April 30, 2021

Mayor and Councillors
Prince Edward County
Shire Hall, 332 Main Street,
Picton ON, K0K 2T0

Attention: County Clerk, copy to M. Wallace, CAO

Re: Quinte Isle Campark
Council Meeting April 14, 2021
File No Official Plan and Zoning File Nos: OPA2-2018 & Z25-18

We write respectfully here to the Mayor and all Councillors to address matters of procedural fairness and to express grave concerns about the planning decision-process on April 14, 2021 at the statutory public meeting of Council to address "Item 8.1: Quinte Isle Campark", a proposed amendment to the Official Plan and Zoning File Nos: OPA2-2018 & Z25-18 Fourward Holdings Inc. & Quinte Isle Campark Inc, 558 Welbanks Road, Ward of Athol.

Our comments are submitted with the utmost respect for and in the context of the County's statutory requirement to hold this **public meeting** and the County's guarantee to residents that, "[t]he County is committed to openness and transparency in its decision-making and service delivery."[1]

The main request in this letter to the Mayor and Council is that the PEC Procedural By-law be amended to prevent a repeat of the transgressions of the public trust in similar meetings in the future. The **failure of the April 14, 2021 public meeting** can be summarized in the following points:

First, residents were not afforded a safe or welcoming environment to make good-faith presentations to Council. For example, all members of the public who wished to speak must be registered in advance, and those making 10-minute deputations were required to submit their materials in advance of the meeting, and held fairly strictly to their time limit, including Ms. Ruth Ferguson Aulthouse (RFA Planning), consultant for the Applicant, yet the same was not true for the Applicant's paid legal counsel or other consultants. Specifically, legal counsel for the Quinte Isle Campark application, Mr. Patrick Harrington was **not** on the agenda: he was neither registered nor did he submit his presentation or even a summary of comments in advance. Notably, Mr. Harrington did not address the legal aspects of his client's application, he did not prepare or submit a presentation prior to the meeting, yet he spent over 30 minutes making argument and refutations of the 26 presentations made by community members and the public. It is both concerning and (in our lawyer's expert opinion), inconsistent with best practice in

[1] Accountability & Transparency - Prince Edward County Municipal Services (thecounty.ca)

most municipalities in Ontario to allow the lawyer for a developer to address Council at length, without time limit or advance materials, and particularly about areas outside of their expertise.

A point of order directing Mr. Harrington to only address items presented by QIC's planning consultant occurred fully 30 minutes after he began, just one item before he was finished and yet he was still permitted to continue. This point of order was only initiated after Debra Marshall and FOSS sent the Clerk emails asking him to call a point of order—a call that was also made by several others in the online chat of the public broadcast of the meeting on YouTube. In the opinion of many who viewed the April 14, 2021 Council meeting, ***Council failed to provide a fair and transparent public meeting***.

Allowing the proponent, their lawyer or their consultants to speak without time limit and no agenda item and materials in advance allows a significantly unfair advantage to developers. Worse yet, it undermines the public's confidence in the planning process, sending a clear message that their time and resources were wasted as well as ignored.

There are three primary reasons why the Proponent's presentation was problematic:

1. the Applicants have had 4 years to meet with Staff and submit materials to make their case for their application, all of which are already public documents, and attached to the agenda. At this one (and only) statutory public meeting immediately prior to the planning decision, it is the public's opportunity to speak to the application. If consultants are allowed to speak at all, it should only be to answer Council's questions before the decision is made by Council;
2. if consultants are allowed to speak, they must follow the same rules as the public, with advance notice for posted materials and a specific agenda item—with respect, we remind the Mayor and Council that this is a **public** statutory meeting and the key opportunity afforded the public to comment before Council on the application; and,
3. the developer's lawyer spoke without time limit and was not listed on the agenda; worse yet, he used a profoundly disrespectful and dismissive courtroom style of rebuttal aimed at (and naming) specific public deputants as though they were witnesses, rather than good-faith participants in the public democratic planning process. Deputants in every municipality with which we are familiar are respectful and address their comments to Council, and do not address residents personally. ***The approach used by Mr. Harrington was decidedly unparliamentary and he should have been immediately stopped.***

Second, Councillors did not ask any questions[2] of the 26 members of the public who spoke – all of whom notably spoke against the application and yet there was almost NO discussion of the application. Rather, several Councillors simply read statements, which were clearly prepared in advance of the meeting, which demonstrated their decision had already been made in advance. This was a collective slap in the face to the community

[2] The single exception was Councillor MacNaughton who asked a simple question of clarification of the location of water-taking by farmers following the final speaker, Mr. Rankin.

and to all those making deputations and comments, as they were effectively dismissed before the meeting had even started.

We bring to the Mayor's and Council's attention that the Supreme Court of Canada addressed the test for apprehension of bias in the case of *Save Richmond Farmland Society v. Richmond (Township)*. The Court noted:

> On this standard, persons who stand to be affected by the decision will be entitled to object, and the courts to intervene, if council members by their words or actions raise a reasonable apprehension that they are entering the process with a closed mind.[3]

For the reasons given in this letter, **this apprehension of bias now exists in the minds of many who attended or watched the April 14, 2021 meeting**.

Third, Councillor Hirsch departed from decorum normally afforded residents during public deputations. Councillor Hirsch categorized the opposition as "a well-funded campaign against the project" further stating Council's decision could not be based on the public's "opinions, emotion, exaggeration and Nimbyism". His comments suggest that he had neither read nor considered the expert evidence provided by FOSS and which provided detailed, credible evidence of cultural and natural heritage impacts of the application. This accusation was patently aimed at FOSS and encumbered all other residents who made presentations in good faith to save farmland and protect the environment, and his comments should not have been allowed.

Councillor Hirsch's disparaging and patronising dismissal of members of the public as "NIMBYs" or Not-in-my-backyard agitators was disrespectful. He called the opposition, including the hiring of professional experts to defend this important landscape, "well-funded" without offering proof and without engaging in the substance of that evidence. If an engaged and organized public opposition to this development is concerning to Councillor Hirsh, one must question why he did not also reference the funding of the Toronto-based Bay Street law firm and other experts who prepared the QIC application, which is far better funded than a not-for-profit residents' group, and which had years of access to municipal staff. The accusations levelled by Councillor Hirsch at members of the public and engaged citizens who are organised and articulate reveals a deep disrespect for citizens and smacks of hypocrisy. **Councillor Hirsch should be censured for this disrespectful behaviour in Council and issue a public apology.**

Fourth, the Staff report to Council overlooked several pieces of important evidence that should have been included in the project evaluation and assessed fairly in the recommendation. Most egregiously, the Staff report did not present <u>any financial analysis</u> or information justifying how this application was in the public interest. Remarks made by the Mayor and Councillors referred to claims of a major cash injection into the local economy without any proof, let alone any expert study or peer review. No mention was made, nor questions asked of development costs or infrastructure costs to the County – costs that will inevitably result from the additional

[3] *Save Richmond Farmland Society v. Richmond (Township)*, [1990] 3 S.C.R. 1213 at para 8.

population burden that the QIC project will bring to the South Shore specifically and to the Municipality more broadly.

Further to the point above, the Staff report did not include any reference to the outside expert peer review of cultural heritage evidence provided by FOSS and nor did the Staff have the application reviewed by PEHAC, its own statutory committee on cultural heritage. Planning staff have no in-house cultural heritage planning expertise and therefore, this was a serious omission of important evidence—evidence that was provided to Staff but ignored in the Staff report and thus not considered by Council. It is respectfully submitted that, when no substantive questions were asked of the public who called for and referred to such evidence at the meeting, **the Mayor and Council crossed the line from being adjudicators and decision-makers to cheerleaders for the project**.

Fifth, Councillor Roberts made disparaging and unparliamentary remarks about the public opposition to the application. He suggested that FOSS members and supporters (presumably as nearby residents and neighbours of the development) have a "conflict of interest", implying they were not to be taken seriously. Yet it is entirely acceptable and expected that residents are *precisely* those whose interests are at stake in this application, and that is why they are referred to as "stakeholders". In fact, allowing the public to express their interests and concerns in a democratic forum is the very basis for any public meeting. By contrast, none of the Councillors declared conflicts of interest, and yet several have known conflicts with the QIC application (if not pecuniary, then certainly in their community and board interests).

Sixth, Council erred by claiming that approving application was <u>in the public interest</u> because it will allow low- to middle-income people to "have access to Lake Ontario". The park model trailers planned for QIC sell for over $200,000 each, yet low- to middle-income families can barely afford to own a house in PEC let alone buy a park model trailer. Further, the QIC development is a private, gated community so it does not provide or allow access for the 20,000 people who live in Prince Edward County, nor does it provide access to the wider public unless they own an RV or can afford the $1,200+ for a week-long rental. In sum, this rationale for supporting the project is flawed and specious.

Finally, two summary points **reflect serious concerns about the legitimacy and efficacy of public engagement in PECs municipal planning process**. First, there was a packaged agenda with 29 presenters registered (26 of whom spoke) from across the County. Not one person (other than the consultants who were hired and paid by QIC) spoke in favour of the development. This groundswell of opposition is also reflected in the public consultation matrix provided by Staff as an attachment to the meeting agenda, in which 143 letters and emails were received, but of which **<u>only 2</u>** were deemed as "supportive" of the application. Given this clear opposition (and concomitant lack of support) from across the County, including residents well outside the "neighbourhood" of the development, Council was duty-bound to question the Staff report. It also showed a deeply concerning disregard for the credible studies and expert evidence provided to Staff and Council by FOSS – evidence which challenged many of the assertions made by QIC's paid consultants. At a minimum, it was Council's job to acknowledge that the evidence was conflicting, and to weigh this finding against the developer's assertions and to question the Staff report's omissions.

In conclusion, based on the foregoing points, FOSS respectfully requests:

1. A complete overhaul of the public engagement process (which has begun) in PEC and as part of this overhaul, a guarantee of fairly-applied, transparent rules of procedure for all future public meetings; and

2. An apology from the Mayor and Councillors for the unparliamentary and dismissive tone expressed towards all members of the public who took considerable time and resources to present in good faith at this statutory public meeting, as was their democratic right – rights which were disparaged, patronised and dismissed by members of Council on April 14, 2021.

We thank you for your consideration in this matter and appreciate your response.

Sincerely,

[via email]

Friends of South Shore
Executive Committee of the Board
Jeremy Guth, Nina-Marie Lister, and Debra Marshall

cc David R. Donnelly, Donnelly Law