

MIAMI BEACH

City of Miami Beach, 1700 Convention Center Drive, Miami Beach, Florida 33139, www.miamibeachfl.gov

COMMISSION MEMORANDUM

TO: Mayor Philip Levine and Members of the City Commission

FROM: Jimmy L. Morales, City Manager

DATE: May 12, 2017

FIRST READING – PUBLIC HEARING

SUBJECT: **Casino Gambling Prohibition**
(ADVERTISED TITLE IN NOVUS)

ADMINISTRATION RECOMMENDATION

The Administration recommends that the City Commission approve the Ordinance at First Reading and set a Second Reading Public Hearing.

BACKGROUND

On May 3, 2017, at the request of Commissioner Joy Malakoff, the City Commission referred the proposed Comprehensive Plan and Land Development Regulation amendments to the Planning Board for consideration.

PLANNING ANALYSIS

This legislative session, the Florida Legislature considered bills that would have allowed for the expansion of slot machines and casino gambling. One of the proposals would have allowed for one casino of a scale similar to those in Las Vegas, Nevada or Atlantic City, New Jersey in counties that have three or more pari-mutuel facilities with casinos. Miami-Dade County currently has four such facilities.

Additional proposals for the bills would have required that the additional casino be located a minimum of five miles from any existing pari-mutuel facilities (See attached map identifying five mile buffers around the existing pari-mutuel facilities). Due to the location of existing pari-mutuels, this requirement would prevent the casino from being located in the urban core of the City of Miami, but would have made the coastal municipalities as the probable location for consideration of a casino. Ultimately, the bill did not pass during the session; however, there is always the possibility of special sessions or for new bills to be introduced in future legislative sessions. It is therefore important that the City's Comprehensive Plan and Land Development Regulations address casinos in the event that the State Legislature allows an expansion of gambling or casinos at some point in the future.

Under Article VIII, Section 2(b) of the Florida Constitution and the Municipal Home Rule Powers Act, municipalities "shall have governmental, corporate and proprietary powers to enable them to conduct municipal government, perform municipal functions and render municipal services, and may exercise any power for municipal purposes except

as otherwise provided by law.” See Section 166.021(1), Florida Statutes. The City is well within its home rule powers, and its police powers, to adopt the zoning and comprehensive plan amendments contemplated herein.

Please note, that should the Florida Legislature expressly preempt the field of gambling via a legislative act, the City’s comprehensive plan amendment and zoning ordinance prohibiting gambling could be surpassed (preempted) by the legislative action.

Florida courts have consistently held that a license to offer gambling, including pari-mutuel wagering, slot machine gambling, or a card room at a pari-mutuel facility, is a privilege rather than a vested right, that requires strict supervision and regulation in the best interests of the state.¹

Many studies have demonstrated that casinos feed gambling addictions, which have many serious effects on those with the addiction and their families. These include loss of jobs, failed relationships and severe debt. These can lead to mental health issues, including depression, mood disorders, anti-social personality disorders, and more.

It is widely understood that large-scale casino operations can overpower non-gambling businesses, and that casinos combined with hotels tend to become isolated all-inclusive facilities. This encourages guests to remain on the premises, thus limiting their shopping and dining in other establishments within the City.

Since casinos have been permitted in Atlantic City, New Jersey in the late 1970’s, many restaurants and retail businesses along the City’s main street in its downtown, Atlantic Avenue, have shuttered. For those that have not shuttered, the quality of retail has been reduced. The design of casinos in Atlantic City is intended to keep guests indoors, so that they spend their time gambling and spending money within the casino, as opposed to seeing the City’s other attractions, such as its Boardwalk and Downtown. Additionally, between 2014 and 2016, five casinos closed in Atlantic City, indicating that the all-inclusive casinos are suffering from increased competition from other regions and lower disposable incomes among the socio-economic groups that tend to frequent casinos.

Miami Beach has a robust tourist market that supports many independent restaurants, cultural, and retail establishments throughout many different areas of the City. As a result, if a casino is allowed in Miami Beach, there is great potential for it to overpower these establishments severely limiting the number of tourists that would be walking through the City and supporting its businesses.

The City of Miami Beach has a long-standing policy against casino gambling in Florida. The City Commission has adopted the following resolutions against casinos: 2017-29846, 2014-28529, 2011-27812, 2008-26927, and 2008-26925. The proposed ordinances would formalize this policy within the Comprehensive Plan and Land Development Regulations by prohibiting Casinos and Gambling in all future land use and zoning districts within the City of Miami Beach. The proposed ordinance defines

¹ See Sec. 550.1625(1), Florida Statutes; see also *Solimena v. State*, 402 So. 2d 1240, 1247 (Fla. 3d DCA 1981), rev. denied, 412 So. 2d 470 (citing *State ex rel. Mason v. Rose*, 165 So. 347 (Fla. 1936)); *Carroll v. State*, 361 So. 2d 144, 147 (Fla. 1978) (“[t]here is no constitutional right to conduct a gambling business”).

gambling as the playing or engaging in any game of cards, keno, roulette, faro, or other game of chance, at any place, by any device, whatever, for money or other thing of value; however, it provides for certain exceptions from the definition of gambling for existing common practices as follows:

- 1) The Lottery;
- 2) Penny-ante games;
- 3) Condominium associations, cooperatives, homeowners, associations, charitable, nonprofit or veteran organizations authorized to hold drawings by chance, drawings, or raffles;
- 4) Game promotion in connection with the sale of consumer products or services; and
- 5) Bowling tournaments.

PLANNING BOARD REVIEW

The Planning Board is scheduled to review and transmit the subject ordinances at a special meeting on May 11, 2017. The Administration will update the City Commission on the recommendation of the Planning Board at First Reading.

CONCLUSION

The Administration recommends that the City Commission approve the ordinance at First Reading and set a Second Reading Public Hearing.

JLM/SMT/TRM

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