



Green Energy Act Projects - Town Protocol

In Accordance with the Ministry of Energy - Renewable Energy Facilitation Office

Approved by Town of Bracebridge Council - March 14, 2012
Through the Adoption of Staff Report DS013-12

A. PROTOCOL STATEMENT

1. The Corporation of the Town of Bracebridge recognizes that the Provincial Minister of the Environment has the authority under the *Green Energy Act, 2009*, to approve each green energy project in the Province unless it is exempt under its regulations (Section "G", herein) or it is a waterpower facility which remains subject to the approvals under the *Environmental Assessment Act, 1990*.
2. The Province enacted the *Green Energy Act, 2009*, wherein rules were changed governing approval for most types of renewable energy projects in Ontario, to benefit the economy, public health and the environment under the auspices of the Ministry of the Environment (MOE), among others.
3. As such, proponents of green energy projects are no longer subject to land use planning instruments under the *Planning Act, 1990*, including Section 41 site plan agreements, Official Plan policies or the Town's Comprehensive Zoning By-law 2006-120, as amended, in accordance with Section 5 of the *Green Energy Act, 1990*, as follows:
 - S. 5 (2) "A person is permitted to engage in activities with respect to a designated renewable energy project, a designated renewable energy source or a designated renewable energy testing project in such circumstances as may be prescribed, despite any restriction imposed at law that would otherwise prevent or restrict the activity, including a restriction established by a municipal by-law ..."
 - S. 5 (3) "A restriction imposed at law that would otherwise prevent or restrict an activity with respect to a designated renewable energy project, a designated renewable energy source or a designated renewable energy testing project is inoperative to the extent that it would otherwise prevent or restrict the activity."

B. PURPOSE

4. The Province of Ontario's intent in the passage of the *Green Energy Act, 2009*, was to:
 - 4.1. Foster the growth of renewable energy projects which use cleaner sources of energy;
 - 4.2. Remove barriers to the approval of renewable energy projects;
 - 4.3. Promote opportunities for renewable energy projects;
 - 4.4. Promote a green economy; and

- 4.5. Ensure that the Province and the broader public sector, including government-funded institutions, conserve energy and use energy efficiently in conducting their affairs.
5. The Province of Ontario is intent on promoting and expanding energy conservation by all Ontarians and to encourage all Ontarians to use energy efficiently.
6. The Town's interests, on behalf of its constituents, are to liaise with proponents, the local public and comment on green energy projects within the Town. At the same time, the Town recognizes that hydro-electric demands shall continue to grow and such demand can be partially satisfied by the approval of new green energy projects.

C. REQUIREMENTS IN GREEN ENERGY PROJECT LIAISON WITH THE TOWN

7. Where a proponent is required to consult with the land-use authority (the Town) and the local public, on a proposed renewable energy project, the proponent shall submit a consultation form to the Clerk in the form set out by MOE. Consultation with the Town and affected residents is required by the MOE by regulation (O. Reg. 359/09 under the *Environmental Protection Act*, 1990) and the information gathered will expedite any approvals sought by the proponent of the renewable energy project.
8. The municipal consultation form shall address matters relating to municipal or local infrastructure and servicing. Proponents are required to demonstrate how municipal concerns shall be addressed and/or why they were unable to do so.

D. SCOPE OF MUNICIPAL CONSULTATION

9. The municipal consultation and accompanying form shall describe:
 - 9.1. Proposed project area and property boundaries;
 - 9.2. Proposed road access location(s);
 - 9.3. Location and type of municipal service connections that may be needed;
 - 9.4. Traffic management plans during construction and operation;
 - 9.5. Construction plans related to rehabilitation of temporary disturbance areas and any municipal infrastructure that may be damaged during construction; and
 - 9.6. Emergency management procedures and safety protocols as set out in a response plan.

E. OTHER OPPORTUNITIES FOR LOCAL INPUT

10. The aforementioned regulatory requirements for public consultation require:
 - 10.1. At least two (2) community meetings for the proposed project in the municipality;
 - 10.2. An explanation on how issues raised during the consultation were addressed or why they were unable to do so;
 - 10.3. That the proponent provides studies and reports, for public review, sixty (60) days before the final public meeting and municipalities shall receive the same, ninety (90) days before the final public meeting;

- 10.4. That through guidance, the Province will encourage early and frequent consultation with the local community and the Town;
 - 10.5. That where required, aboriginal consultation must be conducted by the project developer;
 - 10.6. That the proposed project shall be posted on the Environmental Bill of Rights (EBR) web-based registry site for a minimum of thirty (30) days, wherein third parties can appeal decisions within fifteen (15) days; and
 - 10.7. An REA is applicable law for decisions made under the *Building Code Act, 1992* and its associated regulations. Similarly, conservation authorities and the Ontario Energy Board's rules are retained in their current manner.
- 11. Written documentation from the proponent outlining their steps taken to investigate all renewable energy source options, demonstrating why the site for the erection of a new renewable energy project is the preferred alternative for the proponent. If a site for a new renewable energy project is decided upon, then the proponent shall provide an analysis of the other possible sites considered and provide a description as to why the alternative sites were not preferred. A pre-consultation meeting with the Town's Designated Official, the Director of Development Services, or their designate, is strongly encouraged to obtain local knowledge from Town officials and, at the same time, understand the technical needs of the proponent.
 - 12. A site plan, drawn to an acceptable scale, showing the subject property owned by the proponent or, alternatively, indicating the leased area of land the proponent will be utilizing; site grading; the location of existing property lines; the location of existing or proposed buildings and structures, fences, existing vegetation, proposed vegetation through additional landscaping, and parking access. Furthermore, the site plan should indicate, in profile, the type and size of the project.
 - 13. Two sets of stamped engineer's drawings depicting the project's design, if required under provincial legislation.
 - 14. A map indicating the horizontal distance between the renewable energy project and the nearest lands that are:
 - 14.1. Zoned residential,
 - 14.2. Designated residential in the Official Plan;
 - 14.3. Waterfront lands; and
 - 14.4. Environmentally sensitive lands, including wetlands.

F. Ontario Regulation 329/09 Biofuel, Biogas and Biomass Definitions

- 15. *Biofuel* has the same meaning as in Ontario Regulation 160/99 made under the *Electricity Act, 1998* and means a liquid fuel made solely from biomass and includes ethanol, methanol and biodiesel;
- 16. *Biogas* has the same meaning as in Ontario Regulation 160/99 (Definitions and Exemptions) made under the *Electricity Act, 1998* and means a gaseous fuel that is:
 - 16.1. Landfill gas; or
 - 16.2. A gas made from the anaerobic digestion of, or any combination of:

16.2.1. Biomass;

16.2.2. Source separated organics, or;

16.2.3. Organic matter, other than biomass, that is derived from a plant or animal and that is available at a farm operation.

17. *Biomass* has the same meaning as in Ontario Regulation 160/99 made under the *Electricity Act, 1998*, O. Reg. 329/09, s. 1 and means organic matter, other than source separated organics, that is derived from a plant or animal, is available on a natural renewable basis and is:

17.1. Grown or harvested for the purpose of being used to generate electricity,

17.2. Waste from harvesting or processing agricultural products or waste from processing forestry products, including spent pulping liquor;

17.3. Agricultural waste;

17.4. Organic waste materials from a greenhouse, nursery, garden centre or flower shop;

17.5. Pulp and paper biosolids;

17.6. Waste from food processing, distribution and preparation operations;

17.7. Sewage biosolids;

17.8. Hauled sewage;

17.9. Waste from the operation of a sewage works subject to the *Ontario Water Resources Act*;

17.10. Woodwaste; or

17.11. Forrest resources made available under a forest management plan approved under the *Crown Forest Sustainability Act, 1994* or a managed forest plan approved under the Managed Forest Tax Incentive Program.

G. Green Energy Projects That Do Not Require Renewable Energy Approval (REA) From the Ministry of the Environment

18. Wind facilities with a name plate capacity less than 3 kW (Class 1);

19. Ground mounted solar less than or equal to 10 kW (Class 1);

20. Rooftop and wall mounted solar of any size (Class 1 or 2);

21. An anaerobic digestion facility (Class 1 or 2);

22. A thermal treatment facility (Class 1), if the generating unit is located at a farm operation;

23. A thermal treatment facility (Class 2); and

24. All waterpower facilities remain subject to the *Environmental Assessment Act, 1990*.