

1. **Council Convenes - O Canada** - Warden Hunter called to order the May 20, 2009 session of Cumberland Municipal Council at 1:00 p.m. The meeting was held in the Council Chambers of the E. D. Fullerton Municipal Building, Upper Nappan. O Canada was sung.
2. **Roll Call** - The roll was called by Shelley Hoeg, Executive Assistant to the CAO. All Councillors were in attendance. Also in attendance were Rennie Bugley, CAO; Steve Ferguson, Director of Policy and Research; Andrew MacDonald, Director of Finance and Administration; and Robert Streach, Director of Public Works.
3. **Approval of Agenda (Additions/Deletions)** - The agenda was approved with the following additions and deletions

Deletions: #6, 7, and 12.1
Additions: None
4. **Approval of Minutes**
 - 4.1 **May 6, 2009 Council Session** - The Minutes of the May 6, 2009 Council session were approved as circulated.
5. **Business Arising from the Minutes**
 - 5.1 **Action List, May 6, 2009 Council Meeting** – This had been previously discussed.
6. **Delegations and Presentations**

This item was deleted
7. **Public Hearings**

This item was deleted.
8. **Correspondence**

Deputy Warden Redmond read correspondence from Katelyn Williams thanking Council for their support of her participation in the Gambia Project. The funding provided allowed her to travel and live in Gambia for a month as a volunteer. Also advising that Ms. Williams looks forward to having an opportunity to share her experiences with Council upon her return.
9. **Planning Issues**
 - 9.1 **ICSP Council Member** - Mount Allison University (Rural and Small Towns Program) has been hired to assist with the Municipality’s Integrated Community Sustainability Plan which must be completed by March, 2010. The project will require a Steering committee and it is being proposed that the Steering committee consist of 4 of our municipal staff, representative(s) from Mount Allison, Rhonda Kelly of CREDA and a Council representative. It was agreed to revisit this item at the June Council session.
10. **Financial Reports/Issues**
 - 10.1 **First Reading – Deed Transfer Tax** – Following discussion it was:

MOVED by Councillor Read, seconded by Councillor Kellegrew to approve first reading of the Deed Transfer Tax By-Law which is as follows:

Deed Transfer Tax By-Law

General

1. This By-Law is entitled the “Deed Transfer Tax By-Law.”
2. A deed transfer tax applies in the Municipality of the County of Cumberland.
3. The rate of the deed transfer tax in the Municipality is 1.5 per cent of the value of the property transferred.

4. The Registrar of Deeds shall be the agent, and collector of the deed transfer tax for the Municipality in accordance with the agreement to that effect between the Municipality and the Minister of Service Nova Scotia and Municipal Relations.
5. This By-Law shall come into force on September 1, 2009.

<u>Clerk's Annotation For Official By-Law Book</u>	
	Date of first reading: _____
	Date of advertisement of Notice of Intent to Consider: _____
	Date of final reading: _____
	*Date of advertisement of Passage of By-Law: _____
	Date of mailing to Minister a certified copy of By-Law: _____
I certify that this DEED TRANSFER TAX BY-LAW was adopted by Council and published as indicated above.	
_____	_____
Municipal Clerk	Date
*Effective Date of the By-Law unless otherwise specified in the text of the By-Law	

MOTION CARRIED #09-050

10.2 2009/2010 Budget Approval –

IT WAS MOVED Deputy Warden Redmond, seconded by Councillor Kellegrew, that the following operating budget, totaling \$15,074,180, be approved as follows:

Operating Budget

Revenue

Taxes	\$ 13,246,388
Grants in lieu of taxes	263,063
Services provided to other governments	28,061
Sale of services	48,187
Other revenue from own sources	392,000
Unconditional transfers from other governments	825,068
Conditional transfers from Federal or Provincial governments or agencies	55,196
Transfers from own reserves	-
Recoveries From Own Agencies	69,658
Collections for Other Governments	146,560
	\$ 15,074,180

Expenditures

General Government Services	\$ 2,132,411
Protective Services	5,001,562
Transportation Services	363,290
Environmental Health Services	1,931,905
Environmental Development Services	522,134
Recreational & Culture Services	256,812
Fiscal Services	4,866,066
	\$ 15,074,180

MOTION CARRIED #09-051

2009/2010 Tax Rates

IT WAS MOVED by Deputy Warden Redmond, seconded by Councillor Read, that the residential tax rate of \$1.04 per \$100 of assessment and the commercial tax rate of \$2.47 per \$100 of assessment be approved for the 2009/2010 fiscal year.

(1 Nay Vote) MOTION CARRIED #09-052

Area Rates

IT WAS MOVED by Deputy Warden Redmond, seconded by Councillor Merriam that the village, sewer, school enhancement, septage and street light rates, as listed on page 6 and 7 of the 2009/2010 budget document, be approved

MOTION CARRIED #09-053

Due Date and Interest

IT WAS MOVED by Deputy Warden Redmond, seconded by Councillor Read, that the due date for the 2009/2010 levy be June 30, 2009 and that the interest rate charged on outstanding tax accounts be set as of 1.25% per month (15% per annum).

MOTION CARRIED #09-054

Capital Budget

IT WAS MOVED by Deputy Warden Redmond, seconded by Councillor Merriam that Council approve the following 2009/2010 capital budget totaling \$3,024,128:

Capital Budget

Projects

General Government

ED Fullerton Buidling \$ 107,997

Protective

Fire

Apparatus -

Pumper 244,000

Facilities

Pugwash 1,525,000

Environmental Health

Sewer

Biggs & Maccan Treatment Plants Pre-design 65,000

Biggs Drive Treatment Plant Detailed Design 61,410

Maccan Waste Water Treatment Plant 1,020,721

Public Works

Vehicle, Service Box, Hoist 84,844

\$ 3,108,972

Financing

General Revenue \$ 751,997

Reserves 998,503

Gas Tax 429,913

Building Canada Fund 413,715

Transfers From Fire Departments 430,000

\$ 3,024,128

MOTION CARRIED #09-055

Borrowing Resolution - Operating

IT WAS MOVED by Deputy Warden Redmond, seconded by Councillor Read that a borrowing resolution in the amount of 2.5 million dollars, for the purpose of defraying 2009/2010 operating expenditures, be approved.

MOTION CARRIED #09-056

11. **Operational Services Reports/Issues**

11.1 First Reading – Noise By-Law – Mr. Ferguson explained to Council that this By-Law is in result to complaints received by residents. This will allow the RCMP legislation to enforce.

IT WAS MOVED by Councillor Kellegrew, seconded by Councillor Merriam to approve first reading of the Noise By-Law which is as follows:

Noise By-Law

1. This By-Law is entitled the “Noise By-Law”.
2. In this By-Law:
 - (1) “emergency response personnel” includes police, fire departments or brigades, registered emergency services providers, search and rescue personnel, provincial, regional or municipal Emergency Measures Organizations, ambulance or emergency health services providers and includes volunteer or military personnel responding to an apparent condition of emergency;
 - (2) “Fireworks” means any article containing a combustible or explosive composition or any substance or combination of substances prepared for, capable of, or discharged for the purpose of producing pyrotechnical display which may or may not be preceded by, accompanied with, or followed by an explosion, or an explosion without any pyrotechnical display, and includes (but is not limited to) roman candles, sky rockets, pinwheels, batteries, barrages, bottle rockets, cannon crackers, mines, squibs, torpedoes and firecrackers.
 - (3) “motor vehicle” includes an automobile, motorcycle and any other vehicle propelled or driven otherwise than by muscular, gravitational or wind power, except a motorized wheelchair, a vehicle running only upon rails, a farm tractor or a self-propelled implement of husbandry, and an off-highway vehicle as defined from time in the *Off-highway Vehicles Act*;
 - (4) “Municipality” means the Municipality of the County of Cumberland.
 - (5) “point of reception” means any point on premises containing a dwelling unit where sound, originating from other premises, including other dwelling units, is received; and
 - (6) “public address system” means any system comprised of one or more of the following and in any combination: loudspeaker, amplifier, microphone, turntable, reproducer, receiver or tuner, where such equipment is part of a system used to reproduce or amplify sound.

Prohibitions and Interpretations

3. No person shall engage in any activity which is likely to generate noise or sound that unreasonably disturbs the peace and tranquility of a neighborhood. For the purpose of this section, evidence that one neighbor is unreasonably disturbed by a noise is prima facie evidence that the neighborhood is unreasonably disturbed by the noise.
4. Without limiting the generality of section 3, the activities or noises listed in Schedule “A” during the prohibited times as set out therein are deemed to be activities which are likely to generate noise or sound that unreasonably disturbs the peace and tranquility of a neighborhood if the sound resulting from the activity is audible at a point of reception.

Fixed Exemptions

5. This By-Law does not apply to:
 - (1) emergency response personnel engaged in the execution of their emergency response duties; or
 - (2) persons acting at the request of emergency response personnel during an actual or apparent emergency condition;and, without limiting the generality of the foregoing, noises cause by emergency response vehicles and air ambulances are specifically exempt from prosecution.
6. Notwithstanding any other provisions of this By-Law, this By-law shall not apply to or prohibit;

- (1) the emission of sound in connection with any organized traditional, festive or religious activity celebrating:
 - (a) Canada Day;
 - (b) New Year's Eve; or
 - (c) Religious holidays;
- (2) the emission of sound in connection with calls to worship, ringing of bells at places of religious worship;
- (3) noise caused by the Municipality, the Government or Canada, the Province of Nova Scotia, Nova Scotia Power Incorporated, and telecommunication companies and their contractors and employees when acting in the reasonable execution of their duties between 7:00 a.m. and 10:00p.m. in the day;
- (3) noises in connection with organized athletic or recreational activities in municipal or public park areas, arenas or community centres between 5:00 a.m. and midnight; or
- (4) noises from the organized and scheduled activities and events of festivals, parades, street dances, rallies, or other community activities funded, sponsored or licensed by the Federal or Provincial government or the Municipality.

Grant Of Exemptions By Council

7. Any person may make application to Council to be granted an exemption from any of the provisions of this By-Law with respect to the emission of the noise from an industrial, institutional, commercial or community activity for which that person might otherwise be prosecuted. Council, by resolution, may refuse to grant the exemption or may grant the exemption applied for or any exemption of lesser effect. Any exemption so granted shall:
 - (1) specify a time period of not greater than two years during which the exemption shall be effective;
 - (2) shall be confirmed in writing by the CAO before becoming effective; and
 - (3) shall include such terms and conditions as Council deems appropriate.
8. In deciding whether or not to grant an exemption under section 7 or in determining terms or conditions of the exemption, Council shall give consideration to:
 - (1) the social or economic benefit of the proposed activity to the Municipality;
 - (2) the volume, nature, duration and consistency of noise emission from the proposed activity;
 - (3) the proximity and nature of abutting or adjacent land uses;
 - (4) the hours of operation of the proposed activity; and
 - (5) any other factor relevant to balancing the interests of the applicant in the proposed activity against the interests of those persons who might be disturbed by the proposed activity.
9. Applications for an exemption for an activity of less than 14 days duration do not require a public hearing pursuant to this section or notice pursuant to section 10, but all other exemptions, renewals of exemptions, or amendments expanding the scope of an exemption shall only be granted after a public hearing at which Council shall give the applicant and any other person interested in the application an opportunity to be heard.
10. Advance notice of the time, date and purpose of a public hearing pursuant to section 9, shall be mailed by the applicant to the assessed owner or owners, as shown in the records of the Municipality, of each property which contains a building located within 150 meters of the property which will be the subject of the hearing, except that where the exemption is sought for an outdoor event not conducted at a fixed location, notice may be given by advisement, in a local news paper

of general circulation. Notices or advertisements required by this section shall be mailed or published, respectively, not less than 10 days before the hearing.

11. Any contravention of the terms or conditions of an exemption pursuant to section 7 shall constitute a contravention of this By-Law. In addition to any other available remedies for such contravention, the CAO may on reasonable and probable grounds, without a hearing, suspend an exemption for a period of up to 30 days pending Council review of the exemption.
12. Any exemption pursuant to section 7 shall be reviewable by Council at any time upon 7 days notice to the person exempted, and Council is free to revoke, suspend or restrict the exemption with or without cause having regard to the criteria set forth in section 8, without giving notice to adjacent owners in accordance with section 10.

Penalty

13. Any person who contravenes any provision of this By-Law is punishable on summary conviction by a fine of not less than \$200.00 and no more than \$500.00 and to imprisonment of not more than 14 days in default of payment thereof.
14. Any person contravenes sections 3, 4 or 11 of this By-Law and who is given notice of the contravention pursuant to the Municipality's Payment in Lieu of Prosecution Policy may pay to the Municipality at the place specified in the notice, the sum of \$100.00 within 14 days of the date of the notice and shall thereby avoid prosecution for that contravention.

Schedule "A"

Part 1: Activities prohibited at all times:

1. The operation of any combustion engine or pneumatic device without an effective exhaust or intake muffling device in good working order and in constant operation.
2. The operation of a vehicle or a vehicle with a trailer resulting in banging, clanking, squealing or other like sounds due to an improperly secured load or equipment or inadequate maintenance.
3. The operation of a motor vehicle horn or other warning device except where required or authorized by law or in accordance with good safety practices.
4. The detonation explosive devices not used in construction or quarrying.
5. The discharge of firearms except when used as signaling device in a sporting competition, while legally hunting or within a firing range designated under the Canadian Firearms Act.
6. The operation of any item of construction equipment in a residential area without effective muffling devices in good working order and in constant operation.

Part 2: Activities prohibited any day before 6:00 pm and after 11:00 pm:

1. The detonation or use of fireworks.

Part 3: Activities prohibited any day before 7:00 am and after 8:00 pm:

1. The operation in the outdoors of any power tool, for domestic purposes other than snow removal.
2. The operation of a chainsaw for any domestic or commercial purpose.
3. Yelling, shouting or hooting.

Part 4: Activities prohibited any day before 7:00 am and after 11:00 pm if the resulting sound is audible beyond the bounds of the property where it is being created.

1. Singing, whistling or playing musical instruments.

- 2. The operation of any public address system, television set, radio, disc player, tape deck, phonograph or other electronic sound reproduction or amplification system.

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	Date of advertisement of Notice of Intent to Consider: _____
	Date of second reading: _____
	*Date of advertisement of Passage of By-Law: _____
	Date of mailing to Minister a certified copy of By-Law: _____
I certify that this NOISE BY-LAW was adopted by Council and published as indicated above.	
Clerk	Date
*Effective Date of the By-Law unless otherwise specified in the text of the By-Law	

MOTION CARRIED #09-057

- 12. **Committee/Other Reports**
 - 12.1 **Capital Investment Plan** – This item was deleted.
- 13. **Old Business** - There was none.
- 14. **New Business** – There was none.
- 15. **Information Items** - There was none.
- 16. **Adjournment**
The meeting adjourned at 1:17 p.m. on motion by Councillor Merriam.
- 17. **God Save the Queen**