



STAFF REPORT ACTION REQUIRED

Revenue Sharing Fairness of Woodbine Slots

Date:	December 19, 2007
To:	Executive Committee
From:	City Manager Deputy City Manager and Chief Financial Officer
Wards:	All
Reference Number:	P:\2007\Internal Services\Cf\Ec07056Cf – et (AFS #6574)

SUMMARY

The purpose of this report is to discuss the feasibility of negotiating a larger percentage of the slot machine revenue dedicated to the City of Toronto from Woodbine Racetrack, which is owned by the Woodbine Entertainment Group, but operated by the Ontario Lottery and Gaming Corporation (OLG).

At present, the OLG operates 17 facilities in Ontario under the Slot Machine Program at Racetracks. Host municipalities in this program are entitled to receive a portion of the gaming revenues quarterly under a revenue-sharing agreement (Racetrack Municipality Contribution Agreement) with the OLG. The formula is such that the municipality's share is calculated at 5% of the gross gaming revenue (Net Win) on the first 450 slot machines and 2% on the balance in excess of 450 machines. The balance of the gross revenue is distributed quarterly in the following manner: racetrack owner - 10%; horse breeders - 10%; Ministry of Health's Problem Gambling Strategy - 2%; and the rest to the Province's Consolidated Revenue Fund including the Ontario Trillium Foundation. With approximately 1,950 slot machines at Woodbine in 2006, the City's share of the gross gaming revenue was approximately 2.69% (or \$14.8 million – 2006 actual).

Ever since Woodbine's 2000 inception, Council's position has been that the City requires a larger share of the gross gaming revenue. This is premised on the fact that the City incurs additional operating and capital costs to support the slot operation at Woodbine, (e.g. planning, emergency services (police, fire and EMS), transit and transportation). Further, it is also an issue of fairness – Toronto receives a disproportionate return than it contributes to the Province in the racetrack slot operation.

The host municipality's share of the gross slot gaming revenue is prescribed by a contract between the OLG and the municipality. The legislative authority of the OLG is set out in the *Ontario Lottery and Gaming Corporation Act, 1999*, which neither prohibits municipalities from receiving a larger percentage of gross gaming revenues than the current shares, nor prescribes the percentage shares of revenues for each of the stakeholders. Staff are of the opinion that it is feasible for the City to negotiate a larger percentage of the gross slot machine revenue at Woodbine Racetrack Slots. It should be noted that in the past OLG indicated that if any change was made to the template agreement with the City of Toronto, it would need to make similar changes to other template agreements with all other host municipalities participating in the Slots-at-Racetrack program.

Council previously resolved to seek an improved template agreement so that the revenue to the municipality from slot machines in excess of 1,300 machines would be at least equivalent to the 5% for the first 450 machines, i.e. 5% on the first 450 machines, 2% on the next 850 machines, and 5% for any additional ones beyond 1,300 machines (5%, 2%, 5%).

This report recommends that the City re-negotiate the agreement with the Province so that the City receives the same percentage of revenues as other non-government stakeholders, i.e. 10% of the Net Win. The City may negotiate with the OLG directly, or as part of the negotiation in relation to the Woodbine development project.

RECOMMENDATIONS

The City Manager and the Deputy City Manager & Chief Financial Officer recommend to City Council that:

1. the Mayor and staff negotiate a change in the Racetrack Municipality Contribution Agreement with the Ontario Lottery and Gaming Corporation with respect to revenue sharing with the objective of increasing the City's share to be the same as other non-government stakeholders, i.e. 10% of the Net Win as defined by the existing agreement.

Financial Impact

This report does not have an immediate financial impact on the City. Future discussions with the OLG may result in an amendment to the existing Racetrack Municipality Contribution Agreement which may provide for a greater share of slot machine revenues to the City.

Revenues from the OLG which are the City's share of the slot machines revenues at the Woodbine Racetrack Slots are currently Non-Program Revenues in the Operating Budget with a 2007 budget of \$14.5 million. Should the City be successful in getting the higher

share of revenues as recommended in this report (i.e. 10% vs 2.69%) and had it been in place in 2006, the City would have received about \$55 million, in excess of \$40 million more than the \$14.8 million received in 2006.

DECISION HISTORY

In 2000, City Council authorized staff to enter into a revenue-sharing agreement with the Ontario Lottery & Gaming Corporation (OLG), an agency of the Government of Ontario, with respect to the operation of slot machines at Woodbine Racetrack. OLG asked that all host municipalities sign a “template agreement” providing each host municipality the same revenue-sharing formula. Prior to the facility’s March 2000 opening, a number of City divisions were involved to ensure all necessary zoning and building requirements had been met, and to ensure overall financial impacts arising from the slot operation could be determined. These divisions included: City Planning, Transportation, Legal Services, Economic Development, Public Health, TTC, Toronto Police Service, Fire Services, Emergency Medical Services and Corporate Finance. In May 2000 Council considered two confidential reports relating to the financial impacts and other outstanding matters. Council decisions relating to the confidential reports (but not the confidential reports themselves) can be found at:

<http://www.toronto.ca/legdocs/2000/agendas/council/cc/cc000509/pof6rpt/cl001.pdf>

In particular, Council resolved that the City seek “an amended template agreement so that the revenue to the municipality from slot machines in excess of 1,300 machines be at least equivalent to the revenues received and paid for the first 450 machines”. During the summer of 2000 City staff continued to negotiate the revenue-sharing formula with the OLG according to Council’s decision. However, the OLG did not agree to the request, and the final agreement that was fully executed in November 2000 was essentially the same as other agreements signed by municipalities participating in the Slots-at-Racetrack program with respect to revenue sharing.

In a letter to the OLG in October 2002, the City’s CFO & Treasurer reaffirmed the City’s wish to seek from the OLG an amended template agreement as mentioned above. OLG’s Chair and CEO, in his response to the City dated November 13, 2002, stated that he was of the view that the agreement with the City of Toronto was fair and he had no intention of renegotiating or amending it.

At its November 26, 2007 meeting, the Executive Committee requested the City Manager, in consultation with the appropriate City staff, to report to the January 2008 meeting of the Executive Committee on the feasibility of negotiating a larger percentage of the slot machine revenue dedicated to the City from Woodbine Racetrack:

<http://www.toronto.ca/legdocs/mmis/2007/ex/agendas/2007-11-26-ex15-an.pdf>

ISSUE BACKGROUND

The Ontario Lottery and Gaming Corporation (OLG) currently operates 17 Racetrack Slots facilities, six Charity and Aboriginal Casinos, and four Resort Casinos across the

province. Woodbine Racetrack Slots is one of 17 free-standing racetrack slot facilities. It is owned by the Woodbine Entertainment Group, but operated by the OLG. The Appendix is a list of all facilities operated by the OLG in 2006 and the associated revenues for the host municipalities.

Revenue-Sharing Formulae for OLG Slots & Casinos:

OLG's Slots-at-Racetracks — Host municipalities in this program are entitled to receive a portion of the gaming revenues quarterly under a Racetrack Municipality Contribution Agreement with the OLG, whereby the municipality's share is calculated at 5% of the gross gaming revenue or "Net Win" on the first 450 slot machines and 2% on the balance in excess of 450 machines. The balance of the gross revenue is distributed quarterly in the following manner: racetrack owner - 10%; horse breeders - 10%; Ministry of Health's Problem Gambling Strategy - 2%; and the rest to the Province's Consolidated Revenue Fund including the Ontario Trillium Foundation. (The OLG guarantees \$100 million annually for Ontario's charities through the Ontario Trillium Foundation). OLG's position has been that if any change was made to the template agreement with the City of Toronto, it would need to make similar changes to other template agreements with all other host municipalities participating in the Slots-at-Racetrack program.

OLG's Charity Casinos are governed by a different revenue-sharing formula. Their host municipalities receive 5% of the gross gaming revenues regardless of the number of slots.

First Nation Casinos — Casino Rama and Great Blue Heron Charity Casino - where the facilities are located on First Nations land, have different arrangements for revenue sharing: The Great Blue Heron Charity Casino is owned by the Mississaugas of Scugog Island First Nation and is operated by Great Blue Heron Gaming Company, which is wholly owned by Casino Austria, Fantasy Gaming Entertainment Inc. and Sonco Gaming. The Mississaugas of Scugog Island First Nation Indian Band (#34) formed the Baagwating Community Association, a non-profit charitable association, to conduct and manage the table game operations. The OLG is responsible for the management of the slot facility only. As the host community of the Great Blue Heron Charity Casino, the Mississaugas receive 5% of the revenue for the slot machines. The Ontario Government receives 20% of gross gaming revenue and 100% of net profits from the slots facility.

Commercial Resort Casinos — Host cities (Niagara Falls and Windsor) each receive \$2.6 million annually for ten years, followed by \$3 million annually for the next ten years. The Ontario Government receives 20% of gross gaming revenue from resort casinos and 100% of net profits from Casino Windsor, Casino Niagara and Niagara Fallsview Casino Resort. Casino Rama is located on the Mnjikaning First Nation land. Net revenues from Casino Rama are distributed to Ontario's First Nations for economic, community development, health and education.

It is worth noting that the Ontario Government has been the subject of a legal dispute since 1996 arising from Casino Rama's revenue distribution amongst all parties including the Mnjikaning First Nation and Ontario's other 133 First Nations. The First Nations

have disputed over the Ontario Government’s first take of 20% of the gross gaming revenue, as well as how the net revenues get distributed amongst the 134 First Nations.

Distribution of Revenues at Slots-at-Woodbine:

At its 2000 opening, Woodbine had 1,700 slot machines. The blended rate for the City’s share according to the formula was 2.794%. In August 2005, a total of 200 machines were added. At the end of 2006, it was reported to have about 1,950 machines, resulting in a lower blended rate to the City of 2.693%.

In 2006, the distribution of revenues from the Woodbine slot operation, a total estimated \$550 million, was:

- City of Toronto: \$14.8 million (2.693%)
- Woodbine Entertainment Corp: approximately \$55 million (10%)
- Horse breeders: approximately \$55 million (10%)
- Ministry of Health’s Problem Gambling Strategy: approximately \$11 million (2%)
- Province (including Consolidated General Revenue Fund and Ontario Trillium Foundation): approximately \$414 million before operating expenses (over 75%,)

The following table shows the annual revenue from OLG since Woodbine Slot’s inception up to and including the quarter ending September 30, 2007:

	\$ million								
Woodbine Racetrack Slots	2000 *	2001	2002	2003	2004	2005	2006	2007 Q1-Q3 only	Total since opening
Annual Revenue from OLG	7.916	12.055	14.295	15.716	15.703	14.501	14.801	11.741	106.728

* Opening Mar 27, 2000

New Development Project at Woodbine (Woodbine Live!):

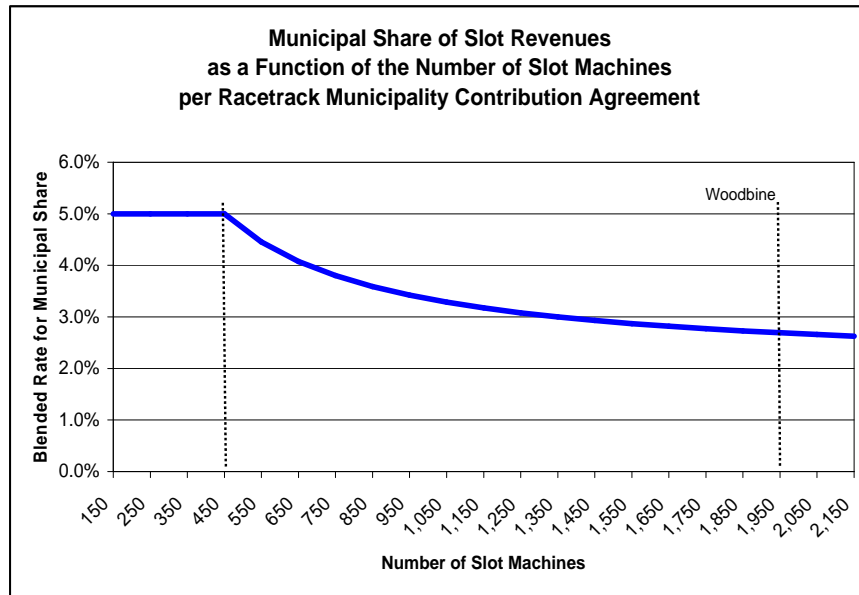
City Council in July 2007 approved a draft plan of the subdivision at 555 Rexdale Boulevard, which sets the stage for a \$700 million development project at the Woodbine Racetrack called “Woodbine Live!”. It will consist of a 2,500-unit residential district and a regional entertainment tourism destination including offices, retail stores, a hotel, restaurants, theatres, a live performance facility and associated amenities. Although the announcement of the development does not include a new casino, it is believed that the volume of patrons visiting the existing slot facility will increase substantially.

There are on-going negotiations between the developers, the City and the OLG concerning the new development of the site. The City may incur additional cost, e.g. financial incentives, in relation to the development, and staff consider it opportune to re-negotiate with the OLG for an amended template agreement with respect to sharing of the Woodbine slots revenue.

COMMENTS

The issue at hand is a matter of revenue sharing fairness.

1. Based on the existing formula, facilities with a higher number of machines get a proportionately smaller share of the gross revenues. Hence, larger facilities are essentially disadvantaged by their size. The following chart illustrates this point:



As mentioned above, Council in 2000 resolved to seek from the OLG an amended template agreement so that the revenue to the municipality from slot machines in excess of 1,300 machines would be at least equivalent to the 5% for the first 450 machines, i.e. 5% on the first 450 machines, 2% on the next 850 machines, and 5% for any additional ones beyond 1,300 machines (5%, 2%, 5%). The blended rate under this formula for 1,950 machines would be 3.692%. If the formula was indeed changed to provide the City with 3.692% of the gross revenue, the City would have received more than \$20 million in 2006 (vs actual \$14.8 million), or a 37% increase.

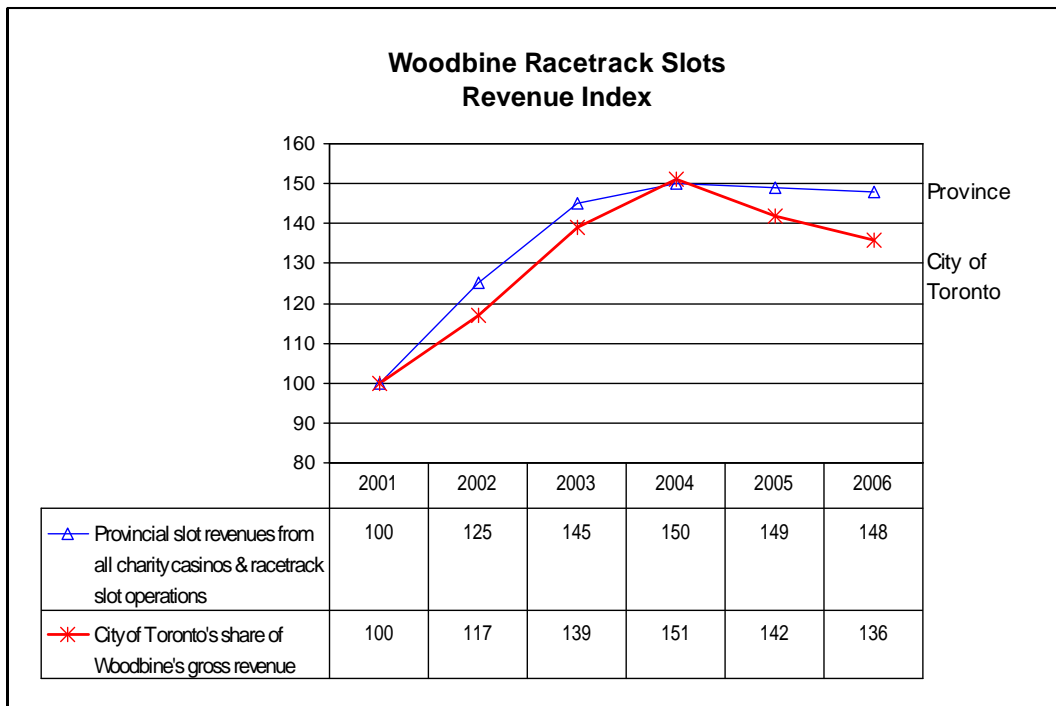
Further, had the City been paid at 10%, same as the horse breeders or Woodbine Entertainment Corp., the City would have received \$55 million, an additional \$40 million, or a 270% increase.

2. Staff did an analysis of the OLG annual reports over the six fiscal years, from 2000/2001 to 2005/2006, and made the following observations:
 - Over the six fiscal years, the Slots-at-Woodbine had on average 15% of the total number of slots machines in charity casinos and racetrack slots, and brought in 20% of the total patrons visiting these facilities. This means Woodbine attracted proportionately more patrons than other similar facilities.

- Woodbine is also the most “profitable” slot facility amongst all 17 existing facilities in Ontario. For example, in 2005/2006, Woodbine generated \$274,260 in Net Win per slot, 24% higher than the second highest facility at Georgian Downs at \$220,976, and 85% higher than the average of all facilities at \$148,410.
 - Over the six fiscal years, with only 15% of the total slots, Woodbine generated 29% of the total “Net Win” from slot machines in charity casinos and racetrack slots. Yet, Toronto’s share of the total commissions paid to host municipalities was only 22%. If commissions paid to racetracks and horse breeders were included, Toronto’s share of the total commissions paid was just 4%.
3. Overall gaming revenue in the Province grew from \$4.7 billion in 2000 to over \$6.0 billion by 2006. Revenue peaked in 2003/2004, but has decreased slightly due to a number of factors, including the implementation of local municipal non-smoking by-laws, provincial non-smoking legislation, border restrictions and the strong Canadian dollar.

Although Woodbine has also seen a similar pattern of revenue change since 2000, it was hit harder than the Province as a whole. The relative drop in revenues flowing to the City was more pronounced than the Province.

The following chart shows that the total slot revenues from all charity casinos and racetrack slots for the Province increased by 48% from 2001 to 2006, the revenue flowing to the City increased by only 36%.



From the above discussion, there is an issue of fairness from three perspectives:

- Woodbine is the largest non-commercial slot facility in the Province with the most slot machines, but the City vis-à-vis the other host municipalities is disadvantaged by the slot facility's size with respect to revenue sharing.
- Woodbine is the most "profitable" site amongst similar operations, but Toronto does not receive a fair share of the gaming revenues in return.
- Growth in gaming revenues for the Province has been faster than that for the City, and it appears that the gap is widening.

In conclusion, it appears that the current revenue-sharing formula between the OLG and the City of Toronto is unfair and disadvantages the City. The host municipality's share of the gross slot gaming revenue is prescribed by a contract between the OLG and the municipality. The legislative authority of the OLG is set out in the *Ontario Lottery and Gaming Corporation Act, 1999*, which neither prohibits municipalities from receiving a larger percentage of gross gaming revenues than the current shares, nor prescribes the percentage shares of revenues for each of the stakeholders. Staff are of the opinion that it is feasible for the City to negotiate a larger percentage of the gross slot machine revenue at Woodbine Racetrack.

Given the on-going negotiations between the City, the developers and the OLG with respect to the Woodbine Live! development project, staff consider it opportune for the City to re-negotiate with the OLG for an amended template agreement. This report recommends that the City re-negotiate the agreement with the Province so that the City receives the same percentage of revenues as other non-government stakeholders, i.e. 10% of the Net Win. The City may negotiate with the OLG directly, or as part of the negotiation in relation to the Woodbine development project.

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ATTACHMENT

Appendix – OLC Slots and Casinos 2006 Municipal Revenues

Appendix

OLC Slots and Casinos 2006 Municipal Revenues

	Host Municipality	Opening Date	No. of Slots	2006 Total Municipal Revenues \$
OLG Racetrack Slot Facilities				
Woodbine Racetrack	Toronto	Mar. 27, 2000	1,950	14,801,184
Rideau Carleton Raceway	Ottawa	Feb. 16, 2000	1,250	3,653,364
Fort Erie Racetrack	Fort Erie	Sept. 9, 1999	1,200	2,192,092
Mohawk Racetrack	Milton	Aug. 10, 1999	850	5,617,009
Flamboro Downs	Hamilton	Oct. 11, 2000	750	4,369,965
Western Fair Raceway	London	Sept. 28, 1999	750	3,812,300
Windsor Raceway	Windsor	Dec. 16, 1998	750	2,050,947
Georgian Downs	Innisfil	Nov. 27, 2001	450	4,833,174
Kawartha Downs	Cavan-Millbrook-North Monaghan	Nov. 22, 1999	450	3,239,855
Hiawatha Horsepark	Sarnia	May 8, 1999	375	1,825,388
Sudbury Downs	Sudbury	Nov. 26, 1999	325	2,137,341
Picov Downs	Ajax	Feb. 28, 2006	200	3,519,167
Grand River Raceway	Centre Wellington	Dec. 04, 2003	200	1,849,297
Clinton Raceway	Clinton	Aug. 24, 2000	108	625,864
Woodstock Raceway	Woodstock	Jun. 20, 2001	100	1,019,976
Hanover Raceway	Hanover	Feb. 19, 2001	100	825,312
Dresden Raceway	Chatham-Kent	Apr. 18, 2001	100	655,878
Racetrack Slots Subtotal			9,908	\$ 57,028,113
OLG Charity & Aboriginal Casinos (Note 3)				
Sault Ste. Marie	Sault Ste. Marie	May 19, 1999	475	1,455,919
Brantford	Brantford	Nov. 17, 1999	500	3,738,048
Point Edward	Point Edward	Apr. 18, 2000	450	2,097,345
Great Blue Heron (See note 1 below)		May 30, 2000	535	-
Thunder Bay	Thunder Bay	Aug. 28, 2000	452	2,433,007
Thousand Islands	Gananoque, Leeds and the Thousand Islands	Jun. 20, 2002	500	3,434,984
Charity Casino Subtotal			2,912	\$ 13,159,303
Slot & Charity Casino Total			12,820	\$ 70,187,416
Resort Casinos (see notes 2 & 3 below)				
Casino Niagara	Niagara Falls	Dec. 9, 1996	1,800	2,600,000
Fallsview		Jun. 8, 2004	3,000	
Casino Windsor	Windsor	Feb. 11, 2005	3,000	2,600,000
Casino Rama		Jul. 31, 1996	2,400	
Resort Casinos Total			10,200	\$ 5,200,000
Ontario Total			23,020	\$ 75,387,416

Note 1: Great Blue Heron Charity Casino:

The Great Blue Heron Charity Casino is a true Aboriginal casino and a major First Nations initiative. The Mississaugas of Scugog Island First Nation Indian Band (#34) formed the Baagwating Community Association, a non-profit charitable association, to conduct and manage the table game operations. It is owned by the Mississaugas of Scugog Island First Nation and is operated by Great Blue Heron Gaming Company, which is wholly owned by Casino Austria, Fantasy Gaming and Sonco Gaming.

The OLG is responsible for the management of the slot facility only.

As the host community of the slot machines at Great Blue Heron Charity Casino, the Mississaugas receive 5% of the revenue from the slot machines. The Ontario Government receives 20% of gross gaming revenue and 100% of net profits from the slots facility at Great Blue Heron Charity Casino.

Note 2: Resort Casinos (Niagara, Windsor & Rama)

As compensation for hosting a resort casino, the host cities of Windsor and Niagara Falls each receive \$2.6 million annually for ten years, followed by \$3 million annually for the next ten years.

The Ontario Government receives 20% of gross gaming revenue from resort casinos and 100% of net profits from Casino Windsor, Casino Niagara and Niagara Fallsview Casino Resort.

Casino Rama is Ontario's only First Nation's commercial casino. Net revenues from Casino Rama are distributed to Ontario's First Nations for economic and community development, health and education.

Note 3: Statistics for table and other games are not included.