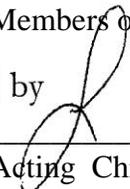


Item No. 9.1 (i)
Halifax Regional Council
June 26, 2012

TO: Mayor Kelly and Members of Halifax Regional Council

SUBMITTED BY: Original Signed by 

Mike Labrecque, Acting Chief Administrative Officer

DATE: May 25, 2012

SUBJECT: Noise Exemption Request- Halifax Jazz Festival

ORIGIN

May 18, 2012 – Staff received an application for an exemption from By-Law N-200 Respecting Noise, by Jazz East Rising, for the 2012 TD Halifax Jazz Festival outlined as Appendix A.

RECOMMENDATION

It is recommended that Halifax Regional Council approve the 2012 TD Halifax Jazz Festival's 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 public 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

Jazz East Rising is hosting the 2012 TD Halifax Jazz Festival from Friday July 6, 2012 to Saturday July 14, 2012. The exemption from By-Law N-200 Respecting Noise is being requested for the following portions of the event schedule:

Performances:

Friday, July 6, 2012: 8:00 a.m. to midnight
Saturday, July 7, 2012: 7:00 a.m. to midnight
Sunday, July 8, 2012: 7:00 a.m. to midnight
Monday, July 9, 2012: 7:00 a.m. to midnight
Tuesday, July 10, 2012: 7:00 a.m. to midnight
Wednesday, July 11, 2012: 7:00 a.m. to midnight
Thursday, July 12, 2012: 7:00 a.m. to midnight
Friday, July 13, 2012: 7:00 a.m. to midnight
Saturday, July 14, 2012: 7:00 a.m. to midnight

Event tear down:

Sunday, July 15, 2012: midnight to 9:00 pm

Event setup of a temporary stage and tent(s) on the waterfront in the Salter Block lot located at Salter Street and Lower Water Street will be primarily during daytime hours. Site preparation and performances are scheduled to occur daily from 7 am to midnight. The tear down and clean-up after the event will take place from midnight Saturday, July 15 to Sunday, July 16, 2012. Further breakdown of the schedule is available in Appendix A.

Jazz East Rising is requesting an exemption to By-law N-200, as the associated noise from the event, performances and tear down of the temporary staging and tent(s) 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.

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

None

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

The jazz festival has been an annual event and this is the second year at the Salter Street and Lower Water Street location. Halifax Regional Police advised there were minimal complaints received last year. The organizers are relocating the stage to back onto Bishop’s Landing to reduce the noise impact on the occupants of Bishop’s Landing.

ENVIRONMENTAL IMPLICATIONS

Discussion took place with the event organizer to confirm appropriate waste and recycling practices will be provided on site.

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: May 18, 2012 Application for Exemption from By-Law N-200, Respecting Noise

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: Tanya Phillips, Manager By-law Standards, 490-4491

Report Approved by: _____
Jim Donovan, Manager, Municipal Compliance, 490-6224

Report Approved by: _____
Brad Anguish, Director, Community and Recreation Services, 490-4933

APPENDIX A



JazzEast Rising
Association
Incorporated 1987
Registered Charity
8888 19190 RR0001

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May 18, 2012

Erin Dobson
Regional Coordinator Support Services, By-Law Standards
Municipal Compliance
Community and Recreation Services
P.O. Box 1749
Halifax, Nova Scotia
B3J 3A5

Dear Ms. Dobson,

This letter is our request for Noise Exemption for the 2012 Halifax Jazz Festival in relation to our outdoor venue that occupies the Salter Block parking lot at 1499 Lower Water St. in Halifax. Please refer to the attached site diagram that shows a substantially changed layout from last year. We have rotated the big tent with the stage in it 90 degrees so that the stage points towards the North rather than the harbour. This will direct the majority of the sound from the stage away from the residents of Bishops Landing, where last year they were located alongside the tent and there was substantial sound spill from the stage. Please note that the stage will be located approximately 60 feet from the edge of the parking lot which is approximately 30+ feet from the Bishop's Landing building.

Our use of the parking lot begins with the Load-in of the outdoor venue commencing on Wednesday, July 4 at 7:00 am and concludes with the final Load-out of equipment on the morning of Monday, July 16. The following is the detailed schedule of activities by day with notes regarding their type of activity, timing, etc.

Wednesday, July 4 – 7:00 am to 9:00 pm – Load -In

- Installation of perimeter fencing for site – potential for some hammering of pegs to secure fencing braces.
- Installation of tents as per attached site diagram. Installation of tent pegs involves the use of power hammer.
- Distribution of electrical power around the site. No significant noise.
- Assembly and installation of entrance structure. Use of power tools required.
- Delivery and installation of solid waste bins.

Thursday, July 5 – 8:00 am – 9:00 pm – Load-In

- Delivery and installation of stage, lighting and audio equipment. Use of power tools required.
- Initial testing of sound system.
- Final fencing installation.
- Delivery and installation of portable toilets and waste-water handling equipment.
- Delivery and installation of event signage and pageantry. Use of power tools required.
- Delivery and installation of vendor equipment.

Friday, July 6 – 8:00am – midnight – Load-In and 1st Performance

- Delivery and installation of equipment for event operations.



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- Completion of vendor and sponsor display equipment.
- Sound check for evening performance 5:30 – 7:00 pm
- Performance begins 8:00 pm and ends on or before 11:30 pm
- Site closes to public on or before midnight.

Saturday, July 7 – 7:00 am – midnight

- Servicing of portable toilets before 10:00 am
- Potential solid waste tipping of garbage bins before 10:00 am.
- Site prep meetings for day's activities 9:30 am - 11:45 am
- Sound checks for afternoon performers 10:30 am – 11:45 am
- Site opens to public at 11:45 am
- Site closes to public 5:30 pm
- Servicing of portable toilets between 5:30 and 7:00 pm
- Sound check for evening performance 5:30 – 7:00 pm
- Performance begins 8:00 pm and ends on or before 11:30 pm
- Site closes to public on or before midnight.

Sunday, July 8 – Saturday, July 14

- Repeat of Saturday schedule.

Sunday, July 15 – Midnight Saturday to 9:00 pm Sunday Load-Out

- Overnight dismantle and remove stage, lighting & audio equipment. Some power tools required.
- Overnight dismantle of power distribution system.
- Overnight packing of operational gear for storage
- Packing and removal of vendor equipment from 9:00 am onwards
- Dismantle and removal of tents from 10:00 am onwards
- Dismantle and removal of fencing from 10:00 am onwards
- Removal of portable toilets.
- Removal of solid waste bins.
- Removal of operational gear to storage.

Monday, July 16 – 9:00 am – noon

- Removal of final pieces of equipment – pop coolers, etc.

Please advise if you require any additional information regarding our application.

Regards,

David Jones
Site and Logistics Manager
902-483-8515

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.