



P.O. Box 1749
Halifax, Nova Scotia
B3J 3A5 Canada

Item No. 9.1 (i)
Halifax Regional Council
July 5, 2011

TO: Mayor Kelly and Members of Halifax Regional Council

Original signed by

A handwritten signature in black ink, appearing to be "R. Butts", written over a horizontal line.

SUBMITTED BY:

Richard Butts, Chief Administrative Officer

Original Signed by

A handwritten signature in black ink, appearing to be "Mike Labrecque", written over a horizontal line.

Mike Labrecque, Deputy Chief Administrative Officer, Operations

DATE: May 16, 2011

SUBJECT: **Noise By-Law Exemption - 2011 FIVB Beach Volleyball SWATCH
Junior World Championship**

ORIGIN

April 12, 2011 - Staff received an application for an exemption from By-Law N-200, Respecting Noise, by the 2011 World Beach Volleyball Host Society outlined as Appendix A.

RECOMMENDATION

It is recommended that Halifax Regional Council approve the 2011 World Beach Volleyball Host Society 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

2011 FIVB Beach Volleyball SWATCH Junior World Championship

The 2011 World Beach Volleyball Host Society is hosting the 2011 FIVB Beach Volleyball SWATCH Junior World Championship from Wednesday, August 31, 2011 to Sunday, September 4, 2011. They are requesting exemption from By-Law N-200 for the event schedule:

Construction:

Thursday, August 25th: 6pm – 12am

Friday, August 26th: 8am – 11pm

Saturday, August 27th: 9am – 5pm

Sunday, August 28th: 9am – 5pm

Monday, August 29th: 9am – 5pm

Tuesday, August 30th: 9am – 9pm

Operation

Wednesday, August 31st: 8am – 11pm
Thursday, September 1st: 8am – 11pm
Friday, September 2nd: 8am – 11pm
Saturday, September 3rd: 8am – 11pm
Sunday, September 4th: 8am – 4pm

Removal

Sunday, September 4th: 4pm – 12am
Monday, September 5th: 8am – 12am
Tuesday, September 6th: 8am – 2pm

Event setup of the temporary stadium will be primarily during daytime hours. Tear down and clean up will take place after the event.

The 2011 World Beach Volleyball Host Society is requesting an exemption to the by-law, as the associated noise from the event as well as the construction and tear down of the temporary stadium 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 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 has been contacted and believe the Beach Volleyball Junior World Championship events 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, Project and Reserve budgets, policies and procedures regarding withdrawals from the utilization of Project and Operating reserves, as well as any relevant legislation.

COMMUNITY ENGAGEMENT

This event on the Halifax Waterfront is the event’s first ever North American stop. This event will bring athletes and spectators from around the world to downtown Halifax and showcase our beautiful city. The 2011 World Beach Volleyball Host Society has already contacted their closest neighbor to the event (Southwest Properties regarding Bishop’s Landing) and have asked that they share the information with their tenants.

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; or
3. Reject the application in its entirety.

ATTACHMENTS

Appendix A: April 12, 2011 Application for Exemption from By-Law N-200, Respecting Noise by the 2011 World Beach Volleyball Host Society

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/agenda/sc/agenda.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

2011 World Beach Volleyball Host Society
1549 Lower Water St. 3rd Floor
Halifax, NS B3J 1S2
April 12, 2011

Erin Dobson
Regional Coordinator, Support Services
By-Law Enforcement, Halifax Regional Police
PO Box 1749
Halifax, NS B3J 3A5

Dear Ms. Dobson:

This summer we will be bringing the 2011 FIVB Beach Volleyball SWATCH Junior World Championship to the Halifax Waterfront for the event's first ever North American stop. This event will bring athletes and spectators from around the world to downtown Halifax and showcase our beautiful city. In order to deliver this world class event we will be building a temporary stadium on the waterfront in the Salter Block lot located at Salter St. and Lower Water St.

In our planning process we have identified that the construction, operation and removal of this venue will put us in violation of HRM By-Law Number N-200 Respecting Noise. We are requesting this letter be accepted as our formal request for an exemption to the above noted by-law for the period of Thursday, August 25th, 2011 to Tuesday, September 6th, 2011.

Our anticipated construction, operation and removal timeline is as follows:

Construction:

Thursday August 25th: 6pm – 12am
Friday, August 26th: 8am – 11pm
Saturday August 27th: 9am – 5pm
Sunday, August 28th: 9am – 5pm
Monday, August 29th: 9am – 5pm
Tuesday, August 30th: 9am – 9pm

Operation

Wednesday, August 31st: 8am – 11pm
Thursday, September 1st: 8am – 11pm
Friday, September 2nd: 8am – 11pm
Saturday, September 3rd: 8am – 11pm
Sunday, September 4th: 8am – 4pm

Removal

Sunday, September 4th: 4pm – 12am
Monday, September 5th: 8am – 12am
Tuesday, September 6th: 8am – 2pm

Erin Dobson
April 18, 2011
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We have been in contact with Southwest Properties regarding their Bishop's Landing property and are sharing event details with their tenants. We will await your response on moving forward with our application and presenting details of our event to HRM Council.

Sincerely,

A handwritten signature in black ink, appearing to read "Derek Martin", written over a horizontal line.

Derek Martin
President

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.