

Environmental Review Tribunal

Cham Shan Temple v. Director, Ministry of the Environment

Case Nos: 13-140/13-141/14-142

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**DOCUMENT BOOK**

**Materials, Municipal Policy, Oak Ridges Moraine**

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February 5, 2014

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## Summary

By necessity, the City of Kawartha Lakes is involved in the planning and review of proposed industrial wind turbine projects to ensure municipal policy objectives are met, consultation and information to the public is provided, and that the public, natural environment and municipal infrastructure is not negatively impacted by the construction and operation of these projects. As a participant in the upcoming ERT Hearing respecting the proposed Sumac Ridge Wind Project, the City contends that our local interests and objectives will not be met.

The Sumac Ridge Wind Farm – Renewable Energy Approval (REA) was presented at a Special Council meeting held on February 5, 2013 in the City of Kawartha Lakes. (Tab 15)

As outlined in O. Reg. 359/09 under the Environmental Protection Act, the proponent (wpd Canada) must consult with the City to address municipal interests as defined by the Province. The proponent completed the requirements prescribed in the Regulation and the City was required to complete Part B of the Municipal Consultation Form and forward the completed application form to the Ministry of Environment (MOE) for review. This form was submitted to the Ministry on March 11, 2013, (Tab 17) together with over 1500 objection letters, emails and petitions. At that meeting Council passed the following resolution:

***THAT Report PLAN2013-003, "Sumac Ridge Wind Farm", be received;  
THAT Council recommends that the Sumac Ridge Wind Farm Project as generally outlined in Appendix 'B' to Report PLAN2013-003 be refused by the Province;  
and  
THAT Council's recommendations, together with Report PLAN2013-003 and the Part B Municipal Consultation Form as generally completed in Appendix 'C', be forwarded to the Province.***

The Ministry of the Environment confirmed receipt of this package, and informed that the City's submissions would be considered during the technical review of the REA application. (Tab 18)

### **Background:**

On January 18, 2011 Council adopted the following Resolution: (Tab 7)

***WHEREAS there is recent research showing a demonstrated link between Low Frequency Noise and changes to the cochlea; and  
WHEREAS the Ontario Ministry of the Environment determined that wind turbine developers be required "...to monitor and address any perceptible infrasound (vibration) or low frequency noise" and has yet to develop a test to do so; and  
WHEREAS under section 128. of the Municipal Act a local municipality may prohibit and regulate with respect to public nuisances; and***



WHEREAS noise may be considered nuisance; and  
WHEREAS under section 129. of the Municipal Act a municipality may  
(a) prohibit and regulate with respect to noise and vibration; and  
WHEREAS, Geoff Leventhall, a coauthor of the wind energy association  
sponsored "Wind Turbine Sound and Health Effects" states:  
"The symptoms of... Wind Turbine Syndrome,...sleep disturbance,  
headache, tinnitus, ear pressure, dizziness, vertigo, nausea, visual blurring,  
tachycardia, irritability, problems with concentration and memory, and  
panic attack episodes associated with sensations of internal pulsation or  
quivering when awake or asleep...I am happy to accept these symptoms,  
as they have been known to me for many years as the symptoms of  
extreme psychological stress from environmental noise, particularly low  
frequency noise."; and  
WHEREAS low frequency noise emissions are known to cause a range of  
physical responses and can change in accordance with atmospheric,  
environmental and geographical conditions; and  
WHEREAS other jurisdictions around the world advise taking a  
precautionary approach to the risks of low frequency noise based on the  
Precautionary Principle; and  
WHEREAS the World Health Organization advises that "Health effects due  
to low-frequency components in noise are estimated to be more severe  
than for community noises in general...The evidence on low-frequency  
noise is sufficiently strong to warrant immediate concern...", and  
consequently "Noise with low-frequency components require lower  
guideline values."; and  
WHEREAS Health Canada advises that noise monitoring be undertaken  
under  
varying climatic conditions in order to ensure that noise levels do not  
exceed the  
acceptable level, and that appropriate mitigation be implemented to reduce  
the noise level to an acceptable level.

***THEREFORE BE IT RESOLVED THAT*** the Director of Development Services  
review and report back to Council on this matter and prepare a by-law  
and/or policy, to enforce monitoring of Low Frequency Noise originating  
from Industrial Wind Turbines in the City of Kawartha Lakes, and  
addressing, among other things:

- 1) A requirement for proponents of industrial wind projects to submit a noise study for Low Frequency Noise as part of any application or formal consultation with the City, and addressing the cumulative number of industrial wind turbines in a given area;
- 2) A requirement for recommendations contained in noise reports to be endorsed by Council before the issuance of any City approvals or permits;
- 3) A requirement for proponents to test and monitor low frequency noise emissions on an ongoing basis and during varying times and conditions, and report findings to the City;
- 4) A peer review audit of the results of these tests conducted by an independent professional;

- 5) A requirement for mitigation measures and controls in the event that the low frequency noise emissions exceed a level considered safe once operating, including a requirement for all operators to shut off all industrial wind turbines in the designated area as required: and
- 6) A requirement for proponents to enter into an agreement with the City to secure the requirements noted above, and any others City interests deemed appropriate, and including a requirement for any costs related to modeling, testing and monitoring for low frequency noise to be solely the responsibility of the wind proponent.

A recorded vote was requested by Councillor Campbell, Councillor McGregor and Councillor Yeo.

<b>Member</b>	<b>In Favour</b>	<b>Against</b>
Councillor Elmslie	X	
Councillor Campbell	X	
Councillor Dunn	X	
Councillor Strangway	X	
Councillor Warren	X	
Councillor James	X	
Councillor Macklem	X	
Councillor O'Reilly	X	
Councillor Junkin	X	
Councillor Stauble	X	
Councillor McGregor	X	
Councillor Luff	X	
Councillor Yeo	X	
Councillor Ashmore	X	
Councillor Villemaire	X	
Councillor Hodgson	X	
Mayor McGee	X	
	17	0

**CARRIED CR2011-064**

At a Council meeting on November 22, 2011, the following resolution was adopted:  
(Tab 9)

***THAT Report DEV2011-093, "Renewable Energy Approvals Review Process Update", be received;  
THAT the Province be requested to implement a reliable and accredited process to evaluate the impact of low frequency noise and perceptible infrasound (vibration) attributed to Industrial Wind Turbines (IWT), and established minimum requirements and mitigation measures for proponents to implement;  
THAT until such time as low frequency noise and perceptible infrasound from IWT's is reviewed and mitigated through the REA approval process and based on conclusive and independent clinical health studies that eliminate the potential of adverse impacts to health, safety, and well-being of the public, the Province be requested to implement a moratorium on approvals of IWT projects in Ontario;***



***THAT the Province be requested to implement a minimum setback of two (2) km from the base of any IWT to the property line of any sensitive receptor;***

***THAT a review fee of \$2,000.00 be established by the City of Kawartha Lakes to offset costs and resources utilized to review, coordinate and complete the Municipal Consultation Form required as input into the REA approval process, and that this recommended fee be retroactively charged to include all active applications currently under review by the City;***

***THAT the Province be requested to consider amendments to the Green Energy Act and REA approval process that prescribe and give greater weight and consideration to meaningful consultation with both municipalities and the local community, and including a requirement for demonstrated municipal and local community support as a condition of project approval by the Minister of Environment;***

***THAT the Province be requested to require all Class 3, 4 and 5 wind projects under O. Reg. 359/09 to be subject to full Environmental Assessments; and***

***THAT these recommendations be forwarded to the Premier, the Minister of Environment, the Minister of Energy, MP Barry Devolin, MPP Laurie Scott, the Federation of Canadian Municipalities (FCM), the Association of Municipalities of Ontario (AMO), and to each proponent of an active application under the Environmental Protection Act - Ontario Regulation 359/09."***

In addition, on March 26, 2013, Council adopted the following resolution: (Tab 19)

***WHEREAS there are three (3) proposed industrial wind projects in the City of Kawartha Lakes (Sumac Ridge, Snowy Ridge and Settlers Landing); and  
WHEREAS the Premier has stated that the Province will not force wind projects upon communities that are not willing hosts; and  
WHEREAS our community is not a willing host;***

***THEREFORE BE IT RESOLVED THAT the City of Kawartha Lakes declares that it is 'not a willing host'; and***

***THAT this resolution be forwarded to the Premier, Minister of Energy, Minister of the Environment, Minister of Agriculture and Food, Minister of Rural Affairs, Doris Dumais, Director of Environmental Approval and Service Integration Branch of the Ministry of the Environment, MPP Laurie Scott and the Association of Municipalities of Ontario (AMO).***

The intent of these resolutions was to provide clarity to proponents, the public and Province with respect to the City's position on proposed wind turbine projects. Notice of this resolution was sent to the Ministry of the Environment, who responded "to complete the Municipal Consultation Form to identify the impacts of the proposed project on the municipality and to identify local community needs." The letter went on to say that "we will consider your resolution of being an unwilling host during review of these applications." Clearly, neither of the City's concerns were considered. (Tab 19)



Since the passing of this Council resolution, an additional wind project, known as the Stoneboat Wind Project, has been proposed within the City of Kawartha Lakes. Inclusive of this new project, the Sumac Ridge Project (Tab 2) and two other projects are at various stages in the REA approval process. (Tab 3) The first three projects will total fifteen (15) turbines within 5 km. The fourth project increases that number to nineteen (19) total wind turbines proposed in the City of Kawartha Lakes (of which seven (7) total turbines would be located within the Oak Ridges Moraine), and all within an approximate 12 km radius. The cumulative impact of these projects has not been considered nor addressed in any of the project descriptions received by the City to-date.

The City has lobbied the Provincial government as a delegate at the Rural Ontario Municipal Association (ROMA) and Ontario Good Roads Association (OGRA) Conference in 2012 (Tab 11) and 2013 (Tab 16), requesting, among many things, for meaningful consultation with both the host municipality and the local community. This request was also directed to Premier Kathleen Wynne on April 18, 2013, who responded on April 25, 2013 that "I trust that the ministers will also take council's views into consideration". (Tab 21)

#### **1) The Oak Ridges Moraine Conservation Plan (ORMCP): (Tab 4)**

The proposed project is located partially within the Oak Ridges Moraine Conservation Plan (ORMCP). The ORMCP is an ecologically based plan established by the Ontario government to provide land use and resource management direction for the 190,000 hectares of land and water within the Moraine. Through the legislation and the ORMCP, the Ontario Government has set a clear policy framework for protecting the Oak Ridges Moraine. This provincial policy is reflected in the City's official plan and implementing zoning by-law to inform decisions on development applications. The Plan also provides that:

***"Any City Official Plan is required to be in conformity with the ORMCP. Nothing in this Plan is intended to prevent municipalities from adopting official plan policies more restrictive than the ORMCP, except where prohibited by the ORMCP."***

The REA process incorporates some restrictions for alternative energy applications within the ORMCP. These restrictions are intended to protect significant natural heritage features including provincially significant wetlands, areas of natural and scientific interest, significant woodlands and valleylands, and sensitive water bodies. Under the REA process, and subject to approval from the Ministry of Natural Resources, the developer must submit a Natural Heritage Assessment and geotechnical surveys which evaluate the ground water and hydrology of the area.

Under the ORMCP, hydrology and hydrogeological reports are routinely required to rationalize proposed development. The City requested additional reports from wpd (not prescribed in the REA process) including detailed maps showing high



aquifer vulnerability zones, natural heritage features and a hydrogeological report. The proponent noted in the REA Consultation Report that they had submitted a Hydrology Report, however the City requested a Hydrogeological Report. This information has not been provided to the City to-date.

The applicants have not demonstrated that any of these potential environmentally significant features will be impacted and/or protected, as mandated by the ORMCP, and have not addressed:

- site specific information about groundwater and aquifer features and hydrogeology; and
- local natural heritage features and potential impacts.

Industrial Wind Turbines are not considered a permitted use, as there is no description provided for this use under the definition of transportation, infrastructure and utilities. Further, Section 41 of the ORMCP: Transportation, infrastructure and utilities requires that the need for the project has been demonstrated and there is no reasonable alternative. In addition, these specific uses are only permitted to cross a key natural heritage feature or a hydrologically sensitive feature if the applicant demonstrates that:

- a) the need for the project has been demonstrated and there is no reasonable alternative;
- b) the planning, design and construction practices adopted will keep any adverse effects on the ecological integrity of the Plan Area to a minimum;
- c) the design practices adopted will maintain, and where possible improve or restore, key ecological and recreational linkages;
- d) the landscape design will be adapted to the circumstances of the site and use native plant species as much as possible, especially along rights of way; and
- e) the long-term landscape management approaches adopted will maintain, and where possible improve or restore, the health, diversity, size and connectivity of the key natural heritage feature or hydrologically sensitive feature.

The portion of the project that is located within the Oak Ridges Moraine boundary is identified as an area of High Aquifer Vulnerability. The Plan states that development in wellhead protection areas and areas highly vulnerable to groundwater contamination is limited. Development near these hydrologically sensitive features is only permitted if it will not adversely affect these features. The City has requested a Hydrogeological Report from the proponent, but to date has not received the information requested. In the absence of this supplementary information, it is not clear if the proposed development will cause either serious harm to human health, or cause serious and irreversible harm to plant life, animal life or the natural environment.

## Zoning By-laws (Tab 5)

### Oak Ridges Moraine Zoning By-law 2005-133

The southern portion of the subject lands are zoned 'Oak Ridges Moraine Country Side Area (ORMCS)'. The permitted uses in this zone are:

- a) Agricultural uses;
- b) Fish, wildlife and forest management;
- c) Low intensity recreational uses;
- d) Conservation projects and flood and erosion control projects;
- e) Transportation, infrastructure and utilities;
- f) Home business;
- g) Home industries;
- h) Bed and breakfast establishments;
- i) Farm vacation homes;
- j) Wayside pits;
- k) Agricultural-related uses;
- l) Single detached dwelling if:
  - i. The use, erection and location would have been permitted by the Township of Manvers Zoning By-law 87-06, as amended, on November 15, 2001; and
  - ii. The applicant demonstrates, to the extent possible, that the use, erection and location will not adversely affect the ecological integrity of the Oak Ridges Moraine Plan Area.
- m) Accessory uses to the above permitted uses.

An Industrial Wind Turbine is not a permitted use in any zone in the Oak Ridges Moraine Zoning By-law 2005 -133.

### Manvers Comprehensive Zoning By-law 87-06

The northern half of the subject lands are zoned 'Rural General (A1) Zone' in the Township of Manvers Comprehensive Zoning By-law 87-06 (Appendix 'F'). This zone permits a variety of agricultural uses, as well as a hydro or communication facility. An Industrial Wind Farm is not a permitted use.

### Missing Noise Receptor

The City is concerned that there may be a sensitive receptor not accounted for by the proponent that is located less than 550 metres (approximately 440 m.) from Turbine #1.

As per O. Reg. 359/09, a noise receptor is defined as:



“noise receptor” means a location described in subsection (4) at which noise discharged from a renewable energy generation facility is received;

(4) Subject to subsection (6), for the purposes of the definition of “noise receptor” in subsection (1), the following locations may be noise receptors:

1. The centre of a building or structure used for overnight accommodation.
2. The centre of a building or structure used as an educational facility, a day nursery or a place of worship.
3. If the construction of a building or structure mentioned in paragraph 1 or 2 has not commenced but an approval under section 41 of the *Planning Act* or a building permit under section 8 of the *Building Code Act, 1992* has been issued in respect of a building or structure mentioned in paragraph 1 or 2, the centre of the proposed building or structure.
4. The centre of a vacant lot, if,
  - i. the vacant lot has been zoned to permit a building or structure mentioned in paragraph 1 or 2, and
  - ii. no approval or building permit mentioned in paragraph 3 has been issued in respect of a building or structure mentioned in paragraph 1 or 2 on the vacant lot.
5. A portion of property that is used as a campsite or campground at which overnight accommodation is provided by or on behalf of a public agency or as part of a commercial operation.

Under the Oak Ridges Moraine Zoning By-law 2005-133, a dwelling unit is defined as one or more habitable rooms designed or intended for use by one household exclusively as an independent, separate housekeeping unit in which separate kitchen and sanitary facilities are provided for the exclusive use of the household with a private entrance from outside the building or from a common hallway or stairway inside the building.

As such, it appears that at least one sensitive receptor has not been accounted for.

## **2) Health and Safety (Fire & Rescue):**

Included in the completed Part B Municipal Consultation Form, the City requested the following information:

An Emergency Response Plan that indicates:

- Site plan showing all buildings, equipment, disconnects, inverters, etc.
- 24 hour emergency contacts
- Site plan showing a reasonable amount/placement of access roads that will support responding apparatus (vehicles and personnel)
- Location of approved fire extinguisher placement for structures/substations/inverters/transformers
- Ground cover and ground cover control measures
- Identification and delineation of safe collapse zones.

Training:

- Prior to commissioning the owner shall provide any requested on-site training and familiarization to the Kawartha Lakes Fire & Rescue Service.

None of this information has been received by the City to-date. Since the submission of those comments, the City of Kawartha Lakes Fire and Rescue has provided the following additional comments to the proponent:

Fire Safety

- Fire Extinguisher placement must conform to the Ontario Fire code
- **City Fire and Rescue Services do not have suitable resources equipment or training to adequately respond to some potential emergencies associated with these structures.** Proof of a contract with an external agency capable of providing these types of rescue operations that are outside the current level of service of the municipality will be required.
- Suitable and acceptable access roads able to support the weight of responding apparatus.
- Built in fire suppression system within the Nacelle or any other hazardous area more than 10M above grade.
- Fire Department access to site will be required.

Wpd has not adequately addressed proposed fire safety and access to-date. As a result, the City takes the position that the proposed development will cause serious harm to human health, in the event of an emergency.

**3) Municipal Consultation:**

City staff met with the proponent on two occasions. The first meeting on June 2, 2011 was considered a pre-consultation meeting for wpd to provide an overview of the project, timelines, and for the City to express interests and request project



information and supporting reports. Subsequent to that meeting a Summary Report was provided to wpd from the City requesting, among other things, the following detailed information: (Tab 8)

- Project Description Report
- Construction Plan Report
- Design and Operations Report
- Decommissioning Report
- Detailed mapping
- Noise modeling/Low Frequency/Infrasound Study
- Noise Study
- Hydrological Study
- Environmental Impact Study – including the effect of construction and related materials used for day to day operation. i.e hydraulic fluid
- Roads – which roads will be used for access and to transport the equipment to the site. A cost estimate of construction and repair to access roads.
- Provide proof of insurance, the extent of coverage
- Archaeological assessment
- Location of transmission lines and proximity to turbines
- Timeline for completion of required reports

The REA required reports were received on October 26, 2011 and November 25, 2011.

On January 23, 2012 the City requested the additional outstanding submissions (noted above), including a Hydrogeological Report. (Tab 10) Through consultation with the Province (MOE), the City was advised that municipalities are encouraged to provide additional comments that are not prescribed in the Part B form if there are any additional concerns or comments. This advice was provided through a conference call with MOE staff (minutes of that meeting are included in Tab 18).

On February 10, 2012 wpd staff said that “the Hydrogeological Study is not complete yet and we cannot provide it. It should be noted that the Hydrogeological Study is not a requirement for REA submission and as such it is being completed later than the other reports”. On February 23, 2012, City staff advised that it is our understanding through discussions with the Province that municipalities are encouraged to request additional comments that are not prescribed in the Part B Municipal Consultation Form (if there are any additional concerns or comments). On March 14, 2012, wpd forwarded a Geotechnical Report, but not a Hydrogeological Report.

On July 4, 2012 City staff received an inquiry from a ratepayer requesting to review the Hydrogeological Report, which they were told by wpd that the City was in possession of. On July 5, 2012, City staff again requested the Hydrogeological

Report that wpd was informing the public was already in our possession. Wpd staff replied the same day, "apologizing for the confusion", and explained that they had used "incorrect terminology" and were in fact referring to the Geotechnical and Water Report. (Tab 12)

On November 8, 2012, the City requested an update on the status of the Hydrogeological Report and was informed by wpd that "our REA team was working on getting this information as soon as possible." (Tab 10)

Contrary to the summary provided in section 4.2.1 Consideration of Key Municipal Comments of the Sumac Ridge Wind Project Consultation Report, the proponent has not provided suitable information or adequately addressed the issues and concerns expressed by the City. (Tab 13)

The Hydrogeological Report is necessary to determine potential impact to ground water and potential ground water contamination.

#### **4) Municipal Infrastructure:**

The proponent requested, as early as June 2012, permission from the City for road upgrades and access to Ballyduff Road, Wild Turkey Road and Gray Road. (Tab 14) Wpd was informed at that time that their request was considered premature, as REA approval had not been issued for the project.

There are four (4) roads potentially impacted by the proposed development (Tab 3):

Ballyduff Road – open and maintained rural municipal road. Wpd proposes to travel on this road to Wild Turkey Road for both construction and future maintenance access).

Wild Turkey Road – portion of this municipal road unopened and not maintained by the City. Wpd proposes to utilize this section of unopened road allowance to accommodate construction access, future maintenance access through three (3) proposed property entrances, and a transmission wire crossing.

Gray Road – unopened and not maintained municipal road. Wpd proposes to install a transmission wire corridor within this road allowance to service the proposed development and connect to a transformer station located at Highway 35.

Highway 7A – open and maintained Provincial Highway. Wpd is proposing access to the project from this highway. The City is not aware of any Provincial approvals granted by MTO for this access to-date.

Stikeman Elliott LLP ("Stikeman"), on behalf of wpd, wrote to the City on April 4, 2013 requesting to initiate the application process to permit work within the road allowance on Gray Road – specifically burying collector lines. (Tab 20) On April 22, 2013, the City wrote Stikeman Elliott to advise that this request was again, premature and not supported by Council as no project approvals had been granted. (Tab 22)



Stikeman replied May 22, 2013, that they do not accept this position and that the City cannot refuse to process the application. They provided that the Electricity Act, 1998, allows a renewable energy generator access over public roads for the purposes of installing transmission lines. The letter went on to say that if the City did not initiate the application process by June 3, 2013, that wpd would apply to the Ontario Energy Board (OEB) to have the location of the infrastructure determined, and would seek costs. (Tab 24)

The City replied on May 28, 2013, advising that this request was sent to our solicitors, Gowling Lafleur Henderson LLP ("Gowlings"), for review. (Tab 25)

On May 31, 2013, Stikeman, then requested to initiate the permit process to make road improvements to Wild Turkey Road, which is unopened and not maintained by the City. (Tab 26)

On July 17, 2013, Gowlings wrote to Stikeman, giving the position that since REA approval had not been obtained, wpd Canada does not yet qualify as a generator, transmitter or distributor. In addition, Gowlings advised that there was insufficient information to be able to comment on the proposed work to be completed on Wild Turkey Road. (Tab 27)

Following the exchange of letters (noted above), wpd did not pursue Municipal Consent applications to seek approval for works on Gray and Wild Turkey Roads.

On January 21, 2014, wpd provided the City with a request for comments respecting the commencement of a Municipal Class Environmental Assessment (MCEA) for Wild Turkey Road. This letter provided that "the Class Environmental Assessment (EA) was being initiated by wpd Canada, on behalf of the City for upgrades to Wild Turkey Road, in relation to the Sumac Wind Energy Project." (Tab 33) The City immediately requested wpd change the language in the letter, specifically "on behalf of the City of Kawartha Lakes". The City also requested more information with respect to the work proposed in the MCEA.

On January 28, 2014, wpd emailed staff to advise that notice of an OEB application would be forthcoming, to ensure the project timelines were met. (Tab 34)

On January 29, 2014, wpd provided staff with a revised MCEA letter, however, back dating the letter to the original date (January 21, 2014). The letter states that if comments are not received from the City by January 31, 2014, wpd Canada will "take that as general support for the MCEA". (Tab 35)

Gowlings, on behalf of the City, wrote to Stikeman on February 3, 2014, advising that the City has not consented to any proposed upgrades to Wild Turkey Road, and that the results of the MCEA could be taken into consideration by the City in making its decision. Further, the City is looking for increased consultation during this process, including a work plan and an opportunity to comment on the final environmental assessment report. (Tab 36)

The letter notes that consideration for any improvement to Wild Turkey Road is premature as the project remains subject to an appeal to the ERT.



The City has no obligation to open this section of Wild Turkey Road to accommodate the proposed development, regardless of the recommended preferred alternatives developed through the proposed MCEA process.

Given that City Council passed a resolution requesting the Province to refuse the project, it is unlikely that the City will consent to any changes to Wild Turkey Road.

The proposed project relies on access through Wild Turkey Road. The proponent must consider and address:

- Maintenance of the road when upgraded and opened for public use (and cost to the City to maintain);
- Any restoration or additional improvements required (enhanced drainage, for example);
- Resultant impact on the surrounding road network and environment;
- Alternative entrances on existing opened roads and private internal access; and
- Potential for future development (severances) fronting Wild Turkey Road if opened.

Typically, the City will only assume an unopened road allowance that meets minimum City standards and enhances the overall planned road network. Road assumption requests are considered only as budget allows (as the City is then responsible for the long term maintenance and servicing costs). (Tab 6)

Ballyduff Road, Gray Road and Wild Turkey Road are local rural roads that are unsuitable to support heavy traffic and disruption.

The City is not aware that the proponents have secured the necessary permits from the Ministry of Transportation (MTO) for the proposed work on Highway 35 and Highway 7A. (Tab 37)

It is unclear what wpd could pursue as suitable alternatives for access to proposed turbines. It appears that alternative access could be substantially provided through existing open roads, and within the privately-owned lands supporting the development. The resultant impact on the natural environment has not been contemplated or demonstrated.

### **Conclusions:**

The City forwarded the Part B Municipal Consultation Form, together with Council's recommendation to the Province, recommending that the Sumac Ridge Wind Project be refused. In addition, the City has forwarded Council's resolutions respecting wind turbine projects and the REA process to the Minister of Energy, the Minister of Environment, and the Director of Environmental Approvals Access and Service Integration Branch, among others.

On April 5, 2013, an Instrument Proposal Notice for Sumac Ridge was posted on the Environmental Bill of Rights Registry (EBR) for a comment period ending May 20, 2013. A comprehensive list of comments addressing health and safety



concerns, inadequate setbacks, lack of information, impact on roads and infrastructure, conflicts with Oak Ridges Moraine legislation, and various other concerns, was submitted in response to the Notice. (Tab 23)

On December 11, 2013, Renewable Energy Approval was posted on the Environmental Registry (EBR), EBR Registry Number 011-8756, and reported that "three turbines that were originally proposed were removed from the project layout by the proponent to address concerns raised throughout the planning of the project." (Tab 28) It is unclear as to why MOE subsequently retracted this revised approval and granted approval for five (5) turbines as proposed.

On December 12, 2013, wpd Canada advised the City of Renewable Energy Approval for Sumac Ridge. (Tab 30) On the same day, wpd advised the City that there was an error in the EBR posting and provided the link to the updated posting. (Tab 31)

The REA approval (Number 8037-9AYKBK) outlines terms and conditions for the project, but gives no consideration to the City's expressed concerns respecting the protection of municipal interests and public safety, environmental impact and infrastructure impact. (Tab 29)

Approval of the Sumac Ridge Wind project by the Director is flawed as no City-requested conditions of project approval were imposed on the development, and impact on the Oak Ridges Moraine was not adequately demonstrated (in keeping with the Province's own ORM legislation).

On January 20, 2014, the City provided written submission to the Environmental Review Tribunal (ERT), requesting participant status. (Tab 32) Participant status was granted by the tribunal at the Preliminary Hearing on January 24, 2014.

The City contends that there is a significant lack of information to appropriately approve this project, as a result the proponent has not demonstrated that the proposed development will not cause either serious harm to human health, or cause serious and irreversible harm to plant life, animal life or the natural environment.

The City remains NOT a "willing host" of wpd's proposed industrial wind turbine project, particularly as there are reasonable alternatives and no demonstrated need to site them within the Oak Ridges Moraine. The City has already endorsed XX renewable energy projects throughout the City of Kawartha Lakes, totaling approximately 90MW of total power.



Respectfully submitted by Ron Taylor  
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