

**TOWN OF AMHERST
Regular Council Meeting
Minutes**

Date:	March 27, 2017
Time:	7:00 pm
Location:	Council Chambers, Town Hall
Members Present	Mayor David Kogon Deputy Mayor Sheila Christie Councillor Jason Blanch Councillor Vince Byrne Councillor Darrell Jones Councillor Wayne MacKenzie Councillor Terry Rhindress
Staff Present	Greg Herrett, CAO Jason MacDonald, Deputy CAO Operations Ian Naylor, Police Chief Vince Arbing, Treasurer Bill Schurman, Director Recreation Greg Jones, Fire Chief Rebecca Purdy, Executive Assistant
Others Present	Karen Brookins, Communications and Marketing Coordinator

1. PUBLIC HEARING - 6:30 PM

1.1 Development Agreement - Mallard Drive (4261)

Mayor's Comments: Amherst Town Council is considering an application to enter into a development agreement to allow the development of two four-unit townhouses in addition to the existing four-unit townhouses on properties located at 34 & 36-40 Mallard Drive. Council approved First Reading of this development agreement at its February 27th regular meeting. The purpose of this hearing is to hear submissions in favour of, or in opposition to, the proposal.

Staff presentation: Planner Andrew Fisher reported that the configuration presented was the best solution and provided the most amount of privacy and minimal amount of impact on adjoining properties. Staff suggested that the DA meets the intent of the policy of the MPS; the PAC made a recommendation to Council that this DA be entered into.

Council questions for staff (There were none)

Public comments (There were none)

Hearing no further comments, Mayor Kogon closed the public hearing on this matter. Consideration of Second Reading for this Development Agreement is on the agenda of tonight's Council meeting.

1.2 Development Agreement - 150 East Victoria Street (4262)

Councillor Vince Byrne declared a potential conflict, having a business interest in this matter, and excused himself from the Council table for this public hearing.

Mayor Comments: Amherst Town Council is considering an application to enter into a development agreement to allow the conversion of an existing 21-unit motel into an 11-unit apartment complex on property located at 150 East Victoria Street. Council approved First Reading of this development agreement at its February 27th regular meeting. The purpose of this hearing is to hear submissions in favour of, or in opposition to, the proposal.

Staff presentation: Jason MacDonald described the proposal to convert the motel into apartment units, saying that some of the units are currently long-term rentals without kitchens. The proposal is to make one apartment unit out of every two motel units, thereby creating small apartments with kitchens. He said that the proposed DA is in general conformance with the Town's policies and regulations, specifically MPS Policies CP-15, SP-1, RP-11(a) and RP-8. The Planning Advisory Committee (PAC) did not pass a motion resulting in a recommendation to Council on the issue. Mr. MacDonald stated that the existing use of the building as a motel with both short and long term rentals can continue indefinitely without the benefit of a development agreement. It can be argued that reducing the number of units from 21 to 11 will reduce traffic on the property. Furthermore, the renovations, including doubling the size of the units and the addition of kitchens, may result in a safer situation than the potential alternative of people trying to cook with inadequate resources.

Council questions for staff:

D/Mayor Christie, a member of PAC, advised Council that PAC was unable to reach a consensus on what to recommend to Council

Public comments:

Avis Chapman - This is an important location in the downtown; she asked if there were any architect drawings of the proposed building. D/CAO advised the exterior of the building is not being altered.

Jonathan Ettinger - Opposes the DA; he said he had major concerns whether the building code would be met, but that he is satisfied with requirement of the development to meet the National Building Code The fire code as it relates to the back wall is a concern because it would not permit windows. DA only says the back wall will be painted. He had issues with the small concrete slabs that were considered 'patios' and lack of green space and landscaping. The building has continued to deteriorate over the past 14 years. He stated he has had issues with long term tenants and that the police were there frequently. The property is still listed for sale, and he questions whether the owner is invested in the property over the long term. He said it would be helpful to see a fully developed plan.

In response, Councillor Blanch said he felt the proposed development was an improvement over the status quo; he asked Mr. Ettinger what would make him happy with the development. Mr. Ettinger said the amount of police presence, the hypodermic needles on the property, the condition of back wall have all been issues with tenants; there is no real oversight or management present to see what is going on there, but this is completely changing it. He said the proper way of doing business would be to present a proposal, get approval then start work. It needs a better plan that includes landscape and that turns it from a motel into something long term. He agreed the status quo isn't an option; however, architectural plans aren't known.

Hearing no further comments, Mayor Kogon closed the public hearing on this matter at 7:05 PM, saying that consideration of Second Reading for this development agreement is on the agenda of tonight's Council meeting.

1.3 Amendment to Municipal Planning Strategy (4022)

Mayor Comments: Amherst Town Council is considering an amendment to the Municipal Planning Strategy (MPS) to establish a Commercial Development District. The District would include all areas within the Town of Amherst designated as Commercial, Industrial, and Comprehensive Development District on the Generalized Future Land Use Map of the MPS. This amendment prescribes the areas of town that are eligible under a commercial assessment phase-in program. Council approved First Reading of this amendment at its February 27th regular meeting. The purpose of this hearing is to hear submissions in favour of, or in opposition to, the amendment.

Staff presentation. Planner Andrew Fisher explained the proposed amendment to the Municipal Planning Strategy.

Council questions/comments for staff: Does the designated area include all commercial areas within the Town? Mr. Fisher answered that the intention of PAC and Council is to include all commercial zones, but the current draft needs to be tweaked to reflect this. This change is not substantial and will be ready for second reading. Mr. Fisher also stated that the program applies to the increase in assessment as a result of an investment which will be triggered by a development permit, and entrance into an agreement between the property owner and the Town.

Public comments.

Avis Chapman requested further clarification. She said she is in a highway commercial zone on Lawrence Street and expressed frustration over the length of time it took to obtain permission to open a small business; she asked if it is going to be easier to open a business in a home? As an example, she asked if someone buy the vacant house next to her and get commercial zoning or restaurant zoning and turn the house into a restaurant. The Deputy CAO explained that the properties are zoned commercial but the key is you need to satisfy the building code.

An unidentified gentleman in the room asked if this will result in less tax revenue for the Town - CAO said it is about encouraging investment. It's about deferring tax increases on improving commercial property. Total tax revenue would not be reduced.

Avis Chapman asked if this was being promoted; the CAO replied that it will be once it receives second reading and enactment.

Hearing no further comments, Mayor Kogon closed the public hearing on this matter at 7:25 PM.

2. **CALL TO ORDER - 7:00 pm**

Mayor Kogon called the meeting to order at 7:30 PM. He introduced special guests, AYTC Junior Deputy Mayor, Rajan McKenney and this month's National Anthem singer, Olivia Doucette.

3. **O'CANADA (Olivia Doucette)**

4. **HEARINGS/PRESENTATIONS/PETITIONS**

4.1 **Volunteer of the Year Recognition (4517)**

Mayor Kogon invited Joan Fowler and Madelynn Carter to the front of the room and introduced them.

Joan Fowler, a resident of the Town of Amherst, is very involved in the community, and has volunteered a great amount of her time to three local organizations including the Amherst Chapter Kidney Foundation, Christmas for Kids, and Dick's Jamboree. She is a loyal, responsible and committed volunteer throughout the community and we are very lucky to have her presence in the Town. Joan was first motivated to volunteer to further help others and get more involved with her community. Since then, she has made a great impact and given thousands of kids in Cumberland County a brighter Christmas, has helped execute several Kidney Foundation fundraisers, and has given her hand in many other volunteer roles. Her keen interest in financial accountability has benefited her volunteer committees immensely, along with her tireless efforts and thoughtful actions reflected through her work ethic.

Madelynn Carter is a grade 12 student at Amherst Regional High School and an involved community member and youth advocate in Amherst and area. Madelynn has proven her ongoing dedication and commitment to Amherst Youth Town Council (AYTC) for six consecutive years, this year being voted in as the Council's 2016-17 AYTC Junior Mayor. As well, Madelynn excels academically and in her extracurricular activities in school. She has been head of the school drama club, head of festivals and spirit committee, and is a facilitator in healthy relationships in youth. She has also volunteered her time as an instructor for Tantramar Theatre Summer School. Her positive attitude and demonstrated ability to lead and represent youth are among the reasons we are so pleased to recognize her volunteer contributions in and around the community.

Joan and Madelynn have been invited to Provincial Volunteer Ceremonies hosted by The Honourable Stephen McNeil, Premier of Nova Scotia. The Volunteer Representative for Amherst, Joan, will attend the ceremony in Halifax on Tuesday, April 18th, 2017. Councillor Terry Rhindress will also be attending the ceremony on behalf of Amherst Town Council. Amherst Youth Volunteer, Madelynn, is invited to a Provincial Youth Volunteer Luncheon in late May/early June also hosted by the Province of Nova Scotia.

Joan and Madelynn will also be formally recognized at the annual Amherst Volunteer Recognition Reception on Tuesday, April 25 along with the other community volunteer nominees. The reception will include volunteer presentations, refreshments and great company as we celebrate our community volunteers and their tremendous efforts and work within our community. Congratulations ladies, thanks again for your immense contributions to our community.

5. APPROVAL OF AGENDA/MINUTES

5.1 Approval of the Agenda (5103)

Moved By Councillor Byrne
 Seconded By Councillor Rhindress
 To approve the agenda

Motion Carried

5.2 Approval of Minutes - February 27, 2017 Regular Meeting (5104)

Moved By Councillor Jones
 Seconded By Councillor Blanch
 To approve the minutes of the February 27, 2017 regular meeting

Motion Carried

6. REQUESTS FOR DECISION

6.1 PAC Recommendation - Via Rail - Municipal Heritage Property (4397)

Moved By Councillor Rhindress
 Seconded By Councillor Blanch
 That Council include the VIA Rail/Canadian National Railways Station located at 27 Station Street on the Town Registry of Heritage Properties

Motion Carried

6.2 PAC Recommendation - 150 Victoria Street East (4262)

Councillor Byrne declared a potential conflict due to business interests; he excused himself from the Council table for the discussion and decision on this agenda item.

**Moved By Councillor MacKenzie
Seconded By Councillor Jones
That Council approve second reading of the Development Agreement to
convert the property located at 150 East Victoria Street from a 21 unit motel
to an 11 unit apartment complex**

Amendment:

**Moved By Councillor Blanch
Seconded By Councillor Rhindress
To refer the matter of the Development Agreement for 150 Victoria
Street East back to the Planning Advisory Committee for further
consideration and options**

Against (4): Mayor Kogon, Deputy Mayor Christie, Councillor Jones, and
Councillor MacKenzie

Amendment Motion Defeated 4-2

Against (3): Councillor Blanch, Councillor Jones, and Councillor Rhindress

Original Motion Defeated 3-3

6.3 PAC Recommendation - Mallard Drive (4261)

**Moved By Deputy Mayor Christie
Seconded By Councillor MacKenzie
That Council approve second reading of a Development Agreement for 34
and 36-40 Mallard Drive to allow construction of two four-unit townhouse
dwellings in addition to the existing four-unit townhouse dwelling on
properties located at 34 Mallard Drive (PID 25499872) and 36-40 Mallard
Drive (PID# 25497553)**

Motion Carried

Case No: DA-2017-02

This Agreement made this _____ Day of _____ 2017.

Between:

Ocean Breeze Estates Limited (owner of property located at
34 Mallard Drive [PID 25499872] and 36-40 Mallard Drive
[PID 25497553], hereinafter called the "Owner"),

of the one part, and

The Town of Amherst (a body corporate in the Province of
Nova Scotia, hereinafter called the "Town"),

of the other part.

WHEREAS the Owner wishes to obtain permission pursuant to Policy RP-9 of the Municipal Planning Strategy of the Town of Amherst, to construct two 4-unit townhouse dwellings in addition to the existing 4-unit townhouse dwelling on properties located at 34 Mallard Drive (PID 25499872) and 36-40 Mallard Drive (PID# 25497553).

AND WHEREAS a condition of the granting of approval of Council is that the Owner enter into an Agreement with the Town;

AND WHEREAS the Council of the Town, at its meeting on the _____th Day of _____ 2017, approved the said Development Agreement, subject to the registered Owner of the land described herein entering into this Agreement;

AND WHEREAS the following Schedules shall be attached to and form part of this Agreement:

- (a) Schedule 'A' - Terms and Conditions
- (b) Schedule 'B' - Property Location Map
- (c) Schedule 'C' - Site Plan
- (d) Schedule 'D' - Building Elevation

NOW THEREFORE THIS AGREEMENT WITNESSETH THAT in consideration of the granting by the Town of the Development Agreement requested by the Owner, the Owner agrees as follows:

0717

- 1) That the Owner is the registered owner of the aforesaid Lands in the Town of Amherst, hereinafter called the "Lands". The aforesaid Lands are the only lands in the Town of Amherst to which this Agreement applies, and the Lands are illustrated in the plan shown on Schedule B attached.
- 2) That the Owner may construct a maximum of twelve (12) dwellings units on the said Lands, subject to Schedules A, B, C, and D attached.
- 3) Nothing in this Agreement shall exempt or be taken to exempt the Owner or any other person from complying with the requirements of any Bylaw of the Town applicable to the Property (other than the Land Use Bylaw to the extent varied by this Agreement) or any Provincial or Federal statute, act, or regulation.
- 4) Any failure of the Town to insist upon strict enforcement of any requirements or conditions contained in this Agreement shall not be deemed a waiver of any rights or remedies that the Town may have and shall not be deemed a waiver of any subsequent breach or default in the conditions or requirements contained in this Agreement.
- 5) Should the Owner fail to act in accordance with any aspect of this Agreement, the Town shall retain the right to discharge the Agreement upon 30 days notification and / or enter the property and conduct the required work. The cost of the said work will become a lien on the property tax bill.
- 6) The Town shall issue the necessary Development Permit for the development upon expiration of the appeal period specified for Development Agreements under Section 249 of the *Municipal Government Act*, as the same may be amended from time to time, or upon the withdrawal or dismissal of any appeal which may be taken.
- 7) The Agreement shall be binding upon the parties hereto and their heirs, executors, administrators, successors and assigns, and shall run with the land which is the subject of this Agreement until such time as it is discharged by the Town in accordance with Section 229 of the *Municipal Government Act*.

SIGNED, SEALED AND DELIVERED

Schedule A 34 & 36-40 Mallard Drive - Development Agreement

Terms and Conditions:

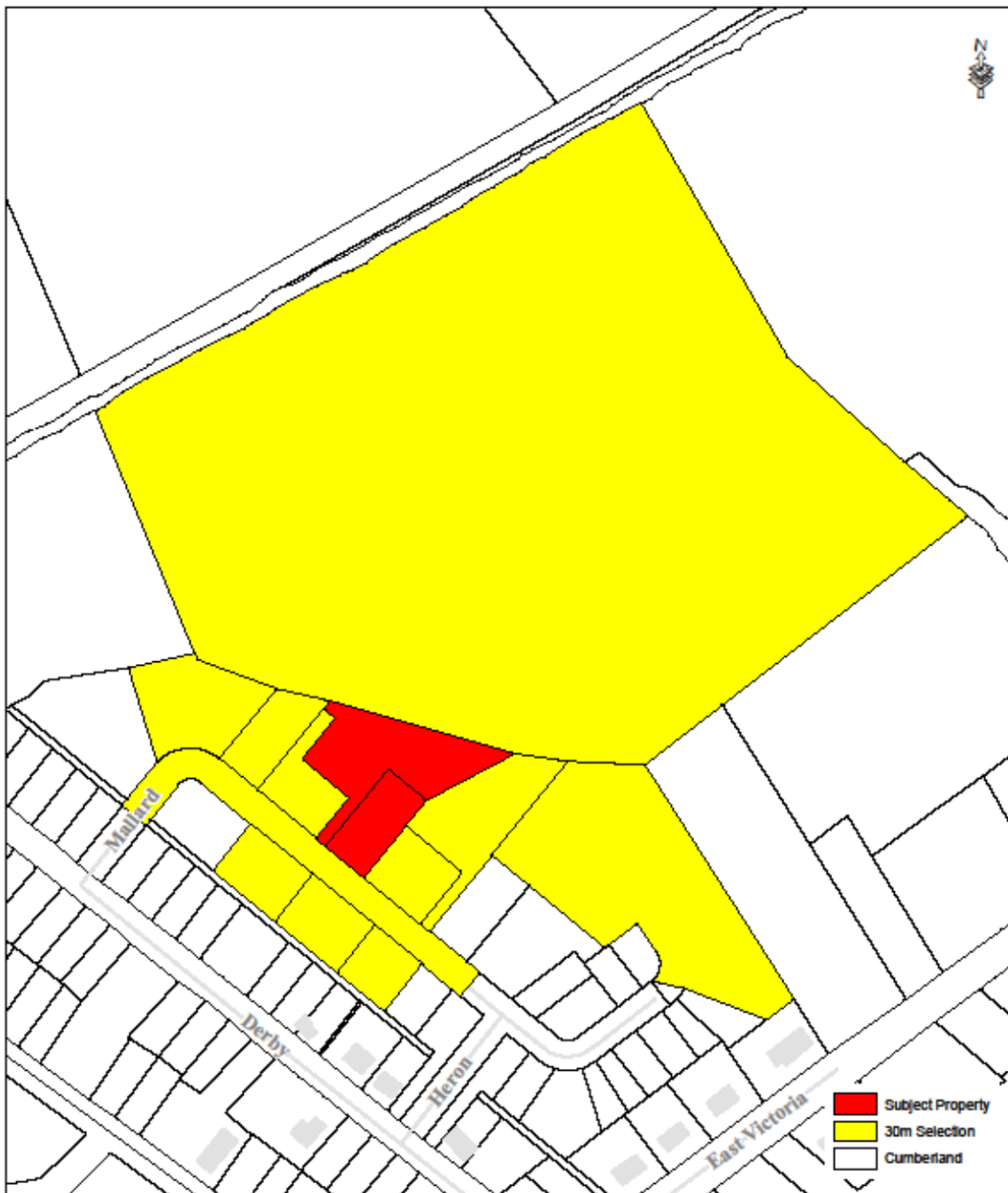
1.0 USE OF LAND AND BUILDINGS

- 1.1 The use of the property shall be limited to residential uses within a maximum of twelve (12) dwelling units in three detached, 4-unit townhouse dwellings in the general location shown on Schedule 'C'.
- 1.2 A minimum of one (1) parking space shall be provided for each dwelling unit on the Lands and shall be generally configured as shown on Schedule 'C'. For greater clarity, no more than four (4) parking spaces shall be permitted in the front yard of the existing townhouse dwelling that fronts directly onto Mallard Drive.
- 1.4 Accessory buildings may be permitted on the Lands in accordance with the *Town of Amherst Land Use Bylaw*.
- 1.5 The townhouse dwellings shall generally conform to the designs shown on Schedule 'D'. Variations to the architectural details may be permitted, to the satisfaction of the Development Officer.
- 1.6 The Owner shall be responsible for the installation and ongoing maintenance of a visual barrier in the locations shown as "Vegetation Barrier" on Schedule 'C'. A visual barrier shall be installed within six (6) months of receiving an Occupancy Permit, and shall be designed to have a minimum height of 1.5 metres.
- 1.7 The Owners shall be responsible for the planting and ongoing maintenance of a vegetation barrier, or four (4) juvenile trees at least 1.5 metres in height along one side of the driveway.
- 1.8 Rear decks along the northeast townhouse shall be at minimum 3 metres (10 feet) wide for each dwelling unit, measured along the length of the building.
- 1.9 The Owner shall be responsible for maintaining a screened solid waste containment area.

2.0 GENERAL REQUIREMENTS

- 2.1 The Owner shall keep the Lands and buildings and any portion thereof clean and in good repair. All elements of the development on the Lands shall be regularly maintained and kept in a tidy state, and free from unkept materials of any kind.
- 2.2 Signage on the property shall conform to the Town of Amherst *Land Use Bylaw*.
- 2.3 The Owner shall ensure that exterior lighting does not shine directly onto adjacent properties.
- 2.4 Solid waste management shall be in conformance with the Town of Amherst *Solid Waste Bylaw*.
- 2.5 The Owner shall be responsible for storm water management during and after construction.

SCHEDULE `B`



6.4 Memorandum of Understanding with Lions Club (5029)**Moved By Councillor MacKenzie****Seconded By Deputy Mayor Christie****That Council approve entering into the Memorandum of Understanding between the Town of Amherst and the Lions Club regarding funding for the Tennis Courts and development of the park on the site of the former West Highlands School and authorize the Mayor and CAO to sign the MOU on behalf of the Town.****Motion Carried****Memorandum of Understanding****THE TOWN OF AMHERST**

(Hereinafter referred to as "the Town")

AND**THE AMHERST LIONS CLUB**

(Hereinafter referred to as "the Club")

WHEREAS it is the mutual objective of the Town of Amherst and the Amherst Lions Club to develop a park on the site of the former West Highlands School; and

WHEREAS the Town has aided and partnered with the Club in their submission to ACOA for capital funding for the park; and

WHEREAS the Town would like to construct a tennis court on the site of the park and the Club has included this Court in their overall development plans and the courts were included in the funding application to ACOA; and

Whereas ACOA has agreed to provide a grant of \$90,000 to the Club for the development of the Park; and

Whereas the Club would like to have a walking trail around the perimeter of the park as well as water and sewer services to the site of a future washroom facility / potential water play feature;

THEREFORE it is agreed that:

1. The Club will provide the Town \$65,000 in cash for the development of the tennis courts, funding for which is obtained from the ACOA grant;
2. The Town will provide and install water and sewer infrastructure to the site of the future washroom / potential water play area during the 2017 construction season (a \$10,000 in kind contribution), at no cost to the Club; and,
3. The Town will construct a walking trail around the perimeter of the Park during the 2017 construction season (a \$50,000 in kind contribution), at no cost to the Club; and,
4. The Town will manage the ACOA grant process, including submission of all documents required to satisfy the conditions of the grant.

This Memorandum of Understanding reflects an agreement between the Town of Amherst and the Amherst Lions Club.

IN WITNESS WHEREOF the parties have executed this Memorandum of Understanding by their duly authorized officers this _____ day of _____, 2017.

6.5 Tennis Courts RFP (4509)**Moved By Councillor Rhindress****Seconded By Councillor MacKenzie****That Council accept the proposal from Maritech Construction in the amount of \$177,273 plus HST for RFP-16-17 - a new set of tennis courts to be constructed on the site of the former West Highlands School to be funded from the 2016-17 approved capital budget in the amount of \$120,000 and the remainder from the Lions Club****Motion Carried**

6.6 Facility Naming in Honor of Dwight Jones (4518)

Councillor Jones declared a potential conflict as Dwight Jones was a family member; he was excused from the Council table for the discussion of this agenda item.

Moved By Councillor Byrne

Seconded By Councillor Rhindress

That Council officially name Field 1 of the Robb Centennial Complex the Dwight Jones Memorial Field as per Town of Amherst Naming Public Lands and Town-Owned Facilities policy, number 20000-03, and further, that the dedication for this field by Council be through an official dedication ceremony to take place during the summer of 2017

Motion Carried

6.7 Strategic Priorities Approval (4563)

Moved By Councillor Blanch

Seconded By Councillor Byrne

That Council formally approve the 2017 Strategic Priorities report

Motion Carried

A copy of the report is attached to these minutes as "Appendix A"

6.8 Citizen Appointment to Library Board (4131)

Moved By Councillor MacKenzie

Seconded By Councillor Byrne

That Joan Beswick be appointed as the Town of Amherst citizen member on the Cumberland Regional Library Board effective April 1, 2017.

Motion Carried

6.9 Citizen Appointments to Police Commission (4951)

Moved By Councillor Jones

Seconded By Councillor Blanch

That Council appoint the following individuals to the Amherst Board of Police Commissioners:

- **D. A. (Sandy) Fairbanks to a two-year term ending March 31, 2019**
- **Robin Latta to a one-year term ending March 31, 2018**
- **Holly MacDonald to a one-year term ending March 31, 2018**

Motion Carried

6.10 Citizen Appointments to Planning Advisory Committee (4256)

Moved By Councillor Blanch

Seconded By Councillor Rhindress

That Council appoint the following individuals to the Planning Advisory Committee:

- **Ron Wilson to a three-year term ending March 31, 2020**
- **Gordon Goodwin to a two-year term ending March 31, 2019**
- **Glen Hudson to a one-year term ending March 31, 2018**

Motion Carried

7. INFORMATION / DISCUSSION ITEMS**7.1 Col. James Layton Ralston Armoury (5153)**

Mayor Kogon explained about having toured through the Armoury with members of Council and MP Bill Casey. He said that it is possible the facility will be

abandoned by the federal government, and we don't want to see that - it's of huge historical significance to Amherst.

He sent a letter to the National Minister of Defence to solicit his support (a copy is included in the agenda). He has confirmation that it has been received by Minister Sajjan, and that MP Casey will be discussing it with the Minister personally. We are being proactive in trying to keep this unique military heritage facility part of our community.

8. INTERNAL COMMITTEE REPORTS

8.1 Amherst Board of Police Commissioners (5108)

Councillor Blanch presented a report on behalf of the Amherst Board of Police Commissioners report and highlighted significant points in the report; he addressed comments and enquiries from Council.

8.2 Amherst Youth Town Council (5109)

Rajan McKenney Junior Deputy Mayor, presented the AYTC report, included in the agenda, and addressed comments and enquiries from Council.

9. EXTERNAL COMMITTEE REPORTS

9.1 Cumberland Public Libraries (5121)

Councillor MacKenzie presented Library Board report, included in the agenda.

9.2 Cumberland YMCA (5122)

Deputy Mayor Christie presented the YMCA report included in the agenda.

9.3 Cumberland Joint Services Management Authority (5110)

Councillor Byrne presented a report on behalf of the CJSMA. He reported that the Board agreed to defer decision on the proposed new cell development and 2017-18 budget until a report is received from staff on the cost of alternate options.

9.4 Northern Region Solid Waste Committee (5129) (Rhindress)

Councillor Rhindress presented the Northern Region report included in the agenda.

10. ADJOURNMENT

Moved By Councillor Jones
Seconded By Councillor Blanch
To adjourn at 8:28 PM

Motion Carried

Gregory D. Herrett, CPA, CA
 Town Clerk and Chief Administrative Officer

David Kogon, MD
 Mayor