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Nyon Oil seeking appeal at OMB prelim; HEARING;

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Illustrations: 1. photo of James Ayres

2. photo of Bruce Engell

It really comes down to whose rezoning application it was in the first place.

Joseph Sniezek, who chaired a preliminary Ontario Municipal Board hearing in Port Colborne city council chambers yesterday, will have to decide if the City of Port Colborne acted independently when it applied for zoning changes and official plan amendments to allow Nyon Oil to build a tank farm on the city's rural east side -- or if the city acted as an agent for the company that hopes to build

a tank and wind farm on 300 hectares of land between Hwy. 140 and the Welland Canal.

Sniezek heard arguments from Nyon lawyer James Ayres and Bruce Engell representing the city during the daylong hearing to decide if Nyon's OMB appeal will proceed.

The company is appealing the city's recent decision to scrap the project it had been working on for most of the past decade.

Ayres referred to affidavits by city staff members and elected officials, letters between company and city staff representatives, city reports and other documentation filed over the past eight years to support his argument that the city was acting as an agent for the company when it filed applications with Niagara Region for zoning and official plan amendments in 2005.

He told Sniezek that Nyon's appeals "are valid," and the company "participated in all aspects of the planning application approval process as an applicant."

Engell, however, referred to the applications themselves to support his argument that the city acted independently when making those applications.

The city, he said, is clearly indicated as the sole applicant in all of the documentation submitted to the region four years ago.

Full coverage of the hearing will be published in tomorrow's Tribune.

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