



City of  
**Peterborough**

---

**To:** Members of the Committee of the Whole

**From:** Patricia Lester, City Solicitor and Director of Legal Services

**Meeting Date:** February 13, 2017

**Subject:** Report OCS17-003 – OMB Appeal – 1400 Crawford Drive  
(Casino)

---

## **Purpose**

A report to Council on the settlement of the Ontario Municipal Board appeal for 1400 Crawford Drive.

## **Recommendations**

That Council approve the recommendations outlined in Report OCS17-003 dated February 13, 2017, of the City Solicitor and Director of Legal Services as follows:

- a) That Council approve the terms of the Settlement Agreement; and
- b) That a by-law be passed to authorize the Mayor and Clerk to execute the Settlement Agreement.

## Budget and Financial Implications

The City's financial commitment to the Downtown Business Improvement Area ("DBIA") of \$150,000 per year for a 20 year term will be funded from the Central Area Community Improvement Plan Implementation Capital Project (Project #7-1.06) in 2017 and for subsequent years it will be included in the Operating Budget. The equivalent amount of \$150,000 will be requested in the 2018 Capital Budget to replace these funds.

## Background

### Planning Amendments and OMB Appeals

On September 9, 2015, The Ontario Lottery and Gaming Corporation ("OLG"), having the exclusive statutory authority and responsibility for gaming in Ontario, announced that Great Canadian Gaming Corporation ("GCGC") had been selected as the successful operator for the Eastern Gaming Bundle. As such, GCGC has the exclusive right to operate one gaming establishment within a defined gaming market zone that included the City of Peterborough.

On November 16, 2015, Council directed staff to initiate Official Plan and Zoning By-law amendments for a gaming site within the City limits, in the event that it became clear that GCGC intended to pursue a site within the City.

On May 16, 2016, the City adopted Official Plan Amendment Number 173 ("OPA 173") to permit the establishment of a gaming club or casino (a "Casino") at 1400 Crawford Drive (the "Subject Property") provided that such facility does not include a live performance venue or theatre but may include live music and other performing acts ancillary to the operation of the gaming club or casino. In addition, the City passed Zoning By-law No. 16-053 (the "ZBA") in order to re-zone the Subject Property to permit a gaming establishment/casino, a hotel and a restaurant and removing the prestige and business park uses.

Aon, the DBIA and Sheila Nabigon-Howlett appealed OPA 173 and the ZBA to the Ontario Municipal Board ("OMB") pursuant to the applicable provisions of the **Planning Act**. GCGC, OLG and the Ontario Gaming East Limited Partnership were granted party status in the OMB proceedings at the Board's first Pre-hearing Conference. Ms Nabigon-Howlett later withdrew her appeal.

Aon and the DBIA opposed OPA 173 and the ZBA because of their concern that the proposed location of the Casino, being outside of the Central Area of Peterborough, would have a material adverse impact on the restaurant and entertainment establishments and other related businesses located within the Central Area, contrary to their understanding of the policies set forth in the City's Official Plan, which policies were directed at maintaining and improving the economic viability and vitality of the Central Area.

A number of motions were brought by Aon and the DBIA and these were scheduled to be heard at a Pre-Hearing on January 24 and 25, 2017. The motions primarily were for production of documents from both the City and GCGC. Many of the issues in the motions were addressed prior to the Pre-Hearing dates and therefore on consent from all parties, the OMB re-scheduled the Pre-Hearing to March 17, 2017.

### **Agreement**

Aon and the DBIA have resolved their issues with both the City and GCGC. Agreements have been negotiated between the City, Aon and the DBIA and between GCGC, Aon and the DBIA. Each Agreement is conditional upon Aon and the DBIA executing the Agreements with the City and GCGC respectively. Upon execution of the agreements, Aon and the DBIA will withdraw their appeals at the OMB.

The balance of this report outlines the City's commitment as part of this agreement.

The negotiations between the City and the DBIA acknowledge that the City and the DBIA need to work closely together to fulfill the policies of the City's Official Plan directed at improving the economic viability and vitality of the Central Area. To fulfill this objective the parties have agreed to meet on a regular basis and to inform each other on a timely basis of any initiative the other is proposing that may affect or involve the Central Area and the DBIA. The parties have also agreed to re-establish the Downtown Action Planning Committee to advance this initiative.

To assist the DBIA to promote the Central Area and for security purposes, a 20 year commitment is proposed in which the City makes an annual payment to the DBIA in the amount of \$150,000. If the annual payment is not fully spent by the DBIA in any calendar year, the DBIA can retain the unspent portion in a reserve to be spent in subsequent years as required. This commitment by the City is in addition to the City's annual commitment for cleaning in the Central Area (\$93,000) and "in-kind" moneys (\$27,500).

The parties acknowledge that the 2008 Downtown Economic Analysis ("DEA") prepared by urbanMetrics guided the policies of Official Plan Amendment No. 140 which established the Central Area Master Plan. In 2014, the City with financial support from the DBIA retained urbanMetrics to update the DEA. As part of the Agreement, the City agrees to act upon a number of the recommendations that resulted from the 2014

update, which will include undertaking annual monitoring of the Central Area and providing a report to Council; undertaking a hotel room demand study to determine if a need exists for additional rooms in the Central Area and to implement Section 10.6.4.6 of the OP – Strategies to Promote Economic Development.

In addition, to further assist with the vitality of the Central Area and to see if a new arena and related entertainment facilities could be economically viable, the City agrees to commence an Ontario Hockey League Study in 2017. The Study will examine potential sites including the City-owned Public Works/Transit Yard before considering any site outside the Central Area.

## **Next Steps**

The DBIA and AON have respectively approved and executed the Settlement Agreement. If the recommendations in this report are approved, the Mayor and Clerk will execute the Agreement on behalf of the City.

With respect to the separate Settlement Agreement with GCGC, staff understands that as of the date of the writing of this report, DBIA and Aon have executed the Agreement and that GCGC is expected to execute it imminently.

If the recommendations in this report are approved, a special Council meeting will be convened on February 21, 2017 to present a by-law for adoption to authorize the Mayor and Clerk to execute the Agreement on behalf of the City.

## **Summary**

The settlement of the OMB appeals through a negotiated Agreement between the parties will result in greater economic viability and vitality of the Central Area and the successful building of a casino within the City.

Submitted by,

Patricia Lester  
City Solicitor and Director of Legal Services

Contact Name:

Patricia Lester  
City Solicitor and Director of Legal Services  
Phone – 705.742.7777 Ext. 1603  
Fax – 705.742.3947  
E-Mail – [plester@peterborough.ca](mailto:plester@peterborough.ca)