Minute No. 198
Report - Standing Committee on Fiscal Issues - January 10, 2006

Item No. 1 Entertainment Funding By-law Exemption
File FL-6

COUNCIL DECISION:

Council concurred in the recommendation of the Standing Committee on Fiscal Issues and adopted the following:

1. That the following amusements and/or places of amusement, which meet the criteria set forth in Schedule "B" of The Entertainment Funding By-law No. 7710/2000 be listed in Schedule "A":

   A. Ancop International (Canada) Inc. Manitoba Branch.

   B. Osborne Village Cultural Centre for "The Winnipeg Comedy Festival" to be held on April 4 - 9, 2006 for the following events:

      i. Gas Station Theatre
         a. High School Improv
         b. Winnipeg Show

      ii. Franco-Manitobain Cultural Centre.

2. That pursuant to Section 5 of Schedule "B" of the Entertainment Funding By-law No. 7710/2000 the following be listed as an amusement in Schedule "A" of the By-law, namely:

   A. Sweet Adelines Inc. Region 6 for its annual convention competition to be held on May 18 - 20, 2006 at the Centennial Concert Hall.

   B. Osborne Village Cultural Centre for "The Winnipeg Comedy Festival" to be held on April 4 - 9, 2006 for the following events:

      i. Pantages Playhouse Theatre
         a. My Hometown
         b. Get Over It
         c. The Sky is Falling
         d. Founding Nations
         e. Family Matters

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COUNCIL DECISION (continued):

ii. Gas Station Theatre
   a. My Wife and Kids
   b. Get Over It Panel
   c. Best of the Fest
   d. One show yet to be cast

iii. Kings Head Pub - shows are not yet cast

iv. McPhillips Street Station - shows are not yet cast

v. Rumor's Comedy Club
   a. Ed Byre
   b. Four shows yet to be cast.

3. That pursuant to Section 347 of The City of Winnipeg Charter the outstanding taxes owing with respect to the following events be cancelled, namely:

   A. Green Party of Manitoba for the event entitled "Rockin' The Pantages" which was held on September 22, 2005 at the Pantages Playhouse Theatre.

   B. Osborne Village Cultural Centre for "The Winnipeg Comedy Festival" which was held on April 5 - 10, 2005.

4. That the Proper Officers of the City be authorized to do all things necessary to implement the intent of the foregoing.

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DECISION MAKING HISTORY:

Moved by Councillor O'Shaughnessy,

That the recommendation of the Standing Committee on Fiscal Issues be adopted by consent.

Carried

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On January 18, 2006, the Executive Policy Committee concurred in the recommendation of the Standing Committee on Fiscal Issues and submitted the matter to Council.

STANDING COMMITTEE RECOMMENDATION:

On January 10, 2006, the Standing Committee on Fiscal Issues concurred in the administrative recommendation, with the following amendments, namely:

- That pursuant to Section 5 of Schedule "B" of the Entertainment Funding By-law No. 7710/2000 the following be listed as an amusement in Schedule "A" of the By-law, namely:

    A. Sweet Adelines Inc. Region 6 for its annual convention competition to be held on May 18 - 20, 2006 at the Centennial Concert Hall.

    B. Osborne Village Cultural Centre for "The Winnipeg Comedy Festival" to be held on April 4 - 9, 2006 for the following events:

        i. Pantages Playhouse Theatre
            a. My Hometown
            b. Get Over It
            c. The Sky is Falling
            d. Founding Nations
            e. Family Matters

        ii. Gas Station Theatre
            a. My Wife and Kids
            b. Get Over It Panel
            c. Best of the Fest
            d. One show yet to be cast

DECISION MAKING HISTORY (continued):

STANDING COMMITTEE RECOMMENDATION (continued):

iii. Kings Head Pub - shows are not yet cast

iv. McPhillips Street Station - shows are not yet cast

v. Rumor's Comedy Club
   a. Ed Byre
   b. Four shows yet to be cast.

- That pursuant to Section 347 of The City of Winnipeg Charter the outstanding taxes owing with respect to the following events be cancelled, namely:

A. Green Party of Manitoba for the event entitled "Rockin' The Pantages" which was held on September 22, 2005 at the Pantages Playhouse Theatre.

B. Osborne Village Cultural Centre for "The Winnipeg Comedy Festival" which was held on April 5 - 10, 2005,

and submitted the matter to the Executive Policy Committee and Council.

ADMINISTRATIVE REPORT

RE: RECOMMENDATION FOR ENTERTAINMENT FUNDING BY-LAW EXEMPTION – JANUARY 2006

FOR SUBMISSION TO: STANDING COMMITTEE ON FISCAL ISSUES

ORIGINAL REPORT SIGNED BY: CHIEF FINANCIAL OFFICER

REPORT DATE: January 4, 2006

RECOMMENDATION(S):

That the following amusements and/or places of amusement, which **meet** the criteria set forth in Schedule "B" of The Entertainment Funding By-law No. 7710/2000, be recommended to Council for listing in Schedule "A":

1. Ancop International (Canada) Inc. Manitoba Branch.

2. Osborne Village Cultural Centre for "The Winnipeg Comedy Festival" to be held on April 4-9, 2006 for the following events:
    a. Gas Station Theatre
        - High School Improv
        - Winnipeg Show
    b. Franco-Manitobain Cultural Centre.

That the following amusements and/or places of amusement, which **do not meet** the criteria set forth in Schedule "B" of The Entertainment Funding By-law No. 7710/2000, be denied listing in Schedule "A":

3. Sweet Adelines Inc. Region 6 for its annual convention competition to be held on May 18 - 20, 2006 at the Centennial Concert Hall.

4. Green Party of Manitoba for the event entitled "Rockin' The Pantages" which was held on September 22, 2005 at the Pantages Playhouse Theatre.

5. Osborne Village Cultural Centre for "The Winnipeg Comedy Festival" to be held on April 4-9, 2006 for the following events:
    a. Pantages Playhouse Theatre
        i. My Hometown
        ii. Get Over It
        iii. The Sky is Falling
        iv. Founding Nations
        v. Family Matters

b. Gas Station Theatre
    i. My Wife and Kids
    ii. Get Over It Panel
    iii. Best of the Fest
    iv. One show yet to be cast.
c. Kings Head Pub – shows are not yet cast.
d. McPhillips Street Station – shows are not yet cast.
e. Rumor's Comedy Club
    i. Ed Byre
    ii. Four shows yet to be cast.

REPORT SUMMARY:

Key Issue(s):

The Administrative recommendations contained within this report have been made in accordance with the criteria set forth in the Entertainment Funding By-law No. 7710/2000.

Notwithstanding these recommendations, particularly those recommendations that deny a listing under Schedule "A", the Charter and/or by-law contain provisions which would allow Council to:

1. Cancel the entertainment funding tax for amusements and/or places of amusement that would otherwise be subject to the tax;
2. List performances which, as part of a festival, event or season of performances, have limited local content and, in the opinion of Council, the limited local content will complement and enhance the ability of the organization to produce entertainment and attract a broad audience; and
3. Vary provisions of the by-law and list an amusement where Council is satisfied:
    a. Such a listing is in keeping with the Listing Principles of Schedule B,
    b. The organization demonstrates in writing that the compliance with the by-law may cause unreasonable hardship, and
    c. Where possible, alternative arrangements proposed by the organization present a reasonable alternative in the circumstances of the particular organization.

Implications of the Recommendation(s):

General Implications

	None
	For the organization overall and/or for other departments
X	**For the community and/or organizations external to the City**
	Involves a multi-year contract

Comment(s): Council may exercise its discretion and approve exemptions on amusements that fall outside the listing principles contained in the By-law or cancel taxes owing.

Policy Implications

[x] **No**
[ ] **Yes**
Comment(s):

Environmental Implications:

[x] **No**
[ ] **Yes**
Comment(s):

Human Resources Implications:

[x] **No**
[ ] **Yes**
Comment(s):

Financial implications

[x] **Within approved current and/or capital budget**
[ ] **Current and/or capital budget adjustment required**
Comment(s): The financial impact of an approved application for exemption from the Entertainment Funding Tax is unknown. The tax revenue that could be generated from future events cannot be quantified.

REASON FOR THE REPORT:

Council must approve all Entertainment Funding By-law exemptions and may consider providing exemptions, or the cancellation of taxes owing, for amusements that would otherwise be denied an exemption.

HISTORY:

The Entertainment Funding By-law No. 7710/2000 was adopted in September 2000, wherein the former Amusement Tax By-law was replaced. A report to the Standing Committee on Fiscal Issues is prepared for each scheduled meeting if an application for exemption is received. The report was first submitted for the meeting of January 16, 2001 and for each meeting thereafter as required.

DISCUSSION:

An amusement or place of amusement may be listed in Schedule "A" where an organization has submitted an application for exemption. Listings are intended to assist locally based charitable and not-for-profit cultural or athletic organizations in producing entertainment and sporting events with admission prices at a level which will encourage a broad audience. Listings are not intended to apply where an amusement is held for fund raising events in which the performers or promoters profit or where the exemption would result in for-profit gains.

An exemption listing which has been provided in Section 2 of the By-law for an indefinite term or for season program **does not apply** to any performance that is:

a) a for-profit production, including a for–profit touring production which is offered through a bidding process;
b) mounted and assembled outside the City and has limited local content; or
c) is not directly held by the listed organization;
d) intended for fundraising purposes, except in the circumstances set out in section 3 of Schedule "B" of the by-law;

unless that performance has been specifically listed.

The Administration has conducted a thorough review of the applications received for exemption from the Entertainment Funding By-law in accordance with the criteria set forth in Schedules "A" and "B" of By-law No. 7710/2000.

Recommended for Exemption

The following amusements and/or places of amusement are being recommended for exemption listing in Schedule "A":

1. ***Ancop International (Canada) Inc. Manitoba Branch***

2. ***Osborne Village Cultural Centre for "The Winnipeg Comedy Festival" to be held on April 4-9, 2006 for the following events:***
    - ***a. Gas Station Theatre***
        - ***i. High School Improv***
        - ***ii. Winnipeg Show***
    - ***b. Franco-Manitobain Cultural Centre***

Not Recommended for Exemption

The following amusements and/or places of amusement are not recommended for exemption listing in Schedule "A": (Appendix "I" of this Report provides a table further illustrating the eligibility criteria that was not met.)

3. Sweet Adelines Inc. Region 6 for its annual convention competition to be held on May 18 to 20, 2006 at the Centennial Concert Hall.

Sweet Adelines Inc. Region 6 submitted an application for exemption from the entertainment funding tax for their annual convention competition, to be held on May 18 to 20, 2006 at the Centennial Concert Hall.

It is recommended that this application be denied exemption as the event does not meet the 60% Local Content requirement of the By-Law.

If Council supports this recommendation, this organization will be required to submit the entertainment funding tax for this event.

4. Green Party of Manitoba for the event entitled "Rockin' The Pantages" which was held on September 22, 2005 at the Pantages Playhouse Theatre.

Green Party of Manitoba submitted an application for exemption from the entertainment funding tax for their event "Rockin' The Pantages," which was held on September 22 , 2005 at the Pantages Playhouse Theatre.

It is recommended that this application be denied exemption as the event was held prior to the January Council meeting. The By-law does not contain provisions which would allow for the retroactive listing of an amusement.

If Council supports this recommendation, this organization will be required to submit the entertainment funding tax for this event.

It is further noted that the event meets the criteria for exemption but is being recommended for denial based on the fact the event was held prior to Council's exemption listing of the event.

5. Osborne Village Cultural Centre for the event entitled "Winnipeg Comedy Festival" to be held on April 4 to 9, 2006 at various venues in Winnipeg except those listed in item 2.

Osborne Village Cultural Centre submitted an application for exemption from the entertainment funding tax for their event "Winnipeg Comedy Festival" to be held on April 4 to 9, 2006 at the Pantages Playhouse Theatre, Gas Station Theatre, Kings Head Pub, McPhillips Street Station, and Rumor's Comedy Club.

It is recommended that this application be denied exemption as the festival does not meet the 60% Local Content requirement of the By-Law. None of the five events to be held at the Pantages Playhouse Theatre meet the 60% minimum requirement for Local Content. The percentage of Local Content ranges from a low of 14% to a high of 50%. The Gas Station Theatre is scheduled to host six events, however, the Local Content for one event cannot be determined as the event is yet to be cast. Based on information received for the five events, only two events meet the 60% minimum requirement for Local Content. The Local Content for the other events range from 0 to 40%. The Local Content for events to be held at the Kings Head Pub and the McPhillips Street Station cannot be determined as they are not yet cast. Performances at Rumor's Comedy Club have zero Local Content while the Franco-Manitobain Cultural Centre has 100% Local Content.

It is further noted that for events that are yet to be cast the organization has stated it does not expect that the Local Content minimum requirement will be met.

Furthermore, the Osborne Village Cultural Centre has submitted a letter requesting Council cancel taxes owing for the 2005 Winnipeg Comedy Festival for which no exemption was granted due to the Festival's Limited Local Content (Appendix "II"). The extent of the outstanding taxes cannot be fully determined as three venues that hosted the events, including the Gas Station Theatre, did not collect the taxes for tickets that were sold and those given as complimentary passes. Based on information received from Ticket Master, we estimated an amount of $800.00 owing from the Gas Station Theatre venue. Amounts owing from the other two venues could not be determined.

It is recommended that the request for cancellation of taxes be denied as the Osborne Village Cultural Centre did not apply for exemption for the 2005 Winnipeg Comedy Festival.

If Council supports this recommendation, this organization will be required to submit the entertainment funding tax for this event. However, should Council wish to provide financial relief as requested by this organization, the taxes owing for the 2005 Winnipeg Comedy Festival could be cancelled, by by-law, pursuant to section 347 of The City of Winnipeg Charter.

Other Considerations

It is noted that, notwithstanding the recommendation that a season of performances or a festival does not meet the criteria for a general exemption listing, the by-law provides for Council to list the performances in specific circumstances. The relevant By-law provisions have been attached as Appendix "III" to this report. These include circumstances where:

(a) the performance has limited local content but is to be offered by a locally based charitable or not-for-profit cultural or athletic organization as part of a festival, event, or season of performances and, in the opinion of Council, the limited local content will complement and enhance the ability of that organization to produce entertainment and attract a broad audience; and

(b) the amusement is not directly held by a charitable or not-for-profit cultural or athletic organization, but where Council is satisfied that:

- such a listing is in keeping with the Listing Principles;
- the organization demonstrates in writing that the compliance with a term, or terms, of the By-law may cause unreasonable hardship; and
- where possible, alternate arrangements proposed by the organization present a reasonable alternative in the circumstances of the particular organization.

FINANCIAL IMPACT STATEMENT - Date: January 4, 2006

The financial impact of approving an application for exemption from the entertainment funding tax is unknown for the listed events. The tax revenue that could be generated from these events cannot be quantified because the events have not yet occurred.

"Original signed by Carrie Erickson"
Carrie Erickson
Manager of Finance & Administration

IN PREPARING THIS REPORT, THERE WAS CONSULTATION WITH AND CONCURRENCE BY:

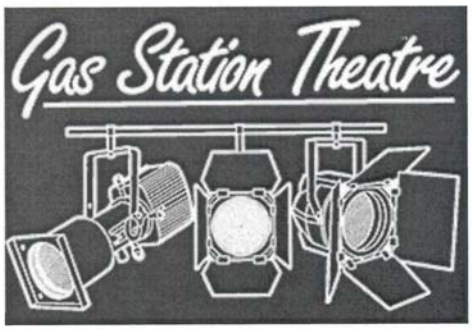
THIS REPORT SUBMITTED BY:

Corporate Finance Department
Taxation & Revenue
Prepared by: Robert Weselowski, Manager of Taxation and Revenue
File No. Fiscal Issues Entertainment Funding January 2006.doc

APPENDIX "I"

Name of Organization	Name of Event	Criteria Not Satisfied
Sweet Adelines Inc. Region 6	Annual Convention Competition to be held at the Centennial Concert Hall on May 18 to 20, 2006	Pursuant to By-law No. 7710/2000, Section 3 under Limited Local Content: • For the purposes of this by-law, where more than 40% of the performers involved in the performance of an amusement do not reside within Winnipeg, the amusement is deemed to have "limited local content." • This event has 10% Local Content.
Green Party of Manitoba	"Rockin' The Pantages" which was held at the Pantages Playhouse Theatre on September 22, 2005	Event was held prior to Council's January 25, 2006 meeting. • The By-law does not contain provisions which would allow for the retroactive listing of an amusement.
Osborne Village Cultural Centre	"Winnipeg Comedy Festival" to be held at various venues in Winnipeg on April 4-9, 2006: a. Pantages Playhouse Theatre i. My Hometown ii. Get Over It iii. The Sky is Falling iv. Founding Nations v. Family Matters b. Gas Station Theatre i. My Wife and Kids ii. Get Over It Panel iii. Best of the Fest iv. One show yet to be cast c. Kings Head Pub – shows are not yet cast. d. McPhillips Street Station – shows are not yet cast. e. Rumor's Comedy Club i. Ed Byre ii. Four shows yet to be cast	Pursuant to By-law No. 7710/2000, Section 3 under Limited Local Content: • For the purposes of this by-law, where more than 40% of the performers involved in the performance of an amusement do not reside within Winnipeg, the amusement is deemed to have "limited local content." • These performances do not meet the 60% Local Content minimum requirement. • The organization does not expect to meet the Local Content minimum requirement for shows that are yet to be cast.

APPENDIX "II"



We are submitting an application for a waiver on the Entertainment Funding Tax on behalf of the OVCC.

We produce an annual event, The Winnipeg Comedy Festival that brings significant value to the City of Winnipeg. The proceeds of this not for profit event benefit the year round work of the OVCC and Gas Station Theatre.

Remitting ten percent of our box office to the City decreases our ability to fulfill the goals of our organization. Last year, through tremendous public support we saved the Gas Station Theatre from extinction, balanced our books, and created a strategic and business plan fully endorsed by our active membership.

We request that the City forgive the small amount of outstanding Entertainment tax owing for 2005 and approve a waiver on the Entertainment Funding tax to the OVCC.

I am happy to provide any further information you request, and look forward to resolving this issue.

Sincerely,

Al Rae
Acting General Manager
Osborne Village Cultural Centre.

APPENDIX "III"

The Entertainment Funding By-law No. 7710/2000

Schedule B

Listing Principles

An amusement or place of amusement may be listed in Schedule A where an organization has made application for an exemption as hereinafter set out. Listings are intended to assist locally based charitable and not-for-profit cultural or athletic organizations in producing entertainment and sporting events with admission prices at a level which will encourage a broad audience. Listings are not intended to apply where an amusement is held for fund raising events in which the performers or promoters profit or where the exemption would result in for-profit gain.

Part 1 - Criteria

Definitions:

1 In this schedule:

"charitable organization" includes an organization registered as a "charity" with Revenue Canada;

"cultural organizations" includes organizations providing the following types of amusements: musical, artistic, ethno-cultural, museums, galleries and exhibits of a non-commercial nature;

"identifiable group" means a section of the public distinguished by age, ancestry, nationality, gender, ethnic background, religion or belief;

"not-for-profit cultural or athletic organization" means an organization which:
(a) is organized without share capital;
(b) has a governing body elected democratically by the membership;
(c) less than 50% of the organization's directors are "related" persons; and
(d) has a membership criteria such that membership in the organization is open to the public, or an identifiable group, for no, or minimal consideration;

"related persons" means individuals who are related to each other by blood, marriage, adoption, common-law relationship, or close business or corporate association (e.g., business partners, employee and employer). Individuals or groups can also be related to a corporation in which they have a controlling interest. Persons related to these individuals are also related to the corporation.

Scope re listings for charitable or not-for-profit cultural or athletic organizations

2 Listings may be provided for the performance of amusements where:

(a) the amusement is directly held by a charitable or not-for-profit cultural or athletic organization;

(b) the amusement to be held is directly related to the character of the organization;

(c) the organization is financially sound, or where in a deficit position, the organization is able to demonstrate a sound deficit reduction plan;

(d) the organization renders a service to an identifiable group while being of a general benefit to the community as a whole; and

(e) net revenues will be used to further the organization's undertaking or purpose.

Fund raising activities

3 An amusement which is intended for fund raising may be listed where:

(a) the amusement is directly held by a charitable or not-for-profit organization; and,

(c) individuals participating in the amusement each receive no more than $50.00 in remuneration for their services, in addition to reimbursement for reasonable expenses related to their participation in the amusement.

amended 7844/2001

Limited Local Content

4 Performances which have limited local content may only be considered for listing where the performance is to be offered by a locally based charitable or not-for-profit cultural or athletic organization as part of a festival, event, or season of performances and, in the opinion of Council, the limited local content will complement and enhance the ability of that organization to produce entertainment and attract a broad audience.

Council may vary provisions

5 Notwithstanding any other provision of Schedule "B", an amusement, or place of amusement, that is not within the scope of sections 2, 3 or 4 may be listed in Schedule "A" where Council is satisfied:

(a) such a listing is in keeping with the Listing Principles set out herein;

(b) the organization demonstrates in writing that the compliance with a term, or terms, of this By-law may cause unreasonable hardship; and

(c) where possible, alternate arrangements proposed by the organization present a reasonable alternative in the circumstances of the particular organization.