Agenda – Council – January 27, 2010

Report – Standing Policy Committee on Protection and Community Services – January 11, 2010

Item No. 1 Repeal of the Raffle Lottery License By-law No. 7470/99 and the Civic Charities Applications and Permits By-law No. 6916/96
eFile GL-5.2

STANDING COMMITTEE RECOMMENDATION:

On January 20, 2010, 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 by-law shown as Attachment A to the report of the Winnipeg Public Service dated November 25, 2009, be enacted and the following by-laws be repealed, namely:

   A. Civic Charities Applications and Permits By-law No. 6916/96;
   B. City of Winnipeg Raffle Lottery Licence By-law No. 7470/99.

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

Report – Standing Policy Committee on Protection and Community Services – January 11, 2010

DECISION MAKING HISTORY:

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On January 20, 2010, 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 January 11, 2010, 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.

ADMINISTRATIVE REPORT

ISSUE: Repealing the Raffle Lottery License By-law No. 7470/99 and the Civic Charities Applications and Permits By-law No. 6916/96

Critical Path: Standing Policy Committee on Protection and Community Services, Executive Policy Committee, Council

AUTHORIZATION

Author	Department Head	CFO	CAO
P. Parys	C. Wightman	M. Ruta	P. Sheegl Deputy CAO

RECOMMENDATIONS

1. That Council enact a By-law (attached as Attachment A) repealing the following By-laws:

    a. Civic Charities Applications and Permits By-law No. 6916/96
    b. City of Winnipeg Raffle Lottery Licence By-law No. 7470/99

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

IMPLICATIONS OF THE RECOMMENDATIONS

General Implications:

Adoption of the recommendations proposed in this report will result in the Province of Manitoba being solely responsible for the regulation of raffles and authorizing charitable fundraising.

Regulatory Implications:

This report proposes that the City of Winnipeg Raffle Lottery Licence By-law No. 7470/99 and the Civic Charities Applications and Permits By-law No. 6916/96 be repealed.

Duplication will be eliminated. The Licensing of Raffle Lotteries and the Issuance of Civic Charities Permits will become the sole responsibility of the Province of Manitoba, Consumers' Bureau and Manitoba Gaming Control Commission, respectively.

Financial Implications:

- The 2009 actual revenue earned as at September 30, 2009 is $17,050 and $14,116 for Civic Charities and Lotteries Licenses respectively. The 2009 revenue budget shortfall will approximate ($25,834). It is proposed in this report that the Community Services Department will absorb this revenue shortfall in 2009 and therefore not request a 2009 budget adjustment.
- The Community Services Department's Proposed 2010 – 2012 tax-supported budget submission for Civic Charities and Lotteries License revenue is zero. No budget adjustment is required for 2010 – 2012.
- There are no expenditure savings associated with the termination of these revenues because staffing resources will be redirected to support the new Community By-Law Enforcement Services Division operations.

HISTORY

On November 23, 2004, the Mayor officially established a Red Tape Commission to review City of Winnipeg operations and regulations in order to improve customer service while granting administrators more freedom to innovate. Although no specific recommendations were contained within the report concerning the Raffle Lottery By-law and the Civic Charities Applications and Permits By-law, the Commission expressed the view that the City should not be attempting to legislate in order to provide consumer protection but should leave this to the Province or the Federal government. The report stated (page 26):

… As a Government, the City's primary roles are the protection of public safety and the regulation of land-use and construction. Cities are ill-equipped to offer consumer protection, because by doing so creates a patchwork of inconsistent standards with little in the way of teeth to back them up – which is why most consumer protection regimes are provincial or federal. Yet, Winnipeg's License By-law attempts to offer consumer's protection from fraud and other consumer crimes …

FINANCIAL IMPACT

Financial Impact Statement

Date: November 25, 2009

Project Name:

First Year of Program 2009

Repealing the Civic Charities Applications & Permits and Raffle Lottery License By-laws

	2009	2010	2011	2012	2013
Capital					
Capital Expenditures Required	$ -	$ -	$ -	$ -	$ -
Less: Existing Budgeted Costs	-	-	-	-	-
Additional Capital Budget Required	$ -	$ -	$ -	$ -	$ -
Funding Sources:					
Debt - Internal	$ -	$ -	$ -	$ -	$ -
Debt - External	-	-	-	-	-
Reserves, Equity, Surplus	-	-	-	-	-
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: It is proposed in this report that the Community Services Department will absorb the $25,834 revenue shortfall in 2009 and therefore not request a 2009 budget adjustment.

The Community Services Department's proposed 2010 - 2012 tax-supported budget submission for Civic Charities and Lotteries License revenue is zero. No budget adjustment is required for 2010 - 2012.

There are no expenditure savings associated with the termination of these revenues because staffing resources will be redirected to support the new Community By-Law Enforcement Services Division.

Cindy Fernandes,
Manager of Finance & Administration

CONSULTATION

In preparing this Report there was consultation with:

- Corporate Support Services; Legal Services Division

External Consultation With:

- Province of Manitoba Consumer & Corporate Affairs
- Manitoba Gaming Control Commission

SUBMITTED BY

Department: Community Services
Division: Community Bylaw Enforcement Services
Prepared by: Peter Parys
Date: November 25, 2009
File No.


Attachment A Draft By-law


Attachment B Supporting Document

Attachment A

THE CITY OF WINNIPEG

BY-LAW NO.

A By-law of THE CITY OF WINNIPEG to repeal the Civic Charities Applications and Permits By-law No. 6916/96 and the City of Winnipeg Raffle Lottery Licence By-law No. 7470/99.

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

Civic Charities Applications and Permits By-law repealed

1(1) Subject to this section, the Civic Charities Applications and Permits By-law No. 6916/96 is hereby repealed.

1(2) Notwithstanding subsection (1), the provisions of the Civic Charities Applications and Permits By-law No. 6916/96 remain fully applicable to

(a) holders of permits; and

(b) activities conducted pursuant to permits;

that were issued under that By-law prior to this By-law coming into effect.

1(3) Without restricting the generality of subsection (2), the holder of a permit issued under the Civic Charities Applications and Permits By-law No. 6916/96 prior to this By-law coming into effect must comply with the provisions of the Civic Charities Applications and Permits By-law No. 6916/96 concerning the conduct of the permitted solicitation or fundraising activity and subsequent reporting of information to the designated employee.

Raffle Lottery Licence By-law repealed

2(1) Subject to this section, the City of Winnipeg Raffle Lottery Licence By-law No. 7470/99 is hereby repealed.

2(2) Notwithstanding subsection (1), the provisions of the City of Winnipeg Raffle Lottery Licence By-law No. 7470/99 remain fully applicable to

(a) holders of licences; and

(b) activities conducted pursuant to licences

that were issued under that By-law prior to this By-law coming into effect.

2(3) Without restricting the generality of subsection (2), the holder of a licence issued under the City of Winnipeg Raffle Lottery Licence By-law No. 7470/99 prior to this By-law coming into effect must comply with the provisions of the City of Winnipeg Raffle Lottery Licence By-law No. 7470/99 concerning the conduct of the raffle lottery and subsequent reporting of information to the public and to the Chief License Inspector.

DONE AND PASSED, this day of , 2009.

_____
Mayor

_____
City Clerk

Approved as to content:

_____
Director of Community Services

Approved as to form:

_____
For City Solicitor/Manager of
Legal Services

Supporting Documentation/Information:

The City of Winnipeg Raffle Lottery License By-law 7470/99 No. 7470/99

The Raffle Lottery License By-law of the City of Winnipeg regulates the licensing of raffle lotteries. The City may issue a license, authorizing a charitable or religious organization to conduct a lottery, in accordance with Section 207 of the Criminal Code of Canada, where deemed expedient and in the public interest.

- Pursuant to Section 207 of the Criminal Code of Canada, The Province of Manitoba Order in Council 332/1994 granted municipalities the authority to issue raffle licenses to religious or charitable organizations located within their boundaries provided that the total prizes for any raffle lottery do not exceed $3,000.
- The ***objective of the by-law is consumer protection*** (i.e., to protect the public from misleading or fraudulent activities).
- The organization must be a volunteer, democratic, non-profit or religious body, and use the funds generated from the raffle for the advancement of education, religion, health, the relief of poverty, or for the benefit of the community through the promotion of sport, recreation, culture, or other areas considered similar in nature by the Chief License Inspector.
- Organizations are reviewed to ensure they are bona fide.
- The organizations are required to provide financial reports and can be held accountable for their activities.
- Funds raised are not intended to be used for personal gain or benefit.
- The rules and regulations established by the City of Winnipeg mirror those of the Manitoba Gaming Control Commission.

The Manitoba Gaming Control Commission has authority to license the following activities anywhere in the Province:

- Raffles
- Bingos
- Breakopen Tickets
- Media Bingos
- Sports Drafts
- Monte Carlo Events
- Calcutta Auctions
- Texas Hold'em

The result is that both the Province and municipalities in the Province of Manitoba, including the City of Winnipeg, have jurisdiction over raffles conducted by religious or charitable organizations if the total prizes for any raffle lottery do not exceed $3,000.

As a result of recent changes at the Manitoba Gaming Control Commission, for most types of licences, there are no fees if anticipated gross revenue is under $5,000, and if anticipated gross revenue is over $5,000, the fee is 1.5% of actual gross revenue. The fee for the City of Winnipeg Lottery Raffles License is 1.5% of the total value of the tickets printed or $25.00, whichever is greater.

Therefore, it is to the applicants' advantage to obtain their raffle lottery license from the Manitoba Gaming Control Commission rather than from the City of Winnipeg.

The Manitoba Gaming Control Commission has advised that the Cities of Brandon and Dauphin have discontinued the licensing of raffles effective January 1, 2007, and September 1, 2006, respectively. This leaves sole responsibility for regulating raffles in those cities in the hands of the Gaming Control Commission.

The Manitoba Gaming Control Commission is prepared to accept sole responsibility for all Raffle Lottery applications within the City of Winnipeg jurisdiction. Eliminating the City of Winnipeg's involvement in regulating raffles would eliminate the current duplication of regulation and cut red tape by providing a single, clear source of authority for regulating small raffles in the Winnipeg.

The Civic Charities Applications and Permits By-law No. 6916/96

The Civic Charities Applications and Permits By-law 6916/96 authorizes the designated employee to authorize by permit, fundraising activities for charitable purposes as provided by the Charities Endorsement Act. The Act regulates the granting of authorization to solicit funds or sell items province wide for a charitable purpose by charitable organizations or by other agencies. In the granting of the authorization, the use of promotional agencies, the period and the type of solicitations are also regulated.

- ***The objective of the by-law is consumer protection*** (i.e., to protect the public from misleading or fraudulent activities).
- Organizations are reviewed to ensure they are bona fide.
- The organizations are required to provide financial reports and can be held accountable for their activities.
- Funds raised are not intended to be used for personal gain or benefit.

The Province of Manitoba Consumers' Bureau administers consumer protection legislation for the Province of Manitoba. The statutes include: *The Consumer Protection Act*, *The Business Practices Act*, *The Personal Investigations Act*, *The Charities Endorsement Act*, *The Hearing Aid Act* and *The Bedding, Upholstered and Stuffed Articles Regulation* under *The Public Health Act*.

In the course of their duties, the Consumers' Bureau:

- Licences companies and individuals that direct sell
- Licences collection agents and register collectors
- Certifies hearing aid dealers
- ***Authorizes charitable fundraising***
- Registers manufacturers and renovators of stuffed articles

The Consumers' Bureau hears, mediates and investigates consumer-related complaints. When the Bureau receives a complaint, it considers the rights and responsibilities of each party. *Not all matters are covered by legislation*. In those situations, the Bureau offers an opportunity to resolve the problem through a voluntary process of dispute resolution/mediation.

The permit fee for the Civic Charities permit is $50.00 per permit. Tag Day permits are $50.00 each. Provincial charity permits are free. Again, it is to the applicant's advantage to apply to the Province for a permit.

Currently, existing customers come to the City for Raffle Lottery Licenses and Civic Charities Permits because in many cases the Department already has most of their documentation making processing of the licenses and permits faster.

Again, both the Province and the City have legislated in the area of charitable fundraising, resulting in duplication and overlap. If the City were to repeal its By-law, the Consumers' Bureau would have sole responsibility in this area, thereby cutting confusion and red tape.

Transition Plan

All valid Raffle Lottery Licenses and Civic Charities Permits will be in effect until their respective expiry dates. The by-law provisions that effect how the activities are conducted and that require reporting of the results will continue to apply to all licences and permits that have all ready been issued. New applications or renewals will be referred to the Manitoba Gaming Control Commission and the Consumers' Bureau respectively.

Communication Plan

All holders of current licenses or permits will be advised of the change and will be directed to either the Manitoba Gaming Control Commission or the Consumers' Bureau as required. In addition, the Manitoba Gaming Control Commission or the Consumers' Bureau will supply insert information with the mailing.