



CITY OF KINGSTON
REPORT TO COUNCIL

Report No.: 12-025

TO: Mayor and Members of Council

FROM: Cynthia Beach, Commissioner, Sustainability & Growth

RESOURCE STAFF: Terry Willing, Director, Building & Licensing
Kim Leonard, Manager, Licensing & Enforcement

DATE OF MEETING: January 10, 2012

SUBJECT: Ministry of Transportation – Noise Exemption Request
Highway 401 Road Construction

EXECUTIVE SUMMARY:

The Ministry of Transportation has applied for an exemption to Schedule “B” of By-Law 2004-52, “A By-Law to Regulate Noise”, to permit road construction on Highway 401 from 3.5 km west of County Road 38 (interchange 611) to 0.4 km west of County Road 4 (interchange 593). The applicant has requested the exemption from 7:00 p.m. until 7:00 a.m. between April 1, 2012 and November 13, 2013 but not on any Friday after noon, Saturday, Sunday before midnight, or Statutory Holiday.

This work is the third part of the 401 project for which a noise exemption has been requested. Council did approve noise exemptions for part 1 and part 2 of the project. There have been no unresolved objections submitted to this request in response to the public notice.

RECOMMENDATION:

THAT the Ministry of Transportation be granted an exemption from the normal 7:00 p.m. to 7:00 a.m. restriction under Schedule “B” of By-Law 2004-52, “A By-Law to Regulate Noise”, to permit road construction on Highway 401 from 3.5 km west of County Road 38 (interchange 611) to 0.4 km west of County Road 4 (interchange 593) between the hours of 7:00 p.m. until 7:00 a.m. commencing on April 1, 2012 and continuing until November 13, 2013 but not on any Friday after noon, Saturday, Sunday before midnight, or Statutory Holiday.

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AUTHORIZING SIGNATURES:

ORIGINAL SIGNED BY COMMISSIONER Cynthia Beach, Commissioner, Sustainability & Growth
ORIGINAL SIGNED BY CHIEF ADMINISTRATIVE OFFICER Gerard Hunt, Chief Administrative Officer

CONSULTATION WITH THE FOLLOWING COMMISSIONERS:

Lanie Hurdle, <i>Community Services</i>	N/R
Denis Leger, <i>Transportation, Properties & Emergency Services</i>	N/R
Jim Keech, <i>President and CEO, Utilities Kingston</i>	N/R

(N/R indicates consultation not required)

OPTIONS/DISCUSSION:

The Ministry of Transportation has applied for an exemption to Schedule “B” of By-Law 2004-52, “A By-Law to Regulate Noise”, to permit road construction on Highway 401 from 3.5 km west of County Road 38 (I/C 611) to 0.4 km west of County Road 4 (I/C 593). This contract is approximately 15 km long with 4.4 km of the work being in the City of Kingston boundaries and the remaining 10.6 km in Loyalist Township.

The overnight work will consist of full depth asphalt crack repair in 2012. The work will take approximately 54 to 96 working days. No work is proposed after noon on Fridays, all day Saturday and Sunday or on any Statutory Holiday.

Eight culverts are to be replaced or repaired and work may be scheduled around the clock for approximately 16 working days, however all of this work is located in Loyalist Township.

Milling and paving operations including shouldering will be completed in 2013 and 30% of the work will be completed in the City of Kingston boundaries with the remaining 70% being completed in Loyalist Township. This portion of the contract is projected to take approximately 70 working days with no work being proposed after noon on Fridays, all day Saturday and Sunday, or on any Statutory Holiday. As part of this work the contractor will typically complete approximately 2 single lane kilometres per day and then move the operation down the highway.

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It is the contractor's responsibility to obtain all other noise by-law exemptions including any exemptions required to haul material to the project over municipal roads and the operation of any plants or activities to produce material for this project. Any use of private property by the Contractor will be subject to all applicable legislation. No Ministry of Transportation properties will be used in the vicinity of Jackson Mills Road.

At its regular meeting held on May 18, 2004, Council approved an application for noise exemption for the first phase of the 401 project. The approval was for construction materials to be provided from pits, quarries, asphalt plants and concrete plants within the City of Kingston. There were two complaints during the two and one half year exemption. One complainant was located on Jackson Mills Road and was impacted by noise from material haulage to the dump site located on Jackson Mills Road. Staff have confirmed that there will be no hauling to that site or on Jackson Mills Road as part of this exemption. Asphalt for Phase 1 of the 401 Work was completed by AECON who had a portable asphalt plant based at Cruickshank's permanent asphalt plant site on Unity Road just west of Sydenham Road. A second complaint was received as a result of truckers using Jake brakes on entrance to the Unity Road site; the complaint was resolved by the contractor who discontinued use of Jake brakes and no further complaints were received.

On May 20, 2008 Council granted a second exemption for construction on Highway 401 from west of Sydenham Road to west of Montreal Street. In association with the same project, exemptions were also granted to Lafarge Canada to permit the operation of aggregate and asphalt facilities at Westbrook Quarry, 1600 Westbrook Road, to cover operations between the hours of 7:00 p.m. and 7:00 a.m. Monday to Saturday but not to include any Sunday or Statutory Holiday, and to permit the operation of their aggregate facility located at McAdoo Quarry, 1338 McAdoo's Lane, to cover operations between the hours of 7:00 p.m. and 7:00 a.m. Monday to Saturday but not to include any Sunday or Statutory Holiday. No complaints have been received as a result of these exemptions.

EXISTING POLICY/BY LAW:

In 2004 Council granted the Ministry of Transportation an exemption from the normal 7:00 p.m. to 7:00 a.m. restriction in order to allow for Highway 401 Widening and Median Tall Wall to be constructed between the east and west bound lanes west of County Road 38 to Sydenham Road, and placement of Temporary Concrete Barrier in the median from Sydenham Road to Montreal Street and the Highway 401 corridor from 4 km west of County Road 38 to Sydenham Road, from Monday, June 28, 2004 and continuing from Monday to Friday until December 15, 2006 but not on any weekend or Statutory Holiday.

In 2008 Council also granted the Ministry of Transportation an exemption from the normal 7:00 p.m. to 7:00 a.m. restriction for Highway 401 improvements from west of Sydenham Road to west of Montreal Street, commencing on Wednesday, July 2, 2008 and continuing until

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Wednesday, October 31, 2012 between the hours of 7:00 p.m. and 7:00 a.m. Sunday to Friday but not on any Statutory Holiday.

NOTICE PROVISIONS:

An advertisement of this request for exemption was placed in the Kingston Whig Standard on November 29, 2011 and is attached hereto as Exhibit "A". There have been no unresolved objections submitted to this request.

Council has granted exemptions to the Noise Control By-Law for this type of construction in the past, and the authority to do so is specifically granted to Council under Subsection 129 (3) of the *Municipal Act*.

ACCESSIBILITY CONSIDERATIONS:

None

FINANCIAL CONSIDERATIONS:

A \$103 fee was received to help cover the cost of processing noise exemption requests. There are no other financial considerations because advertisements were placed at the expense of The Ministry of Transportation.

CONTACTS:

Kim Leonard, Manager, Licensing & Enforcement	613-546-4291 ext. 3222
Terry Willing, Director, Building & Licensing	613-546-4291 ext. 3240
Cynthia Beach, Commissioner, Sustainability & Growth	613-546-4291 ext. 1150

OTHER CITY OF KINGSTON STAFF CONSULTED:

N/A

EXHIBITS ATTACHED:

Exhibit "A" - Public Notification for Application of Noise Exemption
Exhibit "B" - Ministry of Transportation – Construction Noise Constraints

ADVERTISEMENT IN THE KINGSTON WHIG STANDARD – NOVEMBER 29, 2011

**Request for Noise Exemption – Ministry of Transportation
Noise Exemption – Highway 401 Construction**

The Ontario Ministry of Transportation has applied for an exemption to the Noise Control By-Law 2004-52 Schedule "B" to permit road construction on Highway 401 from 3.5 km west of County Road 38 (interchange 611) to 0.4 km west of County Road 4 (interchange 593). The applicant has requested the exemption from 7:00 p.m. until 7:00 a.m. between April 1, 2012 and November 13, 2013 but not on any Sunday or Statutory Holiday.

The current by-law only permits this activity from Monday to Saturday between the hours of 7:00 a.m. and 7:00 p.m. and excludes Sundays and Statutory Holidays.

Anyone wishing to object to this exemption should deliver their concerns in writing or by e-mail before 4:00 p.m. on December 9, 2012 to:

City of Kingston	Phone: 613-546-4291, ext. 3222
Kim Leonard, Manager, Licensing & Enforcement	Fax: 613-542-1332
216 Ontario Street	Email: kleonard@cityofkingston.ca
Kingston, ON K7L 2Z3	Located at 216 Ontario Street

This matter will be considered during the regular Council Meeting that commences at 7:30 p.m. on Tuesday, January 10, 2012.

NOTICE OF COLLECTION: Personal Information collected is pursuant to the Municipal Freedom of Information and Protection of Privacy Act (and all other applicable privacy provincial and federal legislation). Such legislation is reviewed and applied for the collection, use, disclosure and destruction of the information. The personal information collected as a result of this public notice will be used to assist in making a decision on this matter. All names, addresses, opinions and comments collected will be made available for public disclosure. Questions regarding this collection should be forwarded to Kim Leonard, Manager of Licensing and Enforcement, 216 Ontario Street, Kingston, Ontario, K7L 2Z3 or by e-mailing kleonard@cityofkingston.ca.

Construction Noise Constraints
Special Provision No. 199F33
Noise Sensitive Areas

Special Provision No. 199F33

December 1990

Noise Sensitive Areas

This special provision covers the requirements for control of construction noise produced by the Contractor's operations. With the exception of any exemptions from municipal noise control bylaws that may be indicated elsewhere in the Contract, these requirements do not relieve the Contractor of other obligations imposed by statute or by municipal bylaw.

Noise constraints in noise sensitive areas are as follows:

Noise Sensitive Area: Throughout

Noise Sensitive Area Limits	
Constraint	Constraint Details
Equipment Maintenance	Equipment shall be maintained in an operating condition that prevents unnecessary noise, including but not limited to non-defective muffler systems, properly secured components, and the lubrication of moving parts.
Equipment Operation	Idling of equipment shall be restricted to the minimum necessary to perform the specified work.