
REPORT TO COMMON COUNCIL

M&C #2015-205

October 6, 2015

His Worship Mayor Mel Norton
And Members of Common Council



Your Worship and Members of Council,

**SUBJECT: NEB WORKING GROUP UPDATE – PREPARATION OF INFORMATION REQUESTS (IRS)
FOR THE ENERGY EAST PROJECT**

PURPOSE

The purpose of this report is to update Common Council with respect to the preparation of Information Requests (IRs) to be provided to TransCanada in anticipation of the National Energy Board (NEB)'s forthcoming Energy East regulatory process.

BACKGROUND

The City of Saint John's NEB Working Group, with support from Mr. Gaetan Caron, met with Common Council on September 28th, 2015 to discuss:

- The NEB regulatory process (overview and what to expect);
- Opportunities for the City to effectively prepare for the NEB's Energy East regulatory hearings; and
- Council expectations and next steps.

Additional preparatory work was completed during Mr. Caron's September 28-30th visit to Saint John, including workshops and meetings focused specifically on economic development, land use planning and public safety issues. These discussions provide an important foundation for the City's active participation as a potential Intervenor in the forthcoming Energy East regulatory hearing process.

In addition, the City, through Common Council, will need to formalize the "conditions" by which our community can support the Energy East Project, recognizing Council's previous resolution (see Attachment A) to work with both TransCanada and the regulator (NEB) to "*ensure that the pipeline is safely constructed in such a way to protect the environment.*"

NEXT STEPS

The City's NEB Working Group is currently preparing a series of Information Requests (IRs) for TransCanada, the lead Energy East project proponent on behalf of Energy East Pipeline Ltd. The IRs are focused on five areas of critical importance to the City and Saint John and its residents: economic development opportunities, environmental impacts, social impacts, public safety requirements and land use planning considerations. The IRs also reflect the NEB's original list of issues in relation to the Energy East Project (see Attachment B), as well as the City of Saint John's application for formal Intervenor status (see Attachment C). Draft IRs will be provided to Council for review and additional input before they are formally submitted to the Project proponents and the NEB. The generation of IR's and the subsequent analysis and assessment of responses elicited will play an important role in assisting each member of Council's discharging his or her statutory fiduciary duties in the context of "conditions" alluded to earlier.

Preparation by the City of Saint John for the forthcoming NEB Energy East hearing process will continue to involve a significant on-going internal resource commitment and a coordinated planning and engagement approach by the entire NEB Working Group and City Manager.

STRATEGIC COMMUNICATIONS APPROACH

Given the process that is currently underway, it is recommended that all formal City communications with the Proponents flow through the City Manager's Office, with a focus on the following three key messages:

- The Energy East Project has the potential to provide significant local social and economic benefits, but it is also important that our community fully understand the project's anticipated environmental, public safety and land use impacts.
- The City has established a Working Group to prepare for the forthcoming NEB regulatory process.
- The Working Group is preparing a list of key Information Requests for the project's lead proponent – TransCanada. The Information Requests will allow City administration and Council to make informed decisions with respect to the conditions by which they can support the project.

RECOMMENDATION

It is recommended that Common Council:

- 1. Receive and file this report; and**
- 2. Continue to support the NEB Working Group's efforts to advance a strategic communications approach for the Energy East Project.**

ATTACHMENTS

Attachment A: TransCanada Energy East Pipeline Project – NEB List of Issues

Attachment B: City of Saint John Application to the National Energy Board – Energy East Project Intervenor Status (As Approved By Saint John Common Council)

Attachment C: Common Council’s Energy East Resolution

Respectfully submitted,

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Attachment A: Common Council's Energy East Resolution

On 24 November 2014, Saint John Common Council passed the following resolution:

***WHEREAS** Council of the City of Saint John consider the TransCanada Energy East Pipeline project to be of the utmost importance to the Saint John Area by providing the area with the possibilities of economic and community development;*

***WHEREAS** Council of the City of Saint John feel that it is in the best interest of the citizens of Saint John to endorse said project;*

***WHEREAS** Safety and the environment are of utmost importance to Council and the City of Saint John;*

***BE IT RESOLVED** that the City of Saint John support the TransCanada Energy East Pipeline project;*

***AND BE IT FURTHER RESOLVED** that the City of Saint John work with TransCanada and the regulator to ensure that the pipeline is safely constructed in such a way as to protect the environment.*

Attachment B: TransCanada Energy East Pipeline Project – NEB List of Issues

The National Energy Board (Board) has identified the following issues for its consideration in any upcoming proceeding with respect to the Energy East Pipeline Ltd (EEPL) proposed Energy East Project (Project).

1. The need for the Project.
2. The economic feasibility of the Project.
3. The commercial, economic, supply and market impacts of the Project.
4. The appropriateness of the tolling methodology, and the method of toll and tariff regulation, including whether Energy East should be regulated as a Group 1 or Group 2 company.
5. The commercial, economic, supply and market impacts of the Asset Transfer, including the need, economic feasibility and commercial impacts of the Eastern Mainline Project. This includes the appropriateness of the proposed capacity of the Eastern Mainline of 575 TJ/d.
6. Transfer of Assets:
 1. The tests to be used to assess the sale and purchase of the assets.
 2. The assets to be transferred and any terms to be included.
 3. The value which should be assigned to the facilities for the purposes of:
 1. removal from the rate base of the TransCanada PipeLines Limited's natural gas mainline; and
 2. inclusion in Energy East's toll calculation.
7. The potential environmental and socio-economic effects of the Project, including the environmental effects of accidents or malfunctions that may occur in connection with the project, and any cumulative effects that are likely to result from the Project, as considered under the *Canadian Environmental Assessment Act, 2012*.
8. The potential environmental and socio-economic effects of increased marine shipping.
9. The appropriateness of the general route and land requirements for the Project.
10. The engineering design and integrity of the Project.
11. Potential impacts of the Project on Aboriginal interests.
12. Potential impacts of the Project on directly affected landowners and their land use.
13. Safety and security associated with the construction and operation of the Project, including emergency response planning and third-party damage prevention.
14. Contingency planning for spills, accidents, or malfunctions during construction and operations of the Project.
15. Financial implications of contingency planning for spills, accidents, or malfunctions during construction and operations of the Project.
16. The terms and conditions to be included in any recommendation or approval the Board may issue for the Project.

The Board will not consider matters related to upstream activities associated with the development of oil sands, or the downstream and end use of the oil transported by the Project.

Attachment C: City of Saint John Application to the National Energy Board – Energy East Project Intervenor Status (As Approved By Common Council)

1. As per a resolution adopted by Saint John Council on November 24 2014, the City supports the proposed Energy East project being developed in a sustainable and responsible manner. Construction of the tank and marine terminals is estimated by the project proponents to have a capital cost of \$805 million with an additional \$4.6 million spent by the approximately 470 construction workers. Once operational, 50 person-years of employment, \$38 million in expenditures, and \$5 million in municipal property taxes is anticipated annually. This project provides a key piece of infrastructure in the further development of the Saint John Energy Hub.
2. The City is applying via the AP process as a Group (impacted Municipality) to be an Intervener at any hearing(s) before the National Energy Board (NEB), with respect to the Energy East Pipeline Ltd. proposed Energy East Project, and is presently considering the appointment of an Authorized Representative.
3. The City considers itself to be a Directly Affected Person with respect to Issues no. 7,8,9,12,13,14,15 & 16 on the official NEB List of Issues.
4. The City has an interest in ensuring the project maximizes the social, economic, and overall future community benefits. For example, the City seeks to ensure local industrial training and skill development programs are directly supported and to examine opportunities to create a legacy by accommodating temporary workers in existing accommodations in the community during the construction phases.
5. The New Brunswick Marine Terminal Complex is located within the City's boundaries. The Tank Terminal component is proposed on land zoned Heavy Industrial and Rural. The City is the Land Use Approving Authority and would normally require a rezoning of Rural lands to permit construction of a significant portion of the Tank Farm.
6. The City's Municipal Plan calls for a risk assessment to be completed for new heavy industrial facilities. There are approximately 181 residences located within 1.5km of the proposed Tank Terminal. Table A-3 in the NEB Filing Manual calls for detailed socio-economic information for Human Occupancy where a project is not proposed on a previously-developed facility site or on land currently zoned for industrial purposes. Demonstrating that adequate separation distances exist and/or appropriate mitigative measures can be adopted to accommodate the proposal, and protect public safety and the human and natural environment, are key considerations for this community.
7. The City supports an integrated and comprehensive approach to the development of the Energy East Emergency Response Plan (ERP) which would ensure cumulative risk in the community, from the intensification of heavy industrial uses, is addressed. Understanding the existing and future response capability needs of our public safety services is fundamental to ensuring the ERP identifies and appropriately addresses all future service gaps, such as training and equipment. This approach is essential to ensure the emergency services can plan, prepare, and respond in order to protect public safety.
8. The City intends to engage the project proponents to enable ongoing and cooperative dialogue and ensure the City's long term interests are protected.