Agenda – Executive Policy Committee – March 15, 2006

REPORTS

Item No. 3 Draft Simplified Entertainment Funding By-law
File FL-6

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On March 8, 2006, the Executive Policy Committee recommended:

1. That the implementation of Recommendation 7 in the Red Tape Commission Report be supported in principle.

2. That the draft "Simplified Entertainment Funding By-law" be tabled for subsequent public input and consideration; said draft by-law to impose an amusement tax only on persons attending cinemas and entertainment facilities with a fixed seating capacity of 5000 or more.

3. That on March 15, 2006, the Executive Policy Committee hear delegations with respect to this matter and consider proposed amendments to the said draft By-law.

4. That on March 15, 2006, the Executive Policy Committee forward its recommendation on a "Simplified Entertainment Funding By-law" to Council for enactment at its regular meeting on March 22, 2006.

5. That upon passage of any new "Simplified Entertainment Funding By-law", the Standing Committee on Fiscal Issues shall review all aspects of the new By-law no later than one year after the by-law comes into force.

Agenda – Executive Policy Committee – March 15, 2006

DECISION MAKING HISTORY:

On March 8, 2006, the Executive Policy Committee passed the following resolution:

WHEREAS pursuant to the provisions of *The Municipal Act*, the City of Winnipeg may impose a tax on the admission price for amusements and attendance at places of amusement;

AND WHEREAS previous amusement tax or entertainment funding by-laws created significant red tape burdens for local arts and cultural groups, the intended beneficiaries of the funds generated from those taxes;

AND WHEREAS on June 28, 2005, Recommendation 7 in the Final Report of the Mayor's Red Tape Commission asked City Council to "radically simplify the Entertainment Funding By-law" in a manner that would end the imposition of an amusement tax on persons attending performances within the City, except within cinemas and certain facilities;

AND WHEREAS the preliminary 2006 Operating Budget contains adjustments in revenue sufficient to permit action on that recommendation in this fiscal year;

THEREFORE BE IT RESOLVED:

1. That the Executive Policy Committee support, in principle, the implementation of Recommendation 7 in the Red Tape Commission Report.

2. That the Executive Policy Committee table a draft "Simplified Entertainment Funding By-law" on March 8, 2006 for subsequent public input and consideration, said draft by-law to impose an amusement tax only on persons attending cinemas and entertainment facilities with a fixed seating capacity of 5000 or more.

3. That the Executive Policy Committee hear delegations with this respect to this matter and consider proposed amendments to the draft By-law on March 15, 2006.

4. That the Executive Policy Committee forward a draft "Simplified Entertainment Funding By-law" to Council to be enacted at its regular meeting on March 22, 2006.

5. That upon passage of any new "Simplified Entertainment Funding By-law", the Standing Committee on Fiscal Issues shall review all aspects of the new By-law no later than one year after the by-law comes into force.

DECISION MAKING HISTORY (continued):

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On April 6, 2005, the Executive Policy Committee recommended that inasmuch as The Entertainment Funding By-law No. 7710/2000 has been in effect for nearly five years and has remained virtually unchanged since its adoption, the Administration be directed undertake a review of the legislation and to subsequently report back to the Executive Policy Committee in due course with recommendations, if any, for amendments to the legislation.

This simplified version of the *Entertainment Funding By-Law* is a DRAFT for discussion purposes only.

SIMPLIFIED ENTERTAINMENT FUNDING BY-LAW NO. _____.

A By-law of THE CITY OF WINNIPEG imposing a tax upon persons attending certain places of amusement.

The City of Winnipeg, in Council assembled, enacts as follows:

1 This By-law may be referred to as **"The Simplified Entertainment Funding By-Law"**.

Definitions

2 In this By-law

"admission price" means the fee or charge paid by or collected from a person for entrance to a taxable place of amusement, and includes,

(a) where entrance to a taxable place of amusement is allowed on the basis of a season ticket or annual ticket, the price of the season ticket or annual ticket;

(b) any fee or charge which is charged for the right to sit or use any particular seat or box or to stand in a taxable place of amusement in relation to viewing an amusement not given to a person who does not pay the fee or charge; and

(c) the greater of the face or actual value of the ticket and the amount paid for entrance or admission to a place of amusement;

but does not include other fees, levies or taxes imposed upon or in addition to the admission price;

"amusement" means a contest, dance, entertainment, exhibition, game performance, program, or show and includes a film or motion picture;

"City Treasurer" means the person appointed to that position by the City, or his or her designate;

"cinema" means any place that is used for the exhibition or showing of films or motion pictures;

"entertainment facility" means a place in which members of the public are able to view an amusement for a fee or charge;

"owner" means any person who operates, conducts or manages a taxable place of amusement, and includes the employee, manager, lessee, transferee or partner of an owner and any person selling tickets or passes as an owner's agent;

"tax" means a tax imposed under this By-law;

"taxable place of amusement" means a place of amusement attendance at which is not exempted from the tax pursuant to subsection 3(2);

"fixed seating capacity" means the total number of fixed seats from which an amusement could be viewed within a place of amusement if temporary walls or barriers are not installed.

Imposition of tax

3(1) Subject to subsections (2) and (3), every person attending a place of amusement must, for every attendance at that place of amusement to view an amusement, pay to the City a tax in the amount of ten percent (10%) of the admission price on an admission price of $5.00 or more.

Exemptions to tax

3(2) Persons attending places of amusement except

(a) a cinema to view a film or motion picture; or

(b) an entertainment facility with a total fixed seating capacity of 5,000 persons or more to view an amusement;

are exempt from the tax imposed by subsection (1).

Rounding up or down

3(3) If in making the computation of the tax the result includes a fraction of a cent, the tax shall be rounded to the nearest cent.

Collection of taxes

4 An owner must collect the taxes imposed by this By-law from the persons liable therefor.

Records and returns

5 Every owner who collects any tax, or is responsible for the collection of any tax, under this By-law must

(a) account to the City Treasurer for all tax collected;

(b) remit all tax collected to the City Treasurer in accordance with section 6;

(c) file with the City Treasurer within thirty (30) days of the amusement being held or, if the taxable place of amusement operates continuously, annually, an audited financial statement or a financial statement certified by the officers of the organization including a statement of gross revenue; and,

(d) include upon every ticket to his taxable place of amusement upon which is printed an admission price of $5.00 or more, a statement of the amount of tax included in the ticket price, if any.

Remittance of tax

6(1) Where a taxable place of amusement is continuously operated, the owner must, on or before the sixth day of a month, remit tax that has been collected upon admissions for the previous month.

6(2) Where subsection (1) does not apply, the owner must, on or before the Thursday of the week following the amusement, remit the tax that has been collected upon admissions to the taxable place of amusement.

Right of entry of City Treasurer

7 The City Treasurer has the powers of a designated employee under *The City of Winnipeg Charter* for the purposes of administering and enforcing this By-law and, without restricting any other powers he or she may have, may, for the purpose of enforcing this By-law, enter any place of amusement

(a) to collect the tax imposed by this By-law, if necessary;

(b) to audit the books, records and accounts of the owner for the purpose of ascertaining the amount of tax to be collected and remitted;

(c) to place in the lobby or other part of the premises such notices regarding the tax as the City Treasurer may think necessary;

(d) to take readings of any automatic ticket vending machine used therein;

(e) take stock and the serial numbers of admission tickets in the place; or

(f) to require the owner to produce for inspection any book, contract, agreement, letter, paper or document relating to the taxable place of amusement or the business thereof; and

(g) make and remove copies of any documents or records required in the administration of this By-law.

Appeals

8 Where an appeal from an order or decision of the City Treasurer is subject to appeal, the appeal may be made in accordance with *The City of Winnipeg Charter* to the Standing Committee on Fiscal Issues.

Penalties

9 Every person who fails to comply with the provisions of this By-law is guilty of an offence and is liable on summary conviction

(a) for failing to collect or remit the tax, to a fine that is not less than double the amount of the tax that should have been collected and remitted to the City Treasurer;

(b) for failing to comply with other provisions of this By-law,

(i) if an individual, to a fine not exceeding one thousand dollars ($1,000.00) or to imprisonment for a term not exceeding six (6) months, or to both fine and imprisonment;

(i) if a corporation, to a fine not exceeding Fifty Thousand Dollars ($50,000.00).

Report on use of funds raised

11 As the purpose of this tax is to provide a source of funding for arts and culture in the City of Winnipeg, the City Treasurer shall report annually to Council with a comparison of net actual revenues generated by this tax in the previous fiscal year to the total value of grants or other disbursements to arts and cultural organizations in that same fiscal year.

Transition

12(1) The tax imposed by this By-law is a successor to the tax imposed under the Entertainment Funding By-law No. 7710/2000 and the terms "amusement tax" and "entertainment funding tax", as they appear in other by-laws of the City refer to the tax imposed under this By-law.

12(2) Notwithstanding section 13, the tax imposed by the Entertainment Funding By-law No. 7710/2000 on admission prices paid prior to the date this By-law comes into effect must be collected and remitted to the City in accordance with that By-law.

12(3) Notwithstanding section 13, where taxes are collected, purportedly pursuant to the Entertainment Funding By-law No. 7710/2000, they must be remitted to the City in accordance with this By-law.

Repeal

13 The Entertainment Funding By-law No. 7710/2000 is repealed on the date this By-law

comes into effect.

Effective date

14 This by-law takes effect on April 1, 2006.

_____
Mayor

_____
City Clerk

Approved as to form:

_____
City Solicitor/Manager
of Legal Services