**Minutes - Executive Policy Committee – March 15, 2006**

**Minute No. 272**
**Report - Standing Committee on Fiscal Issues - March 7, 2006**

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

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

The Executive Policy Committee concurred in the recommendation of the Standing Committee on Fiscal Issues and submits the following to Council:

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. Agassiz Music, Inc. for Concerts 2, 5, 6, 8, and 10 as part of the Agassiz Music Festival 2006 to be held from June 14 - 23, 2006.
   B. Events and performances directly held by Winnipeg Campus/Community Radio Society Inc.
   C. Events and performances directly held by Seven Oaks General Hospital.

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. Agassiz Music, Inc. for Concerts 3, 7, and 11 as part of the Agassiz Music Festival 2006 to be held from June 14 - 23, 2006.
   B. Shoestring Players.
   C. Seven Oaks General Hospital for their fund raising event titled "25th Anniversary Gala Celebration" to be held on March 25, 2006 at the Fairmont Winnipeg.

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

   A. Winnipeg Campus/Community Radio Society Inc. for their event "Fundrive Benefit Show" held at the Royal Albert Arms Hotel on February 16, 2006.

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 concurred in and forwarded to Council.

Carried

STANDING COMMITTEE RECOMMENDATION:

On March 7, 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:

    1. Agassiz Music, Inc. for Concerts 3, 7, and 11 as part of the Agassiz Music Festival 2006 to be held from June 14 - 23, 2006.

    2. Shoestring Players.

    3. Seven Oaks General Hospital for their fund raising event titled "25th Anniversary Gala Celebration" to be held on March 25, 2006 at the Fairmont Winnipeg.

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

    A. Winnipeg Campus/Community Radio Society Inc. for their event "Fundrive Benefit Show" held at the Royal Albert Arms Hotel on February 16, 2006,

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

## ADMINISTRATIVE REPORT

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

**FOR SUBMISSION TO:** STANDING COMMITTEE ON FISCAL ISSUES

**ORIGINAL REPORT SIGNED BY:** CHIEF FINANCIAL OFFICER

**REPORT DATE:** February 27, 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. Agassiz Music, Inc. for Concerts 2, 5, 6, 8, & 10 as part of the Agassiz Music Festival 2006 to be held from June 14 – 23, 2006

2. Events and performances directly held by Winnipeg Campus/Community Radio Society Inc.

3. Events and performances directly held by Seven Oaks General Hospital

That the following amusements and/or places of amusement, that **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":

4. Agassiz Music, Inc. for Concerts 3, 7, & 11 as part of the Agassiz Music Festival 2006 to be held from June 14 – 23, 2006

5. Winnipeg Campus/Community Radio Society Inc. for their event "Fundrive Benefit Show" held at the Royal Albert Arms Hotel on February 16, 2006

6. Shoestring Players

7. Seven Oaks General Hospital for their fund raising event titled "25th Anniversary Gala Celebration" to be held on March 25, 2006 at the Fairmont Winnipeg

**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.

**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 for amusements that would otherwise be denied an exemption; or
- cancel the entertainment funding tax that is owing for past events.

## 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.

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. **Agassiz Music, Inc. for Concerts 2, 5, 6, 8, & 10 as part of the Agassiz Music Festival 2006 to be held from June 14 – 23, 2006.**

   Agassiz Music Inc. is currently not listed in "Schedule A". The application from ***Agassiz Music, Inc.*** is for the Agassiz Music Festival 2006 events to be held at various venues in Winnipeg from June 14 – 23, 2006. The concerts being recommended for listing satisfy the criteria for exemption. Please note: Concert # 1 was deleted from the application as a separate application from another organization for this event will be submitted at a later date. Concerts 4 and 9 are tax exempt since admission for both is free.

2. **Events and performances directly held by Winnipeg Campus/Community Radio Society Inc.**

3. **Events and performances directly held by Seven Oaks General Hospital.**

**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 were not met.)

4. **Agassiz Music, Inc. for Concerts 3, 7, & 11 as part of the Agassiz Music Festival 2006 to be held from June 14 – 23, 2006.**

   Agassiz Music, Inc. submitted an application for exemption from the entertainment funding tax for their event "Agassiz Music Festival 2006," to be held at various venues in Winnipeg from June 14 – 23, 2006.

   Concerts 3, 7, & 11 have no local content (see Appendix "I") and therefore are not being recommended for an exemption listing in Schedule "A".

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

5. **Winnipeg Campus/Community Radio Society Inc. for their event "Fundrive Benefit Show" held at the Royal Albert Arms Hotel on February 16, 2006.**

   Winnipeg Campus/Community Radio Society Inc. submitted an application for exemption from the entertainment funding tax for their fundraising event, "Fundrive Benefit Show", which was held on February 16, 2006 at the Royal Albert Arms Hotel.

   It is recommended that this application be denied exemption as the event was held prior to the March Council meeting (see Appendix "I"). 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 owing 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 potential exemption listing of the event.

6. **Shoestring Players.**

   Shoestring Players, a theatrical troupe, submitted an application for general exemption status from the entertainment funding tax. Shoestring Players however, is not registered as a not-for-profit organization and therefore is not being recommended for approval.

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

   It is further noted that the organization advised us on February 20, 2006 that it intends to initiate the registration process for not-for-profit status. Should this status be obtained, they will meet all the requirements stipulated in the By-law and can resubmit their application for a general listing exemption from the entertainment funding tax for future events.

7. **Seven Oaks General Hospital for their fund raising event titled "25th Anniversary Gala Celebration" to be held on March 25, 2006 at the Fairmont Winnipeg.**

   Seven Oaks General Hospital submitted an application for a general listing in Schedule "A" of the by-law and this report recommends the hospital be listed (see recommendation No. 3). However, Seven Oaks General Hospital has also

submitted an application for their fund raising event titled “25th Anniversary Celebration”, to be held on March 25, 2006 at the Fairmont Winnipeg. It is recommended that this application be denied exemption as the organization will pay each performer an amount in excess of $50, depending on the amount of profit generated. The By-law does not allow for remuneration of more than $50 to be paid for fund raising activities (see Appendix II).

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

## 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 “II” 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.

It is further noted that, notwithstanding those recommendations that deny a listing under Schedule “A”, the Charter contains provisions which would allow Council to cancel the entertainment funding tax owing for amusements and/or places of amusement subject to the tax.

# FINANCIAL IMPACT STATEMENT - Date: February 24, 2006

**The financial impact of approving applications 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 - March 2006.doc

**APPENDIX "I"**

| Name of Organization | Name of Event | Criteria Not Satisfied |
|---|---|---|
| ***Agassiz Music, Inc.*** | Concerts # 3, 7, 11 as part of the "Agassiz Music Festival 2006" to be held at various venues in Winnipeg from June 14 – 23, 2006 | ***Limited Local Content***<br><br>Pursuant to By-law No. 7710/2000, Section 3 under Limited Local Content:<br><br>• 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."<br><br>These concerts inclusively have 18 musicians performing with 0% Local Content. |
| ***Winnipeg Campus/ Community Radio Society Inc.*** | "Fundrive Benefit Show" held at the Royal Albert Arms Hotel on February 16, 2006 | ***Event was held prior to Council's March 22, 2006 meeting.***<br><br>The By-law does not contain provisions which would allow for the retroactive listing of an amusement. |
| ***Shoestring Players*** | General Exemption | ***Charitable or not-for-profit cultural or athletic organization***<br><br>The organization is not incorporated as a not-for-profit cultural or athletic organization nor is it registered as a charity with Revenue Canada. |
| ***Seven Oaks General Hospital*** | 25th Anniversary Gala Celebration to be held at the Fairmont Winnipeg on March 25, 2006 | ***Fund raising activity - Schedule "B" Section 3(c):***<br><br>• 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.<br><br>Individuals participating in this event will receive in excess of $50. |

# APPENDIX "II"

## 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

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