

Item No. 9.1
Halifax Regional Council
August 4, 2009

TO: Mayor Kelly and Members of Halifax Regional Council

SUBMITTED BY:



Dan English, Chief Administrative Officer

DATE: July 17, 2009

SUBJECT: **Noise By-Law Exemption Application - 2009 Canadian Senior Baseball Championship - Beazley Field & Mainland Commons**

ORIGIN

An application (attached as Appendix A) submitted on June 23, 2009 by Paul Aresnault, Chair of the host committee for the 2009 Senior Baseball Championship for an exemption from provisions of By-Law N-200, Respecting Noise, to complete the play of any scheduled game past the prohibited times outline in the by-law if inclement weather becomes a factor.

RECOMMENDATION

It is recommended that Regional Council approve the 2009 Canadian Senior Baseball Championship noise curfew exemption application, and permit the emitting of noise including yelling, shouting, hooting, whistling and the use of a public address system past one o'clock in the morning if deemed necessary to delay a game due to inclement weather, beginning August 19th and each day until the end of the tournament on August 23rd. Council should also take into consideration any matters raised at the hearing and pursuant to the contents of this report.

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 4 (Prescribed Exemptions), describes specific events, locations and time frames where certain activities have been deemed exempted from the provisions of the noise by-law.

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 Council. Notice of the Council Session is required to be mailed to assessed owners of property located within 100 feet of the property(ies) 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

The 2009 Canadian Senior Baseball Championship will be taking place in the Halifax Regional Municipality at Beazley Field in Dartmouth and the Mainland Commons in Halifax from August 20th to the 23rd, 2009. Setup for the event will begin at each site on August 19th, 2009. The start times and locations of each game are attached as Appendix C of this report.

Paul Aresenault, Chair of the host committee for this event made the following comments on June 18, 2009 regarding the event, on the Tournaments official website (<http://www.seniorbaseball09.ca/schedule%20and%20results.html>):

“Ten teams from across Canada will participate, including the Dartmouth Moosehead Dry as the host team, and the Halifax Pelham Canadians as the Nova Scotia champions. Other teams include Newfoundland, two New Brunswick teams, Quebec, Ontario, Manitoba, Alberta and British Columbia.”

Mr. Aresenault further indicates that:

““This will be an opportunity to see the best senior baseball players in the country,....it’s going to be an exiting tournament and a great chance for the people of metro Halifax to see some great baseball. We hope people take the opportunity to come out and watch, and cheer on the local teams.””

According to Section 4 (Prescribed Exemptions) of the by-law, the 2009 Canadian Senior Baseball Championship is exempted from the provisions of the by-law until one o’clock in the morning:

Section 4(2)(e) states:

Prescribed Exemptions

4. (2) Notwithstanding any other provisions of this By-law, this By-law shall not apply to:

(e) noises in connection with athletic or recreational activities in municipal park areas, arenas or community centres until one o'clock in the forenoon;

The applicant is requesting a noise exemption as the sound, predominantly from the public address system, may conflict with the following provision of the By-Law, if a game must continue past one o’clock in the morning due to inclement weather:

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”

The applicant has advised that the current schedule for the tournament does not plan for any games to extend beyond 11PM. However, weather conditions may force the play of games to extend beyond 11PM, if officials need to delay play due to inclement weather.

Inclement weather will be the only scenario where games will need to be extended beyond the established noise curfews.

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 each designated site identified above is complete.

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 a number of alternatives available to Council in considering this application:

1. Approve the application without conditions;
2. Approve the application with conditions such as a daily cut off time post the prescribed exemption time frame of one o'clock in the morning; or
3. Reject the application in it's entirety.

ATTACHMENTS

Appendix A: June 23, 2009, application for Exemption from By-Law N-200, Respecting Noise; issued by Mr. Paul Arseneault, Host Committee Chair, 2009 Canadian Senior Baseball Championship

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

Appendix C: 2009 Canadian Senior Baseball Championship Games Schedule

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.

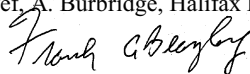
Report Prepared by: Superintendent Bill Moore, Halifax Regional Police, 490-4817

Report Approved by:



Deputy Chief, A. Burbridge, Halifax Regional Police, 490-7138

Report Approved by:



Chief Frank A. Beazley, Halifax, Regional Police, 490-6500

APPENDIX A



2009 Canadian Senior Baseball Championship

Dartmouth/Halifax, Nova Scotia

August 20 to 23, 2009

June 23, 2009

Municipal Clerks Office
Halifax Regional Municipality

Dear Sir/Madame,

The Canadian Senior Baseball Championships will be held August 20 to 23 at Beazley Field and Mainland Commons.

This letter requests that Halifax Regional Council exempt the championship from the noise/light curfews for the duration of the tournament.

The current game schedule does not plan for any games to extend beyond the current 11 PM curfew.

However, inclement weather may require that the play extend beyond the curfew. Limited time has been built in the schedule for such an occurrence due to the high cost of hosting the teams.

A favorable response is sought from council.

Yours truly,

A handwritten signature in black ink, appearing to read "Paul Arsenault".

Paul Arsenault
Chair

APPENDIX B

Excerpt from By-Law N-200 Respecting Noise re: Grant of 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.

APPENDIX C

SENIOR BASEBALL CHAMPIONSHIP 2009

Pool A: Alberta, British Columbia, Nova Scotia, Newfoundland, New Brunswick
 Pool B: Québec, Ontario, New Brunswick 2, Manitoba, Dartmouth

Thursday, August 20, 2009

	TIME	FIELD	VISITORS	vs	HOME TEAM
1	9:00 AM	Beazley	British Columbia	vs	New Brunswick
2	9:00 AM	Mainland Commons	Nova Scotia	vs	Newfoundland
3	12:00 PM	Mainland Commons	Quebec	vs	New Brunswick 2
4	12:00 PM	Beazley	Manitoba	vs	Ontario
5	4:00 PM	Mainland Commons	Alberta	vs	Nova Scotia
6	5:45 PM	Beazley	British Columbia	vs	Newfoundland
	8:00 PM	Beazley	Opening Ceremonies		
7	8:30 PM	Beazley	Quebec	vs	Dartmouth

Friday, August 21, 2009

	TIME	FIELD	VISITORS	vs	HOME TEAM
8	9:00 AM	Beazley	New Brunswick 2	vs	Manitoba
9	12:00 PM	Mainland Commons	Newfoundland	vs	New Brunswick
10	12:00 PM	Beazley	Ontario	vs	Dartmouth
11	3:00 PM	Beazley	New Brunswick	vs	Alberta
12	4:00 PM	Mainland Commons	Nova Scotia	vs	British Columbia
13	7:00 PM	Mainland Commons	Manitoba	vs	Quebec
14	7:00 PM	Beazley	Dartmouth	vs	New Brunswick 2

Saturday, August 22, 2009

	TIME	FIELD	VISITORS	vs	HOME TEAM
15	9:00 AM	Mainland Commons	Ontario	vs	Quebec
16	9:00 AM	Beazley	Newfoundland	vs	Alberta
17	12:00 PM	Beazley	Dartmouth	vs	Manitoba
18	12:00 PM	Mainland Commons	New Brunswick	vs	Nova Scotia
19	2:45 PM	Beazley	New Brunswick 2	vs	Ontario
20	2:45 PM	Mainland Commons	Alberta	vs	British Columbia
21	5:30 PM	Beazley	3A	vs	2B
22	8:15 PM	Beazley	3B	vs	2A

Sunday, August 23, 2009

	TIME	FIELD	VISITORS	vs	HOME TEAM
23	9:30 AM	Beazley	1A	vs	Winner # 21
24	12:30 PM	Beazley	1B	vs	Winner # 22
25	3:30 PM	Beazley	Bronze Metal Game		
26	7:00 PM	Beazley	Gold Metal Game		