

# REPORT

## ENGINEERING SERVICES DEPARTMENT

---

**Meeting:** COUNCIL

**Date:** July 12, 2010

**Resolution#:**

**By-law#:** N/A

**Report #:** EGD-026-10

**File#:**

**Subject:** WIND TURBINE CONCERNS (ARRAN-ELDESLIE)

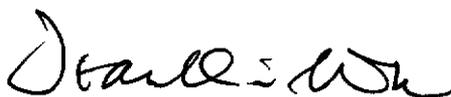
---

### RECOMMENDATIONS:

It is respectfully recommended that Council approve the following:

1. THAT Report EGD-026-10 be received for information; and
  2. THAT any interested parties listed in Report EGD-026-10 be notified of Council's decision.
- 

Submitted by:



  
A. S. Cannella, C.E.T.  
Director of Engineering Services

Reviewed by:



Franklin Wu, M.A.O.M.  
Chief Administrative Officer

## 1.0 PURPOSE

- 1.1 At its meeting on July 5, 2010, the General Purpose and Administration Committee requested that staff provide additional information with respect to comments made by Heather Rutherford (representing Clarington Wind Concerns) during her delegations to GP&A Committee on June 21 and July 5, 2010 and to Council on June 28, 2010. Copies of Ms. Rutherford's comments as noted in the Minutes of these meetings are attached to this Report (Attachments 1, 2 and 3). The Minutes of the July 5, 2010 GP&A Committee meeting and the June 28, 2010 Council meeting have not been approved.
- 1.2 During her delegations, Ms. Rutherford urged Council to,
- (a) pass a by-law similar to Arran-Elderslie By-law 14-10;
  - (b) adopt the precautionary principle when making decisions concerning wind turbines; and
  - (c) establish a building permit fee for industrial wind turbines that is similar to the fee that was established by the Municipality of North Middlesex.
- 1.3 This report provides additional information in relation to all three requests.

## 2.0 ARRAN-ELDERSLIE BY-LAW No. 14-10

- 2.1 A copy of Arran-Elderslie By-Law No. 14-10 is attached to this Report (Attachment 4).
- 2.2 Several Ontario municipalities have passed motions endorsing the action taken by Arran-Elderslie. Staff do not know how many, if any, of these municipalities have actually passed a by-law similar to the by-law passed by Arran-Elderslie.
- 2.3 In its recitals, Arran-Elderslie By-Law No. 14-10 repeatedly references section 7 of the *Canadian Charter of Rights and Freedoms*. Section 7 of the Charter guarantees everyone "the right to life, liberty and security of the person and the right not to be deprived thereof except in accordance with the principles of fundamental justice." It provides individuals with protection against unjustified or arbitrary government intervention. It does not, however, convey positive rights, nor does it impose positive obligations upon the government. Put another way, it provides a shield, not a sword. It could, for example, provide the basis to strike down Provincial legislation if the legislation infringed upon the legal rights guaranteed by Section 7 and the infringement was not demonstrably justifiable.
- 2.4 Like all Ontario municipalities, Arran-Elderslie is a creature of provincial statute. Accordingly, it can only exercise powers conferred upon it by provincial statute. In one of the recitals of its by-law, Arran-Elderslie has referred to the "health, safety and well-being of persons" power in subsection 11(2) of the *Municipal Act, 2001* presumably on the basis that this subsection provides the authority to pass the by-law. This section of

the *Municipal Act, 2001* was successfully relied upon by municipalities in support of by-laws that regulated the use of pesticides.

- 2.5 Even though the *Municipal Act, 2001* is intended to give broad powers to municipalities, there are limitations to the powers. Section 14 of the *Municipal Act, 2001* provides that "a by-law is without effect to the extent of any conflict with ... a provincial or federal Act or a regulation made under such Act". It also states that "there is a conflict between a by-law of a municipality and an Act or regulation "if the by-law frustrates the purpose of the Act [or] regulation."
- 2.6 The Ontario Building Code applies to "a structure that supports a wind turbine generator having a rated output of more than 3kW". The Code may also require a building permit for wind turbines attached to buildings. Subsection 8(2) of the *Building Code Act, 1992* obligates a chief building official to issue a building permit if a proposed wind turbine structure complies with the requirements of the Act and all other "applicable law". Section 1.4.1.3 of the Ontario Building Code sets out the statutory requirements that fall under the definition of "applicable law" for the purposes of section 8 of the *Building Code Act, 1992*. Arran-Elderslie's by-law effectively attempts to add to the list of what has been defined as "applicable law" under section 1.4.1.3 of the Ontario Building Code. The "certificates" referred to in the by-law are not existing requirements under any federal or provincial legislation.
- 2.7 In September 2009, section 1.4.1.3 of the Ontario Building Code was amended to add renewable energy approvals (REA) required under section 47.3 of the *Environmental Protection Act* to the definition of "applicable law". Accordingly, if a proposed wind turbine project requires a REA, the approval must be obtained before a chief building official can issue a building permit. If the REA has been given, and all other applicable law has been complied with, a chief building official must issue a building permit - there is no discretion. Arran-Elderslie's by-law attempts to give Arran-Elderslie's Chief Building Official a discretionary power to issue a building permit "in accordance with the provisions of the Ontario Building Code" in circumstances where the *Building Code Act, 1992* may impose a duty to issue it.
- 2.8 If Arran-Elderslie's by-law is challenged, a court will have to determine whether it conflicts with existing provincial legislation. Specifically, a court will have to determine whether the by-law frustrates the purpose of the *Building Code Act, 1992*, the Ontario Building Code, or any other provincial legislation that is intended to regulate what Arran-Elderslie has termed a "wind generation facility". In the opinion of both the Municipal Solicitor and the Chief Building Official, Arran-Elderslie By-Law No. 14-10 conflicts with the *Building Code Act, 1992* and the Ontario Building Code.

### 3.0 PRECAUTIONARY PRINCIPLE

- 3.1 Consistent with the precautionary principle, on December 14, 2009 Council endorsed a resolution from the County of Gray requesting "that the Federal and Provincial

government agencies responsible for public health, energy creation and energy management complete the following:

1. Dedicate resources to the necessary scientific research to consider the impact of
  - a) low frequency noise; and
  - b) electrical and electromagnetic disturbances in areas of industrial wind turbines with the intent to confirm/deny public health implications;
  - c) technology and infrastructure being used; and
2. Create and provide authoritative regulations and guidelines for the locating of wind turbines to municipalities and wind energy developers;"

A copy of this resolution is attached to this Report (Attachment 5).

- 3.2 On January 11, 2010, Council endorsed a resolution from the Township of Mapleton requesting "that the Government of Ontario through the Ministry of Environment issue a moratorium on wind energy projects until a health study has been completed by an independent third party." A copy of this resolution is attached to this Report (Attachment 6).
- 3.3 Also on January 11, 2010, Council endorsed a resolution from the City of Kawartha Lakes requesting that "in advance of the issuance of any permits and the commencement or continuance of any projects that the appropriate Provincial Health Officials conduct a study of the adverse health effects now being experienced where windmill projects are fully operational to determine the possible adverse health effects; a full environmental study be done to determine the possible impact on the conservation areas and the Oak Ridges Moraine and that an independent economic impact study be done to determine all related potential costs that will be incurred by the Municipality and the effect on property values in the affected areas." A copy of this resolution is attached to this Report (Attachment 7).
- 3.4 Most recently, on June 28, 2010, Council passed Resolution #C-289-10:

"THEREFORE BE IT RESOLVED THAT the Municipality of Clarington requests the Government of Ontario impose a moratorium on the approval of any wind farm applications until such time the government has undertaken studies to examine the health safety and economic impacts of wind farms, including a cumulative effects analysis, and amend the Ontario Regulation 359/09 to reflect the findings and recommendations of such studies;

AND FURTHER THAT this resolution be forwarded to the Minister of Energy and Infrastructure, the Environmental Commissioner of Ontario, the Premier of Ontario, and the members of the Association of Municipalities of Ontario, the Durham Region and surrounding MPPs and MPs, and the Federal and Provincial Ministers of Environment and Health;

---

AND FURTHER THAT the Mayor of Clarington, on behalf of the Council of the Municipality of Clarington, write to the Board of Directors of the Association of Municipalities of Ontario requesting that the impacts, both positive and negative, of wind turbines be added as a topic to be discussed during the agenda of the 2010 AMO Conference; and

THAT any interested parties listed in Report PSD-078-10 be notified of Council's decision."

A copy of this resolution is attached to this Report (Attachment 8).

#### **4.0 BUILDING PERMIT FEES**

- 4.1 The building permit fee established by the Municipality of North Middlesex under its Building By-law for "wind turbine structures" is \$200 (administrative fee) plus \$7 per \$1,000 of construction value.
- 4.2 Wind turbine structures are not specifically mentioned in the fee schedule of Clarington's Building By-Law No. 2005-145. Accordingly, the building permit fee is \$12 per \$1,000 of construction value of the structure (Schedule B, Item 11).
- 4.3 In addition to building permit fees, in 2009 Council approved a \$5,000 Planning Department fee to complete the consultation form required as part of the REA process.
- 4.4 Under the *Building Code Act, 1992*, the total amount of building permit fees cannot exceed the anticipated reasonable costs of the Municipality to administer and enforce the Act.
- 4.5 In the opinion of the Chief Building Official, the building permit fee of \$12 per \$1,000 of construction value for wind turbine structures is appropriate given the nature and extent of the review that will be required.

#### **5.0 INPUT FROM OTHER SOURCES**

- 5.1 The Municipal Solicitor has assisted in the preparation of this Report and concurs with its recommendations.

---

#### **Attachments:**

Attachment 1: Extract from Minutes of June 21, 2010 GP&A Committee meeting (Delegation of Heather Rutherford)

Attachment 2: Extract from the draft Minutes of June 28, 2010 Council meeting (Delegation of Heather Rutherford)

Attachment 3: Extract from the draft Minutes of July 5, 2010 GP&A Committee meeting (Delegation of Heather Rutherford)

Attachment 4: Arran-Elderslie By-law 14-10

Attachment 5: Resolution from the County of Gray (November 24, 2009)

Attachment 6: Resolution from the Township of Mapleton (December 8, 2009)

Attachment 7: Resolution from the City of Kawartha Lakes (October 27, 2009)

Attachment 8: Council Resolution #C-289-10 (June 28, 2010)

List of interested parties to be advised of Council's decision:

Louis Bertrand  
Wayne Aasen  
Heather & Mark Rutherford

**Excerpt from June 21, 2010 General Purpose and Administration Meeting  
minutes:**

Heather Rutherford, representing Clarington Wind Concerns, was present regarding Report PSD-078-10, with respect to the Green Energy Act, in particular industrial wind turbines. She informed the Committee that she is representing hundreds of concerned residents. Ms. Rutherford informed the Committee that, in April 2010, the Ontario Power Authority granted two industrial wind farms in Clarington. She noted that the biggest concerns are symptoms reported from proximity to wind turbines, including: sleep deprivation, migraine headaches, ear pain and tinnitus, nausea, nosebleeds in children, cardiac problems, cognitive impairment, and memory loss. Ms. Rutherford quoted several doctors who have studied patients living within 3500 feet of wind turbines. She stated that she is concerned about the recent comments of the Chief Medical Officer of Ontario, Dr. Arlene King that "the scientific evidence available does not demonstrate a direct causal link between wind turbine noise and adverse health effects". She is also concerned about ice throw, flying debris, and fires. Ms. Rutherford stated that wind turbine companies are not required to report these issues, so it is difficult to gauge the number of these incidents. She is also concerned about the visual impact of the wind turbines. Ms. Rutherford stated that municipal property assessments may be negatively affected. She is concerned that the industrial wind turbines will infringe on the Canadian Charter of Rights. Ms. Rutherford reminded the Committee that the Municipality of Clarington is on record as supporting a resolution from the City of Kawartha Lakes. She urged the Committee to pass a by-law similar to Arran-Elderslie By-law 14-10 which requires a building permit for a wind turbine to be issued when it is accompanied by certificates from Health Canada and four other provincial ministries confirming that the development will "benefit or will not harm any resident" of the municipality. Ms. Rutherford stated that she and her family live in fear of their health every day regarding the possibility of wind turbines.

**Excerpt from June 28, 2010 Council Meeting minutes:**

Heather Rutherford addressed Council concerning Item 1 of Unfinished Business - Report PSD-078-10 Green Energy Act. Ms. Rutherford expressed concern with both sources referenced in the report and the tone of the report. She specifically referenced sources listed in Section 8.2 *Wind Turbine Sound and Health Effects An Expert Panel Review* prepared for AWEA and CANWEA and *The Potential Health Impact of Wind Turbines* prepared by the Chief Medical Officer of Health in which both reports have been criticized as their conclusions are not supported by their content. Ms. Rutherford referenced the study by Dr. Christopher Hanning on "Wind Turbine Noise, Sleep and Health" studying the effects of industrial wind turbine noise on sleep and consequent effects on health which concluded that there is compelling evidence that wind turbine noise can and does disturb sleep and impair the health of those living too close and that the current guidance is inadequate protection and that occupants of properties sited within 1.5 km of turbines will suffer unacceptable levels of sleep disturbance and potential risk to their health. Ms. Rutherford urged Council to adopt the precautionary principle when making decisions concerning wind turbines and to join her on July 27<sup>th</sup> at the public meeting at the Orono Town Hall.

**Excerpt from July 5, 2010 General Purpose and Administration Meeting minutes:**

Heather Rutherford was present regarding wind turbines. Ms. Rutherford reminded the Committee of recent applications for wind turbines in other municipalities and in Clarington. She stated that the Clarington building permit fees are not suitable for wind turbines. Ms. Rutherford stated that the Province has confirmed that the building permit fees are within the municipal jurisdiction. She suggested that a flat fee, plus a dollar amount per \$1000 cost for building permit fees, similar to the Municipality of North Middlesex. Ms. Rutherford suggested that the Municipality needs to consider future costs when setting the building permit fees for wind turbines. She stated that the Canadian Charter of Rights and Freedoms protects the health and welfare of the citizens and it is the Municipality's responsibility to protect this right. Ms. Rutherford also requested that the Municipality establish a by-law requiring a certificate of health prior to the approval of building permits for wind turbine projects.

**THE CORPORATION OF THE  
MUNICIPALITY OF ARRAN-ELDERSLIE**

**BY-LAW NO. 14 - 10**

**A By-law to Amend the Municipal Code  
(Health Provisions Respecting Locating and  
Erecting Wind Generation Facilities)**

**WHEREAS** it is deemed advisable to amend the Municipal Code to incorporate certain health and safety provisions with respect to the locating and erecting of wind generation facilities within the Municipality;

**NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE  
MUNICIPALITY OF ARRAN-ELDERSLIE HEREBY ENACTS AS FOLLOWS:**

1. That "Schedule B Protection to Persons & Property, Building Inspection: Health & Safety Provisions Respecting Locating & Erecting Wind Generation Facilities" is hereby added by the addition of Schedule A to this by-law.
2. That Schedule A attached to this by-law shall form part of this by-law.
3. This by-law shall take effect with final passing.

READ A FIRST AND SECOND TIME THIS 26TH DAY OF APRIL, 2010.

"Ron L. Oswald"

MAYOR

"A.P. Crawford"

CLERK

READ A THIRD TIME AND PASSED THIS 10TH DAY OF MAY, 2010.

"Ron L. Oswald"

MAYOR

"A.P. Crawford"

CLERK

**SCHEDULE A TO  
BY-LAW NO. 14-10**

**SCHEDULE B PROTECTION TO PERSONS & PROPERTY  
BUILDING INSPECTION: HEALTH & SAFETY PROVISIONS RESPECTING  
LOCATING & ERECTING WIND GENERATION FACILITIES**

**BEING A BY-LAW TO ESTABLISH CERTAIN HEALTH & SAFETY PROVISIONS  
FOR THE LOCATING & ERECTION OF WIND GENERATION FACILITIES**

WHEREAS the fundamental role and duty of all three levels of government in Canada—Federal, Provincial & Municipal—to take all steps necessary to protect the health, safety and well being of their residents is hereby acknowledged;

AND WHEREAS Section 7 of the *CANADIAN CHARTER OF RIGHTS AND FREEDOMS*, Being Part I of the *CONSTITUTION ACT*, 1982 provides that:

**"LEGAL RIGHTS**

*LIFE, LIBERTY AND SECURITY OF PERSON.*

*7. Everyone has the right to life, liberty and security of the person and the right not to be deprived thereof except in accordance with the principles of fundamental justice."*

AND WHEREAS the said Section 7 of the *CANADIAN CHARTER OF RIGHTS AND FREEDOMS* is a constitutional provision that protects an individual's autonomy and personal legal rights from actions of the government in Canada with three types of protection within the section, namely the right to life, liberty, and security of the person.

AND WHEREAS the said Section 7 of the *CANADIAN CHARTER OF RIGHTS AND FREEDOMS* provision provides both substantive and procedural rights afforded to anyone facing an adjudicative process or procedure that affects fundamental rights and freedoms, and certain substantive standards related to the rule of law that regulate the actions of the state (e.g., the rule against unclear or vague laws) such as the locating and erection of wind generation facilities as vaguely provided for in the *Planning Act* of the Province of Ontario with no locating criteria legislated;

AND WHEREAS no legal principle has been demonstrated by the Province of Ontario about which there is sufficient societal consensus that it is fundamental to the way in which the legal system should fairly operate that there be no locating criteria based on the health, safety and well being of the residents of Ontario, with respect to wind generation facilities, that would identify with sufficient precision to yield a manageable standard against which to measure deprivations of life, liberty or security of the person (*R. v. Malmo-Levine*, 2003);

AND WHEREAS The "Principles of Fundamental Justice" require that means used to achieve a societal purpose or objective must be reasonably necessary and this principle is violated when the government, in pursuing a "legitimate objective", uses "means" that unnecessarily and disproportionately interfere with an individual's rights (*R. v. Heywood*) as is the case with removing the locating of wind turbines from local planning processes thereby interfering with normal individual rights respecting local land use planning;

AND WHEREAS the said Section 7 of the *CANADIAN CHARTER OF RIGHTS AND FREEDOMS* can also be violated by the conduct of a party other than a Canadian government body (e.g. wind generation companies) with the government needing only to be a participant or complicit in the conduct threatening the right, when the violation of the security of the person with respect to the person's health, safety and well being would be a reasonably foreseeable consequence of the government, or other body's, actions;

AND WHEREAS the Section 7 of the *CANADIAN CHARTER OF RIGHTS AND FREEDOMS* right to security of the person, consists of rights to privacy of the body and its health and of the right protecting the "psychological integrity" of an individual, that is, the right protects against significant government-inflicted harm (stress) to the mental state of the individual. (*Blencoe v. B.C. (Human Rights Commission)*, 2000);

**AND WHEREAS** Section 92 of the *Constitution Act*, 1982 provides further that the "Exclusive Powers of Provincial Legislatures" include:

*"7. The Establishment, Maintenance, and Management of Hospitals, Asylums, Charities, and Eleemosynary Institutions in and for the Province, other than Marine Hospitals. "*

(responsibility for the health of its residents)

*"8. Municipal Institutions in the Province"* (including local planning limitations)

*"13. Property and Civil Rights in the Province. "* (with a responsibility to protect same)

*"14. The Administration of Justice in the Province, including the Constitution, Maintenance, and Organization of Provincial Courts, both of Civil and of Criminal Jurisdiction, and including Procedure in Civil Matters in those Courts"*

(including upholding Part 1 being the *CANADIAN CHARTER OF RIGHTS AND FREEDOMS*);

**AND WHEREAS** the Government of Canada has established *HEALTH CANADA*, an Agency whose mandate is to "protect the Canadian public by researching, assessing and collaborating in the management of the health risks and safety hazards associated with the many consumer products that Canadians use everyday" and works with "all levels of Governmental agencies and programmes: Industry, National, regional, and international groups and the Canadian Public", in pursuit of reducing or eliminating said risks and hazards;

**AND WHEREAS** the Province of Ontario has established *THE MINISTRY OF ENERGY AND INFRASTRUCTURE* which is responsible for promoting the development of an affordable, safe, reliable, secure and environmentally sustainable energy supply;

**AND WHEREAS** the Province of Ontario has established *THE MINISTRY OF THE ENVIRONMENT* which is responsible for protecting, restoring and enhancing the environment to ensure public health and environmental quality;

**AND WHEREAS** the Province of Ontario has established *THE MINISTRY OF NATURAL RESOURCES* to sustainably manage the province's natural resources to contribute to the environmental, social and economic well-being of the people of Ontario;

**AND WHEREAS** on February 20, 2004, Ontario Premier, Dalton McGuinty stated that: "The health of Ontarians is our province's most precious resource. We share a responsibility to protect it from harm, and care for it in times of need";

**AND WHEREAS** the Province of Ontario, through Section 11, of the *Municipal Act*, 2001, as amended, has mandated broad authority that lower-tier municipalities may provide "any service or thing that the municipality considers necessary or desirable for the public, as follows:

**By-laws**

(2) A lower-tier municipality and an upper-tier municipality may pass by-laws, subject to the rules set out in subsection (4), respecting the following matters:...

1. Governance structure of the municipality and its local boards.
2. Accountability and transparency of the municipality and its operations and of its local boards and their operations.
3. Financial management of the municipality and its local boards.
4. Public assets of the municipality acquired for the purpose of exercising its authority under this or any other Act.
5. Economic, social and environmental well-being of the municipality.
6. **Health, safety and well-being of persons.**
7. Services and things that the municipality is authorized to provide under subsection (1).
8. Protection of persons and property, including consumer protection.

thereby recognizing the lower-tier municipality's need and responsibility to provide for the health, safety and well-being of its residents;

**AND WHEREAS** The Corporation of the Municipality of Arran-Elderslie's confidence in the safety of the locating criteria of WIND GENERATION FACILITIES, as legislated by the Province of Ontario, is based on the premise that, having done their due diligence with respect to ensuring the health, safety and well-being of their citizens under The Constitution and the Charter of Rights and Freedoms, both the federal and provincial governments are prepared to certify the said facilities for location within the Municipality;

**AND WHEREAS** there is no intention by The Corporation of the Municipality of Arran-Elderslie to prevent or restrict the "use" of wind generation facilities as a source of renewable energy but rather to promote their "use" in a responsible manner to benefit, or at least, do no harm to any individual by such "use";

**AND WHEREAS** it is deemed advisable to ensure the continued good health, safety and well-being of all persons living and/or owning lands within the Corporation of the Municipality of Arran-Elderslie in a responsible manner;

**NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE MUNICIPALITY OF ARRAN-ELDERSLIE HEREBY ENACTS AS FOLLOWS:**

1. That, the Chief Building Official, at his/her discretion, may issue a building permit, in accordance with the provisions of the *Ontario Building Code*, for the construction of any *wind generation facility*, when the said application is accompanied by all of the following:
  - a) a certificate issued by *HEALTH CANADA* confirming that the proposed type of *wind generation facility* will benefit, or will not harm, the health, safety and well-being of any resident of The Corporation of the Municipality of Arran-Elderslie;
  - b) a certificate issued by the *ONTARIO MINISTRY OF ENERGY & INFRASTRUCTURE* confirming that the proposed type of *wind generation facility* will benefit, or will not harm, the health, safety and well-being of any resident of The Corporation of the Municipality of Arran-Elderslie;
  - c) a certificate issued by the *ONTARIO MINISTRY OF THE ENVIRONMENT* confirming that the proposed type of *wind generation facility* will benefit, or will not harm, the health, safety and well-being of any resident of The Corporation of the Municipality of Arran-Elderslie;
  - d) a certificate issued by the *ONTARIO MINISTRY OF NATURAL RESOURCES* confirming that the proposed type of *wind generation facility* will benefit, or will not harm, the health, safety and well-being of any resident of The Corporation of the Municipality of Arran-Elderslie;
  - e) a certificate issued by the *ONTARIO MINISTRY OF ABORIGINAL AFFAIRS* confirming that the proponents of the proposed type of *wind generation facility* and the Crown have carried out satisfactory, meaningful consultation with all the affected aboriginal groups that is respectful and accommodates their rights as recognized and affirmed by Section 35 of the Constitution Act, 1982;"
  - f) certificates issued by either or both the Saugeen First Nations and Chippewas of Nawash, as applicable, confirming that the proponents of the proposed type of *wind generation facility* have carried out satisfactory, meaningful consultation with them with respect to the proposed facility.
2. That before the certificates identified in Section 1 above are issued, the stated Ministries must provide original documentation to the satisfaction of the Council of the Municipality of Arran-Elderslie that the necessary full and complete non-partisan third party, independent health studies on humans are presented to determine safe setbacks and noise limits.
3. That this by-law shall take effect with final passing.



December 18, 2009

The Honourable Dalton McGuinty  
Premier of Ontario  
Legislative Building, Queen's Park  
Toronto, ON M7A 1A1

Dear Sir:

**RE: BILL 150 – GREEN ENERGY AND GREEN ECONOMY ACT  
FILE NO.: C10.GE**

---

At a meeting held on December 14, 2009, the Council of the Municipality of Clarington considered and endorsed the following resolution of the Corporation of the County of Grey:

"WHEREAS the Council of the Corporation of the County of Grey has expressed concern over Bill 150 being the Green Energy and Green Economy Act which is now in force and effect;

AND WHEREAS the need for renewable energy sources is recognized at the federal, provincial, municipal and local community levels;

AND WHEREAS wind-generated power is an established source of renewable energy being created globally;

AND WHEREAS discrepancy exists on the health effects potentially created by the presence of industrial wind turbines;

AND WHEREAS this discrepancy on the potential health effects is proving to be destructive and divisive to the social and cultural fabric of rural communities;

AND WHEREAS other Ontario municipalities have passed resolutions expressing concern with the health effects association with wind turbines;

**CORPORATION OF THE MUNICIPALITY OF CLARINGTON**

40 TEMPERANCE STREET, BOWMANVILLE, ONTARIO L1C 3A6 T 905-623-3379

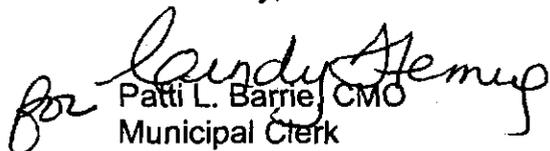
NOW THEREFORE BE IT RESOLVED THAT the Council of the Corporation of the County of Grey requests that the Federal and Provincial government agencies responsible for public health, energy creation and energy management complete the following:

1. Dedicate resources to the necessary scientific research to consider the impact of
  - a) low frequency noise, and
  - b) electrical and electromagnetic disturbances in areas of industrial wind turbines with the intent to confirm/deny public health implications;
  - c) technology and infrastructure being used; and
2. Create and provide authoritative regulations and guidelines for the locating of wind turbines to municipalities and wind energy developers;

AND THAT this resolution be forwarded with a request for action to: The Ontario Ministries of Health, Environment and Energy, Medical Officers of Health at Public Health Units, Environment Canada, Health Canada, Grey County MPPs and MPs, the Premier's Office, the Prime Minister's Office, the Association for Municipalities of Ontario (AMO), and the Federation of Canadian Municipalities (FCM);

AND THAT this resolution be circulated to all municipalities in Ontario requesting their support."

Yours truly,

  
for Patti L. Barrie, CMO  
Municipal Clerk

PLB/jg

cc: The Ontario Ministries of Health  
Environment and Energy  
Medical Officers of Health at Public Health Units  
Environment Canada  
Health Canada  
Grey County MPPs and MPs  
Prime Minister's Of fice  
Association for Municipalities of Ontario (AMO)  
Federation of Canadian Municipalities (FCM)  
Sharon Vokes, Corp. Of the County of Grey



**CORPORATION OF THE COUNTY OF GREY  
OFFICE OF THE COUNTY CLERK/DIRECTOR OF COUNCIL SERVICES**

Sharon Vokes, County Clerk/Director of Council Services  
595 9th Avenue East  
Owen Sound, Ontario  
N4K 3E3

**DISTRIBUTION**

(519) 376-2205  
1-800-567-GREY  
Fax: (519) 376-8998  
sharon.vokes@grey.ca

REVIEWED BY: *[Signature]*

ORIGINAL TO:

COUNCIL DIRECTION     COUNCIL INFORMATION     FILE

COPY TO:

MAYOR     MEMBERS OF COUNCIL     CAO

COMMUNITY SERVICES     CORPORATE SERVICES     EMERGENCY SERVICES

ENGINEERING SERVICES     MUNICIPAL CLERK'S     OPERATIONS

PLANNING     SOLICITOR     TREASURY

OTHER \_\_\_\_\_

MUNICIPAL CLERK'S FILE: *C100E*

November 26, 2009.

TO ALL MUNICIPALITIES:

At the November 24, 2009 session of Grey County Council, the following resolution was adopted:

WHEREAS the Council of the Corporation of the County of Grey has expressed concern over Bill 150 being the Green Energy and Green Economy Act which is now in force and effect;

AND WHEREAS the need for renewable energy sources is recognized at the federal, provincial, municipal and local community levels;

AND WHEREAS wind-generated power is an established source of renewable energy being created globally;

AND WHEREAS discrepancy exists on the health effects potentially created by the presence of industrial wind turbines;

AND WHEREAS this discrepancy on the potential health effects is proving to be destructive and divisive to the social and cultural fabric of rural communities;

AND WHEREAS other Ontario municipalities have passed resolutions expressing concern with the health effects association with wind turbines;

NOW THEREFORE BE IT RESOLVED THAT the Council of the Corporation of the County of Grey requests that the Federal and Provincial government agencies responsible for public health, energy creation and energy management complete the following:

1. Dedicate resources to the necessary scientific research to consider the impact of
  - a) low frequency noise, and
  - b) electrical and electromagnetic disturbances in areas of industrial wind turbines with the intent to confirm/deny public health implications;
  - c) technology and infrastructure being used; and
2. Create and provide authoritative regulations and guidelines for the locating of wind turbines to municipalities and wind energy developers;

AND THAT this resolution be forwarded with a request for action to: The Ontario Ministries of Health, Environment and Energy, Medical Officers of Health at Public Health Units, Environment Canada, Health Canada, Grey County MPPs and MPs, the Premier's Office, the Prime Minister's Office, the Association for Municipalities of Ontario (AMO), and the Federation of Canadian Municipalities (FCM);

AND THAT this resolution be circulated to all municipalities in Ontario requesting their support.

The support from your Municipality is greatly appreciated.

Yours very truly,

Sharon Vokes, C.M.O., D.P.A.,  
County Clerk/Director of Council Services

# Clarington

Energizing Ontario

FILE COPY

January 12, 2010

Township of Mapleton  
7275 Sideroad 16  
P.O. Box 160  
Drayton, ON, N0G 1P0

**RE: WIND ENERGY PROJECT**  
**FILE NO.: C10.GE**

---

At a meeting held on January 11, 2010, the Council of the Municipality of Clarington endorsed the following resolution of the Township of Mapleton:

"WHEREAS the Council of the Township of Mapleton has received a petition of 250+ citizens with concerns about health issues and ground water protection;

NOW THEREFORE the Council of the Township of Mapleton hereby request that the Government of Ontario through the Ministry of Environment issue a moratorium on wind energy projects until a health study has been completed by an independent third party;

AND FURTHER THAT this resolution be forwarded to the County of Wellington and other municipalities within the County of Wellington for their support and endorsement, as well as the Association of Municipalities of Ontario."

Yours truly,

Patti L. Barrie, CMO  
Municipal Clerk

PLB/ta



# TOWNSHIP OF MAPLETON

7275 Sideroad 16  
P.O. Box 160  
Drayton, Ontario  
N0G 1P0

Phone: (519) 638-3313  
Fax: (519) 638-5113

DISTRIBUTION		
REVIEWED BY <u>RD</u>		
ORIGINAL TO:		
<input type="checkbox"/> COUNCIL DIRECTION	<input type="checkbox"/> COUNCIL INFORMATION	<input type="checkbox"/> FILE
COPY TO:		
<input type="checkbox"/> MAYOR	<input type="checkbox"/> MEMBERS OF COUNCIL	<input type="checkbox"/> CAO
<input type="checkbox"/> COMMUNITY SERVICES	<input type="checkbox"/> CORPORATE SERVICES	<input type="checkbox"/> EMERGENCY SERVICES
<input type="checkbox"/> ENGINEERING SERVICES	<input type="checkbox"/> MUNICIPAL CLERK'S	<input type="checkbox"/> OPERATIONS
<input type="checkbox"/> PLANNING SERVICES	<input type="checkbox"/> SOLICITOR	<input type="checkbox"/> TREASURY
<input type="checkbox"/> OTHER _____		
MUNICIPAL CLERK'S FILE <u>CIOGE</u>		

December 16, 2009

**TO: ALL MUNICIPALITIES IN THE PROVINCE OF ONTARIO**

**RE: WIND ENERGY PROJECT**

At the December 8, 2009 Township of Mapleton meeting there was a delegation in attendance regarding wind energy projects in the area south-west of the Village of Arthur. At the meeting, the following resolution was passed, respecting the above referenced matter:

***WHEREAS** the Council of the Township of Mapleton has received a petition of 250+ citizens with concerns about health issues and ground water protection;*

***NOW THEREFORE** the Council of the Township of Mapleton hereby request that the Government of Ontario thru the Ministry of Environment issue a moratorium on wind energy projects until a health study has been completed by an independent third party;*

***AND FURTHER** that this resolution be forwarded to the County of Wellington and other municipalities within the County of Wellington for their support and endorsement, as well as the Associations of Municipalities of Ontario."*

Contact information:  
[reception@town.mapleton.on.ca](mailto:reception@town.mapleton.on.ca)

**DISCLAIMER**

*This material is provided under contract as a paid service by the originating organization and does not necessarily reflect the view or positions of the Association of Municipalities of Ontario (AMO), its subsidiary companies, officers, directors or agents.*



January 12, 2010

Mayor Ric McGee  
City of Kawartha Lakes  
P.O. Box 9000  
26 Francis Street  
Lindsay, ON, K9V 5R8

Dear Mayor McGee:

**RE: WIND TURBINES  
FILE NO.: C10.GE**

---

At a meeting held on January 11, 2010, the Council of the Municipality of Clarington endorsed the following resolution of the City of Kawartha Lakes:

"WHEREAS the Province of Ontario has recently passed the Green Energy Act:  
and

WHEREAS the Township of Manvers in the City of Kawartha Lakes has been identified for wind farm development; and  
WHEREAS currently a number of wind turbine development companies have publicly signaled a desired presence; and

WHEREAS wind-generated power is an established source of renewable energy being created globally; and

WHEREAS there are legitimate concerns and studies relating to alternative energy sources put forward from various sources that have expressed concerns regarding health, safety and economic impacts for those living close to developed sites; and

WHEREAS discrepancy exists on the health effects potentially created by the presence of industrial wind turbines; and

WHEREAS this discrepancy on the potential health effects is proving to be destructive and divisive to the social and cultural fabric of rural communities; and

WHEREAS other Ontario municipalities, have passed resolutions expressing concern with respect to the health effects associated with wind turbines; and

WHEREAS with the passage of the Green Energy Act, the Municipality is excluded from the input and decision making process relating to the location, setbacks, etc. and this impacts on the municipality's ability to address the public concern and control good planning principles throughout the municipality; and

WHEREAS the right of an individual to appeal the location and placement of alternative energy sources such as wind turbines and solar panels has been removed with the passage of the Green Energy Act; and

WHEREAS the proposed study areas of windmill projects may include or abut schools; residential areas; conservation areas and the Oak Ridges Moraine; and

WHEREAS populated and publicly owned and occupied lands are being identified for industrial wind turbine development; and

WHEREAS the guidelines for the Green Energy Act do not specify whether the infrastructure costs related to the windmill projects will be covered by the province, the municipality or the wind companies; and

WHEREAS in many other jurisdictions the required setbacks range between 1.5 km and 2 km;

THEREFORE BE IT RESOLVED THAT the Council of the City of Kawartha Lakes requests in advance of the issuance of any permits and the commencement or continuance of any projects that the appropriate Provincial Health Officials conduct a study of the adverse health effects now being experienced where windmill projects are fully operational to determine the possible adverse health effects; a full environmental study be done to determine the possible impact on the conservation areas and the Oak Ridges Moraine and that an independent economic impact study be done to determine all related potential costs that will be incurred by the Municipality and the effect on property values in the affected areas;

THAT this resolution be forwarded with a request for action and support to: The Ontario Ministries of Health, Environment and Energy, Chief Medical Officer of Canada, Chief Medical Officer of Ontario, Medical Officers of Health at Public Health Units, Environment Canada, Environmental Commissioner, Health Canada, all MPPs and MPs, The Premier's Office, The Prime Minister's Office, the Association of Municipalities of Ontario (AMO), and the Federation of Canadian Municipalities (FCM); and

THAT this resolution be circulated to all municipalities and native territories in Ontario requesting their support."

Yours truly,

Patti L. Barrie, CMO  
Municipal Clerk

PLB/ta

The Corporation of the  
**City of Kawartha Lakes**

P.O. Box 9000, 26 Francis St.,  
Lindsay, Ontario K9V 5R8

Tel: (705) 324-9411 ext 1320, 1 888-822-2225

Fax: (705) 324-8110

[rmcgee@city.kawarthalakes.on.ca](mailto:rmcgee@city.kawarthalakes.on.ca)

09DEC11 AM 10:26:22

DISTRIBUTION		
REVIEWED BY <i>RB</i>		
ORIGINAL TO:		
<input checked="" type="checkbox"/> COUNCIL DIRECTION	<input type="checkbox"/> COUNCIL INFORMATION	<input type="checkbox"/> FILE
COPY TO:		
<input type="checkbox"/> MAYOR	<input type="checkbox"/> MEMBERS OF COUNCIL	<input type="checkbox"/> CAO
<input type="checkbox"/> COMMUNITY SERVICES	<input type="checkbox"/> CORPORATE SERVICES	<input type="checkbox"/> EMERGENCY SERVICES
<input type="checkbox"/> ENGINEERING SERVICES	<input type="checkbox"/> MUNICIPAL CLERK'S	<input type="checkbox"/> OPERATIONS
<input type="checkbox"/> PLANNING SERVICES	<input type="checkbox"/> SOLICITOR	<input type="checkbox"/> TREASURY
<input type="checkbox"/> OTHER _____		
MUNICIPAL CLERK'S FILE		

Ric McGee, Mayor

November 16, 2009

To: All Municipalities & Native Territories in Ontario

Re: Wind Turbines

At the October 27<sup>th</sup> Regular Meeting of Council the following motion was adopted by Council.

**Moved by Councillor Marsh, seconded by Councillor Robertson,**

**WHEREAS**, the Province of Ontario has recently passed the Green Energy Act; and

**WHEREAS**, The township of Manvers in the City of Kawartha Lakes has been identified for wind farm development; and

**WHEREAS**, currently a number of wind turbine development companies have publicly signaled a desired presence; and

**WHEREAS**, wind-generated power is an established source of renewable energy being created globally; and

**WHEREAS**, there are legitimate concerns and studies relating to alternative energy sources put forward from various sources that have expressed concerns regarding health, safety and economic impacts for those living close to developed sites; and

**WHEREAS**, discrepancy exists on the health effects potentially created by the presence of industrial wind turbines; and

**WHEREAS**, this discrepancy on the potential health effects is proving to be destructive and divisive to the social and cultural fabric of rural communities; and

**WHEREAS**, other Ontario municipalities, have passed resolutions expressing concern with respect to the health effects associated with wind turbines; and

**WHEREAS**, with the passage of the Green Energy Act, the Municipality is excluded from the input and decision making process relating to the location, setbacks, etc. and this impacts on the municipality's ability to address the public concern and control good planning principles throughout the municipality; and

**WHEREAS**, the right of an individual to appeal the location and placement of alternative energy sources such as wind turbines and solar panels has been removed with the passage of the Green Energy Act; and

**WHEREAS**, the proposed study areas of windmill projects may include or abut schools; residential areas; conservation areas and the Oak Ridges Moraine; and

**WHEREAS**, populated and publicly owned and occupied lands are being identified for industrial wind turbine development; and

**WHEREAS**, the guidelines for the Green Energy Act do not specify whether the infrastructure costs related to the windmill projects will be covered by the province, the municipality or the wind companies; and

**WHEREAS**, in many other jurisdictions the required setbacks range between 1.5km and 2km;

**THEREFORE BE IT RESOLVED THAT** the Council of the City of Kawartha Lakes requests in advance of the issuance of any permits and the commencement or continuance of any projects

that the appropriate Provincial Health Officials conduct a study of the adverse health effects now being experienced where windmill projects are fully operational to determine the possible adverse health effects; a full environmental study be done to determine the possible impact on the conservation areas and the Oak Ridges Moraine and that an independent economic impact study be done to determine all related potential costs that will be incurred by the Municipality and the effect on property values in the affected areas;

**THAT** this resolution be forwarded with a request for action and support to:

The Ontario Ministries of Health, Environment and Energy, Chief Medical Officer of Canada, Chief Medical Officer of Ontario, Medical Officers of Health at Public Health Units, Environment Canada, Environmental Commissioner, Health Canada, all MPPs and MPs, The Premier's Office, The Prime Minister's Office, The Association for Municipalities of Ontario (AMO), and The Federation of Canadian Municipalities (FCM); and

**THAT** this resolution be circulated to all municipalities and native territories in Ontario requesting their support.

Respectfully, Minister, the operative paragraph is "that the Council of the City of Kawartha Lakes requests in advance of the issuance of any permits and the commencement or continuance of any projects that the appropriate Provincial Health Officials conduct a study of the adverse health effects now being experienced where windmill projects are fully operational to determine the possible adverse health effects; a full environmental study be done to determine the possible impact on the conservation areas and the Oak Ridges Moraine and that an independent economic impact study be done to determine all related potential costs that will be incurred by the Municipality and the effect on property values in the affected areas".

Your consideration of this matter is appreciated.

Kindest Regards,

**Ric McGee**

Ric McGee, Mayor  
City of Kawartha Lakes

CC: Prime Minister Stephen Harper  
Premier Dalton McGuinty  
John Gerretsen, MPP, Minister of the Environment  
Jim Prentice, MP, Minister of Environment  
Gord Miller, Environmental Commissioner  
Leona Aglukkaq, MP, Health Canada  
Dr. Arlene King, Ontario Chief Medical Officer of Health  
Dr. David Butler-Jones, Chief Public Health Officer  
Association of Municipalities of Ontario  
The Federation of Canadian Municipalities  
Dr. Lynn Noseworthy, Kawartha Pine Ridge District Health Unit  
House of Commons for all MP's  
Ontario Legislature for all MPP's  
All Municipalities and native Territories in Ontario

**DISCLAIMER**

*This material is provided under contract as a paid service by the originating organization and does not necessarily reflect the view or positions of the Association of Municipalities of Ontario (AMO), its subsidiary companies, officers, directors or agents.*

**Resolution #C-289-10 from June 28, 2010 Council Meeting minutes:**

THAT Report PSD-078-10 be received;

WHEREAS the Province of Ontario has enacted the Green Energy Act which exempts proposed wind farms from the requirements of the Planning Act, and has provided an expedited approvals process for such facilities under the Environmental Protection Act;

AND WHEREAS such expedited approvals process has excluded members of the public and Ontario municipalities from providing input into the decision making process as it relates to public concerns and good planning principles;

AND WHEREAS the provincial approval process does not require the proponent of a wind farm to undertake studies to demonstrate that the proposed facility will not have any adverse effects on health or property values, or safety;

AND WHEREAS studies undertaken to date on the health effects of wind turbines have been inconclusive; however, no studies have been undertaken to specifically address the safety and economic effects of wind farms in the Ontario context;

AND WHEREAS there is no scientific basis for the setbacks for wind farms set out in Ontario Regulation 359/09;

AND WHEREAS the Municipality of Clarington has to date been identified by two wind farm proponents for 10 megawatt and 20 megawatt installations and is concerned that the provincial approvals process will not adequately address residents' concerns with respect to the health, safety and property value effects of these facilities;

AND WHEREAS other Ontario municipalities have also passed resolutions expressing concern with respect to the adverse effects of wind turbines;

AND WHEREAS it is the responsibility of the Provincial government to ensure that the approvals process for proposed wind farms is sufficiently rigorous to ensure that the health, safety and economic interests of residents is not adversely affected by these facilities;

THEREFORE BE IT RESOLVED THAT the Municipality of Clarington requests the Government of Ontario impose a moratorium on the approval of any wind farm applications until such time the government have undertaken studies to examine the health, safety and economic impacts of wind farms, including a cumulative effects analysis, and amend the Ontario Regulation 359/09 to reflect the findings and recommendations of such studies;

AND FURTHER THAT this resolution be forwarded to the Minister of Energy and Infrastructure, the Environmental Commissioner of Ontario, the Premier of Ontario, and the members of the Association of Municipalities of Ontario, the Durham Region and surrounding MPPs and MPs; and the Federal and Provincial Ministers of Environment and Health;

AND FURTHER THAT the Mayor of Clarington, on behalf of the Council of the Municipality of Clarington, write to the Board of Directors of the Association of Municipalities of Ontario requesting that the impacts, both positive and negative, of wind turbines be added as a topic to be discussed during the agenda of the 2010 AMO Conference; and

THAT any interested parties listed in Report PSD-078-10 be notified of Council's decision.