



PO Box 1749  
Halifax, Nova Scotia  
B3J 3A5 Canada

**Halifax Regional Council**  
**June 27, 2006**

**TO:** Mayor Kelly and Members of Halifax Regional Council

**SUBMITTED BY:**

A handwritten signature in cursive script, appearing to read "Carol Macomber", written over a horizontal line.

Carol Macomber, Acting Director  
Community, Culture and Economic Development

**DATE:** June 06, 2006

**SUBJECT:** Boating Restriction Regulations for Russell Lake

## INFORMATION REPORT

### ORIGIN

At the September 20, 2005 meeting of Halifax Regional Council, Item 11.1, Councillor Karsten moved that staff initiate a process to designate Russell Lake a "non-motorized boating" lake, and to report back to Council about the federal "boating restriction regulations" (BRR) application process to be followed, the resources needed, and budgetary implications associated with initiating this process. Councillor Adams suggested the Kearney Lake model be used in preparation of the report.

The following reports relating to BRRs were received by Regional Council:

- "Development of Boating Restrictions on HRM Urban Lakes," July 16, 2002;
- "Proposed Boating Restrictions for Lakes Banook, Mic Mac, and Kearney," September 18, 2003.

## **BACKGROUND**

Increasing demand for lake access by individuals using recreational motorized water craft, combined with a surge in popularity of new types of motorized water craft (e.g. jet skis), seems to have created an increasing frequency of such boats on lakes throughout HRM. In addition, there has been an observed increase in public concerns by those who use, and reside close to, waterways regarding the impact of motorized water craft on human safety, noise levels, shoreline property, and the environment.

The Canadian Coast Guard and Transport Canada has ruled that existing municipal by-laws related to motorized boating on lakes are not enforceable as they are beyond municipal jurisdiction to enact and enforce. Therefore, a procedure has been put in place whereby municipalities can apply for federal “boating restriction regulations” (BRRs) to be enacted by Parliament. The procedure for making a formal application to establish these regulations is facilitated by a sponsoring municipality and overseen by the Office of Boating Safety, Transport Canada. It is an extensive and rigidly defined procedure, which includes a minimum requirement to conduct public/stakeholder consultations, to demonstrate willingness and ability to enforce restrictions imposed, to conduct a cost-benefit analysis, to consider alternatives to BRRs, and to post signs explaining regulatory intentions for at least one full boating season prior to implementing the resulting regulations in the following or subsequent boating seasons. Overall, the process is estimated to take one to three years to complete, and must be submitted separately for each individual lake or waterway for which restrictions are sought.

In 2002, HRM initiated a procedure to define and apply for BRRs on Lake MicMac, Lake Banook, and Kearney Lake. Each of these lakes were subject to by-laws previously enacted by pre-HRM municipalities, and are the only lakes in HRM that were governed by such by-laws. The justification for pursuing BRRs on these lakes was due to:

- the long-standing municipal by-laws which were enforced during each boating season; and
- the high rate of on-water conflicts between motorized water craft and non-motorized water craft/swimmers.

In September 2003, Halifax Regional Council approved the applications for restrictions on each of the three lakes, and approved a recommendation to NOT propose BRR applications for additional waterways until sufficient monitoring of the new restrictions had been conducted. Subsequent to Council’s direction, the completed applications were submitted to the Regional Office of Boating Safety (OBS) of Transport Canada, which is responsible for ensuring that a designation is justified, sufficient documented public consultation has been carried out, and that the requirements of the Government of Canada Regulatory Policy have been met. In late 2004, after significant work with regional OBS staff to revise and complete the supplementary materials, the applications were forwarded to Ottawa for review and approval by OBS National Headquarters (OBS-NHQ). Provided the applications and supporting material are acceptable, they will be published through a two-part Canada Gazette process, the legislative law-making process. If no further comments are received

during the first part of Gazetting, and the restrictions are published in Part II of the Canada Gazette, Ministerial authority will be given to HRM permitting signs to be posted to notify the public of the designated sites and restrictions.

The latest update from Ottawa, via regional Office of Boating Safety, is that the three HRM applications are delayed due to a larger-than-usual volume of similar applications from across Canada that are being processed as a result of reforms to the Canada Shipping Act. The Banook-MicMac-Kearney BRRs are thus being included in a larger package for cabinet regulatory review scheduled for spring 2007. The OBS-NHQ, via Regional OBS, has informed HRM staff that HRM's three applications, "Are in good standing in the context that there would not be any other potential delay to prepare for cabinet review." However, the Gazetting process may take one year to complete, and thus, it may be the 2008 boating season before HRM's existing lakes applications come into force.

## **DISCUSSION**

In September 2005, a Council motion directed staff to explore the possibility of initiating a procedure to designate Russell Lake a "non-motorized boating" lake. As indicated above (see "Background"), the municipality does not have the right to enact by-laws restricting boating activity. Applications for boating restrictions completed by HRM to date have focused only on those lakes which had existing by-laws related to boating use. Rather than replacing existing by-laws with BRRs - BRRs that were designed to deal with on-water boating conflicts - the genesis of the Russell Lake requests relate to local resident concerns about planned residential development in the area. Resident concerns, more specifically, stem from the **prospects of negative environmental impacts from anticipated increases in motorized boating that may be associated with such development**. Currently, there is little or no motorized boating activity on Russell Lake, in part, due to lack of access.

The Russell Lake case is one of several within HRM for which staff have received requests to explore the possibility of initiating BRRs. Currently, there is no existing staff, program, nor budget dedicated to the federal BRR application process regarding motorized boating restriction regulations on in-land waterways. Furthermore, there is limited enforcement capability beyond that employed on Lakes Banook, MicMac, Kearney, and other water bodies (e.g., sporadic joint-exercises with Coast Guard) to enforce additional BRRs effectively. The Banook, MicMac, and Kearney BRR applications had been undertaken as a special project by existing staff, but such future efforts are not sustainable. Moreover, Regional Council agreed, upon approving the pursuance of the Banook, MicMac, and Kearney BRR applications, that no additional applications would be contemplated until a review of the effectiveness of the three existing BRRs could be undertaken. This review cannot be considered until at least a full season has passed after implementation of the Banook, MicMac, and Kearney BRRs.

Council, otherwise, would have to approve a program and related budget to address the Russell Lake issue and potential additional requests of this nature. Based on staff's experience with the Banook,

MicMac, and Kearney BRR applications, and based on the assumption of approximately one BRR application per lake per year, such a program is estimated to cost in range of \$150,000 annually. The costs associated with this program would likely include a new program coordinator, some administrative support, office and equipment, public consultation costs, on-going community liaison, education and promotion materials, a mandatory signs capital program, on-going sign maintenance, and enforcement through expansion of HRM's on-water patrol mandate. Such program might also require additional effort, documentation, and resources, depending on the complexity of a BRR application. For example, in order to demonstrate the negative environmental effects of motorized boating on Russell Lake, scientific data as well as the need to demonstrate that the proposed restriction/s are the best alternatives available may be required by the federal BRR application process.

**BUDGET IMPLICATIONS**

There are currently no budget implications as a direct result of the material discussed in this report.

**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.

**ALTERNATIVES**

None

**ATTACHMENTS**

None

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 :

\_\_\_\_\_  
Paul Johnston, Business Services Coordinator, 490-5623  
Rudy Vodicka, Coordinator, Real Property Policy, 490-5582

Financial Review :

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Barb Palmeter, Financial Consultant, 490-7221