



PO Box 1749
Halifax, Nova Scotia
B3J 3A5 Canada

Item No. 9.1
Halifax Regional Council
May 18, 2010

TO: Mayor Kelly and Members of Halifax Regional Council

SUBMITTED BY:

A handwritten signature in cursive script, appearing to read "Dan English".

Dan English, Chief Administrative Officer

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

Wayne Anstey, Deputy Chief Administrative Officer

DATE: May 3, 2010

SUBJECT: Noise By-Law Exemption - Membertou 400 Pow Wow event

ORIGIN

March 2, 2010 Application for an exemption from By-Law N-200, Respecting Noise, by the Membertou 400 Pow Wow event, attached as Appendix B.

RECOMMENDATION

It is recommended that Halifax 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. The Bylaw defines prohibited times of noise as:

- On a Monday, Tuesday, Wednesday, Thursday, or Friday until seven o'clock in the forenoon (7:00a.m.) and after nine thirty o'clock in the afternoon (9:30 p.m.).
- On a Saturday until eight o'clock in the forenoon (8:00 a.m.) and after seven o'clock in the afternoon (7:00 p.m.).
- On a Sunday, Statutory Holiday or Remembrance Day until nine o'clock in the forenoon (9:00 a.m.) and after seven o'clock in the afternoon (7:00 p.m.).

A) Exemptions

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 which is subject to the hearing.

B) Application for Exemption

Membertou 400

The Membertou 400 Pow Wow event is scheduled for June 25-28. Load in is set to begin June 21 and load out will be finalized on June 30. The Membertou 400 Group is seeking Council's approval of an exemption to the By-Law N-200, Respecting Noise.

Details as follows

- Prior to the Pow Wow, preparations will begin on the North Common site. These preparations will include removing certain HRM infrastructure such as baseball backstops and light standards as well as the construction of the Pow Wow infrastructure. Replacing HRM infrastructure and removal of Pow Wow infrastructure will commence after the concert performance.
- Work on the North Common will start on June 21 and conclude on June 30. The daily work schedule will be from 7:00 a.m. to 9:30 p.m. Given the time constraints of the construction schedule, if delays occur, construction could extend beyond the proposed working hours. Membertou 400 is committed to minimizing any noise that may occur outside of these proposed working hours. On all Pow Wow performance dates, the hours of use will be 9 a.m. to midnight.

- The work may include all or some of the following: temporary installation/modification of water pipes, removal of back stops, 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 in the southeastern corner of the North Common (corner of Cogswell Street and North Park Street). This is the location of the Main stage and cultural village.
- The sound system that is being used contains directional speakers that will diminish the sound outside of the North Common boundaries, but will not completely eliminate the sound outside the event site.
- During the concert set up and the actual concert, diesel generators will supply power to various locations on site.

Membertou 400 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”

An excerpt from the Noise By-Law detailing the exemption process is attached as Appendix C. Pursuant to policy, public notice of the time, date and purpose of the Council Session at which the hearing is being held was sent to the public. While there are no assessed owners of private property within the 100 foot distance as outlined in the Noise By-Law, HRM believes that this information should be provided to residents immediately surrounding the area for courtesy

BUDGET IMPLICATIONS

There are no budget implications.

FINANCIAL MANAGEMENT POLICIES / BUSINESS PLAN

This report complies with the Municipality’s Multi-Year Financial Strategy, the proposed 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

1. Approve the application with conditions.

ATTACHMENTS

- Appendix A: An application for Exemption from By-Law N-200, Respecting Noise by a representative from Membertou 400
- Appendix B: Membertou 400 Site Plan
- Appendix C: Excerpt from By-Law N-200 Respecting Noise re: Granting Exemptions by Council

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: Billy Comer, Civic Events Coordinator, 490-6394

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

Report Approved by: 
Andrew Whittemore, Manager, Community Relations & Cultural Affairs, 490-1585

Report Approved by: 
Austin French, Acting Director of Community Development, 490-6717

APPENDIX A

An application for exemption from By-Law N-200: Membertou 400

March 2, 2010

Dear Mr. Comer,

Whereas The Grand Chief Membertou 400 Celebrations will be staging an event on the Halifax Common June 24-28, 2010, we hereby make application to the 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 neighbourhood."

The set up and dismantling of the events will take place from June 22nd, 2010 until June 30, 2010.

The Grand Chief Membertou 400 Celebration is expecting 20,000 attendees, 550 volunteers, approximately 100 staff and crew. Some of these groups will be camping overnight.

Staff will arrive at noon on June 22nd to begin site preparation. There may be some drummers drumming through the week. Sound checks for the opening ceremonies and concerts will begin the morning of June 25th. Pow Wow demonstrations, music and presentations will be done from a main stage throughout Friday, Saturday and Sunday. It is our wish that we be granted a Noise By-Law exemption.

In addition to on-site campers in tents, there will be 15 wigwams, food service tents and vendor tents.

The event is scheduled to end at late afternoon on June 28th. Clean up would be taken care of by a group of Volunteers and would take place after the event is closed between 6pm and 10 pm.

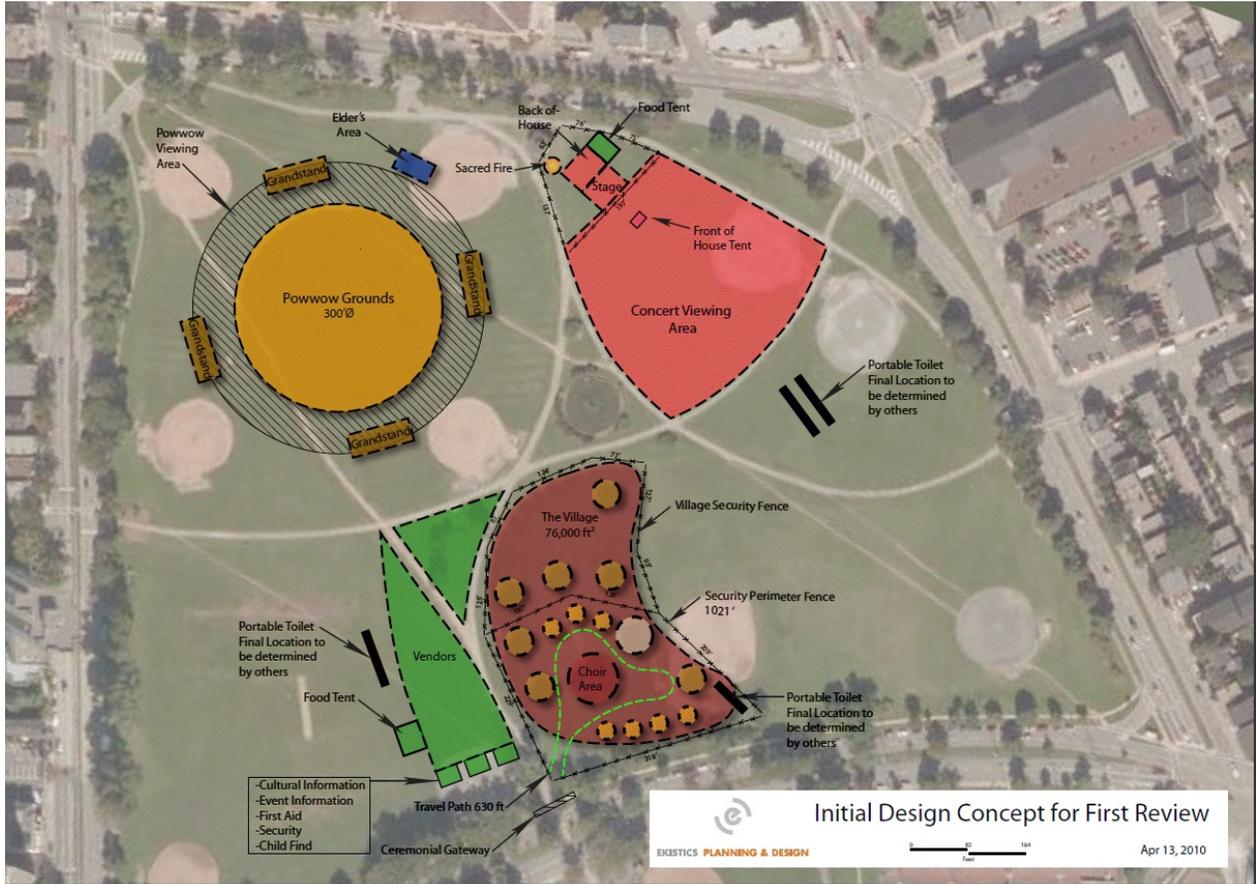
Thank you for your support of this request. If you have any further questions please do not hesitate to contact me at telephone number 902-446-6995.

Sincerely,

Andree Gracie
Event Manager
Grand Chief Membertou 400 Celebrations

Appendix B

Membertou 400 Site Plan



APPENDIX C:

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.