

Rural Municipality of Eastern Kings

Special Council Meeting Minutes Thursday, October 22, 2020 at 6:15 p.m.

RMEK Council Vote on Special Development Permit Application of the PEI Energy Corporation 30MW Wind Farm Expansion in Eastern Kings.

In attendance: Deputy Mayor Danelle Elliott, Councillors: Arthur Baker, David Stewart, Anne McPhee, Bradley MacDonald and Chief Administrative Officer (CAO) Sonya Martin.

1. Call to Order

The meeting was called to order and chaired by Deputy Mayor Danelle Elliott at 6:20 p.m.

2. Conflicts of Interest Declaration – Individual Councillors

Chair Danelle Elliott asked if there were any conflicts of interests from the Councillors at the table and hearing none the meeting continued. Deputy Mayor Elliott quoted the MGA (*Municipal Government Act*) 96.8(b) Right to be heard; in reference to the attendance in the audience of Mayor Grace Cameron and Councillor Bernadette McInnis in regards to their conflict of interest on the matter to be discussed.

3. Agenda Approval

Chair Danelle Elliott asked if there were any additions or amendments to the agenda. Hearing none, it was moved by Councillor Anne McPhee and seconded by Councillor Bradley MacDonald that the agenda be adopted as presented. All were in favour and the motion was carried.

4. Business

Chair Danelle Elliott opened the discussion with an introduction and timeline. See Appendix "B" Transcript.

Chair Danelle Elliott then requested a motion to bring the resolution to the table for discussion. It was moved by Councillor Arthur Baker and seconded by Councillor David Stewart to open the discussion on the wind turbine special development permit application. Chair Danelle Elliott then asked the CAO, Sonya Martin to read the Resolution."

See Appendix "A" Resolution

After the reading of the Resolution Chair Danelle Elliott asked the Councillors to give some insight or reasons as to why they will vote either "for" or "against" the Special Development Permit Application.

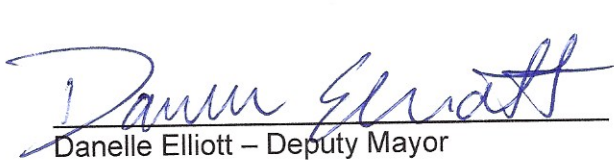
After the round table input Chair Danelle Elliott asked for the vote. Councillor Arthur Baker responded with a YES vote; Councillors Anne McPhee, Bradley MacDonald, David Stewart responded with NO votes. Chair Elliott noted that she heard one yes, and three nos. The motion was defeated.

See Appendix "B" Transcript of Meeting

Rural Municipality of Eastern Kings

5. Adjournment – At 6:44 p.m., Chair Danelle Elliott requested a motion for adjournment. It was moved by Councillor Bradley MacDonald and seconded by Councillor David Stewart, all were in favour and the meeting was adjourned.

Signed in accordance
Municipal Government Act S.116(4)

 Nov 17, 2020
Danelle Elliott – Deputy Mayor Date

 Nov 13, 2020
Sonya Martin – Chief Administrative Officer Date

Rural Municipality of Eastern Kings

Appendix "A"

Rural Municipality of Eastern Kings

85 Munns Rd., Rte 301, Kingsboro PE C0A 2B0

Special Council Meeting Resolution– Thursday, October 22 – 2020 | 6:15 p.m.

WHEREAS the Council of the Rural Municipality of Eastern Kings ("Council") received a special development permit application from the PEI Energy Corporation ("Corporation") on November 1, 2019;

AND WHEREAS the Corporation's special development permit application seeks approval from the Council, pursuant to Section 5.33 of the Rural Municipality of Eastern Kings' Subdivision and Development Control Bylaw ("Bylaw"), to develop seven (7) large scale wind turbines in the Rural Municipality of Eastern Kings ("Municipality");

AND WHEREAS on July 31, 2019 and December 4, 2019, the Council held a public meeting to solicit input from residents of the Municipality in relation to the special development permit application, pursuant to Sections 4.5 and 13.2. 4. of the Bylaw;

AND WHEREAS on January 15, 2020, the Chief Administrative Officer of the Municipality sent a letter to Heather MacLeod, acting Chief Executive Officer of the Corporation, requesting further information from the Corporation prior to the special development permit application's review by Council;

AND WHEREAS the Corporation provided the further information requested to the Municipality on January 29, 2020;

AND WHEREAS the Council has reviewed the Corporation's special development permit application, together with the Municipality's Official Plan and Bylaw, and has considered the objections and representations which were received at the public meeting held on December 4, 2019 in relation to the special development permit application;

AND WHEREAS the Corporation has agreed to indemnify the Council in respect of the costs incurred in the preparation of a development agreement, in the processing of the special development permit application, and in defending and/or participating in any proceedings with the Island Regulatory and Appeals Commission, the Supreme Court of Prince Edward Island, and the Prince Edward Island Court of Appeal, and the Corporation has agreed to sign an indemnity agreement ("Indemnity Agreement") to that effect forthwith should Council approve the Corporation's special development permit application.

Rural Municipality of Eastern Kings

NOW THEREFORE BE IT RESOLVED:

That the Council approve the Corporation's application for a special development permit subject to the following conditions:

1. That the Corporation obtain written approval from the Minister of Environment, Water and Climate Change, prior to proceeding with the development set out in the special development permit application;
2. That the Corporation provide to the Council the wind turbine manufacturer's specifications and professional engineer's design and approval of the wind turbine foundations, prior to proceeding with the development set out in the special development permit application;
3. That the Corporation execute an Indemnity Agreement forthwith upon the passing of this Resolution;
4. That the Corporation enter into a development agreement with the Municipality in relation to the development set out in special development permit application ("Development Agreement"), imposing conditions on the Corporation's development which are related to and consistent with the Official Plan and Bylaw, within fourteen (14) days of the date of this Resolution;
5. That the Mayor and Chief Administrative Officer; as per Section 156 of *the Municipal Government Act* (MGA); the Mayor and the Chief Administrative Officer sign all documents on behalf of the Municipality; be and hereby are authorized to sign the Development Agreement, the Indemnity Agreement and the Community Compensation Agreement on behalf of the Council; and
6. That the Corporation not be permitted to begin any development on the special development permit application until all of the above conditions have been met.

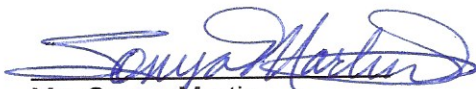
Moved by Councillor: Arthur Baker

Seconded by Councillor: David Stewart

All in favor: Councillor Arthur Baker

Opposed: Councillors Anne McPhee, Bradley MacDonald, and David Stewart.

MOTION FAILED



Ms. Sonya Martin
CAO - RMEK

Rural Municipality of Eastern Kings

Appendix "B"

"Transcript of Meeting"

Transcript of The Rural Municipality of Eastern Kings Council Meeting Thursday, October 22, 2020
4123-6008-1704 v1

Speaker

Deputy Mayor Danielle Elliott Ok, it's 6:20 so I would like to call this meeting to order.
Um, First of all, we have our conflict of interest declaration, Councillors here at the table, do any of you
have a conflict of interest to declare at this time?

David Stewart No

Man's voice (?) No (Arthur Baker)

Anne McPhee No

Bradley MacDonald No

Danelle Elliott Thank you. I would like to note that Councillor Bernadette McInnis and Mayor
Grace Cameron have already recused themselves on this matter and as for the MGA, Section 96.8 (b)
the conflict of interest Bylaw says that they are asked to leave the seat at the council table but they are
not required to leave the room, so they are allowed to be here.

Moving onto our agenda, please just have a look over the agenda. If you have any amendments or
changes you would like to see, please let me know.

David Stewart Good evening, while we overlook the agenda, I would just like to point out that
everyone has their opinion tonight on one side of the issue or the other but verbal abuse or harassment
of Councillors or Council staff will not be tolerated at all. Thank you.

Danelle Elliott Thank you David. Any changes to the agenda?

David Stewart No

Bradley MacDonald No

Arthur Baker No

Anne McPhee I move it be adopted as circulated

Danelle Elliott Thank you Anne. Do I have a seconder for that motion?

Bradley MacDonald I'll second that.

Danelle Elliott Thank you Brad.

Ok, so getting to the main point of this meeting. I'd like to provide a little bit of a timeline and
introduction to this subject. So, this has been a process and I want to explain how we got to where we
are today.

On January 29, 2019, the PEI Energy Corporation made a presentation at our meeting to introduce the
topic of expanding the existing wind farm. On May 14, 2019, the PEI Energy Corporation made a further
detailed presentation to Council at our monthly meeting showing

Rural Municipality of Eastern Kings

– 2 – 4123-6008-1704 v1

different options for an expansion including variances on our wind turbine setbacks found in Bylaw 5.33. On May 21, 2019, a special meeting was held to discuss the Energy Corporation's presentation and the process for a special development permit. The Energy Corporation was here to answer questions from both the public and the Council.

In June of 2019, a preliminary application was submitted by the Energy Corporation with options including variances to our setbacks as found in our Bylaws for Wind Turbines 5.33.

On July 31, 2019, a special public meeting was held in accordance with the special permit review process, and that is Section 4.5 and 13.2.4 of our Bylaw. Members of the public presented their feedback or submitted written feedback on the preliminary application. The Council considered this feedback, read it and listened.

On August 14, 2019, a resolution was passed at our monthly meeting to not allow variances on the setbacks as requested in the preliminary application. Meaning that an application would need to conform to the Bylaws as laid out in Section 5.33. No variances would be granted.

On November 1, 2019, we received a special development permit application from the PEI Energy Corporation for a 30 Mega Watt wind farm expansion. Specifically seeking to construct seven additional wind turbines.

On December 4, 2019, a special public meeting was held to gather input from the public as per our special permit review process. Many of you in the room today were in attendance and spoke.

On January 29, 2020, we received supplementary information for the application with additional details on distances, the foundations of the wind turbines and responses from government agencies.

On September 2, 2020, the PEI Department of Environment, Water and Climate Change approved the PEI Energy Corporation's project with 17 conditions attached.

October 13, 2020 was our most recent regular Council meeting and at that time we set the date for today's meeting.

I would like to remind the community that our Bylaws do allow for wind turbines within Eastern Kings in Section 5.33. We have a wind mill policy within our Official Plan, Section 3.16.1. Council has followed a special permit process found in our Bylaws, Section 4.5 and Section 13.2.4. We have taken into consideration our Official Plan, our Bylaws and what we feel is in the best interest of the community and at times we've sought legal advice when needed. We acknowledge that if we allow the expansion decided this evening, that there will be economic benefits to the community of Eastern Kings. However, the amount of

– 3 – 4123-6008-1704 v1

funds has not yet been established and that will be negotiated if this permit is approved. That is an introduction to this evening's meeting.

Rural Municipality of Eastern Kings

Council, do you have any input or discussion on our process or that timeline that you would like to add?

Danelle Elliott No, hearing none, we will move on to the motion. Sonya could you please read the resolution?

Sonya Martin Just let me know if you can hear my in the back. Ok, ok, this resolution dated October 22, 2020:

WHEREAS the Council of the Rural Municipality of Eastern Kings, which will be known as the "Council" going forward, received a special development permit application from the PEI Energy Corporation, which will be known as the "Corporation" going forward, on November 1, 2019;

AND WHEREAS the Corporation's special development permit application seeks approval from the Council, pursuant to Section 5.33 of the Rural Municipality of Eastern Kings' Subdivision and Development Control Bylaw, which will be known as the "Bylaw" going forward, to develop seven (7) large scale wind turbines in the Rural Municipality of Eastern Kings, which will be known as the "Municipality" going forward;

AND WHEREAS on July 31, 2019 and December 4, 2019, the Council held a public meeting to solicit input from residents of the Municipality in relation to the special development permit application, pursuant to Sections 4.5 and 13.2.4. of the Bylaw;

AND WHEREAS on January 15, 2020, the Chief Administrative Officer of the Municipality sent a letter to Heather MacLeod, acting Chief Executive Officer of the Corporation, requesting further information from the Corporation prior to the special development permit application's review by Council;

AND WHEREAS the Corporation provided the further information requested to the Municipality on January 29, 2020;

AND WHEREAS the Council has reviewed the Corporation's special development permit application, together with the Municipality's Official Plan and Bylaw, and has considered the objections and representations which were received at the public meeting held on December 4, 2019 in relation to a special development permit application;

AND WHEREAS the Corporation has agreed to indemnify the Council in respect of the costs incurred in the preparation of a development agreement, in the processing of the special development permit application, and in defending and/or participating in any proceedings with the Island Regulatory and Appeals Commission, the Supreme Court of Prince Edward Island, and the Prince Edward Island Court of Appeal, and the Corporation has agreed to sign an indemnity

– 4 – 4123-6008-1704 v1

agreement, which going forward will be known as the "Indemnity Agreement", to that effect forthwith should Council approve the Corporation's special development permit application;

NOW THEREFORE BE IT RESOLVED:

That the Council approve the Corporation's application for a special development permit subject to the following conditions:

Rural Municipality of Eastern Kings

1. That the Corporation obtain written approval from the Minister of Environment, Water and Climate Change, prior to proceeding with the development set out in the special development permit application;
2. That the Corporation provide to the Council the wind turbine manufacturer's specifications and professional engineer's design and approval of the wind turbine foundations, prior to proceeding with the development set out in the special developments permit application;
3. That the Corporation execute an Indemnity Agreement forthwith upon the passing of this Resolution;
4. That the Corporation enter into a development agreement with the Municipality in relation to the development set out in special development permit application ("the Development Agreement"), imposing conditions on the Corporation's development which are related to and consistent with the Official Plan and Bylaw, within fourteen (14) days of the date of this Resolution;
5. That the Mayor and Chief Administrative Officer; as per Section 156 of the Municipal Government Act (MGA); the Mayor and the Chief Administrative Officer sign all documents on behalf of the Municipality; be and hereby are authorized to sign the Development Agreement, the Indemnity Agreement and the Community Compensation Agreement on behalf of the Council; and
6. That the Corporation not be permitted to begin any development on the special development permit application until all of the above conditions have been met.

Danelle Elliott Thank you Sonya. Could I please have someone move this resolution?

Arthur Baker I move to the table this resolution.

Danelle Elliott Thank you Arthur. Could I have someone second this resolution to move to the table?

David Stewart I'll second it.

Danelle Elliott Thank you David.

– 5 – 4123-6008-1704 v1

At this point we are going to have some discussion amongst the Councillors as to why they feel they will either approve or deny this permit. And then I will ask everyone to please state whether they are in support or not in favor of the resolution.

Um, so I will start, and I'd ask everybody to please just give some insight or reasons as to why you plan to vote either for or against. This evening I will only be voting tonight if there is a tied vote. I've considered our Bylaws and our Official Plan and the community feedback that we've been given. Our job as Council is to uphold our Bylaws and follow the visions set forth in our Official Plan. Decisions should be made with these factors in mind as well as what is best for our community of Eastern Kings. Um, there's been an overwhelming amount of feedback on the project, most of it negative, and this has put us as Council in a tough position, it's a difficult decision, it's not easy. I've weighed the pros and cons and

Rural Municipality of Eastern Kings

I feel that the concerns of the community may be too much in comparison to the opportunity to the community. None of us take this decision lightly, and in fact, I think we'd all rather be sitting in your seats, rather than our seats tonight. Um, those are what I'm considering in my vote, um, I'd ask if everybody else would just contribute some thought to why they are going to make the decision that they're making this evening. And maybe Arthur, I could get you to start?

Arthur Baker Why do I have to start?

Danelle Elliott 'Cause your name starts with "A", you're over there...

Arthur Baker Well I guess as your elected councillor, I've studied all the reports and had a lot of feedback from various groups and individuals and taken all into consideration and I feel that it's time that we make a decision one way or the other.

Danelle Elliott Anne?

Anne McPhee During the process...(I am not sure if this mic is working, can you hear me...), during this process, as everyone has said there's been a lot of comments for and against, um, I think on the positive side perhaps the greatest benefit to the community would be financial. There's been some discussion of employment opportunities but I am not entirely sure that there are going to be a lot of jobs going to be created for local citizens. Ah, it's also been suggested this might be a tourist attraction, that's certainly debatable. I think the biggest benefit to the community would be financial. On the other side of the ledger, um, it's the environmental part of it, and in our Official Plan at 3.4.5, there are environmental matters. And it's the community to protect and enhance the ecological integrity of the community. To promote watershed management principles in land use planning; to identify, protect and enhance important and significant environmental features; to protect the quality and supply of ground water and surface water resources and to ensure that the environmental impacts of development do not compromise that ability of future generations to meet their needs and

– 6 – 4123-6008-1704 v1

enjoy the quality of life that we enjoy today. So, that's a little summary of both sides of the argument.

Danelle Elliott Thank you Anne.

Brad would you like to speak, please?

Bradley MacDonald Thanks Danelle. Uh, as was mentioned before we spent the last two years reading and dissecting the Bylaws and Official Plan. It was careful reading of these documents that lead to my decision. I was actually a member of Council when these Bylaws and Official Plan was passed and these same set of Plans received an award in 2015 for Environmental Awareness. Our official Bylaw, our Official Plan and Bylaw, sorry, states that it is Council's aim to address wind development appropriate in location, size and scale to the Municipality. I don't believe that, that this has been met by this proposal and for this reason, I think it is the best interest of our community not to be in favor of this resolution. And as I have stated before, there's, this Council ah, spent the last two years and especially the last couple months had a tough decision and that's where I stand in the way I shall vote.

Danelle Elliott Thank you Brad.

Rural Municipality of Eastern Kings

David, do you have some thoughts?

David Stewart As Anne referenced earlier, excerpts out of the Official Plan for our community, to protect and enhance the ecological integrity of the community, to ensure the environmental impacts of development and not compromise that ability of future generations to meet their needs and enjoy their quality of life that we enjoy today. From the economic section, to protect our major attractions and to promote innovative economic development. The proposal tonight, the economic aspect of it is certainly to be considered. As far as affecting major attractions, we have some of the... we have a world class area up here, when it comes to "birding" as they say. I believe that's one of our natural major attractions that needs to be considered, as well as the economic benefits. Also, the old growth forest and of trees and such, is in part of the proposed area, is also something that, I don't believe, I don't believe planting a new forest in another area is going to make up for the loss, both part, even part or all of this area that's covered in the proposed development. There's a lot to consider for sure, and as said, this has been an ongoing process for the last couple years now, that latest round, and it's certainly not a decision that any of us make lightly. These are some of the main points that I wanted to make.

Danelle Elliott Thank you David. And thank you everyone for contributing your thoughts and reasons. Is there anything else you'd like to say at this time or any thoughts about what other Councillors have said?

David Stewart I don't have anything further.

Danelle Elliott Okay, hearing none, I would ask that you indicate whether you are in favor or not in favor of this Resolution and this Permit by saying either

– 7 – 4123-6008-1704 v1

yes or no and we will go by order of last name in alphabetical order. So, Arthur that puts you first please.

Arthur Baker Yes, I'm in support.

Danelle Elliott Thank you Arthur.

Bradley, are you in favor or not in favor, please indicate by saying yes or no?

Bradley MacDonald Uh, no, I am not in favor.

Danelle Elliott Anne, could you indicate whether you are in favor or not in favor?

Anne McPhee No, I am not in favor.

Danelle Elliott And David, could you please indicate whether you are in favor or not in favor.

David Stewart No, not in favor.

Danelle Elliott So, I've heard one yes, and three nos.

Rural Municipality of Eastern Kings

The motion has been defeated.

Um, thank you Councillors for your very careful consideration, your research, and the incredible amount of time and thought you have put into this.

Are there any further thoughts before we adjourn this meeting, or anything anyone else would like to say?

Anne McPhee I would like to mention that I am not anti-wind turbine. And I can't speak for everyone but I have a feeling that most share that opinion. I'm just not in favor of this proposal in that location.

Danelle Elliott Thank you Anne. Good point. Anybody else have anything to say before we wrap up our meeting?

David Stewart I would agree with Anne's statement as well, green energy is required going forward and I'm not opposed to wind turbine development if it's placed properly.

Danelle Elliott Thank you David. Anyone else?

Bradley MacDonald I too Danelle would agree with that and on behalf of Councillors I would like to thank you and Sonya for your hard work at this as well and thanks again.

David Stewart Agreed.

– 8 – 4123-6008-1704 v1

Danelle Elliott Okay, now that that business is completed, I would ask for a motion to adjourn please?

Bradley MacDonald I'll make that motion to adjourn.

Danelle Elliott Thank you and can I have a seconder?

David Stewart I'll second it.

Danelle Elliott Thank you. All in favor? All I....

Danelle Elliott Our meeting is adjourned. It is (what time?) 6:44 pm

Danelle Elliott Thank you everyone for coming and have a safe trip home.