




P.O. Box 1749
Halifax, Nova Scotia
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Item No. 9.1
Halifax Regional Council
June 21, 2011

TO: Mayor Kelly and Members of Halifax Regional Council

Original signed by 

SUBMITTED BY:

Richard Butts, Chief Administrative Officer

Original Signed by 

Mike Labrecque, Deputy Chief Administrative Officer, Operations

DATE: June 6, 2011

SUBJECT: Noise By-Law Exemption – Mi'kmaq Association for Cultural
Studies Mawio'mi 2011, July 1-3 2011

ORIGIN

June 2, 2011 - Staff received an application for an exemption from By-Law N-200, Respecting Noise, by the Mi'kmaq Association for Cultural Studies outlined as Appendix A.

RECOMMENDATION

It is recommended that Regional Council approve the Mi'kmaq Association for Cultural Studies application for 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. The By-law states under the **General Prohibition** section:

3. (1) No person shall engage in any activity that unreasonably disturbs or tends to disturb the peace and tranquility of a neighbourhood.

(3) For the purpose of a prosecution pursuant to subsections (1) or (2), evidence that one neighbour is unreasonably disturbed by a noise is prima facie evidence that the neighbourhood is unreasonably disturbed by the noise.

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 property owners located within 100 feet of the properties which are 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

Mawio'mi 2011

The Mi'kmaq Association for Cultural Studies Mawio'mi 2011 is being held from July 1-3 2011 on the Halifax Commons. A request has been made for an exemption from By-Law N-200 for the event as well as set up and tear down scheduled for June 29 – July 4, 2011 inclusive.

Based on the event last year, Mawio'mi 2011 is expecting over 50,000 attendees, 100 volunteers, approximately 400 dancers plus staff and crew. Pow Wow demonstrations, music and presentations will be performed from a main stage throughout Friday, Saturday and Sunday. Celebrations should end by 11pm on Friday and Saturday night and early evening on Sunday. In addition to the Powwow, there will be 15 wigwams, food service tents and vendor tents.

Mawio'mi 2011 is requesting an exemption to By-law N-200 as the associated noise from the event, as well as the set up and tear down, may be in violation of the following provision: Section 3, Part 1 which states “No person shall engage in any activity that unreasonably disturbs or tends to disturb the peace and tranquility of a neighbourhood”.

Notice of the Council Session at which the hearing is proposed to take place has been sent to property owners within 100 feet of the locations mentioned above. Halifax Regional Police believe the Mawio'mi 2011 should result in minimal concern given the nature and scope of the event.

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.

COMMUNITY ENGAGEMENT

The public support of the Membertou 400 event in 2010 was evident by the number of people who attended the event. The 2011 event is expected to receive the same public support and provides an excellent educational tool in the traditions of First Nations Peoples. As outlined in Appendix A, the Mi'kmaq Association for Cultural Studies Mawio'mi 2011 is expected to attract over 50,000 attendees, 100 volunteers, approximately 400 dancers plus staff and crew.

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 its entirety.

ATTACHMENTS

Appendix A: June 1, 2011 Application for Exemption from By-Law N-200, Respecting Noise, by the Mi'kmaq Association for Cultural Studies Mawio'mi 2011

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

**Noise By-Law Exemption – Mi'kmaq Association for Cultural
Studies Mawio'mi 2011, July 1-3, 2011 -4-**

June 21, 2011

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 by: Superintendent Colleen Kelly, Halifax Regional Police

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

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

Original Signed

APPENDIX A

June 2, 2011

Mr. Billy Comer
Civic Events Coordinator
HRM Special Events Task Force

Dear Mr. Comer,

Whereas the Mi'kmaq Association for Cultural Studies will be hosting Mawio'mi 2011 on the Halifax Common July 1-3, 2011, 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 29th, 2011 until July 4, 2011.

Based on the event last year, Mawio'mi 2011 is expecting over 50,000 attendees, 100 volunteers, approximately 400 dancers plus staff and crew. Pow Wow demonstrations, music and presentations will be done from a main stage throughout Friday, Saturday and Sunday. Celebrations should end by 11pm on Friday and Saturday night and early evening on Sunday. It is our wish that we be granted a Noise By-Law exemption.

In addition to the Powwow, there will be 15 wigwams, food service tents and vendor tents.

The event is scheduled to end early evening on July 3rd.

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
Mawio'mi Celebrations
Tel. 902-446-6995
Cell: 902 401 4939
Email: agracie@accesswave.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.