

1. **Council Convenes - O Canada** - Warden Keith Hunter called to order the October 24, 2007 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 call was done by Shelley Hoeg, Executive Assistant to the CAO. All Councillors were in attendance, excepting Councillor Redmond. Staff in attendance were Rennie Bugley, CAO, Andrew MacDonald, Director of Finance and Administration, Jim Coughlin, Director of Planning, Steve Ferguson, Director of Policy and Research, Emily Frenette, Human Resources/Community Relations Administrator and Peter Cottingham, Solid Waste and By-Law Administrator.
3. **Approval of Agenda (Additions/Deletions)** - The agenda was approved with the following additions: 14.3 Wallace Museum, 13.4 Notice of motion - Mayor at Large.
4. **Approval of Minutes**
 - 4.1 **September 19, 2007 Council Session** - The minutes of the September 19, 2007 Council session were approved as presented

MOTION CARRIED #07-038

5. **Business Arising from the Minutes**
 - 5.1 **Action List - September 19, 2007 Council** - There was no discussion arising from this item.
 - 5.2 **Action List - September 19, 2007 Public Committee of the Whole** - There was no discussion arising from this item
6. **Delegations and Presentations**
 - 6.1 **Biking for Bone Marrow** - A certificate of appreciation for Council's "championing" of Biking 4 Bone Marrow was presented to Council by Councillor Kellegrew on behalf of the QE11 Foundation and Debbie and Fred Chase.
 - 6.2 **Petition re: North Shore Road and East Wallace Road** - A petition was received from landowners of the North Shore Road and East Wallace Road requesting the following:
 1. The posted speed limit from Horton Point Corner to the MacKenzie Cemetery be reduced to 60 km/h
 2. Unsatisfactory conditions on sections of the entire road be rectified
 3. The Smith Road intersection should have a caution light, and speed reduction signage.

IT WAS MOVED by Councillor G. Langille, seconded by Deputy Warden Merriam to forward correspondence to DOT (enclosing petition) requesting they implement the following:

1. **The posted speed limit from Horton Point Corner to the MacKenzie Cemetery be reduced to 60 km/h**
2. **Unsatisfactory conditions on sections of the entire road be rectified**
3. **The Smith Road intersection should have a caution light, and speed reduction signage.**

MOTION CARRIED #07-039

- 6.3 **Correctional Services Canada** - Councillor Reid presented a painted stone from Correctional Services Canada (Springhill Institution) for appreciation of the Municipality's participation and involvement over the past 40 years.

7. **Public Hearings** (Warden Hunter called the public hearing to order at 1:11 p.m.)

7.1 Final Approval - Fire and Burglar Alarm By-Law - Mr. Ferguson, Director of By-Law and Policy reiterated the rationale of the by-law to those present.

IT WAS MOVED by Deputy Warden Merriam, seconded by Councillor Read to give Final Approval to the Fire and Burglar Alarm By-Law that reads as such:

Municipality of the County of Cumberland

Fire and Burglar Alarm By-Law 07-[]

1. This By-Law is entitled the "Fire and Burglar Alarm By-Law".
2. Nothing in this By-Law shall be construed as authorizing non-compliance with any laws, regulations, by-laws, lawful orders or directives pursuant to any statute, regulation or statutory or regulatory authority that may require the installation, maintenance or operation of alarm systems or which may specify standards in respect of the manufacture, installation, maintenance or operation of such systems.
3. In this By-Law:
 - (1) "Alarm Coordinator" means the Fire Services Coordinator unless some other person has been appointed by the Chief Administrative Officer to administer this By-Law.
 - (2) "alarm system" means any mechanical or electrical device which emits a sound or transmits a signal or message when activated and which is designed or used for
 - (a) the detection of fire, heat, or smoke; or
 - (b) the detection of an actual or attempted unauthorized entry into a building, structure, fenced enclosure or other facility, but does not include a device that is installed in a vehicle;
 - (3) "audible alarm" means an alarm system containing as a component or feature an audible sound generated by an activated alarm system on the premises in which the alarm system is installed;
 - (4) "automatic calling device" means any device, or combination of devices, that will, upon activation, either mechanically, electronically or by any other automated means, initiate transmission of a signal or message, including a recorded message or an electronic signal, over telephone lines;
 - (5) "false alarm" means an alarm which results in the dispatch of a publicly funded fire protection or police service organization except when a legitimate activation event has occurred, provided however that an alarm shall not be considered false if the owner can demonstrate to the reasonable satisfaction of the Alarm Coordinator that an alarm resulted from
 - (a) a windstorm, lightning, earthquake or other violent act of nature; or
 - (b) from the wrongful activation of an alarm by a person other than an employee or contractor of the owner;
 - (6) "legitimate activation event" means
 - (a) in the case of a fire, heat or smoke detection system, a condition of abnormal or excessive fire, heat or smoke; and
 - (b) in the case of a burglar alarm, an actual or attempted unauthorized entry.
 - (7) "monitored alarm system" means an alarm system where the signal of a legitimate activation event is automatically transmitted to a third party;

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- (8) **“Municipality” means the Municipality of the County of Cumberland;**
- (9) **“owner” means a person who owns, manages, possesses or controls premises or directs activity carried out on premises and includes a person shown on the Assessment Roll for the Municipality as the assessed owner or occupant of the premises except where the Municipality has been given notice in writing of a change in ownership or has been provided with the name of a person identified as having exclusive possession and control of the premises; and**
- (10) **“publicly funded fire protection or police services organizations” includes the Royal Canadian Mounted Police, all fire brigades and departments that are registered to provide fire services within the Municipality.**
4. **No person shall willfully cause the activation of an alarm in the absence of a legitimate activation event.**
5. **Except for an alarm system designed and used to detect heat, smoke or fire, no person shall install or operate an audible alarm, and no owner shall permit or acquiesce in the installation or operation of an audible alarm which sounds continually at the alarm-protected premises for a period of greater than fifteen minutes after each separate activation, if the sound made by the alarm is audible off the property on which the alarm has been installed.**
6. **No person shall install or operate, or permit or acquiesce in the installation or operation of any automatic calling device designed or programmed to transmit a message to any telephone number assigned to a publicly funded fire protection or police service organization, or to a dispatch or communication centre responsible for the receiving and dispatching of alarm calls to such organizations.**
7. **When a third party is responsible for monitoring an alarm system for the detection of an actual or attempted unauthorized entry into a building, structure, fenced enclosure or other facility, that third party shall endeavor to verify that the alarm activation is not accidental by contacting the owner or occupant of the premises where the alarm is installed before notifying a publicly funded police services organization.**
8. **No owner shall cause, permit, or allow more than one false alarm to emanate from an alarm system during any consecutive 12-month period. Each additional false alarm within such period shall constitute a separate offence.**
9. **Following the first occurrence of an apparently false alarm within any consecutive period of 12 months,**
- (1) **a notice shall be delivered to an owner of the alarm system that a false alarm has apparently occurred and that, in the event an owner disagrees that there was a false alarm, the owner shall have 3 weeks from the date of delivery of the notice to show cause to the Alarm Coordinator why the Alarm should not be considered false;**
- (2) **the notice shall be in writing and may be delivered by hand or regular mail**
- (a) **to the subject property to the attention of the occupant; and**
- (b) **to the owner’s name and address as contained in tax roll;**
- (3) **a notice sent in accordance with this section is deemed to have been delivered and received and, in the case of a notice sent by mail, is deemed to have been delivered 3 days after the date of mailing; and**
- (4) **when an owner responds to the notice, the Alarm Coordinator shall make a determination of whether there was a false alarm, and the Alarm Coordinator’s decision shall be final.**

- 10. Any person who violates section 4 of this By-Law is guilty of an offence punishable on summary conviction by a fine of not less than \$200.00 and not more than \$1,000.00 and to imprisonment of not more that 30 days in default of payment thereof.
- 11. Any person who violates any other provision of this By-Law is guilty of an offence punishable on summary conviction by a fine of not less than \$100.00 and not more than \$1,000.00 and to imprisonment of not more that 30 days in default of payment thereof.
- 12. Any person who contravenes section 8 of this By-Law and who is given notice of the contravention in accordance with the Municipality's Payment in Lieu of Prosecution Policy may pay to the Municipality at the place specified in the notice, the sum of \$50.00 within 14 days of the date of the notice and shall thereby avoid prosecution for that contravention.
- 13. Any person who contravenes section 4, 6, 7 or 8 of this By-Law and thereby causes or contributes to a chain of events that results in a fire department to be dispatched shall upon conviction for that contravention be subject to a penalty of \$500.00 in addition to any fine imposed to defer the cost associated with dispatching a fire department

Clerk's Annotation for Official By-Law Book

Date of First Reading September 19, 2007
 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 the By-Law

I certify that this FIRE AND BURGLAR ALARM 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 #07-040

7.2 Dangerous and Unsightly Premise - AAN 03015793, PID 25160953 - Mr. Peter Cottingham, Solid Waste and By-Law Administrator provided information to Council regarding property located on the Hunter Road, Wentworth. The owner of which is Mr. Percy Maine. Mr. Cottingham explained that Mr. Maine is not present today and that staff have not had contact with Mr. Maine since the Notice of Hearing was posted. The following were located on the property:

- one green mobile home, 12' X 49'
- one white mobile office, manufacturers plate, located on hitch, reading "HT 39 10 x 24 Year 1970 SN 2200377070 Plate"
- one fire damaged, blue mobile home, 14' x 60', manufacturers tag reads "Emperor, Neonex Housing Industries"
- one white mobile home, 12' x 60', no visible manufacturers tag
- one white with blue trim mobile home, 14' x 64', no visible manufacturers tag
- two sheds, one 8' x 8', one 10' x 11', on a flatbed trailer with Nova Scotia license plate "T5-28-25"

IT WAS MOVED by Councillor Read, seconded by Councillor Kellegrew, to make an Order that the land owner of PID 25160953 and AAN 03015793 remove and/or demolish the following trailers within 21 days of the date of the Order and also that

should the owner not comply staff be given the authority to enter on the property and demolish and remove these trailers on site:

- one green mobile home, 12' X 49'
- one white mobile office, manufacturers plate, located on hitch, reading "HT 39 10 x 24 Year 1970 S\N 2200377070 Plate"
- one fire damaged, blue mobile home, 14' x 60', manufacturers tag reads "Emperor, Neonex Housing Industries"
- one white mobile home, 12' x 60', no visible manufacturers tag
- one white with blue trim mobile home, 14' x 64', no visible manufacturers tag
- two sheds, one 8' x 8', one 10' x 11', on a flatbed trailer with Nova Scotia license plate "T5-28-25".

MOTION CARRIED #07-041

8. Correspondence

8.1 Action Items - The following is a synopsis of correspondence received since the last meeting of Council and requiring follow-up/actions:

From	Summary	Action
Cumberland County 4H	Karma Reid, inviting Warden Hunter to attend their 4H Awards Banquet, October 13, 7p.m. Amherst Lions Den	Refer to Warden
Correctional Service Canada	Ed Muise, Warden, inviting Warden Hunter to their 40 th Anniversary celebrations.	Refer to Warden
NSCC	Joan McArthur-Blair, President, inviting Council to attend "Reach Out Nova Scotia" on Wednesday, October 17, 2007.	Refer to Warden
N.S. Emergency Management Office	Craig MacLaughlan, CEO/Deputy Head, enclosing "Municipal Self- Assessment Tool". Advising orientation session in the use of this tool, are being coordinated throughout various regions of the province.	Refer to R.E.M.C.
Town of Amherst	Greg Herrett, CAO, advising that the Town is deferring providing detailed information to the Municipality with regard to fire calls attended by the Amherst Fire Department in the County coverage area pending a meeting of the five units to discuss the issue. Also requesting that all future requests for information be forwarded to Mr. Darrell White, CAO, Town of Oxford as he will be leading the process on behalf of Amherst, Springhill, Parrsboro and Oxford.	Refer to Staff
Town of Amherst	Greg Herrett, CAO, advising that the Town of Amherst, along with the Towns of Springhill and Oxford would like the issue of non-resident use of arenas discussed. Requesting an initial meeting and advising that the facilities will cease to offer subsidized youth rates on December 31, 2007 and will revert to paying rebates based on residency, unless a more equitable solution can be reached.	Refer to Staff
Town of Oxford	Darrell White, CAO, requesting an initial meeting to begin the process of negotiating a new Fire Services Agreement (on behalf of the 4 Towns).	Refer to Staff and Committee
RCMP	Inviting Council to the 75 year RCMP Banquet and dance; Oct. 27, Wandlyn Inn, \$30 per ticket	Refer to Councillors

8.2 Information Items - The following is a synopsis of correspondence received since the last meeting of Council provided for information:

From	Summary
NS Emergency Management Office	Craig MacLaughlan, CEO, informing of the launch of a project which includes assigning and posting civic addressing on trails and trail heads as well as the intersections of roads with railway crossings, and gas pipeline corridors throughout the Province.
NS Health Promotion and Protection	Duff Montgomerie, Deputy Minister, advising our request to participate in the Municipal Physical Activity Leadership Program has been approved. Also advising that the Department will contribute up to \$20,000 in the first year toward the employment of a staff person to develop a comprehensive physical activity strategy, with the County matching that amount. The Department will partner for a period of 5 years.
YMCA	Divya Minocha, Robert A. Nixon, thanking the Municipality for the generous donation of \$25,000 in July, 2007.
N.S. Environment and Labour	David Briggins, Manager, Water and Wastewater Branch, advising of a round of stakeholder consultations on the proposed Canada-wide Strategy for the management of municipal wastewater effluent. (COPY ENCLOSED)
Sunset	Mary Ellen Pittoello, Executive Director, thanking Council for the approval of a financial loan which was used for roof maintenance and a paving project.
Department of Natural Resources	David M. Morse, Minister advising that the Department has increased the number of antlerless deer hunting permits available and will be, in the Spring, assessing deer densities in the zone and determining if changes are required to further increase hunter harvest. Also advising that the removal of road killed deer is currently addressed by the Department of Natural Resources, by agreement with the Department of Transportation and Public Works. Also that the matter of removing deer carcasses in a more timely manner from roads will be raised with staff at their regional offices in Parrsboro and Oxford.
Public Prosecution Service	Paul McNeil, Director, Business Affairs, advising of the fee structure for prosecution services related to summary convictions.
Municipal Finance Corporation	Mark Gilbert, providing a list of NSMFC loans made for the October 17, 2007 debenture issue.
Service Nova Scotia and Municipal Relations	Paul Wills, Manager, providing a list of persons, firms or partnerships who registered as Municipal Auditors for the year ending July 31, 2008.
Town of Springhill	Mayor Guy Brown, enclosing copy of correspondence to Prime Minister Harper requesting that 2 to 3 billion of the 14 billion surplus should be earmarked for small Towns or Communities in Canada.
SNSMR	Cathleen O'Grady, Departmental Solicitor, providing information about by-law filing and approval requirements in the Municipal Government Act.
Pugwash District High	Misty Martell-Ferdinand, thanking Councillor K. Langille for the recreation grant.

Councillor's interested in attending the RCMP banquet are requested to notify Shelley.

9. Planning Issues

- 9.1 NSUAR Decision - Mr. Coughlin, Director of Planning explained to Council that our By-Law Amendment was made in response to a request by the owner of the property. The Town of Parrsboro appealed to the N.S.U.A.R.B. and the decision of Council was

overturned by the NSUARB Board. Staff has recommended that Council not appeal the decision as the UARB.

9.2 Pugwash Planning Advisory Committee - Mr. Coughlin, Director of Planning, informed Council on the progress of the Pugwash Planning Advisory Committee. He explained that as a result of input received at the Open House on October 9, 2007 further consultation will be undertaken with members of the Village's Chamber of Commerce. The results of the Village's strategic planning program will also be reviewed. Finally, the committee will make a presentation to the Village Commission before its final recommendation is made to Council. Also notifying that one of the members of the committee resigned, but feels that the Committee is waning down and there is no need for the position to be filled.

9.3 McElmon Brook Source Water Protection Committee - The Town of Oxford notified the Municipality of Cumberland that they will be reactivating their Water Protection Advisory Committee following discussion held with the Town of Oxford and the N.S. Department of Environment. They are requesting the Municipality to appoint one Municipal Councillor and one land owner/citizen from the wellfield area.

IT WAS MOVED by Councillor Kellegrew, seconded by Councillor G. Langille to appoint Councillor Welton to the McElmon Brook Source Water Protection Committee and fill the citizen appointment as well.

MOTION CARRIED #07-042

10. Financial Reports/Issues

10.1 YMCA Request -

IT WAS MOVED by Councillor K. Langille, seconded by Councillor Read to approve a grant in the amount of \$35,000 to the Cumberland YMCA.

MOTION APPROVED #07-043

10.2 Remittal(s) -

IT WAS MOVED by Councillor Kellegrew, seconded by Councillor Read to approve remittals for accounts 09368981 and 00175366.

MOTION CARRIED #07-044

10.3 Grant Requests -

Minudie Heritage Association- **IT WAS MOVED by Councillor Reid, seconded by Councillor Read that pending other funding partners commitment, a grant in the amount of \$5,000 be provided to the Minudie Heritage Association for a feasibility assessment on the Amos Seaman Heritage Home.**

MOTION CARRIED #07-045

Chignecto Glooscap Snowmobile Club- (Lease of Old Irving Service Station) - Mr. MacDonald, Director of Finance will follow up on this issue and will report back to Council at it's next session.

11. Operational Services/ Reports Issues

11.1 Tantramar Radio Society - Requesting to be added to the County server.(website).

Council agreed that staff should be directed to assist the Tantramar Radio Society in adding their website to the County server.

11.2 Solid Waste Prosecution Update - This was provided for the information of Councillors.

- 11.3 Solid Waste Collection Update - Mr. Cottingham provided this as an information item.
- 11.4 Dangerous and Unsightly Update - Provided for information.

Warden Hunter extended congratulations to Mr. Peter Cottingham, Solid Waste and By-Law Administrator and to Mr. Ronald Moore, Solid Waste and By-Law Enforcement Officer for successful completion of training.

12. **Committee/Other Reports**

- 12.1 C.R.E.D.A. - Provided as information.
- 12.2 Municipal Conflict of Interest Act - Staff were requested to gather the following information to assist Council with a decision on whether or not to support a Conflict of Interest Officer:
- Is the position they are hiring an as needed position or permanent?
 - What is the cost of the position?
- 12.3 NSUARB Order - Councillors and Electoral Districts - Council was informed that we are now in receipt of the official Order from the N.S.UARB confirming the number of Councillors and our Electoral Districts.
- 12.4 Human Resources and Community Relations Administrator - Mr. Steve Ferguson, Director of Research and Policy, introduced Ms. Emily Frenette to Council as the Human Resources and Community Relations Administrator for the Municipality of Cumberland. The Warden extended a warm welcome to Ms. Frenette on behalf of Council.
- 12.5 First Reading - Streets and Sidewalks By-Law - Mr. Ferguson, Director of Research and Policy provided the rationale of this By-Law to Council. This By-Law will affect Southview Drive and the portion of River Bend Drive that is Municipally owned.

IT WAS MOVED by Councillor K. Langille, seconded by Councillor Kellegrew to approve first reading of the Cumberland Streets and Sidewalks By-Law, which is as follows:

Cumberland Streets and Sidewalks By-Law

Title

1. This By-Law is entitled the "Cumberland Streets and Sidewalks By-Law" and is enacted pursuant to the powers conferred in Part XII of the Municipal Government Act.
2. This By-Law applies only to streets, sidewalks and other property owned by the Municipality of the County of Cumberland and to activities or conditions affecting such Municipal streets, sidewalks and property.

Definitions

3. In this By-Law:
 - 1) "**abutter**" means the owner, lessee or occupier of any premises or lot in the Municipality which abuts a Municipal street, and where the premises or lot has to be registered as a condominium under the *Condominium Property Act*, includes the condominium corporation which manages the premises or lot;
 - 2) "**CAO**" means the Chief Administrative Officer of the Municipality;
 - 3) "**crosswalk**" means that portion of a Municipal roadway ordinarily included within the prolongation or connection of curb lines or the edge of a roadway and property lines at intersections or any portion of a roadway clearly indicated for pedestrian crossings by lines or other markings on the road surface;
 - 4) "**Engineer**" means the Municipal Engineer and includes a person acting under the supervision and direction of the Engineer;
 - 5) "**Municipal**" and "**Municipality**" mean the Municipality of the County of Cumberland;

- 6) **“Municipal Infrastructure”** includes infrastructure that supports the provision of Municipal services as well as water services, and without restricting the generality of the foregoing includes public trees, street lighting, traffic lights, traffic signs and other Municipal signs;
- 7) **“Municipal street”** means a street owned by the Municipality;
- 8) **“roadway”** means that portion of a Municipal street between the curb lines or the traveled portion of a street designed for vehicular traffic and, except where the context indicates otherwise, includes a crosswalk;
- 9) **“sewer or water system”** means a sewer or water system owned and operated by the Municipality or by a water utility owned by the Municipality;
- 10) **“sidewalk”** means that portion of a Municipal street between the curb line and adjacent property line or any part of the street especially set aside for pedestrian travel and separated from the roadway;
- 11) **“street”** means a Municipal street, highway, road, lane, sidewalk thoroughfare, bridge, square and the curbs, gutters, culverts and retaining walls in connection therewith and, without restricting the generality of the foregoing, includes the full right-of-way width;
- 12) **“utility”** includes any person or corporation that provides water, electric power, telecommunications service, natural gas or other gas intended for use a fuel to the public, except a water utility owned by the Municipality;
- 13) **“utility facilities”** includes any pole, pole lines (including braces and anchors), aerial cables, manholes conduits, underground cables, pipes for the carriage of gas or liquids, and associated apparatus for the provision of utility services including amplifiers, connection panels, transformers, valves and other fittings or equipment.

Encroaching Vegetation

4. Abutters shall trim the branches of trees, hedges, bushes or other shrubbery, which encroaches from the abutting property over a street so as to prevent such trees, hedge, bush or shrubbery:
 1. from interfering with vehicle traffic traveling on a roadway, up to a height of 4.2 metres,
 2. from interfering with pedestrian traffic on a sidewalk
 3. from interfering with or affecting the sight lines required by a person on a bicycle or in a motor vehicle traveling on the roadway up to a minimum height of 3 meters; or
 4. from interfering with any structure on or in a street.”

Nuisance

5. No abutter shall place, permit to be placed, or permit to escape from the abutter’s property or driveway, dirt, dust, or other nuisance onto the street.

Damage

6. No person shall
 - 1) move any heavy load over or deposit any heavy load on any sidewalk unless the sidewalk has first been protected by a covering of boards of adequate thickness to prevent any visible damage or disturbance to the surface of the sidewalk, or
 - 2) otherwise cause or permit any visible damage or disturbance to the surface of the sidewalk, except as authorized by a Street Disturbance Permit.
7. No person shall
 - 1) move any heavy vehicle or load over, or leave any heavy vehicle or load on any roadway and by doing so thereby causes or permit any visible damage to the surface of the roadway;
 - 2) cause or permit any load or part of a load to drag on any roadway in such a manner as to cause any visible damage or disturbance to the surface of the roadway, or
 - 3) otherwise cause or permit any visible damage or disturbance to the surface of a roadway, except as authorized by a Street Disturbance Permit.
8. No person shall drive over a curb with a heavy load or otherwise cause any visible damage or disturbance to the surface of the curb, except as authorized by a Street Disturbance Permit.

Gates

9. No person shall construct or permit to be used any gate or barriers that open into or encroach upon any portion of the street or that may in any way impede pedestrian or vehicular traffic.

Street Disturbance Permit

10. No person shall:
 - 1) make any excavation in a street;
 - 2) cause or permit the breaking of the surface of a street or other physical damage to a street by construction activities in or near a street; or
 - 3) otherwise engage in construction activity or any other activity that is likely to obstruct pedestrian or vehicle traffic in a street or cause physical damage to the street without first obtaining a Street Disturbance Permit from the Engineer.
11. Every application for a street Disturbance Permit shall include:
 - 1) a non-refundable fee of \$10.00 when the Permit is required solely because of an obstruction of one month or less to the pedestrian or vehicular traffic in a street, without breaking or damaging the surface or subsurface of a street or to Municipal infrastructure or property in, on or under a street;
 - 2) a non-refundable fee in the amount of \$100.00 in all other cases; and
 - 3) where an excavation or other activity is involved that may, in the opinion of the Engineer, cause damage to a street, a security deposit in an amount the Engineer may reasonably determine is required to guarantee the repair of the street.
13. The security deposit required under subsection (3) of section (12) shall be retained as security that the applicant will properly perform and complete the work for which the permit is granted, and restore and keep the surface of the street and other Municipal property when such work is done, to a good condition to the satisfaction of the Engineer for a period of one year after the completion of the work.
14. If the Engineer is of the opinion that the surface of the street or other Municipal property is not restored and kept in good condition for the one year period, he may, upon advance notice to the Permit holder, perform such work in respect of the street as he considers necessary and the cost shall be deducted from the deposit, and the balance, if any, returned upon expiry of the one year period. If the cost of such work exceeds the deposit, the Municipality may recover the balance, together with costs and pre-judgment interest, as a first lien on the property for whose benefit the work was undertaken.
15. The Engineer may grant an Annual Street Disturbance Permit to a utility for the purpose of installation of Utility facilities, including pavement patching related thereto which require excavations in municipal streets, subject to such conditions as the Engineer may determine, and, without restricting the generality of the foregoing any such permit shall require that the Engineer be informed of the location and time of each instance of street disturbance prior to its commencement.
16. An application for an Annual Street Disturbance Permit shall include:
 - 1) a non-refundable fee of \$500.00; and
 - 2) a security deposit in the amount of \$10,000.00 to be maintained in place for the duration of the permit.
17. The provisions of sections (13 and 14) shall apply, with any necessary changes for context, to the security deposit pursuant to subsection (2) of section 16 and the balance of the security deposit shall be returnable upon expiration of the permit.
18. Every permit holder shall file in the office of the Engineer a notice of completion of work for all facilities constructed or repaired within one week of the completion of work.
19. Every excavation in a street shall, after notice, either written or verbal, given by the Engineer to the Permit holder, be closed and filled as required by the notice, and if it is not so closed and filled within 24 hours after such notice, then it may be closed and filled by the Municipality at the expense of the Permit holder.
20. In the event of an emergency arising at the location of the excavation, the Engineer may immediately fill or direct the filling of the excavation at the expense of the Permit holder.
21. Every person obtaining a Street Disturbance Permit to make any excavation or opening in any street shall ensure the work complies with any standards relating to excavation in the *Occupational Health and Safety Act* or *Regulations* or any other applicable statutes or regulations as well as the current version of the Nova Scotia Temporary Workplace Traffic Control Manual.
22. In addition to any other conditions imposed by the Engineer for the granting of a Street Disturbance Permit, all permits shall be subject to the following:
 - 1) the Engineer may stipulate the hours of work;
 - 2) the Permit holder shall keep the work site at all times safe with respect to vehicular and pedestrian traffic, including direction of traffic, barricades, lights, signs, and supply of properly equipped and

trained traffic control personnel for protection of traffic, in accordance with the Temporary Workplace and Traffic Control Manual or other standards in force pursuant to the *Occupational Health and Safety Act*;

- 3) the Engineer may order additional precautions, work stoppages and restorations of the street should circumstances warrant and upon the failure of the Permit Holder to comply within 24 hours with such order, or immediately in the event of an emergency, the Municipality may undertake any necessary action at the expense of the Permit holder;
 - 4) the Permit holder shall ensure that the street is kept free from nuisance, dirt and dust;
 - 5) the Permit holder shall dispose, store, or haul away any clean material suitable for use as structural fill excavated from a street in accordance with the directions of the Engineer and the material may, at the Engineer's discretion, remain Municipal property;
 - 6) the Permit holder shall ensure that all excavations are backfilled and restored in such a manner and with such material as is approved by the Engineer and that advance notice of a minimum of 24 hours of the backfilling operation shall be provided to the Engineer so that it may be properly inspected;
 - 7) the Permit holder shall comply and ensure compliance by any agents, contractors or employees, with any Policies or Standards of the Municipality from time to time, regarding design or construction standards applicable to Municipal infrastructure or property in, on, under or near a street;
 - 8) the provision of an indemnity in favour of, and in form satisfactory to, the Municipality for the defense and indemnification of any claims arising out of or in relation to the proposed street disturbance activities;
 - 9) the permit shall be valid for a period of 6 months from date of issuance, but here work has commenced the permit shall expire 12 months after the date of issuance; and
 - 10) any other condition in respect of safety or preservation of Municipal property interests that the Engineer may impose.
23. In the event of an emergency requiring the immediate excavation of the street, the Engineer may give verbal permission for such excavation on the condition that a Street Disturbance Permit is applied for and obtained on the first working day subsequent to the granting of such permission.
24. The Engineer may refuse to issue, renew or amend, or may revoke or suspend a Street Disturbance Permit, upon reasonable notice to an applicant or Permit holder, when
- 1) the Engineer is not satisfied that the steps taken, or proposed steps to be taken, by the applicant or Permit holder had adequately protected or will adequately protect the Municipality's property;
 - 2) the Engineer is not satisfied that the steps taken, or proposed steps to be taken, by the applicant or Permit holder has minimized or will minimize the obstruction to pedestrian or vehicular traffic in the street;
 - 3) the Engineer is not satisfied that the steps taken, or proposed steps to be taken, by the applicant or Permit holder has achieved or will achieve compliance with any applicable Policies or Standards of the Municipality;
 - 4) this By-Law or the terms or conditions of a Permit have been contravened; or
 - 5) for any other reason in the public interest.
25. A person aggrieved by a decision of the Engineer pursuant to section (24) may appeal that decision to the CAO within 15 days of the decision by written notice of appeal to the CAO.
26. After the hearing of an appeal, the CAO may confirm, rescind or vary the decision of the Engineer.

Access

27. No person shall create or construct, and no abutter shall permit or cause the creation or construction of a new access to a street without first having obtained an Access Permit.
28. 1) A person wishing to obtain an Access Permit may apply by supplying the following information, in writing, to the Municipality:
- a) the name, current address and telephone number of the owner;
 - b) the property identification number (PID) for the property;
 - c) the civic address, if assigned;
 - d) the current and proposed use of the property;
 - e) a sketch showing the location and width of the proposed access relative to the nearest sideline of the lot; and
 - f) a description of the materials to be used to create the access.
- 2) The applicant shall also place stakes at the edge of their property to identify the proposed location of the access.

- 29. The Engineer shall review an application received for an Access Permit by evaluating the proposed access in terms of the adequacy of the materials to be used, the stopping site distances, speed limit and road layout in the vicinity, and may make reference to standards and policies employed by the Province of Nova Scotia in so doing, and shall either grant or deny the application. The decision of the Engineer shall be final in this regard.
- 30. Installation of an access, including all associated costs, is the responsibility of the abutter and must be done in accordance with the permit.
- 31. All property and structures within the street are the property of the Municipality.
- 32. Notwithstanding section 31, maintenance of the surface of every access to a street, between the edge of the roadway and the property line of the abutter, is the responsibility of the abutter.
- 33. Although the intent of sections 27 to 29 inclusive is to maintain the safety of Municipal Streets and Sidewalks, ultimate responsibility for an access shall remain with the relevant abutter, and nothing in this By-Law shall be interpreted as relieving the abutter from that responsibility. The Municipality and its officers, employees and agents, including the Engineer shall not be liable for any injury or damage arising from the installation of any access, with or without a permit.

Penalty

- 34. Any person who contravenes any provision of the By-Law is punishable on summary conviction by a fine of not less than \$200.00 and not more than \$2,000.00 and to imprisonment of not more than 30 days in default of payment thereof.
- 35. Where a person contravenes this By-Law and is convicted of an offence for so doing, the court may, in addition to any penalty imposed pursuant to section 30 herein, impose a charge equal to or less than the amount of any clean-up, repair, remediation, or other such costs incurred by the Municipality with regard to the contravention.
- 36. Any person who contravenes this By-Law and who is given notice of the contravention may pay 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.

<u>Clerk's Annotation for Official By-Law Book</u>	
Date of the 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 Cumberland Streets and Sidewalks 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 #07-046

- 13. **Old Business**
 - 13.1 UNSM Conference - Provided for information.
 - 13.2 Safety Pedestrian Lane - Council was informed of correspondence received from a resident of the Town of Amherst expressing concern that there is no pedestrian walkway from the boundary of the Town of Amherst to the Regional Hospital.

Staff were directed to contact the Province regarding feasibility and funding and to also conduct a preliminary cost analysis.

13.3 Budget 2007/Atlantic Accord - Provided for Information

13.4 Notice of Motion - Councillor Welton gave Notice for the November 21, 2007 meeting for the election of a Mayor at Large rather than a Warden.

14. **New Business**

14.1 Democracy 250 - Provided for information.

14.2 Deputy Warden Election - This will be held at the next session of Municipal Council.

14.3 Wallace Museum - Councillor G. Langille explained to Council of the shortfall in funding that is being experienced by the Wallace Museum. At present, due to the shortfall, the curator has had to be laid off. It was agreed that the Museum should be operated on a twelve month basis

IT WAS MOVED by Councillor G. Langille, seconded by Councillor Gilbert that a letter of support to the Premier, our local MLA and the Provincial Department responsible for Museum funding. for the ongoing funding of the museum at the level they have experienced in the past, through ongoing grants

MOTION CARRIED #07-047

15. **Information Items**

15.1 UNSM - Wind Turbine Guidelines - Provided as information.

15.2 Coastal Erosion Project - Provided as information

15.3 NSUARB re: Pugwash Boundaries - Provided as information

15.4 ICSP Guide - Provided as information

15.5 November/December Meetings - Future Council meeting will be held November 21, 2007 and December 12, 2007.

16. **Adjournment**

On motion by Councillor G. Langille, the meeting adjourned at 2:11 p.m.

17. **God Save the Queen**

Warden

Chief Administrative Officer

Recording Secretary