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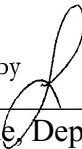
Item No. 9.2 (I)
Halifax Regional Council
August 10, 2010

TO: Mayor Kelly and Members of Halifax Regional Council

Original Signed by 

SUBMITTED BY:

Wayne Anstey, Acting Chief Administrative Officer

Original Signed by 

Mike Labrecque, Deputy Chief Administrative Officer

DATE: July 20, 2010

SUBJECT: **Noise By-Law Exemption - 2010 Canadian Senior Baseball
Championship - Beazley Field and Mainland Commons**

ORIGIN

An application (attached as Appendix A) submitted on May 26, 2010 by Paul Arsenault, chair of the host committee for the 2010 Senior Baseball Championship for exemption from provisions of By-Law N-200, Respecting Noise. The exemption is to provide time to complete play of any scheduled game past the prohibited times outlined in the by-law if inclement weather becomes a factor.

RECOMMENDATION

It is recommended that Regional Council approve the 2010 Senior Baseball Championship application for noise exemption, and permit the emitting of noise including yelling, shouting, hooting, whistling, and the use of a public address system past eleven o'clock at night. The exemption would only be required for games delayed due to inclement weather beginning August 26th and each day until the end of the tournament on August 30th. 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. 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.

Section 4 describes specific events, locations and time frames where certain activities have been deemed exempt from the provisions of the Noise By-Law.

Section 6 of the By-Law allows for any person to make 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 property owners 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 26th to the 30th, 2010. Setup for the event will begin at each site on August 26th, 2010. The start times and locations of each game are attached as Appendix C of this report. The full tournament web site is located at <http://www.baseball.ca/seniormen/>.

According to Section 4 (Prescribed Exemptions) of the by-law, the 2010 Canadian Senior Baseball Championship is exempt 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 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 11 o'clock at night. 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.

Halifax Regional Police does not have any concerns regarding this application.

Mailing out notices of the time, date and purpose of the Council Session at which the hearing is proposed to take place to property owners within 100 feet of the designated sites 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.

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;
3. Reject the application in it's entirety.

ATTACHMENTS

- Appendix A:** May 26, 2010 application for Exemption from By-Law N-200, Respecting Noise by a representative from the Canadian Senior Baseball Championship.
- Appendix B:** Excerpt from By-Law N-200 Respecting Noise re: Granting Exemptions by Council.
- Appendix C:** 2010 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 490-4205.

Report Prepared for: Superintendent William Moore, Halifax Regional Police

Report Reviewed by: _____
Deputy Chief A Burbridge, Halifax Regional Police

Report Approved by: _____
Chief Frank A Beazley, Halifax Regional Police

APPENDIX A:



2010 Canadian Senior Baseball Championship

Dartmouth/Halifax, Nova Scotia

August 26 to 30, 2010

May 26, 2010

Municipal Clerks Office
Halifax Regional Municipality

Dear Sir/Madame,

The Canadian Senior Baseball Championship will be held August 26 to 30 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,

Paul Arsenault
Chair
902-456-2870

ARSENPAJ @ gov.n.s.ca

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.

APPENDIX C:



Baseball Canada 2010 Senior Men Championship Dartmouth, NS

Friday, July 9, 2010 | Français

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Schedule				Home	
Thursday, August 26, 2010 Visitors					
1	9:00 AM	Mainland Commons	Nova Scotia	vs New Brunswick	Results/Live Action
2	9:00 AM	Beazley	Manitoba	vs Newfoundland and Labrador	Results/Live Action
3	12:00 PM	Beazley	Ontario 2	vs Alberta	Results/Live Action
4	4:00 PM	Mainland Commons	Manitoba	vs Alberta 2	Results/Live Action
5	4:00 PM	Beazley	New Brunswick	vs British Columbia	Results/Live Action
	7:30 PM	Beazley	Opening Ceremonies		
6	8:00 PM	Beazley	Ontario	vs Dartmouth	Results/Live Action
Friday, August 27, 2010					
7	9:00 AM	Beazley	British Columbia	vs Alberta	Results/Live Action
8	9:00 AM	Mainland Commons	New Brunswick	vs Ontario 2	Results/Live Action
9	12:00 PM	Mainland Commons	Newfoundland and Labrador	vs Ontario	Results/Live Action
10	12:00 PM	Beazley	Dartmouth	vs Alberta 2	Results/Live Action
11	4:00 PM	Beazley	British Columbia	vs Ontario 2	Results/Live Action
12	4:00 PM	Mainland Commons	Alberta	vs Nova Scotia	Results/Live Action
13	7:00 PM	Mainland Commons	Alberta 2	vs Newfoundland and Labrador	Results/Live Action
14	7:00 PM	Beazley	Dartmouth	vs Manitoba	Results/Live Action
Saturday, August 28, 2010					
15	9:00 AM	Beazley	Alberta 2	vs Ontario	Results/Live Action
16	9:00 AM	Mainland Commons	Nova Scotia	vs British Columbia	Results/Live Action
17	12:00 PM	Beazley	Newfoundland and Labrador	vs Dartmouth	Results/Live Action
18	12:00 PM	Mainland Commons	Alberta	vs New Brunswick	Results/Live Action
19	2:45 PM	Beazley	Ontario	vs Manitoba	Results/Live Action
20	2:45 PM	Mainland Commons	Ontario 2	vs Nova Scotia	Results/Live Action
21	5:30 PM	Beazley	3rd place Pool A	vs 2nd place Pool B	Results/Live Action
22	8:15 PM	Beazley	3rd place Pool B	vs 2nd place Pool A	Results/Live Action
Sunday, August 29, 2010					
23	9:30 AM	Beazley	Winner Game #21	vs 1st place Pool A	Results/Live Action
24	12:30 PM	Beazley	Winner Game #22	vs 1st place Pool B	Results/Live Action
25	3:30 PM	Beazley	Bronze Medal Game		Results/Live Action
26	7:00 PM	Beazley	Gold Medal Game		Results/Live Action