



PO Box 1749
Halifax, Nova Scotia
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Item No. 9.1
Halifax Regional Council
June 22, 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 - Operations

DATE: June 16, 2010

SUBJECT: **Noise By-Law Exemption - The Country Rockfest and Halifax Rocks
2010 Concerts**

ORIGIN

February 22, 2010 Application for an exemption from By-Law N-200, Respecting Noise, by the Country Rockfest and Halifax Rocks 2010 concerts, 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.

BACKGROUND

In September, 1999 HRM Council adopted By-Law N-200, Respecting Noise. The 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 (7:00 a.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 any property located within 100 feet of the property which is subject to the hearing.

B) Application for Exemption

Power Promotional Events Incorporated is in the process of planning the Country Rockfest and Halifax Rocks 2010 concerts. The concerts are located on the North Common. The economic generation anticipated from these concerts will be in the millions of dollars. The concerts are scheduled for July 23 and 24 as well as August 6 and 7, 2010. The concert gates are presently scheduled to open at 2:30 p.m. with the performances ending at midnight on all these dates. 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.

DISCUSSION

Power Promotional Events Incorporated are seeking Council's approval for an exemption to By-Law N-200, Respecting Noise with regards to the abovementioned concerts. In deciding whether or not to grant an exemption, Council is to give consideration to the following.

- 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

Power Promotional Events Incorporated feel it is appropriate 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:

- Prior to the concert, preparations will begin on the North Common concert site. These preparations will include removing certain HRM infrastructure such as baseball backstops and light standards as well as the construction of the concert infrastructure. Replacing HRM infrastructure and removal of concert infrastructure will commence after the concert performance.
- Work on the North Common will start on July 19th and conclude on August 12th. The daily work schedule will be from 7:00 am to 9:30 pm. Given the time constraints of the construction schedule, if delays occur, construction could extend beyond the proposed working hours. Power Promotional Events Incorporated is committed to minimizing any noise that may occur outside of these proposed working hours. On all concert performance dates the hours of use will be 1:30 pm to midnight.
- At this time, the known construction exception to this schedule will occur immediately following the concerts when the dismantling of the production equipment will begin and continue until approximately 2:00 am. The stage structure shall not be dismantled until the morning after the August 7th concert.
- 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 concert stage.
- 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 concert site. During the concert, sound will be directed from the southeastern corner to the northwestern corner of the North Common toward Robie Street.
- During the concert set up and the actual concert, diesel generators will supply power to various locations on the concert site.

Power Promotional Events Incorporated 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”

Notice of the time, date and purpose of the Council Session at which the hearing is being held has been sent via communication from HRM’s Clerk’s Office.

One of the main concerns of Power Promotional Events Incorporated is to lessen any disturbance of the peace and tranquillity of the neighbouring Residents and Businesses. Power Promotional Events Incorporated 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 call centre information number, the web site, and Communications staff responding to enquiries directly.

The complete economic impact of these concerts is unknown at this time but they will generate millions of dollars in economic spin offs.

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.

Its is staff’s opinion that the municipality’s experience with Power Promotional Events Incorporated over the last two years and three concerts indicate that this company will make ever effort to reduce and/or control any disturbances and that Council should support the exemption for these concerts.

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

COMMUNITY ENGAGEMENT

The proposed/completed community engagement process complies with the HRM Community Engagement Strategy. The community will be informed by way of a newspaper ad as well as posted on the HRM website.

FINANCIAL MANAGEMENT POLICIES / BUSINESS PLAN

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

ALTERNATIVES


1. Approve the application with the conditions specified in the report. This is the staff recommendation.
2. Approve the application with any additional conditions identified by Council as relevant during the Public Hearing.
3. Not approve the exemption.

ATTACHMENTS

- Appendix A:** An application for Exemption from By-Law N-200, Respecting Noise by a representative from Power Promotional Events Incorporated
- Appendix B:** Excerpt from By-Law N-200 Respecting Noise re: Granting Exemptions 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: Andrew Whittlemore, Manager, Community Relations & Cultural Affairs 490-1585



Report Approved by: Paul Dunphy, Director, Community Development

APPENDIX A:

An application for exemption from By-Law N-200: Power Promotional Events

February 22, 2010
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 a concert (Country Rockfest and Halifax Rocks 2010) on the Halifax Commons July 23rd & 24th, 2010 as well as August 6th & 7th, 2010 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 event will take from July 19th until August 12th, 2010 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 between 7:00 am to 9:30 pm, Monday to Friday and 9:00 am to 9:00 pm on Sunday.

This event 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.

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.