Minute No. 362
Report – Executive Policy Committee - April 18, 2007

Item No. 6 **Red Tape Commission – Recommendation 4.1, 4.2 and 4.3 – Improved Application Processes and Elimination of License in lieu of Business Tax**
File EL-1

COUNCIL DECISION:

Council concurred in the recommendation of the Executive Policy Committee and adopted the following:

1. That effective January 1, 2008, Section 5(1) of the License in Lieu of Business Tax By-law No. 122/2003 be amended to have the license fee under the by-law due and owing on

   A. May 31 of each year;
   B. Or the date a license in lieu of business tax becomes required during the course of the calendar year;

   whichever occurs later.

2. That subject to Council approving increased revenues, service reductions and/or efficiencies during the 2008 budget process in order to offset the loss of license-in-lieu of business tax revenue; that the License in Lieu of Business Tax By-law No. 122/2003 be repealed effective January 1, 2008 as the third step of Council's reduction of business tax.

3. That Recommendations 4.1 (License in Lieu of Business Tax forms be re-written to be more user friendly, and in a manner that specifies the legal requirements in clear language) and 4.2 (a simpler method be established for citizens to have their license in lieu of business tax fee reduced to zero) not be implemented if the License in Lieu of Business Tax By-law is repealed effective January 1, 2008.

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 His Worship Mayor Katz,
That the recommendation of the Executive Policy Committee be adopted.

Moved by Councillor Vandal,
That the item be referred to the 2008 budget process.

The motion to refer was put.

Councillor Clement called for the yeas and nays, which were as follows:

Yea: Councillors Gerbasi, Smith, Thomas and Vandal. 4

Nay: His Worship Mayor Katz, Councillors Browaty, Clement, Fielding, Leipsic, Nordman, O'Shaughnessy, Pagtakhan, Steeves, Swandel, Wyatt and Lazarenko. 12

and the motion to refer was declared lost.

The motion for adoption of the item was put.

Councillor Gerbasi called for the yeas and nays, which were as follows:

Yea: His Worship Mayor Katz, Councillors Browaty, Clement, Fielding, Leipsic, Nordman, O'Shaughnessy, Pagtakhan, Steeves, Swandel, Wyatt and Lazarenko. 12

Nay: Councillors Gerbasi, Smith, Thomas and Vandal. 4

and the motion for adoption of the item was declared carried.

Report – Executive Policy Committee - April 18, 2007

DECISION MAKING HISTORY (continued):

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On April 18, 2007, the Executive Policy Committee concurred in the administrative recommendation and submitted the matter to Council.

On March 22, 2006, the Executive Policy Committee directed the Chief Administrative Officer to prepare and forward reports on all remaining recommendations of the Red Tape Commission in an expedited manner, in a manner reflecting the following list of priorities:

B. May 2006 Phase
Recommendation 4.2/4.3 Reform and eventual elimination of home business licenses

RE: RED TAPE COMMISSION REPORT: RECOMMENDATION 4.1, 4.2 & 4.3 – IMPROVED APPLICATION PROCESSES AND ELIMINATION OF LICENSE IN LIEU OF BUSINESS TAX

FOR SUBMISSION TO: Executive Policy Committee

ORIGINAL REPORT SIGNED BY: Clive Wightman
Director, Community Services Department

REPORT DATE: March 23, 2007

RECOMMENDATION(S):

1. That effective January 1, 2008, Section 5(1) of the License In Lieu of Business Tax By-law 122/2003 be amended to have the license fee under this By-law due and owing on
   (a) May 31 of each year;
   (b) or the date a license in lieu of business tax becomes required during the course of a calendar year;
   whichever occurs later.

2. That subject to Council approving increased revenues, service reductions/and or efficiencies during the 2008 budget process in order to offset the loss of license-in-lieu of business tax revenue; that the License In Lieu of Business Tax By-law 122/2003 be repealed effective January 1, 2008 as the third step of Council's reduction of business tax;

3. That Recommendations 4.1 (License in Lieu of Business Tax forms be re-written to be more user friendly, and in a manner that specifies the legal requirements in clear language) and 4.2 (a simpler method be established for citizens to have their license in lieu of business tax fee reduced to zero) not be implemented if the License In Lieu of Business Tax By-law is repealed effective January 1, 2008.

Report Summary

Key Issues:

- Based on the 2007 budget, elimination of license in lieu of business tax would result in an annual net budget loss of $843,857. License in lieu of business tax should only be eliminated if Council approves increased revenues, service reductions and/or service efficiencies during the 2008 budget process in order to offset the loss of revenue associated with the elimination of license in lieu of business tax.

- The License In Lieu of Business tax annual fee of $135 is currently due and payable on January 1. Changing the date that the license is due annually to May 31 will reduce red tape in the event that License in Lieu of Business Tax is eliminated following the 2008 budget process. This will eliminate the need for the public to pay their annual license fee on January 1, 2008 and then require a refund if the by-law is repealed. An annual due date of May 31 is also consistent with the annual due date of City of Winnipeg business tax.

- The license fee is for the calendar year. Therefore this report recommends January 1, 2008 as the effective date for repeal of the by-law, as this coincides with the beginning of the new license year.

- Elimination of License in Lieu of Business Tax could be considered as the third step in Council's recent reductions in business tax.

- The License in Lieu of Business Tax By-law 122/2003 imposes a license in lieu of business tax on certain businesses as follows:

> Every person who, in carrying on a business for the preponderant purpose of earning a profit
>
> (a) Occupies premises for which the City Assessor finds it impractical to determine the annual rental value; or
>
> (b) Does not occupy premises for the purpose of carrying on the business
>
> must obtain a license in lieu of business tax from the City for each year or portion of each year in which the person carries on the business and, subject to the provisions of this by-law, must pay a fee for the license as set out in this by-law.

- This typically includes not only home based businesses, but also businesses who are located outside of Winnipeg but conducting business within Winnipeg; and businesses who do not operate out of a premise.

- The intent of License In Lieu of Business Tax is to create an equal playing field for:
    a) Businesses operating out of commercial space and paying business tax; and
    b) Businesses that operate from a premise such as their home, where it is impractical to determine the annual rental value upon which to base business tax, or those who operate a business but do not occupy a premise for the purpose of carrying on the business. This includes businesses who are located outside of Winnipeg but who carry out business within Winnipeg.

- There is no obligation in the Charter on the City to impose a license in lieu of business tax.

- The annual net budget loss of $843,857 is comprised of a net loss to the License Branch operating budget of $793,857; and an increase of $50,000 annually to establish a Clerk B position and the associated workspace within the Planning, Property and Development Department in order to meet increased demands related to ensuring zoning compliance.

- The elimination of License In Lieu of Business Tax will result in the elimination of 3 staffing positions within the License Branch, and will require re-deployment of existing staff. In addition, an increase of $50,000 annually would be required to establish a Clerk B position and the associated workspace within the Planning, Property and Development Department in order to meet increased demands related to ensuring zoning compliance.

- If the License In Lieu of Business Tax By-law is eliminated, there will still be a requirement for Home Based Businesses within Winnipeg to obtain:

    - a Home Occupation Permit currently required from the Zoning and Permits Branch of Planning, Property and Development. This permit is intended to ensure that businesses operating in residential areas are not compromising the integrity of the residential neighbourhood; and

    - possibly a license pursuant to License By-law 6551/95, depending on the specific trade conducted.

- If the License In Lieu of Business Tax By-law is repealed January 1, 2008, it would not be necessary to implement Recommendations 4.1 and 4.2.

Implications of the Recommendation(s):

General Implications

( ) None

(X) 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):

Recommendations within this report will result in less red tape for citizens by eliminating the need for businesses located within Winnipeg or businesses from outside of Winnipeg who conduct business within Winnipeg to pay a License in Lieu of Business Tax.

If License in Lieu of Business Tax for Home Based Businesses is eliminated this will result in an increased demand on Planning, Property and Development resources, as the burden will then fall on the Zoning and Permits Branch to issue all Home Occupation permits (zoning compliance); and, identify and determine continuity of use for home-based businesses. Currently, a significant portion of this work is carried out by the License Branch in the spirit of the one-stop-shop approach.

Policy Implications

( ) No

(X) Yes

Comment(s): The current City of Winnipeg Charter *requires* that the City impose a business tax. This business tax must be based on the annual rental value of the premises.

However, there is no obligation in the Charter on the City to impose a license in lieu of business tax.

> 'Where it is not practical to determine the annual rental value (for example, in the case of home-based businesses), or where a business is not being operated from premises in the City (when there is no particular base of operations or when the premises are located outside the City), the City *may* impose a license in lieu of business tax.'

This report recommends the elimination of License in Lieu of Business Tax as the third step in Council's recent reductions in business tax.

Regulatory Implications

( ) None

(X) Eliminates or reduces regulatory impact

( ) Proposes regulatory impact

Comment(s): Recommendations within this report eliminate the need for businesses located within Winnipeg or businesses from outside of Winnipeg who conduct business within Winnipeg, to pay a License in Lieu of Business Tax.

However, if the License in Lieu of Business Tax By-law is repealed, Home Based Businesses located within Winnipeg will still be required to obtain a one-time Home Occupation Permit (zoning compliance). Depending on the nature of the business being conducted a General License pursuant to License By-law 6551/95 may also be required.

Environmental Implications

(X) No

( ) Yes

Comment(s):

Human Resources Implications

( ) No

(X) Yes

Comment(s): There are 3 positions (1 WAPSO and 2 CUPE) that will be eliminated within the License Branch if License in Lieu of Business Tax is eliminated. With respect to the WAPSO position, the employee would need to be re-deployed within the civic service or alternatively severed. Severance costs (not including sick leave cashout) are estimated to be approximately $71,000.

CUPE employees would have to be re-deployed within the civic service. In the event that there are no suitable vacancies, the employees are salary protected. The cost of the salary protection is an approximate total of $81,000 annually for both positions.

There are notice requirements to both CUPE and WAPSO. A minimum of 90 days notice is required. Therefore, June 30, 2008 is the earliest approximate date that the positions could be eliminated, if notice is given following the 2008 budget process.

The elimination of this function from the License Branch allows the City to realize some efficiency when the remaining zoning compliance function is amalgamated with related customer service functions already existing in the Planning, Property and Development Department. Therefore, only one additional Clerk B position and associated work space would be required in the Zoning and Permits Branch of the Planning, Property and Development Department.

Financial Implications

( ) Within approved current and/or capital budget

(X) Current and/or capital budget adjustment required

Comment(s):
Expenditures – The Community Services Department's License Branch 2007 Budget had expenditures of $187,143 associated with the administration of the License In Lieu of Business Tax By-law.

Revenues – The Community Services Department's License Branch 2007 Budget had revenues of $981,000 generated by License in Lieu of Business Tax.

Net loss to mill rate support – Based on the 2007 budget, elimination of License in Lieu of Business Tax would create a net loss to the License Branch operating budget of $793,857.

In addition, an annual increase of approximately $50,000 will be required for a Clerk B position and the associated workspace, within the Planning, Property and Development Department in order to meet increased demands related to ensuring zoning compliance.

See the Human Resource section of the report with respect to possible additional costs related to potential severance and salary protection costs.

The 2008 net loss of $912,428 is higher than future years due to the fact that staff costs will be incurred until approximately June 30, 2008. (Collective Agreements require 90 days notice if positions are being eliminated. This cannot occur until completion of the 2008 budget process).

Report

REASON FOR THE REPORT:

At its meeting of March 22, 2006, the Executive Policy Committee directed the Chief Administrative Officer to prepare and forward reports on all remaining recommendations of the Red Tape Commission in an expedited manner, reflecting a list of priorities. One of these recommendations was Recommendation 4.1, 4.2 & 4.3, namely:

Recommendation 4.1
Immediately re-write the forms for home-based business licenses to more closely copy other cities in form and function. The Form should specify in clear language in the body of its text what is legal, and what is not.

Recommendation 4.2
Where a business with an income of less than $5,000 would be eligible to apply for a rebate in the existing system, instead allow the eligible business to file notice that it would be exempt, without any need for the fee collection or rebate.

Recommendation 4.3
Eliminate the home-based business license as a component of a future reduction in City business taxes. This should be completed in a single step to capture administrative benefits. When elimination takes place, the City should seek help from small business organizations and other agencies to better publicize zoning by-law obligations for home-based business.

It was directed that the report be submitted to Executive Policy Committee for consideration.

HISTORY:

On November 23, 2004, the Mayor officially established a Red Tape Commission to review City operations and regulations in order to improve customer service while granting administrators more freedom to innovate.

The Red Tape Commission submitted a final report, dated June 28, 2005, containing 30 general recommendations, each with numerous more detailed sub-recommendations.

At its meeting of March 22, 2006, the Executive Policy Committee directed the Chief Administrative Officer to prepare and forward reports on all remaining recommendations of the Red Tape Commission, including Recommendation 4.1, 4.2 & 4.3.

DISCUSSION:

Background Information

The License in Lieu of Business Tax By-law 122/2003 imposes a license in lieu of business tax on certain businesses as follows:

> Every person who, in carrying on a business for the preponderant purpose of earning a profit
>
> (a) Occupies premises for which the City Assessor finds it impractical to determine the annual rental value; or
>
> (b) Does not occupy premises for the purpose of carrying on the business
>
> must obtain a license in lieu of business tax from the City for each year or portion of each year in which the person carries on the business and, subject to the provisions of this by-law, must pay a fee for the license as set out in this by-law.

It is important to draw a distinction between licenses in lieu of business tax and regulatory licenses. Regulatory licenses are generally required in order to practice certain professions, occupations, trades or callings. These licenses are a regulatory tool to ensure that these businesses are operated in a safe manner that is in the public interest. Regulatory licenses are typically imposed through the License By-law 6551/95; which is also under review pursuant to Recommendation 3 of the Red Tape Commission Report.

In contrast to regulatory licenses, a license in lieu of business tax is not a “license” (in the common sense of the term). Rather, it is a fee that is charged instead of a business tax on businesses that do not occupy premises or that occupy unusual business premises that are impractical to assess for business taxes.

Although licenses in lieu are paid by many businesses that are not home-based businesses, since December 15, 1993, the annual fee for licenses in lieu of business tax has been based on the annual rental value of the maximum space allowed by a zoning permit for a home-based business (400 square feet). The goal of this policy was to ensure that the license in lieu of business tax fee is similar to the business tax that would be levied if the area in the home that may be used for business purposes were assessed for business tax.

Common home occupations cover a wide range of businesses and include:

- direct sales such as Arts & Crafts, Cosmetics, Household goods;

- business services such as Market/Sales, Consultants, Desk Top Publishing;
- an office base for off-site work such as plumbers, electricians, wholesale and retail;
- professional services such as Accountants, Doctors, Lawyers or Engineers;
- personal services such as Child Day Care, Massage Therapists, Aestheticians, piano teacher, photographer, funeral director.

In addition to the license in lieu of business tax, home-based businesses are required:

- to obtain approval under the Zoning By-law with respect to operating a home occupation. This includes a one-time fee of $118. The Home Occupation Permit ensures that home-based businesses operate within established zoning guidelines, thereby protecting the integrity of residential neighbourhoods; and

- to obtain and pay for such regulatory licenses as may be required under License By-law 6551/95.

Currently, the License Branch processes approximately 800 new applications and approximately 8000 Licenses in Lieu of business tax renewals per year. Where a business involves a home occupation, these licenses require compliance with the Zoning By-law with respect to home occupation and the use of the home for limited business purposes. The License Branch presently processes 95% of the initial applications for home-based businesses, including the Home Occupation permit (zoning approval), in keeping with the principle of the one stop shop approach. Only those applications with specific Zoning concerns are immediately referred to the Zoning & Permits Branch. Therefore, the elimination of the License in Lieu of Business Tax will increase demand on the Zoning and Permits Branch of Planning, Property and Development.

Human Resource Implications

There are 3 positions (1 WAPSO and 2 CUPE) that will be eliminated within the License Branch if License in Lieu of Business Tax is eliminated. The Collective agreements require a 90 day notice period prior to the elimination of positions. June 30, 2008 is the earliest approximate date that the positions could be eliminated, if notice is given following the 2008 budget process.

With respect to the WAPSO position, the employee would need to be re-deployed within the Civic Service or alternatively severed. Severance costs (not including sick leave cashout) are estimated to be approximately $71,000.

CUPE employees would have to be re-deployed within the civic service. In the event that there are no suitable vacancies, the employees have employment security and are salary protected. The cost of the salary protection is an approximate total of $81,000 annually for both positions.

This transfer allows the City to realize some efficiency with the amalgamation of this service to related customer service functions already existing in the Planning, Property and Development Department. Therefore, only one additional Clerk B position and associated work space, at a cost of approximately $50,000 annually, would be required in the Zoning and Permits Branch of Planning, Property and Development. This will allow the Branch to meet the increased demands related to the administration of the Zoning By-law, once the Home Occupation (zoning approval) is no longer being processed by the License Branch.

Public Education re: Zoning By-law obligations

If License In Lieu of Business Tax is eliminated, updated informational materials will be developed (pamphlet, web site, etc). These materials will also be provided to a multitude of agencies including but not limited to:

- The Companies Office of the Province of Manitoba
- Canada Manitoba Business Centre
- Women's Entrepreneur Centre
- Winnipeg Public Libraries
- University of Manitoba
- University of Winnipeg
- Red River College
- Business Improvement Zones
- Province of Manitoba Child Care Registry

Financial Impact Statement

Date: March 23, 2007

Project Name: **First Year of Program** **2008**

Red Tape Commission Report: Recommendations 4.1, 4.2 and 4.3 - Improved Application Processes & Elimination of License In Lieu of Business Tax

	2008	2009	2010	2011	2012
Capital					
Capital Expenditures Required	$ -	$ -	$ -	$ -	$ -
Less: Existing Budgeted Costs	-	-	-	-	-
Additional Capital Budget Required	$ -	$ -	$ -	$ -	$ -
Funding Sources:					
Debt - Internal	$ -	$ -	$ -	$ -	$ -
Debt - External	-	-	-	-	-
Grants (Enter Description Here)	-	-	-	-	-
Reserves, Equity, Surplus	-	-	-	-	-
Other - Enter Description Here	-	-	-	-	-
Total Funding	$ -	$ -	$ -	$ -	$ -
Total Additional Capital Budget Required	$ -				
Total Additional Debt Required	$ -				
Current Expenditures/Revenues					
Direct Costs	$ (68,572)	$ (137,143)	$ (137,143)	$ (137,143)	$ (137,143)
Less: Incremental Revenue/Recovery	(981,000)	(981,000)	(981,000)	(981,000)	(981,000)
Net Cost/(Benefit)	$ 912,428	$ 843,857	$ 843,857	$ 843,857	$ 843,857
Less: Existing Budget Amounts	-	-	-	-	-
Net Budget Adjustment Required	$ 912,428	$ 843,857	$ 843,857	$ 843,857	$ 843,857

Additional Comments: Based on the 2007 Budget, elimination of License in Lieu of Business Tax would create an annual net loss to the License Branch operating budget of $793,857. In addition, an increase of $50,000 annually would be required to establish a Clerk B position and the associated workspace within the Planning, Property and Development Department in order to meet increased demands related to ensuring zoning compliance. The FIS represents the total cost to the City (both to the Community Services Department and PP&D). The 2008 net loss of $912,428 is higher than future years due to the fact that staff costs will be incurred until approximately June 30, 2008 (Collective Agreements require 90 days notice if positions are being eliminated. This cannot occur until completion of the 2008 budget process).While there are potential finacial implications with respect to possible severance and salary protection costs, for the purposes of this FIS, it is assumed that redeployment will be successful. (See Human Resource section of the report with respect to possible severance and salary protection costs.)

original signed by
Cindy Fernandes
Acting Manager of Finance & Administration

IN PREPARING THIS REPORT THERE WAS:

Internal Consultation With and Concurrence By:

- Planning, Property & Development Department
- Legal Services
- Corporate Finance

External Consultation With: Nil

THIS REPORT SUBMITTED BY:

Department:	Community Services Department
Division:	Community Resource, Protection & Safety Services
Prepared by:	Kelly Goldstrand, Manager Community Resource, Protection & Safety Services
File No.	

THE CITY OF WINNIPEG

BY-LAW NO. .

A By-law of THE CITY OF WINNIPEG to amend the License in Lieu of Business Tax By-law No. 122/2003.

THE CITY OF WINNIPEG, in Council assembled, enacts as follows:

1. Subsection 5(1) of the License in Lieu of Business Tax By-law No. 122/2003 is repealed and the following is substituted:

License fee payable on May 31
5(1) A license fee under this By-law is due and owing on

(a) May 31 of each year; or

(b) the date a license in lieu of business tax becomes required during the course of a calendar year;

whichever occurs later.

2. This By-law comes into effect on January 1, 2008.

DONE AND PASSED, in Council assembled, this day of , 2007.

_____
Mayor

_____
City Clerk

Approved as to content:

_____
Director of Community Services

Certified as to form:

_____
for City Solicitor/Manager of
Legal Services