticket raffles, First Nations gaming and gaming at fairs and exhibitions.

There are currently 17 charitable casinos (table games only) located in Kamloops, Kelowna, Nanaimo, Prince George, Quesnel, Greater Vancouver, Vernon and Victoria. Many communities throughout the province have one or more of the 47 bingo halls in operation.

The Commission has an established consultation process with local governments. Policies governing the Commission's activities require that an application for a relocation or a new gaming location must meet all legal municipal zoning bylaws. The intent of the policy is to solicit comments on the community impact of the gaming facility such as nearby schools, churches, etc. The BC Gaming Commission has to date never approved a gaming location when local government has stated their objections.

When the application comes before the Commission and passes Stage 1 of the process, a letter is sent to the Mayor and Council requesting their comments on the proposed location. The application does not proceed until a response has been received. Each municipality acts on this request in different ways. In some cases, the letter is dealt with at the staff level; in other communities, the letter is dealt with at a formal council meeting.

The Criminal Code delegates powers for licensing and regulating gaming to the provinces. All provinces except British Columbia have gaming legislation that defines the province's legal jurisdiction over gaming activities, subject to the provisions of the Criminal Code. The BC Gaming Commission's legal authority to license and regulate charitable gaming and gaming at fairs and exhibitions exists through a Lieutenant Governor Order-in-Council.

Recently the Gaming Commission announced that there would be some expansion in the number of charitable casinos in B.C. In the Commission's *Casino Management Company Prequalification Process Information and Application Process*, the province has been divided into six zones: Southern Interior, GVRD, CRD, Vancouver Island, North and Fraser Valley. The report states, "It is the view of the B.C. Gaming Commission that one or more additional casinos may be supported within any of these catchment areas." The Commission has indicated

that any new site applications received will follow the existing process that is now in place. The policy for approval of gaming facilities in First Nations reserve lands varies in some instances as outlined in the following section.

FIRST NATIONS GAMING

As indicated in the provincial government's June 1995 announcement, the BC Gaming Commission was directed to consider proposals for First Nations gaming as part of the moderate expansion. At present, First Nations organizations share in a limited amount of funds from charitable casinos. To facilitate economic development, the Gaming Commission has encouraged bands to apply for the establishment of a casino on reserve lands and operated according to charitable casino regulations. As part of this proposal a new revenue sharing formula has been adopted for First Nations casinos. The new formula on a sliding scale, increases the revenue share to bands who do not have a casino, as the host band's annual casino revenue increases. The Commission's policy for First Nations' applications for casino locations differs in its requirement for consultation with local government. First Nations are required to demonstrate that the adjacent local government has been informed of their gaming proposal. There is no requirement to submit local government concerns with the application. The Commission will not directly notify local governments of First Nations gaming applications.

5. WHY LOCAL GOVERNMENTS NEED TO BE CONSULTED

As the order of government closest to its citizens, local government is best able to determine the needs of its residents. Consequently it follows that any action that will affect a community should be brought to the local government's attention to provide local officials with an opportunity to comment. There are numerous examples presently in place that acknowledge the importance of community input. Local governments are consulted regularly by the provincial government on the locations of bars and pubs, adult video stores as well as applications for removal of lands within the Agricultural Land Reserve. With respect to gaming, it was noted earlier in this paper that consultation takes place with some agencies and not others and variations exist in the degree of consultation. The absence of a comprehensive gaming policy and a formalized consultation process with local government remains an issue that must be addressed.

Experience in other jurisdictions has shown that consultation with local government on gaming issues is necessary to ensure that the impacts on the community are identified and addressed appropriately at the outset. For instance, prior to the establishment of the casino in Windsor the city was provided with an extra one million dollars to compensate for the additional 25 police officers that were hired. In this case, the provincial government, at the outset, acknowledged that building a casino would require increased law enforcement and responded accordingly. Similarly, expansions in other jurisdictions have also revealed the need to ensure that local governments are adequately compensated as a result of gaming expansion.

In December 1995 the Alberta government responded to the recommendations of the *New Directions for Lotteries and Gaming Report* released earlier. Among the government's decisions were the following:

- \$125 million of the 1995/96 lottery revenue is to be returned to the communities;
- one umbrella foundation and community lottery boards are to be established by 1997/98 to distribute lottery funding at a local level;
- a Community Facilities Enhancement Program will return a total of \$75 million to municipalities and local organizations; and
- the government will honour the vote of communities who decide by plebiscite to prohibit VLTs in their community.

In April 1994 the Manitoba government announced that 10% of video lottery terminal revenues will be granted unconditionally to both rural communities and the City of Winnipeg. A further \$10 million was allocated for economic development initiatives in the City of Winnipeg. The Manitoba government has stated they are considering allowing communities to prohibit VLTs through plebiscites. The Saskatchewan government has also designated 10% of VLT revenue for communities.

These examples indicate a growing recognition on the part of provincial governments on the need for local compensation. BC's provincial counterparts have acknowledged the fact that gaming activities do have an impact, social and economical on the community and through consultations, action can be taken to ensure that these impacts are carefully considered and compensated for appropriately. Obviously the nature and the degree of community impacts will vary depending on the type of gaming activity proposed but at the outset the following key issues need to be considered:

- possible reduction in charitable gaming due to the increase in the number of other gaming opportunities available;
- suitability of the proposed location to the community plan; and
- social impacts, such as problem gambling.

Through improved and newly established consultations under a comprehensive gaming policy, local governments can convey the wishes of their residents to the relevant gaming agency. Because each community is different, local government must have an opportunity to determine what is right for its citizens.

6. RECOMMENDATIONS

1. That local governments reiterate their support for the policy recommendations endorsed at the 1993, 1994 and 1995 UBCM Conventions. (See Appendix B)
2. That UBCM request that the provincial government develop a comprehensive gaming policy and Gaming Act, including the establishment of a legal age for all gaming activities, that will guide and coordinate every gaming agency and their activities in the province.
3. That included in this new policy and legislation there be:
 - a section defining the consultation processes between local governments and each of the following agencies; BC Gaming Commission, BC Lotteries Corporation and BC Racing Commission, to ensure that community impacts are considered before decisions are made to introduce new games and new or expanded gaming facilities including First Nations Gaming;
 - a revenue sharing program be established to address the social and economic costs to local governments as a result of gaming expansion; and
 - a comprehensive program implemented to assist problem gamblers as proposed by the provincial government in their October 1994 *Review*.
4. That the BC Lottery Corporation be advised that, in keeping with previous UBCM resolutions, firstly, the expansion into Club Keno gaming should have included municipal participation in the evaluation of the community impacts; and, secondly, that the Corporation should now take action to comply with the resolutions by establishing a process where, on request, local government can require the endorsement of specific locations; and if not endorsed, the expanded gaming at inappropriate sites meet local conditions.

C12 Gambling In British Columbia

**Metchosin
North Vancouver City**

WHEREAS the Province of British Columbia disbanded its Gaming Policy Department, thereby precluding the Union of BC Municipalities from any avenue of consultation regarding the gaming implementation process;

AND WHEREAS electronic gaming is being introduced without consultation with the local communities:

THEREFORE BE IT RESOLVED that the provincial government be petitioned to:

1. raise the access age for all gambling products to 19 years - the same as for alcohol and tobacco;
2. remove Club Keno, an adult casino game, from our shopping centers, convenience stores, and other public places; and
3. prior to any further expansion on gaming activity, to implement consultations between the UBCM membership and all gaming agencies, in order to determine the social impact on our societies.

C13 Provincial Gaming Policy - Local Involvement

Prince George

WHEREAS the province has jurisdiction over all regulation, licensing and control of gaming;

AND WHEREAS there is still no formal legislation or regulation which explicitly states that local governments will be consulted on gaming types or locations;

AND WHEREAS the province has not engaged the UBCM in any meaningful consultation regarding changes to gaming types or locations, save and except through the BC Gaming Commission:

THEREFORE BE IT RESOLVED that the Union of BC Municipalities request the provincial government to forthwith engage in consultation with the UBCM regarding local government involvement in any gaming expansions or changes including, but not limited to, those brought about via the BC Lottery Corporation, BC Gaming Commission, BC Racing Commission, and any proposal for First Nations lands;

AND BE IT FURTHER RESOLVED that the UBCM reiterate its support for the Special Resolution on Gaming approved at the 1994 UBCM Convention.

1995

B5 GAMING POLICY

Port Coquitlam

WHEREAS the Province is proceeding with the implementation of the Gaming Policy without regard to the 1994 UBCM resolution requesting greater municipal input and control over gaming in our communities;

AND WHEREAS numerous municipalities have taken various steps in the past year to prohibit gaming or prevent its expansion in their communities:

THEREFORE BE IT RESOLVED that the UBCM request that if the provincial government proceeds with the new Gaming Policy it ensures there will be municipal participation in the evaluation of community impacts of any expansion to gaming activities and that gaming legislation or regulation require municipal endorsement of specific gaming locations prior to approval; and that any proposals or new gaming activities specifically address the potential effects on charitable gaming.

1994

PROVINCIAL GAMING POLICY - LOCAL INVOLVEMENT

**UBCM Executive
City of Vancouver**

WHEREAS the province has jurisdiction over all regulation, licensing and control of gaming;

AND WHEREAS there is no formal legislation or regulation which explicitly states that local governments will be consulted on gaming types or locations:

THEREFORE BE IT RESOLVED that UBCM request the provincial government to ensure that there will be municipal participation in the evaluation of community impacts of any expansion to gaming activity, and that gaming legislation or regulations require municipal endorsement of specific gaming locations prior to approval;

AND BE IT FURTHER RESOLVED that UBCM request the provincial government ensure through policy that any new gaming activity, including First Nations, be conditional on a portion of the revenue being available to local government for mitigating measures and that any proposals for new gaming activity specifically address the potential effects on charitable gaming.

1993

A22 PROVINCIAL GAMING POLICY

Prince George

WHEREAS local government recognizes the important contributions made by charitable organizations in our communities;

AND WHEREAS continued consultation and cooperation with local government is necessary regarding: any change proposed within a jurisdiction; observance of local government bylaws; level of community involvement; and servicing costs to local government due to increased activity:

THEREFORE BE IT RESOLVED that the UBCM request that the provincial government recognize local government authority over land use development within its boundaries and agree to cover any financial costs to local government associated with any change in its gaming policy.