



# CITY COUNCIL AGENDA STATEMENT



July 23, 2019

File ID: 19-0337

## **TITLE**

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CHULA VISTA APPROVING AMENDMENTS TO THE CHULA VISTA GAMING PLAN INCREASING THE MAXIMUM NUMBER OF TABLES FROM 20 TO 26, INCREASING PER TABLE LICENSE FEES, MAKING RELATED CHANGES AND UPDATES, AND APPROVING AN UPDATED FIVE-YEAR OPERATING AGREEMENT

## **RECOMMENDED ACTION**

Council conduct the public hearing and adopt the resolution.

## **SUMMARY**

In 2018 the Stones South Bay Corp, dba Seven Mile Casino approached the City requesting amendments to the Gaming Plan and Operating Agreement governing their cardroom operations. After several months of discussions, the parties reached an agreement. City staff now recommends City Council approval of updates to these documents increasing the number of allowed gaming tables from 20 to 26, increasing the number of people allowed to backline bet from 16 people to 24, increasing the quarterly table fee from \$7990 to \$9,000 for fiscal year 2019/2020 and then to \$9540 for fiscal year 2020/2021, including conversion to a percentage rate formula upon the opening of the Bayfront resort hotel and a five-year operating agreement with an automatic five year extension upon opening of the Bayfront resort hotel.

## **ENVIRONMENTAL REVIEW**

The City Attorney's office has reviewed the proposed activity for compliance with the California Environmental Quality Act (CEQA) and has determined that the activity is not a "Project" as defined under Section 15378 of the State CEQA Guidelines because the activity consists of a governmental administrative/fiscal activity which does not involve any commitment to any specific project which may result in a potentially significant physical impact on the environment. Therefore, pursuant to Section 15060(c)(3) of the State CEQA Guidelines the activity is not subject to CEQA. Thus, no environmental review is required. Notwithstanding the foregoing, it has also been determined that the activity qualifies for an Exemption pursuant to Section 15061(b)(3) of the California Environmental Quality Act State Guidelines. Any required CEQA

review would occur upon Seven Mile’s application to the City for an amendment to their CUP.

#### **BOARD/COMMISSION/COMMITTEE RECOMMENDATION**

Not applicable.

#### **DISCUSSION**

##### **Background**

Cardrooms are one of California’s oldest forms of legal gambling with operations ranging from “mom and pop” storefronts, to larger, more sophisticated establishments. Historically, card clubs were regulated by local governments. Beginning in the mid-1980s the State gradually increased its regulatory oversight. The stated primary purpose of this increased oversight by the State was to attempt to prevent criminal activity from being associated with these businesses.

In 1998, then Attorney General Daniel Lungren and Senate Pro Tem Bill Lockyer introduced and passed the California Gambling Control Act. (SB 8 was enacted; the language is in Business and Professions Code: 19800 - 19887.) The Act developed the California Gambling Control Commission (“State Gambling Commission”) and the Bureau of Gambling Control (“Bureau”) in the California Department of Justice. The State Gambling Commission and the Bureau are responsible for the development of policy, regulatory oversight and enforcement of the States gaming laws at California cardrooms.

With these changes, California cardrooms are now regulated at both the local and state levels. Of the 80 or so cardrooms in California, the largest is the Commerce Club, located in the City of Commerce, with approximately 240 tables. The largest cardroom in San Diego County is Oceans 11 in Oceanside which is currently operating fifty (50) tables.

##### History of Chula Vista Gaming Plan

Prior to enactment of the City’s Gaming Plan in 1995, cardroom operations were regulated by way of City ordinance. The ordinance was amended by the City Council on six different occasions between 1977 and 1995 for various reasons.

The Gaming Plan concept was introduced to the City Council on November 28, 1995, because the City Attorney’s Office determined that then pending state laws would have the effect of pre-empting local control by City code. By creating a structure under the City code where future changes would be adopted by resolution, the Gaming Plan preserved local Chula Vista authority over its cardroom operations. This made it so that the City Council is authorized to adopt or make amendments to the Chula Vista Gaming Plan by resolution after a public hearing. Under this revised structure, the initial Gaming Plan was adopted in February 1996.

In 1998, the Gaming Plan was amended at the request of the City Council to eliminate the issuance of additional licenses without a vote of the people. At the time, there were 4 total licenses issued in the City. Two were held by the Chula Vista Bay Club, Inc., and two were held by Harvey Souza. In 2000, the Gaming Plan was amended again, this time to eliminate 2 of the outstanding 4 licenses and consolidate the remaining 2 licenses under Mr. Souza’s ownership.

This was accomplished by Mr. Souza acquiring 2 licenses from Chula Vista Bay Club, Inc., and immediately turning them over to the City. Other updates at this time included: 1) expanding the allowed hours of operation; 2) allowing more types of games to be played; 3) increasing bet limits; 4) allowing the service of alcohol; 5) increasing license tax fees; and 6) enhancing employee screening; 7) allowing backline betting and enhanced security requirements.

In 2009, consistent with state law changes, the maximum number of card tables allowed to operate was increased in the Gaming Plan from 12 to 16.

In 2012, again consistent with state law changes, the maximum number of card tables was increased in the Gaming Plan from 16 to 18.

In 2015, again consistent with state law changes, the maximum number of card tables was increased in the Gaming Plan from 18 to 20. Other changes included an increase to 15 the number of tables that could be operate as "Class II" or "Class IA" tables (allowing "back line" betting and other "higher stakes" games). In consideration of this, the Village Cardroom agreed to an increase in the quarterly license tax per table from the previous maximum of \$5,000 up to \$7,100. These changes, and some others, were requested and granted in anticipation of the Village Card Room moving its operations from 429 Broadway to a new establishment at 271 and 285 Bay Boulevard now known as the Seven Mile Casino. An Operating Agreement was also entered into to implement the license tax increase in consideration of a 5-year "vesting" of operations under then-applicable Gaming Plan regulations.

#### History of Village Club Card Room (now Seven Mile Casino) Ownership and Operations

The original Village Club card room operated at the Broadway location from 1946 until 2015. Harvey Souza managed the business from 1963 to 2015. As a police-regulated business, the Village Club Card Room operated by the Souza family had a solid track record of compliance with City regulations and positive interaction with the Police Department.

In 2015, the Village Club Card Room moved its operations to a 20-table cardroom located at 271 and 285 Bay Boulevard, Chula Vista, California. The relocated business was renamed "Seven Mile Casino".

On March 3, 2015, the City Council approved Resolution 2015-057, ratifying Chief Bejarano's approval of Stone Chula Vista Holdings, LLC members "financial interests" in Village Club Card Room's license after reviewing their applications and conducting background checks. The Stone Chula Vista Holdings, LLC members were told they would need to re-apply for approval with the Chief of Police if and when they proposed to exercise their option and obtain a direct interest in the cardroom license.

In 2016, Stones Corp. exercised its option and entered into agreements to purchase 100 percent of Seven Mile Casino from VC Inc., conditioned upon approval of the State Gambling Commission and the City.

In February 2017, the City Attorney's Office reviewed the transfer and ownership documents in connection with this transaction and found no issues of concern in its review. The Police Department reviewed and approved the Seven Mile Casino security plan, financial interests, experience and expertise to operate a cardroom on accordance with state gaming laws and approved of the transfer.

On March 23, 2017, the State Gambling Commission issued a Temporary State Gambling License to Stones Corp. and approved the transfer of the interests in Seven Mile Casino from VC Inc. to Stones Corp. The State Gambling Commission's approval was preceded by a substantial due diligence review of the Stones Corp. principals including review of the various financial and ownership interests of the principals and entities involved in the transfer, and confirmation of compliance with the Business and Professions Code

### **Proposed Amendments to the Gaming Plan and Operating Agreement**

In 2018 the Stone Corp. approached the City requesting amendments to the existing Gaming Plan and Operating Agreement governing their cardroom operations on Bay Boulevard. After several months of discussions between the parties the following are the proposed amendments to the Gaming Plan and Operating Agreement that are being recommended by staff:

- Increase the number of allowed tables from 20 to 26;
- Increase the max number of players at the 15 allowed "backline" betting tables 16 to 24 people per table;
- Increase the per table charge from \$7,758 dollars per quarter to \$9,000 effective July 1, 2019 and \$9,540 dollars per quarter beginning July 2020;
- Implement a percentage of gross revenue structure for license fees that would allow the City to benefit from an increase in patrons to the casino upon the opening of the Bayfront Resort and Convention Center.
  - Percentage rate fees shall be paid in advance, quarterly, calculated using annual gross revenues from the previous twelve months operating period.
  - Each August a certified financial statement of gross revenues will be submitted to the City for review and any necessary adjustments will be made through additional payments or refunds.
  - The City will be guaranteed a minimum payment of what it would have received under the "per table" rates structure.
  - In the event of law changes that materially limit the types of games allowed the parties will meet and confer to negotiate appropriate license fee rate adjustments.
- Vested operating term to be for five years with the possibility of an automatic five-year extension upon opening of the Bayfront resort hotel and convention center;
- The opening of the resort hotel would automatically extend Seven Mile's "vested rights" under the Operating Agreement to operate the cardroom without changes to the Gaming Plan.

The proposed Gaming Plan also includes a number of miscellaneous changes including (a) reorganization of provisions for approval of license transfers; (b) updates to reflect changes in applicable state laws and terminology; (c) practical changes to how table game rules are made

available to patrons; and (d) other minor corrections and updates. The City Attorney's office and the Police Department have reviewed and are comfortable of such changes. An underline/strikeout version of the Gaming Plan is attached that highlights all proposed changes.

Staff has reviewed the Stones Corp. request and recommends that the City Council approve of the amended Gaming Plan and related five-year Operating Agreement.

### **DECISION-MAKER CONFLICT**

Staff has reviewed the Councilmember's real estate holdings within Chula Vista and has determined that no property is within 500-foot of the project location. Staff is not independently aware and has not been informed by any City Council member, of any other fact that may constitute a basis for a decision maker conflict of interest in this matter.

### **LINK TO STRATEGIC GOALS**

The City's Strategic Plan has five major goals: Operational Excellence, Economic Vitality, Healthy Community, Strong and Secure Neighborhoods and a Connected Community. This action supports the Economic Vitality goal as facilitates the continued operation and success of the Seven Mile Casino under new ownership. The Seven Mile Casino employs approximately 305 people generating significant business activity and City revenues.

### **CURRENT YEAR FISCAL IMPACT**

The estimated license tax revenue generated by Seven Mile Casino in fiscal year 2018-19 is \$620,669.60 or \$7,758 per table. These funds are considered discretionary revenues and support overall general fund services such as police, fire, libraries and recreation.

### **ONGOING FISCAL IMPACT**

The increase in estimated license tax revenue will not be generated by Seven Mile Casino until fiscal year 2020-21 and will generate approximately \$992,160 dollars or \$9540 per table which represents about a 19.5% increase over fiscal year 2019/20 revenues. These funds will be included in the City Manager proposed 2020-21 budget and are considered discretionary revenues and support overall general fund services such as police, fire, libraries and recreation.

### **ATTACHMENTS**

1. Gaming Plan
2. Operations Plan

*Staff Contact: Eric Crockett, Economic Development Director, Roxanna Kennedy, Chief of Police, Glen Googins, City Attorney*