



PO Box 1749  
Halifax, Nova Scotia  
B3J 3A5 Canada

**Item No. 9.2**  
**Halifax Regional Council**  
**June 23, 2009**

**TO:** Mayor Kelly and Members of Halifax Regional Council

**SUBMITTED BY:**

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Dan English, Chief Administrative Officer

A handwritten signature in cursive script, appearing to read "Wayne Anstey".

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Wayne Anstey, Deputy Chief Administrative Officer

**DATE:** May 26, 2009

**SUBJECT:** **Noise By-Law Exemption - Paul McCartney & KISS Concerts on the Common**

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**ORIGIN**

May 7, 2009 application for an exemption from By-Law N-200, Respecting Noise, by Power Promotional Events Inc., attached as Appendix A.

**RECOMMENDATION**

It is recommended that Regional Council approve an exemption from the provisions of the Noise By-law pursuant to the contents of this report and any matters raised at the hearing.

## **BACKGROUND**

In September, 1999 HRM 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 make 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 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**

Power Promotional Events Inc. is in the process of planning two open air concerts on the North Common featuring Paul McCartney and KISS. The concerts are scheduled for Saturday, July 11<sup>th</sup> and Saturday, July 18, 2009. In order to stage two concerts of this magnitude, a large concert stage and other event infrastructure will be constructed prior to the concerts and will then be dismantled after the concerts. The two concert performances are scheduled to begin at 2:30 p.m. and end at midnight, on both July 11<sup>th</sup> and 18<sup>th</sup>. This endtime allows for both of these headliners to begin at dusk/dark as they require.

Power Promotional Events Inc. wished to notify Council that the construction and dismantling of the concert site as well as the concert performance itself may violate the Noise By-law.

Details as follows:

- Work on the North Common will start on Saturday, July 4<sup>th</sup> and conclude on Wednesday, July 22<sup>nd</sup>. The work includes pre-concert removal of municipal infrastructure, installation of concert infrastructure as well as the post-concert removal of concert infrastructure and reinstallation of municipal infrastructure. The daily work schedule during the week will be from 7:00 a.m. to 9:30 p.m.; 7:00 a.m. to 7:00 p.m. Saturday; and 7:00 a.m. to 9:00 p.m. Sunday. Given the time constraints of the construction schedule, if delays occur (weather or other unforeseen circumstances), construction could extend beyond the proposed working hours. Power Promotional Events Inc. is committed to minimizing any noise that may occur outside of these proposed working hours.
- At this time, the only known construction exception to this schedule will occur immediately following the concert when the dismantling of the production equipment will begin and continue until approximately 3:30 a.m. The stage structure shall not be dismantled until the morning after the KISS concert.
- The work may include all or some of the following: temporary installation/modification of water hose, removal of baseball back stops, removal of light standards, construction of the stage, erection of a perimeter fence, and any other necessary projects. This work will require the use of cranes, heavy machinery, a large number of transport tractor trailers delivering/removing infrastructure and supplies, back hoes, etc.
- The majority of the construction will take place on the Northwest corner of the North Common (bordered by Cunard Street and Robie Street). This is the location of the concert stage.
- The concerts' performance hours will run from 2:30 p.m. until 12:00 a.m. on Saturday, July 11<sup>th</sup> and July 18<sup>th</sup>. During the concerts sound will be directed from the Northwest side of the North Common toward Cogswell Street.
- During the concerts' set up/take down and the actual show, generators will supply power to various locations on the concert site.

Power Promotional Events Inc. is requesting an exemption to the by-law, as the concert construction, performance, and dismantling may be in violation of the following provision of By-Law N-200, Respecting Noise:

Section 3, Part 1 which states “No person shall engage in any activity that unreasonably disturbs or tends to disturb the peace and tranquillity of a neighbourhood”

Public notice of the time, date and purpose of the Council Session at which the hearing is being held has been sent via the HRM Concert on the Common Newsletter (Attachment C) . The newsletter was used as a means of communicating the date of the public hearing because there are no assessed owners of private property within the 100 foot distance as outlined in the Noise By-Law. HRM owns all the property within 100 feet. Although there are no assessed owners of private property within this distance, staff felt that those properties surrounding the North Common should be informed of the public hearing.

One of the main concerns of Power Promotional Events Inc. is to lessen any disturbance to the peace and tranquillity of the neighbouring residents and businesses to the extent possible. Power Promotional Events Inc. and staff have, and will continue to, communicate with neighbouring residents and businesses to advise them of the work that will be necessary to stage the concert via the Concert on the Common Newsletter, the web site, and Communications staff responding to enquiries directly.

The complete economic impact of these concerts is unknown at this time but it will generate hundreds of thousands of dollars in economic spin off. Thousands of tickets have been sold to date and these ticket holders obviously feel that the Paul McCartney and KISS concerts are worthwhile entertainment options.

Under subsections 6(3) and (5) of the 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 a number of alternatives available to Council in considering this application:

1. Approve the application without conditions.
2. Approve the application with conditions.

**ATTACHMENTS**

Appendix A: An application for Exemption from By-Law N-200, Respecting Noise, by a representative from Power Promotions.


Appendix B: Excerpt from By-Law N-200 Respecting Noise, re: Granting Exemptions by Council.

Appendix C: Copy of the newsletter sent to the neighbouring citizens, advising them of the hearing scheduled for the June 23, 2009 Regional Council session.

Additional copies of this report, and information on its status, can be obtained by contacting the Office of the Municipal Clerk at 490-4210, or Fax 490-4208.

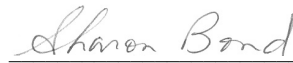
Report Prepared by: Mike Gillett, Civic Events & Festivals Coordinator, 490-4740

Report Approved by:



Andrew Whittemore, Manager, Community Relations & Cultural Affairs, 490-1585

Report Approved by:



Sharon Bond, Acting Director, Community Development, 490-4800

**ATTACHMENT A**



May 7, 2009

Mike Gillett, Civic Events Coordinator  
Halifax Regional Municipality  
Halifax, Nova Scotia  
B3J 3A5

**RE: Noise Bylaw exemption Application**

Dear Mr. Gillett:

Whereas Power Promotional Events Inc. will be staging concerts (PMC and Halifax Rocks 2009) on the Halifax Commons July 11<sup>th</sup> & 18<sup>th</sup>, 2009, we hereby make application to Halifax Regional Council for exemption from section 3(1) of the Halifax Regional Municipality Noise Bylaw. The section reads, "No person shall engage in any activity that unreasonably disturbs or tends to disturb the peace and tranquility of a neighborhood."

The set up and dismantling of the events will take from July 4<sup>th</sup> until July 22<sup>nd</sup> 2009 and we do not believe our activities will be in violation of the Bylaw. We seek this exemption so as to avoid the possibility that your Bylaw Enforcement Officers do not share this view.

The event will require the setting up of a complete concert stage with sound and lighting equipment along with several huge tenting structures to house necessary zones. Portable washrooms will be set up around the site and the majority of the noise will come from trucks off loading and loading with the sounds of reverse warnings being the most noise. We are committed to minimizing noise before 7:00 am and after 9:30 pm Monday to Friday, and before 9:00 am and after 7:00 pm on Saturday & Sunday. On the Friday night before each concert there will be sound checks ending at 9:30 pm, and again on the Saturday morning of each concert the sound checks will be between 7:00 am and 11:00 am. The concerts are scheduled to start at 2:30pm on July 11<sup>th</sup> and July 18<sup>th</sup>, and end at midnight.

These events will generate hundreds of thousands of dollars in economic spin-offs and we trust this meets with your approval.

Regards,

David A. MacKay  
Manager Operations  
Power Promotional Events Inc.

*250 Brownlow Avenue, Unit 8, Dartmouth, Nova Scotia, Canada B3B 1W9*

**APPENDIX B:** Excerpt from By-Law N-200 Respecting Noise re: Granting Exemptions by Council

**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.

# concerts ON THE common

HRM'S OFFICIAL CONCERT NEWSLETTER

VOL. 3 - ISSUE 1

JUNE 10, 2009

HALIFAX  
REGIONAL MUNICIPALITY

## PAUL MCCARTNEY AND HALIFAX ROCKS 2009

### CONCERTS ON THE COMMON - NEWSLETTER 1, JUNE 10, 2009

Power Promotional Events will be hosting two back-to-back concerts this summer on the Halifax Common. On Saturday, July 11th, Paul McCartney is scheduled to play his only Canadian date this year. The following Saturday, July 18th, Halifax Rocks 2009 hits the stage with headliner KISS and will also feature Thornley, The Trews, Econoline Crush and the Novaks. The gates open and music starts at 2:30 p.m. for both concerts. Shows are scheduled to end at midnight.

As with any major event, impact to neighbouring areas in terms of noise and ease of access is expected. HRM will keep residents informed of all concert-related activity through newsletters - as done with concerts in previous years. All information will also be available online ([www.halifax.ca/concertonthecommon/index/html](http://www.halifax.ca/concertonthecommon/index/html)). HRM remains committed to minimizing the impact on neighbouring residents. The experiences of past concerts have led to new, improved measures to ensure the Halifax Common is protected and restored as soon as possible.

HRM is very proud to be considered an event city and is excited to host these summer concerts. Your cooperation and support is greatly appreciated.

### WEB PAGE FOR AREA RESIDENTS AND BUSINESSES Online – anytime: [www.halifax.ca/concertonthecommon/index.html](http://www.halifax.ca/concertonthecommon/index.html)

HRM has established a special web page to host information relating to the Concerts on the Common. This information will provide answers to your questions about transit, parking, police and emergency presence, site construction schedules and other municipally related inquiries; however, band- or tour-specific information (e.g. ticket or merchandise sale questions, vendor inquiries, etc.) can be directed to the promoter, Power Promotional Events, at 468-1236 or online at Ticket Atlantic ([www.ticketatlantic.com](http://www.ticketatlantic.com)). A public open house to provide information about the concerts is scheduled for June 23, 2009 from 5 p.m. to 6 p.m. in Halifax City Hall, 1841 Argyle St., Halifax. Residents are welcome to attend.

### COUNCIL - PUBLIC HEARING & NOISE BY-LAW EXEMPTION CONSIDERATION, JUNE 23, 2009

The promoter is required to adhere to time limits set out in HRM's Noise By-law. However, council may consider an exemption to these time limits in certain circumstances. The promoter has requested that the time limit for noise on the actual night of each concert, and as needed on the days before and after each concert, be extended to accommodate the set up and clean up. At the June 23rd regional council meeting, the public will be given an opportunity to speak to council about Power Promotions' application for these two concerts. This meeting begins at 6 p.m. in Halifax City Hall.

**STAGE LOCATION** The stage for each concert will be located on the northwest corner of the North Common bordered by Cunard and Robie Streets.

**BE SAFE - MAXIMUM CAPACITY- YOUR JUDGMENT** If you are planning to invite people over to catch a glimpse of the activities, please follow all safety and code guidelines for maximum capacities and railings on your decks, porches, balconies and roofs. Find out what your structure is rated to withstand and do not exceed that weight.

**IMPROVED PROTECTIVE MEASURES** After the Keith Urban concert in August 2008, HRM implemented the following restoration efforts on the common:

- tilled then levelled all affected areas; placed fill in any low spots to level out playing areas
- fertilized the concert area and the entire North Common
- overseeded the entire concert area
- reshaped the ball diamonds to reflect their actual usage size (over the years the infields became larger and expanded into the outfields)

These measures have reinstated the Common to pre-concert conditions.



# concerts ON THE common

HRM'S OFFICIAL CONCERT NEWSLETTER

VOL. 3 - ISSUE 1

HALIFAX  
REGIONAL MUNICIPALITY

JUNE 10, 2009

## **IN PREPARATION OF THE 2009 SUMMER CONCERTS, HRM HAS-**

- installed dry wells to areas that were low and held water for an extended period of time (these dry wells allow the water to drain faster, which in turn will allow HRM staff to open the fields faster after it rains)
- core-aerated entire North Common
- fertilized the impacted areas with a "starter fertilizer": a fast-acting high-nitrogen content fertilizer for faster grass growth
- fertilized remainder of the North Common
- again overseeded the impacted areas to ensure turf stability

It is important to note that planned improvements to the Common were made after the 2008 concert, as well as after severe winter conditions.

## **BEFORE EACH CONCERT, HRM WILL-**

- apply a half-dose of fertilizer to the entire North Common with the possibility of another core-aeration if time permits (the fertilizer will allow for better grass growth during and after the concert timeframes; the aeration will allow for air and water to reach the grass roots)
- time-permitting, HRM will also overseed this year's concert site (this will allow the grass to start to germinate over this time and start growing when the concert is over)

## **AFTER BOTH CONCERTS, HRM WILL-**

- install new backstops on diamonds 1, 2, & 3
- add new infield soil to all affected ball diamonds
- core-aerate to elevate soil and grass compaction
- apply another half-dose of fertilizer and overseed the concert area

This year, HRM will be directing concert vehicles to designated areas. This strategy will keep the vehicles off most of the outfields and limited to the perimeter of the Common.

## **TRAFFIC IMPACTS**

At this time traffic planning details are not confirmed. However, HRM will be encouraging residents to use routes at a distance from the Common and to use public transit if possible on concert days. This will help to reduce traffic and alleviate concerns. Confirmation on any closures will follow in the next newsletter scheduled for distribution around the beginning of July.

## **CLEAN UP**

HRM is working to keep the Common and surrounding area clean both during and after the concert. We hope everyone attending the concert will take advantage of the litter bins placed throughout the Common to make clean up easier. HRM is committed to returning the Common and surrounding areas to their pre-concert conditions as soon as possible.

## **VENDING INFORMATION**

All questions about vending on the concert site should be directed to the promoters (468-1236). Regarding vending on HRM property, the interests of public safety require that all interested food vendors apply for a vending permit and have their facilities inspected by HRM. For vending on private property, Provincial Public Health and Occupational Health and Safety legislation must be followed and appropriate zoning is required. The promoter is responsible for negotiating and managing food and beverage contracts for the event. Vendors will need a food permit from the NS Department of Agriculture (424-4560).

**Area councillors Dawn Sloane and Jennifer Watts are being updated on a regular basis. Interested residents may contact them at:**

Councillor Dawn Sloane:

490-4752 (o) 488-4812 (cell)

Councillor Jennifer Watts:

497-4748 (cell)