

1. **Council Convenes - O Canada** – Deputy Warden Redmond called to order the June 24, 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 with the exception of Warden Hunter. Also in attendance were Rennie Bugley, CAO; Steve Ferguson, Director of Policy and Research; Andrew MacDonald, Director of Finance and Administration; Vickie Weaver, Recreation and Physical Activity Coordinator, Peter Cottingham, By-Law and Solid Waste Supervisor and Nelson Bezanson, Planning Officer.
3. **Approval of Agenda (Additions/Deletions)** - The agenda was approved with the following additions and deletions

Deletions: 9.1 Tax Sale
Additions: 11.2 Recreation Grants, 11.3 Grant to Organization, 13.6 Nominating Committee, 15.3 Appointment (Cindy Bourgeois)
4. **Approval of Minutes**
 - 4.1 May 20, 2009 Council Session – **IT WAS MOVED by Councillor Read, seconded by Councillor Merriam that the minutes of the May 20, 2009 Council session be approved as presented.**

- **MOTION CARRIED #09-058**
5. **Business Arising from the Minutes**
 - 5.1 Action List, May 20, 2009 Council Meeting - Council was advised by CAO, Rennie Bugley that the Deed Transfer Tax By-Law will be discussed at the July 8th Council session, rather than today.
6. **Delegations and Presentations**
 - 6.1 Climate Adaptation – Mr. Ferguson explained that this presentation will be made at a Council session in September.
7. **Public Hearings**

Deputy Warden Redmond called to order the Public Hearing at 1:07 p.m.

 - 7.1 Noise By-Law – Mr. Ferguson, Director of Policy and Research provided correspondence from a citizen and our Solicitor in regards to the Noise By-Law. Mr. Ferguson also went over the changes/amendments that have been made to the By-Law.

IT WAS MOVED by Councillor Donkin, seconded by Councillor Gillis to approve 2nd Reading of the Noise By-Law which is as follows:

Noise By-Law

Whereas section 172(1)(d) of the Municipal Government Act empowers Municipalities to make by-laws respecting “nuisances, activities and things that, in the opinion of the council, may be or may cause nuisances including noise...”

And whereas it is the wish of Council to use that power to protect people and individuals from being unreasonably disturbed by noise:

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) “Municipality” means the Municipality of the County of Cumberland;
- (4) “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
- (5) “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 person 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;
 - (3) persons involved in the repair of essential services such as electrical power, sewer systems, water distribution, and telephone services.

and, without limiting the generality of the foregoing, noises caused 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) recognized 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 of 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 6:00am and 11:00pm in the day;

- (4) noise caused by a lawfully operating commercial, power generating, forestry, fishing or agricultural enterprise, or construction activity pursuant to a valid building permit;
- (5) noises in connection with organized athletic or recreational activities in municipal or public park areas, arenas or community centres except between 1:00am and 6:00am;
- (6) noises from the organized and scheduled activities and events of festivals, parades, street dances, rallies, or other community activities funded, sponsored or sanctioned 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 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. Applications for an exemption for an activity of less than 48 hours duration may be approved by the Municipality's Chief Administrative Officer on behalf of the Municipality following the same conditions and considerations set out in the preceding sections.
11. 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.
12. 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.

13. 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 11.

Penalty

14. 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 \$2,000.00 and to imprisonment of not more than 14 days in default of payment thereof.
15. Any person who contravenes sections 3, 4 or 12 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 that has not been altered 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 detonation of explosive devices not used in construction or quarrying.
4. 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 between ½ hour after sunset and ½ hour before sunrise:

1. The discharge of firearms except while legally destroying nuisance wildlife under the authority of a valid permit issued by the Nova Scotia Department of Natural Resources pursuant to section 28 of the Wildlife Act, or within a firing range designated under the Canadian Firearms Act.

Part 3: Activities prohibited any day before 6:00 pm and after 11:00 pm:

1. The detonation or use of fireworks.

Part 4: Activities prohibited any day before 6:00 am and after 10:00 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 purpose.
3. Yelling, shouting or screaming.

Part 5: Activities prohibited any day before 6:00 am and after midnight if the resulting sound is audible beyond the bounds of the property where it is being created:

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

Clerk's Annotation For Official By-Law Book	
	Date of first reading: _____
	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	

IT WAS MOVED by Councillor Reid, seconded by Councillor Gillis that Subsection 4 of Section 6 have the word enterprise changed to activity.

MOTION CARRIED #09-060

IT WAS MOVED by Councillor Kellegrew, seconded by Councillor Reid to amend the times of prohibitions in Part 3 of Schedule “A” to read before 6 p.m. and after midnight.

MOTION CARRIED #09-061

IT WAS MOVED by Deputy Warden Redmond, remove number 1 and 2 in Part 4 of Schedule “A”.

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THIS MOTION DIED FOR LACK OF SECONDER #09-062

IT WAS MOVED by Councillor Donkin, seconded by Councillor Gilbert that the activities under Part 5, to the extent that it is enforceable, be included in Part 1 - Schedule A - Activities Prohibited At All Times.

MOTION CARRIED #09-063

MOTION CARRIED #09-059

2 Nay Votes, D.W. Redmond and Councillor Reid

Deputy Warden Redmond then closed the public hearing at 1:37

7.2 Deputy Warden Redmond called a Public Hearing to order at 1:38 for the matter of:

Development Agreement – Willow Street, Brookdale – Mr. Bezanson, Planning Officer advised that a request for a development agreement was received regarding motor vehicle inspections, minor mechanical repairs and the sale of used automobiles from the property of Keith McKillop at 582 Willow St., Brookdale. The applicant also intends to use an existing two-bay garage for inspections and repairs and a portion of the rear paved driveway of the property to display vehicles for sale. The property is currently designated as Residential and zoned Suburban Residential. According to the planning strategy, uses such as those being proposed, may be permitted by Council by way of a development agreement so long as such use does not pose a negative impact on surrounding residential uses, or the long term potential for residential uses in the area. Council must also ensure that:

- i) The use does not emit any obnoxious odour, smoke, dust, noise, fumes or any other emission that could impact nearby property;
- ii) Adequate parking is provided on site;
- iii) Vegetation and/or fences are used to mitigate any potential impacts on surrounding properties;
- iv) The building is located so to minimize impacts on surrounding properties; and
- v) Adequate water is available on site to service the proposed development, without negatively impacting on the water quality or quantity of nearby properties.

These policy requirements will be included in the development agreement and the applicant has confirmed that such requirements will be met.

IT WAS MOVED by Councillor Kellegrew, seconded by Councillor Read that Council give second reading to approve a development agreement that will permit Motor Vehicle Inspections, minor mechanical repairs and the sale of used automobiles from the property of Keith McKillop at 582 Willow Street, Brookdale (PID 25038498).

MOTION CARRIED #09-064

8. **Correspondence**

8.1 Action Items

From	Summary	Action
Cumberland Pride Society	Gerard Veldhoven, Chair, requesting Council proclaim July 6 – July 12, 2009 as Pride Week in the Municipality of Cumberland	Refer to Council
Cumberland Health Authority	H. Bruce Quigley, Chief Executive Officer, providing information regarding surgical beds at the Cumberland Regional Health Care Centre. Requesting a meeting with Council at a date in the fall. COPY ENCLOSED	Refer to Council
Robert M. Tuttle	This correspondence is in regard to garbage collection and noise abatement. COPY ENCLOSED	Refer to Council/Staff

8.2 Info Items

From	Summary
Mun. Of Colchester	Copy of correspondence to N.S. Environment, providing elements for inclusion in the strategy renewal process. COPY ENCLOSED
CCRSB	Valerie Gauthier, CA, Director of Financial Services, advising the municipal Education Tax Rate for 2009/2010 is \$0.3200 per \$100 of uniform assessment. Also advising Cumberland's contribution to CCRSB is \$3,093,643.
NS Transportation and Infrastructure Renewal	Buffy L. White, P. Eng., Area Manager, advising that they have received the Municipality's request for the installation of a cross walk in River Hebert and that Ms. White has forwarded the request to the District Traffic Supervisor for review and comment.
SNSMR	Vi Carmichael, Municipal Elections Officer, advising that as a result of an appeal to the Nova Scotia Supreme Court, the African Nova Scotian School Board position on the CCRSB has been declared void and a new election is required. <i>Councillor Reid would like this item referred to the UNSM for investigation into the process into a School Board election and in particular the decision of voting for either a Black African Nova Scotian or a regular member of the School Board. Councillor Read feels the process could be a lot simpler and could provide people the opportunity to vote for who they want.</i>
NS Transportation and Infrastructure Renewal	Copy of correspondence to Hon. Murray Scott, advising that the Department is aware of flooding issues on Route 302 in Nappan. Also advising that they have been onsite for review and are proposing the placement of a second culvert to act as an overflow for the area to improve conditions. This work is expected to be completed this season.
NSUARB	Mora Stevens, Alcohol, Gaming & Amusements Officer/Clerk, advising of the approval of a Lounge License to Wild Caraway Cafe and Restaurant located at 3721 Highway 209, Advocate Harbour.
Cumberland County Museum	Advising of Museum Day Celebrations and Afternoon Concert on Saturday, June 20 th from 9 a.m. to 5 p.m. at the Museum, 150 Church Street, Amherst.
Correctional Service Canada	Don Head, Commissioner, providing rationale on the phase-out of farm operations at the Westmoreland Institution. COPY ENCLOSED

9. **Planning Issues**

9.1 Tax Sale, Cormier Property, Crossroads - This item is deleted.

At this point in the meeting Kellie Seaman, Administrative Assistant to the Director of Finance introduced our summer students who are Jessica Amon and Sarah Cameron.

10. **Strategic Planning**

Mr. Jack Novak spoke to Council as a review of Strategic Planning workshop he had previously provided. Mr. Novak reiterated the difference of Strategic Planning and Long Range Planning. Mr. Novak advised that long range planning is not really as ambitious as strategic planning. Long range planning doesn't encompass all partners and how they can work together on a goal.

- 10.1 Recreation and Physical Activity – Ms. Weaver, Recreation and Physical Activity Coordinator provided Council with a revised plan and requested input from Council at a future meeting.

11. **Financial Reports/Issues**

- 11.1 Amherst Rambler Alumni Scholarship Society – Ms. Weaver advised that correspondence was received requesting the donation of a gift certificate or merchandise to be used for prizes or the sponsorship of one of the holes during a golf tournament at a cost of \$150.00. All profits will go directly into the bursary fund.

IT WAS MOVED by Councillor Reid, seconded by Councillor Kellegrew to provide \$15 per district from each district to the Amherst Rambler Alumni Scholarship Society.

- MOTION CARRIED #09-065

- 11.2 Biking for Bone Marrow – Correspondence was received requesting funding for the Biking For Bone Marrow event.

IT WAS MOVED by Councillor Kellegrew, seconded by Councillor Merriam that \$100 from each district's recreation fund go to Biking for Bone Marrow.

MOTION CARRIED #09-066

- 11.3 East Cumberland Lodge – Council was advised that East Cumberland Lodge is requesting money to assist with transportation. The request is for the amount of \$2,000.

IT WAS MOVED by Councillor Gillis, seconded by Councillor MacNutt that \$2000 be taken out of the unallocated 2009/2010 Grants to organizations funds and provided to East Cumberland Lodge to assist with transportation costs.

MOTION CARRIED #09-067

12. **Operational Services Reports/Issues**

- 12.1 De-Registration of Heritage Property – This will be recommended to Council to be approved. It will be brought to a council session and advertised for public hearing.
- 12.2 Certified Resolution to Appoint Registrar – This will be brought to Council at a later date.
- 12.3 Dangerous/Unsafely – Mr. Cottingham went over the properties on the list provided. The list was incomplete due to technical error, as such, Mr. Cottingham will provide Council with an updated list very soon.

13. **Committee/Other Reports**

- 13.1 Cumberland Regional Library Board – This was provided as information.
- 13.2 By-Law & Policy Committee Mandate – This document had been previously circulated to Councillors.

IT WAS MOVED by Councillor Kellegrew, seconded by Councillor Read to accept the By-Law and Policy Committee Mandate, Rules of Procedure and Priorities document as provided.

MOTION CARRIED #09-068

- 13.3 CREDA Minutes – These have been provided in Councillors mail boxes.
- 13.4 CREDA Strategic Priority Project Summary – This has been provided in Councillors mail

boxes.

13.5 FCM Resolutions – There was discussion on the resolutions that had been approved at the 2009 Whistler FCM Conference.

13.6 Nominations Committee – Councillor Kellegrew provided a report to Council informing that at a Nominations Committee of this date, Councillor Gilbert was appointed to the Integrated Community Sustainability Plan Steering Committee and Councillor Kellegrew was appointed to the Personnel Policy Review Committee.

IT WAS MOVED by Councillor Kellegrew, seconded by Councillor Gillis that Council adopt the Nominations Committee report.

MOTION CARRIED #09-069

14. **Old Business**

14.1 Transportation – Tender – This correspondence was provided for the review of Council. *It was agreed that staff will follow up with the Minister of Economic and Rural Development.*

15. **New Business**

15.1 Provincial One Year Notice – Mr. Bugley advised that he has been following up with individual staff regarding the correspondence. Replies from staff were provided to Council. For the most part, these changes will have no monetary impact on the Municipality. Staff will continue to update Council.

Mr. Peter Cottingham will explore the issue of the Province allowing Municipalities to provide input before changes take place.

15.2 Fire Service – Mr. Bugley, CAO, advised Council that the Municipality's submission regarding Mr. Bremnar's e-mail pertaining to fire protection services be forwarded to the Rural Caucus to request them to refer this item to the UNSM. This document should also be forwarded to the Fire Fighter's Association of Nova Scotia.

15.3 Appointment – Cindy Bourgeois – It was agreed that a congratulatory bouquet of flowers be forwarded to Ms. Bourgeois in recognition of her appointment to the Supreme Court of Canada.

16. **Information Items**

16.1 Fundy Shore Tourism Destination Area – This has been provided as information.

16.2 CJSMA 2009/2010 Budget – This has been provided in Councillors mail boxes.

16.3 FCM Conference – Councillor Reid expressed his thought that Municipalities should be receiving a portion of the GST/HST. Councillor Reid is pleased that this is being worked on at the National Level. Councillor MacNutt informed Council that he found the FCM conference a beneficial experience. Mr. MacNutt explained it was interesting to see how FCM works and represents Municipal interests at the Federal level. The Conference also provided many beneficial networking opportunities.

16.4 H1N1 (Swine Flu) Update – This was provided as information.

17. **Adjournment**

The meeting adjourned at 2.49 p.m. on motion by Councillor Gilbert.

18. **God Save the Queen**