

**Minutes of a Regular Meeting of Amherst Town Council
Held in Council Chambers
Monday, April 25, 2005 at 7:00 P.M.**

PRESENT: Mayor Jerry Hallee
Deputy Mayor David March
Councillor Robert Angel
Councillor George Baker
Councillor Ed Chitty
Councillor Dale Fawthrop
Councillor Terry Rhindress
Ed Childs, Town Manager
Gregory Herrett, Treasurer

1. O'CANADA
2. DELEGATIONS/PETITIONS/PRESENTATIONS
3. CALL TO ORDER
4. BUSINESS ITEMS

1. Additions to the Agenda

2. Approval of the Agenda

Moved by Councillor Baker, seconded by Councillor Chitty that the Agenda be adopted as circulated.

MOTION CARRIED

3. Approval of Minutes

Moved by Councillor Baker, seconded by Councillor Angel that the minutes of the March 29, 2005 Regular Meeting be approved as circulated.

MOTION CARRIED

4. Second Reading, By-Law to Amend the Sewer Use By-Law, D-3 (A-1)

Moved by Councillor Chitty, seconded by Councillor Fawthrop that Council approve Second Reading and enactment of the new BY-LAW TO AMEND THE SEWER USE BY-LAW Number D-3 (A-1).

MOTION CARRIED

**A BY-LAW to AMEND the SEWER USE BY-LAW, D-3
RESPECTING DISCHARGE INTO PUBLIC SEWERS**

Definition (4) Stormwater is amended to read as follows:

- (y) "Stormwater" means water from precipitation of all kinds, and includes water from the melting of snow and ice, groundwater discharge and surface water that meets the pollution limits of Table 1 Section 3-4.

New Section 3(7)

- 3(7) Compliance with any limit is not attainable by dilution.

New Section 6 – Spills

- 6(1) Every person who discharges, deposits, causes or permits the discharge or deposit of any matter in any sewer that in nature or quantity is not in the ordinary course of events shall forthwith notify the Municipality.
- 6(2) For any discharge in Subsection 6(1) the information with the notification shall include:
- (a) Name of Company and civic address of the spill;
 - (b) Name of the person, including contact numbers, reporting the event;
 - (c) Particulars on the spill;
 - a. Time

- b. Type and volume of the material discharged
- c. Potential hazard of the material discharged
- d. Corrective actions being taken to control the spill

6(3) Within 5 days of the spill a detailed report describing the cause and actions taken is to be submitted to the Municipality. The report shall include preventative and corrective actions to prevent a recurrence.

New Section 9(6)

9(6) As part of the agreement the municipality may require the discharger provide a Control Service Access as outlined in Section 11 of this By-law.

New Section 10(5)

10(5) As part of the agreement the municipality may require the discharger provide a Control Service Access as outlined in Section 11 of this By-law.

Deleted Section 15 – Old Sewers

Old building sewers may be used in connection with new buildings only when they are found on examination and test by the Town to meeting all requirements of this by-law.

5. Heritage De-registration Application – 10 Rupert Street

Moved by Deputy Mayor March, seconded by Councillor Chitty that Council approve the de-registration of property located at 10 Rupert Street from the Town Registry of Heritage Property.

MOTION CARRIED

6. First Reading, By-Law to Repeal (old) Minimum Housing Standards By-Law

Moved by Councillor Baker, seconded by Councillor Rhindress that Council approve First Reading of a By-Law to Repeal the Minimum Housing Standards By-Law dated January 18, 1977.

MOTION CARRIED

TOWN OF AMHERST
REPEAL BY-LAW

The purpose of this by-law is to repeal the Minimum Housing and Maintenance Standards By-Law, D-7, dated January 18, 1977, which was replaced by the Minimum Standards for Residential Occupancy By-Law, P-4, on January 24, 2005.

7. First Reading, Encroachment By-Law

Moved by Councillor Chitty, seconded by Councillor Baker that Council approve First Reading of the new By-Law Respecting Encroachments Upon Public Streets, Number D-22.

MOTION CARRIED

TOWN OF AMHERST
BY-LAW RESPECTING ENCROACHMENTS UPON PUBLIC STREETS

1. Number and Short Title

1. This bylaw shall be known as By-law D-22 and may be cited as the “Street Encroachment By-law”.

2. Definitions

1. In this bylaw:

- (a) "Council" means the Council of the Town of Amherst;
- (b) "Encroachment" means the use of any portion of the street and includes the airspace over such street and any area beneath the surface of the street;
- (c) "Engineer" means the Engineer for the Town of Amherst and includes a person acting under the supervision and direction of the Engineer;
- (d) "Facility" means 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 provisions of services, including amplifiers, connection panels, transformers, valves, and other fittings and equipment;
- (e) "Inspector" means the Building Inspector for the Town;
- (f) "Landowner" includes an occupier, tenant, a person in control of property, and the person shown as the owner of the property on the Land Title for that property;
- (g) "Person" includes a corporation;
- (h) "Street" includes a public alley, boulevard, bridge, court, footway, highway, lane, park, place, sidewalk, square and any part thereof, owned by the Town;
- (i) "Structure" includes any building, balcony, bay window, fence, foundation wall, grating, hatch, hatchway, loading platform, manhole, parking lot, porch, railing, retaining wall, sidewalk patio, step, verandas, or any part thereof.

3. License Required

No person shall construct or maintain any encroachment or make use of a street for construction or restoration purposes in the town unless an encroachment license has been issued by the Town.

4. Approval Required

An encroachment license shall not be issued unless the Council authorizes such encroachment

- 1. except for the following, which may be issued by the Building Inspector without the authorization of Council:
 - (a) canopies – for commercial, industrial and institutional buildings only and to be restricted in width to not more than the entrance width plus six feet for a period of five (5) years, renewable after inspection;
 - (b) awnings – for commercial, industrial and institutional buildings only and to be restricted to not more than the width of the building, or in the case of a corner installation, not more than the width of the building plus the width of the awning only issued for a period of five (5) years, renewable after inspection;
 - (c) steps, foundations and other structures – for buildings where steps, foundations and other building features must encroach, or where an encroachment already exists, the area of encroachment may be increased provided there is no additional encroachment toward the curb for a period of five (5) years, renewable after inspection;
 - (d) the use of any portion of a street in association with a construction or restoration project where the use of the portion of the street is required, in the opinion of the Inspector or the Engineer, for public safety.
- 2. except for the following, which may be issued by the Engineer without the authorization of Council:
 - (a) telephone booths – provided the free flow of pedestrians is not impeded, a traffic hazard is not created, and the location is acceptable to the municipal department using the property for a period of five (5) years, renewable after inspection.

- (b) Underground communications conduit, and manholes to service the conduit, provided that the installation and use of the telecommunications cable will not interfere with the proper operation and maintenance of existing underground utilities, nor interfere with planned street works.

5. Encroachment License

- 1. Every encroachment license shall indicate:
 - a. the type of encroachment authorized;
 - b. the civic address where such encroachment is authorized;
 - c. the length of time for which such encroachment is authorized; and
 - d. such terms and conditions as may be necessary in the opinion of Council, the Inspector or the Engineer.
- 2. The fee for an encroachment license shall be \$100.00.
- 3. No license fee shall be payable for the renewal of a license.
- 4. The Council may, in its sole discretion, cancel an encroachment license at any time, without notice.
- 5. Without restricting the generality of Subsection (4), those licenses listed in paragraphs 1 (a) to (d) inclusive, may be cancelled by the Town upon breach of any term or condition subject to which the license is issued, at any time, without notice.

6. Exceptions

- 1. Where the provision for payment of an encroachment fee is made by special statute as in the case Nova Scotia Power Inc. and the Maritime Telegraph and Telephone Company, the provisions of Sections 4 (2) shall not apply.
- 2. License fees or rental fees shall not be payable in respect of any encroaching structure which existed on the effective date of this bylaw, or to any repair or replacement of the encroaching structure that does not increase the amount of the encroachment.

7. Appeals

- 1. Any person who has been refused an encroachment license by the Inspector or the Engineer may appeal such refusal.
- 2. Such appeal shall be in writing, in the form of a notice, and filed with the municipal clerk within 15 days of such refusal, and shall clearly state the grounds for such appeal.
- 3. Council shall determine such appeal at such time and place as it determines and may confirm such refusal by the Inspector or Engineer, as applicable, or direct the Inspector or Engineer, as applicable, to issue such license.
- 4. If the Council directs the Inspector or Engineer, as applicable, to issue such license, the same shall be issued immediately.

8. Penalties

- 1. Any encroachment which is not authorized by a current encroachment license shall be removed by the owner within 30 days after notice to remove the encroachment has been given to such owner by the Inspector or Engineer.
- 2. If any owner fails to remove the encroachment within such 30 day period, the Inspector or Engineer may remove the encroachment, and the cost of the removal may be recovered from such owner by action in any court of competent jurisdiction.
- 3. Any owner who fails to remove the encroachment within such 30 day period shall be liable to a penalty not less than \$100 not exceeding \$2,000 and, in default of payment thereof, to imprisonment for a period not exceeding 60 days.

9. Encroachment Agreements

Notwithstanding the provision of the bylaw, Council may

- (a) enter into an agreement permitting any person to construct or maintain an encroachment upon such terms and conditions as Council may deem appropriate, and the provisions of the bylaw shall not apply to such encroachments provided that consideration for such agreement shall not be less than the fees payable by a licensee for a similar structure pursuant to subsection 4(2) of this bylaw.
- (b) Waive all or any of the fees otherwise payable pursuant to any provisions of this bylaw in respect of overhead pedways or underground pedestrian tunnels, if in the opinion of Council, the pedways or tunnels provide a public benefit.
- (c) enter into an agreement with a gas distribution company which has been approved by the Nova Scotia Utility and Review board to distribute gas within the town, or communications company licensed by the Canadian Radio-television Telecommunications Commission, permitting the construction or maintenance of an encroachment upon such terms and conditions that Council may deem appropriate. The provisions of this by-law shall not apply to such encroachments, and the fees payable shall be determined by Council.

8. Appointments to CREDA Board

Moved by Councillor Fawthrop, seconded by Councillor Rhindress that Council re-appoint Mr. Daniel Burke to the CREDA Board for a further four year term, and re-appoint Mr. Aubrey Chapman to the CREDA Board for a further three year term, effective June 1, 2005.

MOTION CARRIED

9. Interim Tax Billing

Moved by Deputy Mayor March, seconded by Councillor Baker that Council proceed with an interim tax billing for the 2005/2006 fiscal period, that bills be sent immediately and due May 31, 2005, with interest at 12% per annum to commence on June 1, 2005, and that this interim tax billing be based on one half of last year's commercial and residential rates on the current assessments.

MOTION CARRIED

10. Asphalt Patching Tender

Moved by Councillor Chitty, seconded by Deputy Mayor March that Council accept the low tender from Costin Paving and Contractng Ltd. at their tendered unit prices, with funding to come from the 2005/06 Operating Budget.

MOTION CARRIED

11. May Council Meeting

Moved by Councillor Rhindress, seconded by Councillor Baker that the next public meeting of Council be moved to *Tuesday, May 24, 2005*, since May 23 is the Victoria Day holiday.

MOTION CARRIED

12. Janitorial Services, Town Hall and Library

Moved by Councillor Angel, seconded by Councillor Chitty that Council award the Janitorial Services contract for the Confederation Memorial Building and the Four Fathers Library to G&A Enterprises at their low price of \$28,160 per year with a six month probationary period and a three year contract renewable annually at the Town's option, with funding to come from our building maintenance budgets.

MOTION CARRIED

13. Rescind Redundant Recreational Policies

Moved by Councillor Fawthrop, seconded by Councillor Rhindress that the following Town of Amherst Recreation Policies be rescinded for the reasons indicated:

- 271-02 **Pythian Memorial Field** (*New ownership and agreement; no need for policy*)
- 271-07 **Amherst Parks, Recreation and Leisure Services Department** (*Department no longer exists*)
- 273-02 **Stadium Cooler Rental** (*Cooler sold in Auction, 2004*)
- 273-06 **Smoking Ban – Amherst Stadium** (*New Provincial legislation, Smoke Free Places Act: No smoking in any recreational facility.*)
- 273-08 **Amherst Stadium – Heated Room** (*No longer valid*)

MOTION CARRIED

14. Radio Tower Agreement

Moved by Deputy Mayor March, seconded by Councillor Angel that Council enter into an agreement with MT&T Mobility concerning leasing a portion of the property at the Public Works Garage on McCulley Street for the purpose of installing a 30m high cellular radio tower, and the Town Manager be authorized to sign such lease on behalf of the Town.

MOTION CARRIED

15. Public Water Fountain at Fire Hall

Moved by Councillor Rhindress, seconded by Councillor Fawthrop that Council authorize staff to turn the public water fountain at the Amherst Fire Station back on immediately and keep it on until November 1, 2005, thereby allowing the County time to plan and construct their own free water service.

MOTION CARRIED

16. Stadium Consultation Report and Recommendation

Moved by Councillor Fawthrop, seconded by Councillor Rhindress that Council adopt *renovation* as the preferred plan to upgrade the Amherst Stadium, and that suggestions made for improvements through the interview process be considered under this renovation initiative.

MOTION CARRIED

Moved by Councillor Chitty, seconded by Councillor Fawthrop that staff are directed to move forward to develop lists, plans, priorities and everything needed to get the project moving forward – in due haste.

17. Appoint Chair of CJSMA

Moved by Councillor Angel, seconded by Councillor Baker that Ed Chitty be appointed as Chair of the Cumberland Joint Services Management Authority for a one year term ending March 31, 2006.

MOTION CARRIED

4. ADDITIONAL ITEMS**5. INFORMATION ITEMS**

1. Planning and Development Department Report given by Councillor Baker
2. Corporate Services Department Report given by Deputy Mayor March
3. Operational Services Department Report given by Councillor Fawthrop
4. Police Department Report given by Deputy Mayor March

5. **Fire Department** Report given by Councillor Rhindress
6. **Community & Economic Development Department** Report given by Councillor Fawthrop
7. **Mayor's Report**

6. **ADJOURNMENT**

On motion the meeting adjourned.

APPROVED:

E. Childs, Town Manager

Jerry Hallee, Mayor

**Amherst Town Council
Monday, April 26, 2004
AGENDA**

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2. DELEGATIONS/PETITIONS/PRESENTATIONS
3. CALL TO ORDER
4. BUSINESS ITEMS:
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 3. Approval of Minutes (March 29, 2005 Regular Meeting)
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 5. Heritage De-registration Application – 10 Rupert Street
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 7. First Reading, Encroachment By-Law
 8. Appointment to CREDA Board
 9. Interim Tax Billing
 10. Asphalt Patching Tender
 11. May Council Meeting
 12. Janitorial Services, Town Hall and Library
 13. Rescind Redundant Recreational Policies
 14. Radio Tower Agreement
 15. Public Water Fountain at the Fire Hall
 16. Stadium Consultation Report and Recommendation
 17. Appoint Chair of CJSMA
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