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Agenda No. 9.1

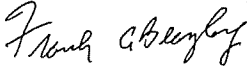
**Halifax Regional Council
September 11, 2007**

TO: Mayor Kelly and Members of Halifax Regional Council

SUBMITTED BY:



Dan English, Chief Administrative Officer



Frank Beazley, Chief of Police

DATE: August 27, 2007

SUBJECT: Noise By-Law Exemption Application - Heritage Gas Limited

RECOMMENDATION

ORIGIN

August 7, 2007 application for an exemption from By-Law N-200, Respecting Noise, by Heritage Gas Limited.

RECOMMENDATION

It is recommended that Regional Council approve Heritage Gas Limited's application (attached as Appendix A) for an exemption from the provisions of By-Law N-200, Respecting Noise pursuant to the contents of this report and any matters at the hearing.

BACKGROUND

In September, 1999 Regional Council adopted By-Law N-200, Respecting Noise. This by-law prohibits any person from engaging in any activity that unreasonably disturbs or tends to disturb the peace and tranquillity of a neighbourhood.

Section 6 of the By-Law allows for any person to send an application to Regional Council requesting an exemption from any or all provisions of the noise by-law for which that person may be prosecuted. The by-law states that an applicant or any person opposed to an application may be heard at a session of Regional Council. Notice of the Council Session is required to be mailed to assessed owners of property located within 100 feet of the property which is subject to the hearing.

In deciding whether or not to grant an exemption, Council is to give consideration to:

- the social or commercial benefit of the proposed activity to the municipality;
- the viewpoints of community residents
- the proposed hours of operation of the proposed noise-emitting activity; and
- the proposed duration of the subject activity.

An excerpt from the Noise By-Law detailing the exemption process is attached as Appendix B.

DISCUSSION

Heritage Gas Limited will be constructing a natural gas pipeline across the Halifax Harbour to provide service to natural gas customers of the Halifax Peninsula. Project activities are scheduled to begin in September 2007 and are expected to continue for 12-15 weeks.

An application for exemption from the Noise By-Law has been submitted by Michel Sarrouy, Manager - Engineering & Safety of Heritage Gas Limited. The application details work will be performed during normal hours as permitted for construction noise under By-Law N-200, Respecting Noise. During this time frame, it may be necessary to carry out drilling and construction activities on a 24 hour per day schedule:

1. during the drilling of the pilot hole on the Halifax side, approximately from September 15 to October for short durations; and
2. during the enlarging of the pilot hole on the Halifax side, approximately from October 15 to November 15 for longer durations, not exceeding 4 weeks.

Heritage Gas has indicated they will be taking measures to restrict the level of noise to no greater than 65 dBA at 50 metres (from the source of the noise) including but not limited to:

- ▶ partially or fully enclosing the drill rig at the Halifax side;
- ▶ placing noise barriers around the drilling site with adequate mass, height, and length to lessen the noise;
- ▶ directing the opening of the enclosure away from the nearest residents so that the proliferation of noise is deflected from the nearest residences;
- ▶ ensuring that all construction equipment used in the area will be maintained in good working condition;
- ▶ minimizing the use and movement of ancillary equipment to daylight hours, where possible; and
- ▶ implementing best practice mitigation techniques to minimize the sound of impulse and sharp, startling noises from sources including but not limited to:
 - dump truck loading/unloading;
 - compressed air blasts; and
 - back-up beepers on construction equipment.

Heritage Gas will be conducting noise monitoring and spot checks prior to the commencement and during the project to verify the effectiveness of the noise control tactics identified above.

It is the goal of Heritage Gas to complete the construction of this project with minimal disturbance to neighbouring residents and businesses.

Jacques Whitford (Legal Counsel for Heritage Gas) has confirmed that all permits required for this project have been obtained, along with an environment assessment conducted and approved by the Halifax Port Authority.

HRM Staff are aware of the installation of natural gas pipelines in Halifax and Dartmouth and of the harbour crossing project. Staff support this project and the granting of the noise by-law exemption, provided that the noise control measures identified in the application are carried out.

The applicant is requesting an exemption to By-Law N-200 as the construction being performed may conflict with the following provision of the by-law:

Subsection 1 of Section 3, which states:

“No person shall engage in any activity that unreasonably disturbs or tends to disturb the peace and tranquillity of a neighbourhood”

Mailing out notices of the time, date and purpose of the Council Session at which the hearing is proposed to take place to residents within 100 feet of lands owned by Canadian National Railway (CN) at the foot of North Marginal Road in Halifax, and land owned by Nova Scotia Power Inc.

adjacent to Nivens Avenue in Dartmouth was completed.

Under subsections 6 (3) and (5) of the Noise By-Law, Council may consider any matters it deems appropriate at the hearing and either reject an application or approve it with or without conditions.

BUDGET IMPLICATIONS

There are no budget implications.

FINANCIAL MANAGEMENT POLICIES / BUSINESS PLAN

This report complies with the Municipality's Multi-Year Financial Strategy, the approved Operating, Capital and Reserve budgets, policies and procedures regarding withdrawals from the utilization of Capital and Operating reserves, as well as any relevant legislation.

ALTERNATIVES

There are 2 alternatives available to Council in considering this application:

1. Approve the application with conditions; or
2. Reject the application in its entirety.

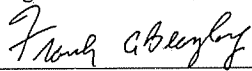
ATTACHMENTS

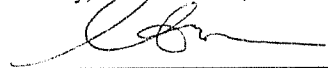
Appendix A: August 7, 2007 application for exemption from By-Law N-200, Respecting Noise; issued by Heritage Gas Limited.

Appendix B: Excerpt from By-Law N-200, Respecting Noise re: Grant of Exemption by Council.

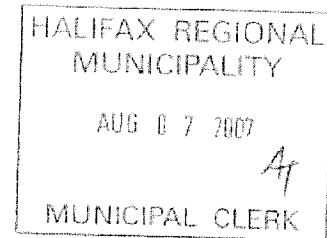
A copy of this report can be obtained online at <http://www.halifax.ca/council/agendasc/cagenda.html> then choose the appropriate meeting date, or by contacting the Office of the Municipal Clerk at 490-4210, or Fax 490-4208.

Report Prepared by: S/Sgt. Robin McNeil, Halifax Regional Police 490-4817

Report Approved by: 
Frank A. Beazley, Chief of Police, Halifax Regional Police, 490-6500

Financial Review: 
Catherine Sanderson, Sr. Manager, Financial Services, 490-1562

APPENDIX A



August 7, 2007

Office of the Municipal Clerk
Halifax Regional Municipality
City Hall
1841 Argyle Street
PO Box 1749
Halifax, NS B3J 3A5

**Re: Heritage Gas Halifax Harbour Crossing
By-Law N-200 Respecting Noise – Request for Exemption**

Dear Sir/ Madam:

Heritage Gas Limited will be constructing a natural gas pipeline crossing of Halifax Harbour (the project) providing service to natural gas customers on the Halifax Peninsula in late 2007. Anchor customers for this project will be local hospitals, universities, other large institutional, industrial, and commercial users; as well, residential customers will receive and benefit from natural gas.

The purpose of this correspondence is to request an exemption to Section 3.2 (prohibited times and places of activities) of *By-Law N-200 Respecting Noise*.

Project Description Overview

The Project will make use of Horizontal Directional Drilling (HDD) technology, crossing the Halifax Harbour at the Narrows, roughly mid-way between the Angus L. MacDonald and the A. Murray MacKay bridges (see Figure 1). The HDD entry point is located on a parcel of land owned by Canadian National Railway (CN) at the foot of North Marginal Road in Halifax. From this point, the drilling will continue in a northeasterly direction under lands owned by the Halifax Port Authority (HPA) and Irving Shipbuilding Inc. (Irving) before reaching the harbour. The proposed exit point is located on a parcel of land owned by Nova Scotia Power Inc. adjacent to Nivens Avenue in Dartmouth.

The HDD entry point in Halifax is on industrial land occupied by CN, HPA and Irving. The HDD exit point in Dartmouth occurs on industrial lands adjacent to the Tufts Cove Power Generating Station. Noise will be generated during construction and drilling by equipment such as generators, pumps, vehicle (truck) movements, materials handling, and operation of drilling and construction equipment at both locations. Both the entry and exit points are located within 100 m of residential developments.

Project activities are scheduled to begin in early September 2007 and are expected to continue for 12-15 weeks. It is anticipated that work will typically be conducted within normal hours as permitted for construction noise under the By-Law. However, during this timeframe, drilling and construction activities may be required on a 24 hour per day schedule as follows:

- During the drilling of the pilot hole, approximately from September 15 to October 15, current plans are to have a drill rig located on the Halifax side only. The likelihood of requiring two shifts working around the clock is considered remote, and the need to have 24/7 construction is a contingency unlikely to be required but for short durations.
- During the enlarging of the pilot hole (called reaming), approximately from October 15 to November 15, the need for two shifts working around the clock is dependent on the hardness of the rock and the rate of progress of the drill, but should be considered a real possibility. While the main drill rig will continue to be located on the Halifax side of the harbour, a smaller supporting rig may be required on the Dartmouth side. The need to operate on the basis of 24/7 construction is still not considered a certainty, but has a higher probability of being required. It would occur over longer durations, but not to exceed four weeks under current plans.

Noise Mitigation

The selected HDD contractor is Michels Canada Co., a world leader in their field. Michels Canada is required by Heritage Gas to meet received level of ≤ 65 dBA at 50 metres from the source or at the closest receptor. Mitigation measures to achieve these levels may include partially or fully enclosing the drilling rig at the Halifax site and/or placement of noise barriers around the drilling site with adequate mass, height and length to attenuate noise to below 65 dBA at the nearest receptor. The enclosures will be set up with the required opening directed away from the nearest residences so that the propagation of noise is deflected from the nearest residences. All construction equipment used in the area will be maintained in good working condition according to the manufacturer's instructions.

The use and movement of ancillary equipment will be minimized and confined to daylight hours, unless it is not possible to do so. Particular attention will be paid to sharp and startling impulse noises. High intensity noises, such as dump truck loading and unloading, compressed air blasts, and 'back-up' beepers on construction equipment, can be very intrusive to nearby residential receptors. Best practice mitigation of impulse noise from these sources will be implemented, inclusive of limiting specific activities which generate such noise to daytime hours only, to the fullest extent practical.

Background noise will be monitored on a 24-hour basis prior to construction for both the Halifax and Dartmouth sites. Such monitoring will be undertaken at the nearest receptor. Once construction has begun and noise control measures have been implemented, noise monitoring will be undertaken to verify the effectiveness of the noise mitigation for the HDD activities.

Additional noise monitoring or mitigation may be required in the event of unacceptable noise levels and to address any potential complaints from residents received by HRM, the contractor, or Heritage Gas, particularly during nighttime construction activities. Spot

checks of noise levels will be conducted on a periodic basis to monitor the effectiveness of the implemented mitigation and to provide a basis for implementing further actions.

Closure

The Harbour Crossing Project will allow natural gas infrastructure to be delivered to consumers on Halifax Peninsula including the downtown commercial core, hospitals, universities, Department of National Defense, Irving Shipyard, Halifax Port Authority and other industrial, institutional and residential customers.

It is Heritage Gas' goal to complete the construction of this project with minimal disturbance to neighbouring residents and businesses. We appreciate HRM's consideration of this exemption request.

If you have any questions, or additional information required, please contact the undersigned at your convenience at (902) 466-2029.

Yours truly,

HERITAGE GAS LIMITED



Michel Sarrouy
Manager – Engineering & Safety

cc: Ray Ritcey, Heritage Gas
Bruce Fraser, Jacques Whitford
Mike Prior, Michels Canada

Encl: Figure 1 – Project Location

Excerpt from By-Law N-200, Respecting Noise

Grant Of Exemptions By Council

6. (1) Notwithstanding anything contained in this By-Law, any person may make application to Council to be granted an exemption from any of the provisions of this By-Law with respect to any emission of noise for which that person might be prosecuted; and Council, by resolution, may refuse to grant any exemption or may grant the exemption applied for or any exemption of lesser effect; and any exemption granted shall specify the time period, not in excess of six months, during which the exemption shall be effective and the exemption shall be in written form and shall include such terms and conditions as Council deems appropriate.

(2) In deciding whether or not to grant an exemption, Council shall give consideration to the social or commercial benefit of the proposed activity to the municipality, the views of any residents of the municipality which may be expressed to Council, the proposed hours of operation of the proposed noise-emitting activity and the proposed duration of the subject activity.

(3) In deciding whether or not to grant an exemption, Council shall give the applicant, and any person opposed to the application, an opportunity to be heard during a Council Session and may consider such other matters as it deems appropriate.

(4) Notice of the time, date and purpose of the Council Session at which the hearing is proposed to take place shall be mailed to the assessed owner or owners as shown in the records of the Regional Assessment Office, of property located within 100 feet of the property which will be the subject of the hearing;

(5) Any alleged breach by the applicant of any of the terms or conditions of any exemption granted by Council, shall be investigated by municipal staff, reported to Council in writing and Council shall determine whether or not a breach has taken place. If a breach has taken place, Council may pass a resolution revoking the exemption, without the necessity of giving notice of rescinding motion, and such exemption shall be null and void as of the passing of such resolution.