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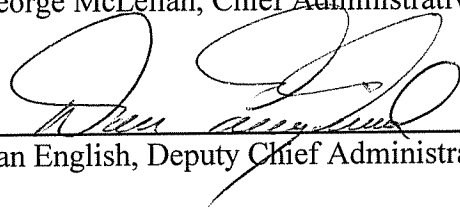


PO Box 1749  
Halifax, Nova Scotia  
B3J 3A5 Canada

**Halifax Regional Council**  
**June 28, 2005**

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

**SUBMITTED BY:**   
George McLellan, Chief Administrative Officer

  
Dan English, Deputy Chief Administrative Officer

**DATE:** June 16, 2005

**SUBJECT:** **Noise By-Law Exemption Application - Royal Nova Scotia Yacht Squadron**

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**ORIGIN**

May 24, 2005 application for an exemption from By-Law N-200, Respecting Noise, by the Royal Nova Scotia Yacht Squadron.

**RECOMMENDATION**

It is recommended that :

1. Regional Council approve the Royal Nova Scotia Yacht Squadron's application (attached as Appendix A) for an exemption from the provisions of By-Law N-200, Respecting Noise pursuant to the contents of this report and any matters at the hearing.

## **BACKGROUND**

In September, 1999 Regional Council adopted By-Law N-200, Respecting Noise. This 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 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 Regional Council. Notice of the Council Session is required to be mailed to assessed owners of property located within 100 feet of the property 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 Royal Nova Scotia Yacht Squadron is holding their 100<sup>th</sup> anniversary of the Marblehead to Halifax Ocean Race during the week of July 10<sup>th</sup> - 15<sup>th</sup> inclusively. It is expected that there will be over 150 vessels taking part in this years race. Throughout the week, musical entertainment is scheduled during the evenings. Approximately 500 people will be participating in the events.

An application for exemption from the Noise By-Law has been submitted by Joanne Williams, General Manager of the Royal Nova Scotia Yacht Squadron. The application details that:

- this year's Marblehead to Halifax Ocean Race is the 100<sup>th</sup> anniversary;
- musical entertainment will be performed during the week at the following times:
  - ▶ Tuesday, July 12, 2005 from 6:00PM until 10:00PM;
  - ▶ Wednesday, July 13, 2005 from 5:00PM until 11:00PM; and
  - ▶ Thursday, July 14, 2005 from 6:30PM until midnight.

- local bands performing during the event include:
  - ▶ Tuesday, July 12, 2005 - John Porko
  - ▶ Wednesday, July 13, 2005 - Dale Letcher, RastaGumbo
  - ▶ Thursday, July 14, 2005 - Joe Murphy & the Waterstreet Blues Band
- all entertainment will be performed from the interior of the Spar Loft in an effort to minimize any disturbance to local residents

Halifax Regional Police Services has indicated that when this event took place in 2003, they did not receive any complaints from local residents. A policing plan was implemented in 2003 that proved to be effective in preventing issues from developing throughout the duration of the event. This plan will be utilized again for this years event. Parking regulations under the Motor Vehicle Act and by-laws of the Halifax Regional Municipality will be enforced throughout the duration of the event.

The applicant is requesting an exemption to By-Law N-200 as the musical entertainment being performed may conflict with the following provision of the by-law:

**Subsection 1 of Section 3, which states:**

**“No person shall engage in any activity that unreasonably disturbs or tends to disturb the peace and tranquillity of a neighbourhood”**

Mailing out notices of the time, date and purpose of the Council Session at which the hearing is proposed to take place to residents within 100 feet of 376 Purcell’s Cove Road was completed.

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.

**ALTERNATIVES**

There are 2 alternatives available to Council in considering this application:

1. Approve the application with conditions; or
2. Reject the application in its entirety.

**ATTACHMENTS**

Appendix A: May 24, 2005 application for exemption from By-Law N-200, Respecting Noise; issued by the Royal Nova Scotia Yacht Squadron.

Appendix B: Excerpt from By-Law N-200, Respecting Noise re: Grant of Exemption by Council.

A copy of this report can be obtained online at <http://www.halifax.ca/council/agendasc/agenda.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: Craig Horton, Project Controller, Community Projects, EMS, 490-4432

Financial Review:

*June 20/05*

*Kellea Redden June 20/05*  
Kellea Redden, CMA, Financial Consultant, 490-6267

Report Approved by:

*Brad Anguish for 20/6/05*  
Allan Waye, General Manager, Community Projects, EMS, 490-6484

*Brad Anguish 20/6/05*  
Brad Anguish, Director, Environmental Management Services, 490-4825

MAY. 26. 2005 3:26PM

CITY CLERK'S OFFICE HRM

NO. 691,773 P. 2 1/1



ROYAL NOVA SCOTIA YACHT SQUADRON

May 24, 2005

Municipal Clerks Office  
PO Box 1749  
Halifax, Nova Scotia  
B3J 3A5

HALIFAX REGIONAL  
MUNICIPALITY  
MAY 25 2005  
*Ken*  
MUNICIPAL CLERK

Via Fax Transmission: (902) 490-4208

*Re: Exemption Request to Noise By-law*

Dear Sir/Madam:

We are writing to request an exemption request to the noise by-law for our upcoming 100<sup>th</sup> anniversary of the Marblehead to Halifax Ocean Race being held during the week of July 10<sup>th</sup> - 15<sup>th</sup>. We have musical entertainment that is planned to be performed within the Spar Loft building on the following evenings:

- Tuesday, July 12<sup>th</sup> - 1800-2200 hrs - "John Porco" - live entertainment
- Wednesday, July 13<sup>th</sup> - 1700 - 1930 hrs - "Dale Letcher" - live entertainment
- Wednesday, July 13<sup>th</sup> - 1930 hrs - 2300 hrs - "RastaGumbo" - live entertainment
- Thursday, July 14<sup>th</sup> - 1830 - 2400 hrs - "Joe Murphy & the Waterstreet Blues Band"

All entertainment is to perform from the interior of the Spar Loft in an effort to minimize any disturbance to local residents.

Should you have any questions on the above events, please contact me at (902) 477-5653.

Yours truly,  
  
Joanne Williams  
General Manager

## APPENDIX B

### Excerpt from By-Law N-200, Respecting Noise

#### **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.