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Staff Report PL2024-026

Title of Report: PL2024-026-Renewable Energy Projects
Department: Clerks
Branch: Planning Services
Council Date: April 30, 2024

Recommendation:

Be it resolved that Council receive Staff Report PL2024-026 for information; and
That Council direct staff to initiate public consultation on a proposed official plan and zoning bylaw amendment to clarify policy and procedures for renewable energy applications, define renewable energy facilities in the zoning bylaw, and amend section 5.19 to clarify renewable energy facilities are not permitted in all zones.

Property Location: This issue potentially impacts all lands within the Township.

Subject Lands: N/A

The Proposal: The Ontario Electricity System Operator (IESO) is charged with managing the Province's power system and planning for future energy needs. About three months ago the IESO began outreach on Long Term 2 (LT2) Request for Proposal for renewable energy projects (solar, wind, hydroelectric, bioenergy). This outreach is set to conclude this month. Most feedback to IESO was from supply companies, although four municipalities did send comments, including Grey Highlands who had concerns about setbacks.

Once IESO started outreach, energy supply companies interested in renewable energy projects contacted Township staff. Early meetings were light on details as suppliers were not sure of the final procurement process. One supplier set to be a delegation to Council withdrew before the meeting.

Some staff and Council members attended webinars where the following [presentation](#) delivered. Links to a [recorded webinar](#) on the LT2 RFP are posted on the dedicated IESO [community engagement webpage](#).

Details on LT2 emerged over the last three months and the program may continue to change before outreach ends. The County is assessing this emerging issue by attending the webinars and supplier meetings with local municipal staff. Township staff met County Policy Planner Liz Buckton on April 15. She is preparing a report on potential policy directions for battery energy storage systems (BESS) and renewable energy projects (REP) County wide. She also reviewed and commented on this report.

Information in the IESO LT2 presentation, and from County staff confirms that traditional land use controls under the Planning Act (official plan, zoning bylaw, subdivision of land, site plan control etc.) apply to new renewable energy projects (REP). The County indicates that battery energy storage systems (BESS) are not

part of the IESO LT2 intake, though may be co-located with renewable energy generation projects under this call for proposals. Standalone BESS were solicited via the LT1 Intake by IESO – municipal land use controls also apply to these facilities, though in absence of a fulsome technical framework for BESS in Canada there is some ambiguity regarding how such planning tools are best applied.

For renewable energy projects (REP) some municipalities have established zoning provisions and other policies for renewable energy projects to permit them as of right without amendment in some situations. This report seeks direction from Council on the best approach to prepare for renewable energy projects (REP) and battery energy storage projects (BESS) as they come forward.

Background:

About 10 years ago an international firm proposed a large commercial wind project in the Southgate area. Back then the Green Energy Act encouraged renewable energy expansion throughout Ontario, and municipal Council's had little authority over project locations. Renewable Energy Approvals were needed for most new facilities, but Planning Act approvals were seen as a "shield" to restrict projects because energy initiatives under provincial and federal jurisdiction were technically not restricted by municipal zoning authority.

Political concern at the municipal level and questions about health and environmental impacts of industrial wind turbines led to many municipalities passing resolutions as "not a willing host" for commercial wind projects. Once a resolution was passed, the municipality would not consider any commercial wind proposal. Energy providers were forced to pursue projects elsewhere.

Township staff identified about five individual or paired wind turbines constructed in rural parts of Southgate. Staff is not aware of the size of the turbines and or of any significant ongoing issues or complaints. Turbine locations include Southgate Road 10 near Grey Road 8, Southgate Melancthon Townline nearby Southgate Road 10, and Grey Road 8 around Grey Road 9. A search of the zoning bylaw showed no rezoning to permit a wind turbine, but in 2009 a Meteorological (MET) Wind Resource Assessment Tower was approved by rezoning on Southgate Melancthon Townline near Southgate Road 10.

Southgate also hosts a 75-acre commercial solar energy project on County Road 109, between Side Roads 39 and 41, about 2.5 kilometers north of Holstein. The facility produces 50 megawatts of power, enough to supply over 7,600 households through 195,000 ground mount solar panels. Online reports show grazing sheep help maintain the lands. The zoning bylaw does not list an amendment for this project.



In fall 2023 Mount Forest Energy approached Council for a municipal support resolution for a 114MW battery energy storage system on 15 acres of rural lands in Southgate. Proposed under LT1 the project required competitive bids by December 12, 2023, to be completed by 2027-28. The municipal support resolution was said to “not supersede any applicable permits or approvals under applicable Laws and Regulations that may be required for a particular Long-Term Reliability Project”. Mount Forest Energy inquired with the Chief Building Official about the permits and rezoning, but no applications were submitted. The Township Council did not approve a municipal support resolution. The County continues to advise that the approval process for BESS is not clear, unlike the process for RES under LTP2.

The IESO predicts energy consumption could double by 2050 due to a growing economy, increasing population and more products using electricity. The current Long-Term 2 procurement is designed to secure 2,000 MW of energy through wind, solar, hydroelectric and “bioenergy”. Projects are to be in service by May 1, 2030, with a 20-year term. Municipal (and Indigenous) support is needed before submission. There is no longer rated criteria for municipal support resolutions like Mount Forest Energy was requesting.

Projects require a Renewable Energy Approval under the Environmental Protection Act through the Ministry of Environment, Conservation & Parks. This process requires municipal pre-consultation and a mandatory public meeting. Studies to accompany proposals can include a noise assessment, acoustic audit, natural heritage review, zoning compliance and Ministry confirmation letters. A bio-energy facility will need an odour study, while wind projects require noise and acoustical audits. Transformers and inverters need noise assessments.

Provincial Policy Statement: 1.6.11.1 planning authorities to provide opportunities for renewable energy systems, including electricity generation facilities, which includes, by definition, wind, water, biomass, solar, geothermal, and other forms.

County Official Plan: The County’s Climate Change Action Plan supports renewable energy projects at a local use scale, with local benefit for resilience, distributed energy supply, reduction of energy cost etc.

Township Official Plan: Section 3.9 Climate Change policy promotes:

1. Sustainable design using renewable energy systems (3.9(3)(c))
2. Renewable energy to improve air quality and contribute to energy conservation (3.9(3)(h))
3. Encourage generating electricity from renewable energy.

Zoning By-law: Section 5.19 lists several uses permitted in all zones including “any building, structure, use, service, or utility of any department” of the Township, County, Federal or Provincial Government, Ontario Hydro, and private utilities. Under this section, the setbacks in the zone where the utility is located apply. The bylaw has no definition of renewable energy projects, commercial wind turbines, battery storage facilities or solar installations. Where a zoning bylaw does not explicitly permit a use, an amendment is normally required.

Staff Review:

IESO material clearly states Planning Act approvals apply to renewable energy projects (REP) under the LT2 RFP. A municipal support resolution is still needed and can be conditional upon a project obtaining all necessary approvals under the Planning Act. A Renewable Energy Approval is still required through the Province as a separate process to the Planning Act. Even if a resolution is obtained, rezoning could be required along with site plan approval and execution of an implementing agreement. Should an official plan amendment or rezoning for a renewable energy undertaking not be approved by Council, Township and County staff agree that applicants appear to have no appeal to the Ontario Land Tribunal per (Section 22(7.1)(7.2) and Section 34 (11.0.7) of the Planning Act.

There is some information about appropriate [setbacks for commercial wind turbines](#). Although dated, the Provincial Technical Guide for renewable projects suggests a minimum 550-meter setback depending on noise levels, results of a study and number of wind turbines. For example, a 1500-meter setback may be required for 11 to 25 turbines, depending on the results of a noise study. [Commercial Wind Concerns of Ontario](#) recommends a 2km setback from homes, schools, long-term care and similar facilities.

The City of Ottawa initiated zoning amendments in 2023 to address potential new renewable energy facilities and battery energy storage systems. Ottawa's Official Plan allow renewable energy as a main use of land in Rural Countryside, Greenbelt and Natural Environment areas. Large-scale wind turbines are not allowed in Agricultural Resource Areas. Battery storage facilities may be permitted accessory to an agricultural use. Ottawa's interim zoning provisions define renewable energy facilities, make it clear they are not permitted in all zones like other utilities, and limit battery energy storage systems to one hectare maximum or 2% total lot area.

Since Planning Act approvals apply to renewable energy projects, the status of "not a willing host" resolution is not clear. Since the Township passed its resolution years ago, and the 2022 Official Plan policies support renewable energy, the Township would have to process any complete Planning Act application that came forward notwithstanding the "not a willing host" position. Council would be asked to consider a municipal support resolution through the Provincial Renewable Energy Approval under the Environmental Protection Act. This will involve a round of municipal and indigenous consultation and a public meeting separate from the Planning Act process.

The Township Official Plan encourages renewable energy facilities and generation to help address climate change but has no policy direction on where facilities should be located. There is sufficient policy direction in the Official Plan to allow renewable energy projects to be considered through a zoning bylaw amendment. Council could amend the Plan to enhance current policies by prohibiting renewable energy facilities in settlement areas, rural settlements, Agricultural, Hazard Land, or Provincially Significant Wetland and similarly environmentally sensitive areas.

Township staff is not confident on how battery energy storage systems (BESS) should be regulated. County staff suggested there should be a difference in standards applicable to small scale BESS associated with an existing renewable energy facility on a property (private solar panel with a small battery storage system) and utility

scale projects like Mount Forest Energy. This distinction can be considered once County wide direction come forward.

The Township Zoning Bylaw does not define renewable energy facilities or battery energy storage systems (BESS) and contains no regulatory provisions. Some interpretation is required to consider renewable energy provisions a permitted use in all zones under Section 5.19. Council may wish to amend the zoning bylaw to define renewable energy facilities and BESS, ensure such facilities are not permitted in all zones (Section 5.19 does not apply), but require a zoning amendment for each site-specific location that may come forward.

Concluding Comments: Since 2019 wind turbines and solar panels are subject to municipal approvals under the Planning Act. This means Planning Act approvals apply to any site where large scale energy ventures, windmills and/or solar projects are proposed. The Township Official Plan encourages renewable energy facilities, but they are not addressed in the zoning bylaw. Every new proposal will require an amendment to the zoning by-law, and Council’s decision is currently not appealable to the Ontario Land Tribunal. The site plan control area bylaw does not exempt renewable energy facilities such that this process will also apply, including execution of an agreement to secure site improvements.

Council could direct that a general zoning bylaw amendment be initiated to define renewable energy facilities and battery energy storage systems and ensure both are not exempted utilities under section 5.19. While it is appropriate to clarify definitions and requirements in the zoning bylaw, it may be difficult to select lands and zones where renewable energy projects might be allowed. The alternative is to require each new proposal to apply for rezoning to justify the appropriateness of a site. It is recommended that County wide direction be considered as it pertains to battery energy storage systems.

Respectfully Submitted,

Municipal Planner: *Original Signed By*
Bill White MCIP RPP, Triton Engineering

CAO Approval: *Original Signed By*
Dina Lundy, CAO

Attachments: None.

Proposed Draft Official Plan Policy:

That the following be added to the end of Section 3.9:

4) Where the Township is requested to consider a Planning Act application for a renewable energy facility or a energy storage system and/or a Provincial Renewable Energy Approval under applicable legislation the following shall apply:

- a) Renewable energy facilities may be considered without amendment to this plan in designations other than Urban Areas, Rural Settlement Areas, Commercial, Public Space, Agriculture, Natural Environment and Open Space designations such as Provincially Significant Wetlands and Hazard Lands, and Natural Features and Constraints such as Significant Woodlands, Valleylands, Areas of Natural and Scientific Interests and the like.
- b) Renewable energy facilities and energy storage systems will be defined in the Township zoning bylaw but will only be considered through site specific zoning bylaw amendment.
- c) Any application under subsection 4b) shall not be considered complete without applicable technical studies and peer reviews under Section 7.13 of the official plan and any other applicable studies and information that may be needed to obtain any Provincial approval under applicable legislation.
- d) Subject to information provided under section 4(c) the Township may require site specific setbacks and location criteria that exceeds minimum standard for any renewable energy facility or energy storage system where Council believes such increased setbacks and similar criteria area warranted.

Proposed Draft Zoning Bylaw Amendment 19-2002 as amended:

That the following definition be added to Section 3:

“Energy storage system:” shall mean means a system or facility that captures energy produced at one time for use at a later time to reduce imbalances between energy demand and energy production, including for example, flywheels, pumped hydro storage, hydrogen storage, fuels storage, compressed air storage, and battery storage.

“Renewable Energy Facilities” shall mean wind, solar, hydroelectric, bioenergy or battery storage projects proposed under an Ontario Electricity System Operator (IESO) or similar program where a Renewable Energy Approval or similar is mandated under the Environmental Protection Act or subsequent legislation and for which a site-specific zoning bylaw amendment is required.

That the following be added to the end of Section 5.19 c) of the zoning bylaw:

“No renewable energy facility or energy storage system as defined in this bylaw shall be permitted in any zone, and may only be established through site specific zoning bylaw amendment, except such energy facility or storage system used on a single property for individual private users.”