

# **City Council Agenda Memo**

**From:** Bonnie Foster, City Clerk

**Council Meeting:** September 14, 2021

**Subject:** Video Lottery for Commonwealth Gaming & Holdings Corp, dba Deuces Casino, Suite 105D

**Person(s) Responsible:** Bonnie Foster, City Clerk

## **Summary:**

The City of Brookings has received a request for Video Lottery for Commonwealth Gaming & Holdings Corp, dba Deuces Casino, Suite 105D, Bryant Soberg and Kirby Muilenburg, owners. All required documents have been submitted. Pending occupancy permit issuance and final inspection per the Community Development Dept.

## **Background:**

A public hearing and action by the local governing body is required. If approved, the application would be forwarded to the State Lottery Office for final action and issuance of the license, and would be subject to annual renewal processes.

This business is located at 223 6<sup>th</sup> Street, and is proposed to hold 4 Suites, each with an On-Off Malt License, with 10 video lottery machines in each suite.

Commonwealth Gaming & Holdings Corp. currently has the following alcohol and video lottery licenses at the 223 6<sup>th</sup> Street location:

- Suite 105A – On-Off Sale Malt License, On-Off Sale Wine License, 10 Video Lottery Machines
- Suite 105B – On-Off Sale Malt License, On-Off Sale Wine License, 10 Video Lottery Machines
- Suite 105C – On-Off Sale Malt License, On-Off Sale Wine License, 10 Video Lottery Machines

## **Item Details:**

Commonwealth Gaming & Holdings Corp has applied for one On-Off Malt License, with video lottery, allowing up to 40 video lottery machines at this location: 223 6<sup>th</sup> St.

This location will be remodeled to add an additional suite for video lottery, holding up to 10 video lottery machines. In order to satisfy State Video Lottery Regulations, there must be separate and distinct physical facilities maintained and utilized for the sale and consumption of alcoholic beverages for each separately described premises.

Their plan indicates the separate spaces have been designated, and sales and consumption of alcoholic beverages are intended to occur at these 4 locations within the building. This would comply with the video lottery requirements if the City Council approves the additional On-Off Sale Malt Licenses and if the City Council also approves Video Lottery for these locations within the building.

**SDCL [42-7A-64](#). Additional criteria for on-sale alcoholic beverage licensees in video lottery licensed establishments.** A municipality or county may consider, in addition to the criteria for the issuance of an on-sale alcoholic beverage license, the following criteria for authorizing video lottery machine placement in establishments issued an on-sale alcoholic beverage license pursuant to subdivisions 35-4-2(12) and (16):

1. The number of establishments currently licensed for video lottery;
2. The proximity of the business to other establishments licensed for video lottery;
3. The type of business and manner in which the applicant proposes to operate it;
4. The location of the business in relation to other businesses, residential areas, or activities within the same general area;
5. The extent to which minors frequent a business connected to the one proposed; and
6. The effect the proposed business has on economic development.

The governing board shall certify on each application filed with the Department of Revenue for a license granted under subdivisions 35-4-2(12) and (16) whether the business premises is authorized for video lottery machine placement. An existing video lottery license may not be denied renewal or transfer based upon the criteria set forth in this section. The lottery may issue a video lottery license to those establishments certified pursuant to this section. Notwithstanding the above provisions, a county or municipality may not restrict the number of alcoholic beverage licenses issued under subdivisions 35-4-2(12) and (16) and certified for video lottery to a number less than those licensed as video lottery establishments on March 1, 1994.

Source: SL 1994, ch 329, § 1; SL 2003, ch 272 (Ex. Ord. 03-1), § 82; SL 2011, ch 1 (Ex. Ord. [11-1](#)), § 161, eff. Apr. 12, 2011.

#### **Legal Consideration:**

City Council action would allow up to 10 Video Lottery machines for each On-Off Sale Malt Beverage License approved, resulting in up to 40 Video Lottery machines for this location, if approved.

#### **Financial Consideration:**

Video Lottery fees: \$50 per machine per year.

#### **Options and Recommendation:**

The City Council has the following options:

1. Approve as presented
2. Amend
3. Deny

4. Move to a Study Session
5. Do nothing

Staff recommends approval.

**Supporting Documentation:**

City Attorney Memo on Video Lottery – 2018.05.02

City Attorney Opinion on AR 48:02:11:02

Video Lottery: SDCL and Administrative Rule

Legal Notice

Location Map

Proposed Building Plan

Current Video Lottery List