Agenda - Council – April 29, 2009

Report - Standing Policy Committee on Protection and Community Services – April 17, 2009

Item No. 1 Doing Business in Winnipeg By-law No. 91/2008 - Charity Auctions held by Non-Profit Organizations
eFile EL-1

STANDING COMMITTEE RECOMMENDATION:

On April 22, 2009, the Executive Policy Committee concurred in the recommendation of the Standing Policy Committee on Protection and Community Services and submits the following to Council:

1. That the report from the Director of Community Services and Chief of Police dated March 31, 2009, be received as information.

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

Agenda - Council – April 29, 2009

Report - Standing Policy Committee on Protection and Community Services – April 17, 2009

DECISION MAKING HISTORY:

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On April 22, 2009, the Executive Policy Committee concurred in the recommendation of the Standing Policy Committee on Protection and Community Services and submitted the matter to Council.

STANDING COMMITTEE RECOMMENDATION:

On April 17, 2009, the Standing Policy Committee on Protection and Community Services concurred in the recommendation of the Winnipeg Public Service and submitted the matter to the Executive Policy Committee and Council.

COUNCIL:

On March 25, 2009, the Council concurred in the recommendation of the Standing Policy Committee on Protection and Community Services, namely, that an extension of time of 30 days be granted in order for the Winnipeg Public Service to report back as directed by the Standing Policy Committee on Protection and Community Services on February 9, 2009.

STANDING COMMITTEE RECOMMENDATION:

On February 9, 2009, the Standing Policy Committee on Protection and Community Services referred the matter to the Winnipeg Public Service for review and report back within 60 days.

COUNCIL:

On January 28, 2009, Council ruled automatic referral of the following motion to the Standing Policy Committee on Protection and Community Services:

Moved by Councillor Vandal,
Seconded by Councillor Smith,

WHEREAS the current “Doing Business in Winnipeg” by-law has adversely affected non-profit organizations who need licenses to organize public auctions for charity;

THEREFORE BE IT RESOLVED THAT the issue of issuing licenses for non-profit organizations holding charity auctions be referred to the Standing Policy Committee on Protection and Community services for further information and analysis.

RE: Doing Business in Winnipeg By-law – Charity Auctions held by Non-Profit Organizations

FOR SUBMISSION TO:	Standing Policy Committee on Protection and Community Services
ORIGINAL REPORT SIGNED BY:	Clive Wightman Director of Community Services
	Keith McCaskill Chief of Police
REPORT DATE:	March 31, 2009

RECOMMENDATION:

1. That this Report be received as information by the Standing Policy Committee on Protection and Community Services.

Report Summary

Key Issues:

- On January 28, 2009, a motion was put before Council *"That the issuing of licenses for non-profit organizations holding charity auctions be referred to the Standing Policy Committee on Protection and Community services for further information and analysis'.*

- On February 9, 2009, the Winnipeg Philatelic Society made a supplementary presentation to Standing Policy Committee on Protection and Community Services, stating:
    - that licence fees as they apply to their organization are cost prohibitive
    - that the Winnipeg Philatelic Society had been refused a Civic Charities Permit and the cost of an Auctioneer licence has made the hosting of their annual charity auction too expensive
    - that it is unprofitable for the Winnipeg Philatelic Society to host 'Temporary Trade Shows" because of the cost of licence fees
    - that the 'Auctioneer' licence fee has increased from $17 in 2007 to $350 in 2008

- The Winnipeg Philatelic Society is not currently organized as a not-for-profit corporation and has not received a permit from the Province under The Charities Endorsement Act. As such, by default, the premise is that they are operating for the preponderant purpose of earning a profit and therefore would be required to pay the licence fees specified by the By-law for conducting an auction. (It should

be noted as well that if they wish to host a charity auction, The Charities Endorsement Act requires that they obtain a permit to do so. There is no cost for a provincially issued charitable permit.)

- If the Society receives a permit under The Charities Endorsement Act to conduct its auction, the City would presume the Society not to be operating for the preponderant purpose of earning a profit. Therefore, if the Society were to use the services of a volunteer auctioneer (i.e. someone who conducts the auction for free), no licence would be required because the volunteer auctioneer would **not** be operating *'for the preponderant purpose of earning a profit'.* Alternatively, if the Society were to use the services of a professional (i.e. licenced) auctioneer, there would be no special licence fee imposed on the Society for the charity auction; however, the cost of the annual auctioneer's licence would be built into the fee charged by the auctioneer.

- Because the trade shows conducted by the Winnipeg Philatelic Society involve professional stamp dealers as well as members of the public, they fit the definition of a "temporary trade show" in the By-law. Promoters of temporary trade shows, whether for-profit or not-for-profit, are required by the By-law to obtain a licence to conduct the event at a cost of $260 and to comply with special rules for the event. However, an exemption to the licence requirement is provided if all participants in the trade show deal exclusively through commercial transactions. This requires that a cheque must be mailed by the purchaser to the original vendor dated a minimum of 7 days after the date of transaction. The commercial transaction process is both a deterrent to the resale of stolen goods and a mechanism to trace the seller if necessary.

- Although organizations like the Winnipeg Philatelic Society operate on tight margins, it is important that the safeguards intended by the creation of 'Division Nine - Business Dealing in Used Goods and Precious Metals' remain in place and that appropriate documentation, reporting and enforcement continues.

- Division Nine of the *Doing Business in Winnipeg By-law*, ***(Business Dealing in Used Goods and Precious Metals)*** is an enhancement of previously existing legislation intended to protect the public and business communities from receiving and/or dealing in stolen goods. The by-law requires that dealers collect and share information with the Community By-law Enforcement Services Division and the Winnipeg Police Service.

Implications of the Recommendation(s):

General Implications
(X) None

() For the organization overall and/or for other departments

() For the community and/or organizations external to the City

( ) Involves a multi-year contract

Comment(s):

Policy Implications
(X) No

( ) Yes

Comment(s):

Regulatory Implications
(X) None

( ) Yes

() Proposes regulatory impact

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**):** There are no financial implications associated with this report.

Report

REASON FOR THE REPORT:

On February 09, 2009, the Standing Policy Committee on Protection and Community Services received a verbal submission by the Winnipeg Philatelic Society in opposition to the licences fee required for them to host occasional charitable auctions and non-charitable Temporary Trade Shows.

The Standing Policy Committee on Protection and Community services referred the matter to the Winnipeg Public Service for review and report back within 60 days.

HISTORY:

On January 28, 2009, a motion was put before Council "That the issuing of licenses for non-profit organizations holding charity auctions be referred to the Standing Policy Committee on Protection and Community services for further information and analysis."

On February 09, 2009, the Winnipeg Philatelic Society made a supplementary presentation to Standing Policy Committee on Protection and Community Services, stating that licence fees as they apply to their organization were cost prohibitive.

They indicated that they were denied a Civic Charities permit and as a result the required 'Auctioneer' licence fees made it cost prohibitive for their organization to host an annual public charity auction.

It was further stated that these licence fees also cut into the profits made when running 'Temporary Trade Shows'. The trade shows are hosted at least twice a year and are used as a fundraiser to offset the costs of running their organization.

On December 19, 2007, Council adopted the report on which the new *Doing Business in Winnipeg By-la*w was to be based. The report outlined principles previously addressed in the Red Tape Commission Report and directed the Winnipeg Public Service to prepare a *Doing Business in Winnipeg By-law*, including a new fee structure, to come into force on June 1, 2008.

Prominent amongst these principles was the focusing of City of Winnipeg resources on key public and municipal regulatory goals and the recapture of costs associated with achieving these goals:

> "…that the new *Doing Business in Winnipeg By-law* should be limited to regulating businesses only where it is necessary to address issues of public health, fire safety, law enforcement and crime prevention"

"…that the Standing Policy Committee on Finance…ensure that the fees in the new system substantially achieve the goal of cost-recovery".

With the repeal of License By-law 6551/95 and passing of the Doing Business in Winnipeg By-law 91/2008, licence categories were reduced from 80 to 27, reflecting the focus on public health protection, fire protection and law enforcement/crime prevention.

DISCUSSION:

Division Nine of the *Doing Business in Winnipeg By-law*, ***'Business Dealing in Used Goods and Precious Metals'*** governs issues raised at Council on January 28, 2009 and at Standing Policy Committee on Protection and Community Services on February 09, 2009. This Division also includes *Antique Dealer, Precious Metals Dealer, Used Goods Dealer, Bicycle Dealer and Temporary Trade Show Licence.* The goal of this division is to protect businesses and their customers from purchasing or otherwise acquiring goods that have been obtained illegally

The By-law mandates the licensing of these activities and facilitates the continued protection of the public interest by requiring that information on the sale of used goods be provided to the Winnipeg Police Service and the Community By-law Enforcement Services Division. It also ensures that the licence fees recover the cost of providing this regulatory oversight and that the costs are fairly assessed to all businesses that engage in these activities.

During the February 09th, 2009, presentation made by the Winnipeg Philatelic Society to Standing Policy Committee, it was indicated that the previous cost of a business licence was $17 and that current fees have subsequently jumped to $350 under the new by-law. To clarify, the cost of an Auctioneer licence under the previous License By-law 6551/95 was $200; however, licence fees at that time were pro-rated based on the number of days in a year that a business operated. This method of doing business was not very functional from a business standpoint. The City of Winnipeg barely collected enough money to cover the cost of processing the refund cheque when the licence was cancelled. It did not recapture the cost of police services, licensing functions or by-law inspections.

The Winnipeg Philatelic Society is not currently organized as a not-for-profit corporation and has not received a permit from the Province under The Charities Endorsement Act. As such, by default, the premise is that they are operating for the preponderant purpose of earning a profit and therefore would be required to pay the licence fees specified by the By-law for conducting an auction. (It should be noted as well that if they wish to host a charity auction, The Charities Endorsement Act requires that they obtain a permit to do so. There is no cost for a provincially issued charitable permit.)

If the Society receives a permit under The Charities Endorsement Act to conduct its auction, the City would presume the Society not to be operating for the preponderant

purpose of earning a profit. Therefore, if the Society were to use the services of a volunteer auctioneer (i.e. someone who conducts the auction for free), no licence would be required because the volunteer auctioneer would not be operating for the preponderant purpose of earning a profit. Alternatively, if the Society were to use the services of a professional (i.e. licenced) auctioneer, there would be no special licence fee for the charity auction charged to the Society. However, the cost of the auctioneer's annual licence would be built into the fee charged by the auctioneer.

Because the trade shows conducted by the Winnipeg Philatelic Society involve professional stamp dealers as well as members of the public, they fall within the definition of "temporary trade shows" in the By-law. Promoters of temporary trade shows, whether for-profit or not-for-profit, are required by the By-law to obtain a licence to conduct the event at a cost of $260 and to comply with special rules for the event. However, an exemption to the licence requirement is provided if all participants in the trade show deal exclusively through commercial transactions. This requires that a cheque must be mailed by the purchaser to the original vendor dated a minimum of 7 days after the date of transaction. The commercial transaction process is both a deterrent to the resale of stolen goods and a mechanism to trace the seller if necessary

Although organizations like the Winnipeg Philatelic Society operate on tight margins, it is important that the safe guards intended by the creation of 'Division Nine - Business Dealing in Used Goods and Precious Metals' remain in place and that appropriate documentation, reporting and enforcement continues.

Financial Impact Statement **Date:** March 31, 2009

Charity Auctions held by Non-Profit Organizations

	0	1	2	3	4
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	$ -	$ -	$ -	$ -	$ -
Less: Incremental Revenue/Recovery	-	-	-	-	-
Net Cost/(Benefit)	$ -	$ -	$ -	$ -	$ -
Less: Existing Budget Amounts	-	-	-	-	-
Net Budget Adjustment Required	$ -	$ -	$ -	$ -	$ -

Additional Comments: There are no financial implications associated with this report.

Original Signed by:
Cindy Fernandes
Manager of Finance & Administration

IN PREPARING THIS REPORT THERE WAS:

Internal Consultation With and Concurrence By:
Legal Services Division, Corporate Support Services Department

External Consultation With:

THIS REPORT SUBMITTED BY:
Department: Community Services Department
Division: Community By-law Enforcement Services
Prepared by: Brian Rivet
File No.

Attachments:
Appendix A: Required Inspection Schedule

Appendix A

REQUIRED INSPECTION SCHEDULE

Licence	Zoning	Fire Prevention	Record Review	Public Health	Comments
Antique Dealer	X	X	X		
Auctioneer	X	X	X		
Bicycle Dealer	X		X		
Body Modification Establishment	X		X	X	
Body Modification Technician	X		X		
Converted Residential Dwelling	X	X			Formerly Rooming House
Converted Residential Dwelling with Shared Facilities	X	X		X	Formerly Rooming House
Escort			X		
Escort Agency	X		X		Formerly Dating & Escort
Food Services Establishment – Low Risk	X			X	
Food Services Establishment – Medium Risk	X			X	
Food Services Establishment – High Risk	X			X	
Hostel	X	X	X	X	
Independent Escort Agency	X		X		New sub-category
Large Public Venue	X	X			New consolidated licence
Massage Parlour	X		X		
Massagist			X		
Outdoor Mobile Food Vendors				X	
Precious Metals Dealer	X		X		
Shared Facilities Dwelling	X			X	Formerly Rooming House
Swimming Pool - Indoor				X	New
Swimming Pool - Outdoor				X	New
Temporary Food Services Establishment				X	
Temporary Food Services Establishment – Limited (operate for a period of 2 hours or less)				X	New sub-category
Temporary Trade Show	X	X	X		
Used Goods Dealer	X	X	X		Formerly Pawn Shop & Second Hand Dealer
Used Material Yard	X	X			
Whirlpool				X	New