

EB-2013-0031

NOTICE OF APPLICATION AND HEARING

APPLICATION FOR DETERMINATION OF LOCATION OF DISTRIBUTION FACILITIES WITHIN ROAD ALLOWANCES OWNED BY THE TOWNSHIP OF WAINFLEET

Wainfleet Wind Energy Inc. ("Wainfleet Wind" or the "Applicant") filed an application dated February 4, 2013, with the Ontario Energy Board (the "Board") under subsection 41(9) of the *Electricity Act, 1998*, S.O. 1998, c. 15, Schedule A, as amended (the "*Electricity Act*") for an order or orders of the Board establishing the location of Wainfleet Wind's proposed distribution facilities within road allowances owned by the Township of Wainfleet (the "Township").

Wainfleet Wind is in the business of developing wind energy generation projects and associated distribution facilities in the Township. It has partnered with Rankin Construction Inc., a local contractor which carries on the business of building renewable infrastructure.

The Applicant has entered into a contract with the Ontario Power Authority and is in the process of developing a 9 MW wind power generating facility with five wind turbines, located in the Township and Niagara region.

As part of the project, the Applicant is proposing to construct a 27.6kV underground system ("Distribution System") that will collect power from the turbines and deliver it to a switching station, proposed to be located on private lands along an unopened road allowance of Sideroad 22. The Applicant proposes to install the Distribution System underground upon private and public lands in the Township and Niagara Region. This

Application is in reference to the public lands within the authority of the Township only. A map of the proposed facilities is appended to this Notice.

Wainfleet Wind has not been able to reach an agreement with the Township with respect to the location of the proposed Distribution System within road allowances and has therefore requested that the Board issue an order, pursuant to section 41(9) of the *Electricity Act*, determining the location of the Distribution System, within road allowances.

Scope of this proceeding

The scope of this proceeding is limited to determining the location of the Distribution System within the road allowances owned by the Township. The consideration of any aspect of the proposed wind generation facilities is not within the Board's jurisdiction.

The Board has assigned File No. EB-2013-0031 to this application.

How to see the Application

To see a copy of the application, go to the Consumer page of the Board's website and enter the case number EB-2013-0031 in the "Find an Application" box. A copy can also be seen at the Board's office and at the applicant's office at the addresses indicated below, or on the applicant's website <http://www.wainfleetwindenergy.ca>.

Hearing

Wainfleet Wind has requested a written hearing. The Board is considering this request. If you object to a written hearing, you must provide written reasons why an oral hearing is necessary. Any submissions objecting to a written hearing must be received by the Board and copied to the applicant within 10 days of the publication or service date of this notice.

How to Participate

Comment

If you wish to give your opinion on the proceeding to the Board Members hearing the application, you are invited to send a written letter of comment to the Board no later than 30 days after the publication or service date of this notice. A complete copy of

your letter of comment, including your name, contact information, and the content of the letter, will be provided to the applicant and the Hearing Panel.

Observe

If you do not wish to actively participate in the proceeding but you do wish to receive documents issued by the Board, you may request observer status. Your written request must be received by the Board no later than 10 days from the publication or service date of this notice.

Personal Information in Letters of Comment and Observer Requests

All letters of comment or letters requesting observer status will be placed on the public record, which means that the letters can be seen at the Board's offices and will be available on the Board's website. Before placing the letters on the public record, the Board will remove any personal (i.e. not business) contact information from the letters (i.e. the address, fax number, phone number, and e-mail address of the individual). However, the name of the individual and the content of the letter will become part of the public record. Please address your letter to the Board Secretary at the address below, and reference file number EB-2013-0031 at the top of your letter.

Intervene

If you wish to actively participate in the proceeding (e.g., submit questions, file argument), you may request intervenor status from the Board no later than 10 days after the publication or service date of this notice. Instructions for requesting intervenor status are available on the Board's website at www.ontarioenergyboard.ca/participate. Everything an intervenor files with the Board, including the intervenor's name and contact information, will be placed on the public record, which can be seen at the Board's offices and will be available on the Board's website.

If you do not have internet access, please call 1-877-632-2727 to receive information about this proceeding and how to participate.

How to Contact Us

In responding to this Notice, please reference Board file number EB-2013-0031 in the subject line of your e-mail or at the top of your letter. It is also important that you provide your name, postal address and telephone number and, if available, an e-mail address and fax number. All communications should be directed to the attention of the

Board Secretary at the address below, and be received no later than 4:45 p.m. on the required date.

IMPORTANT

IF YOU DO NOT PARTICIPATE IN THE HEARING BY FILING WRITTEN SUBMISSIONS IN ACCORDANCE WITH THIS NOTICE, THE BOARD MAY PROCEED WITHOUT YOUR PARTICIPATION AND YOU WILL NOT BE ENTITLED TO FURTHER NOTICE IN THIS PROCEEDING.

ADDRESSES

The Board

P.O. Box 2319
27th Floor
2300 Yonge Street
Toronto ON M4P 1E4
Attention: Board Secretary
E-mail: boardsec@ontarioenergyboard.ca
E-filings:
www.pes.ontarioenergyboard.ca/eservice
Tel: 1-888-632-6273 (Toll free)
Fax: 416-440-7656

The Applicant

For Viewing of Application:

Rankin Construction Inc.
222 Martindale Road
St. Catharines, ON, L2R 7A3

For Communication and Filings:

Wainfleet Wind Energy Inc.
c/o Loeffen Farms
42569 Highway #3
Wainfleet, ON, L0S 1V0
Attention: Mr. Harold Loeffen
Tel: 1-905-899-2067
Fax: *Not provided*
Email: loeffenfarms@sympatico.ca

Applicant's Counsel

Aird & Berlis LLP
Suite 1800, Box 754
181 Bay Street
Toronto, ON M5J 2T9

Attention: Mr. Scott Stoll
Tel: 1-416-865-4703
Fax: 1-416-863-1515
Email: sstoll@airdberlis.com

DATED at Toronto March 6, 2013

ONTARIO ENERGY BOARD

Original Signed By

Kirsten Walli
Board Secretary

Map of Proposed Facilities





Wainfleet
Clean energy for life.

WAINFLEET WIND ENERGY INC.
APPLICATION
UNDER SUB-SECTION 41(9) of the
ELECTRICITY ACT, 1998

February 4, 2013

EXHIBIT LIST

<u>Exh</u>	<u>Tab</u>	<u>Schedule</u>	<u>Title</u>
A- ADMINISTRATIVE			
A	1	1	Exhibit List
	2	1	Application
	3	1	Summary of Pre-filed Evidence
B – PRE-FILED EVIDENCE			
B	1	1	The Applicant
	2	1	Project Description <i>Appendix A – Project Site Plan</i>
	3	1	Proposed Use of Municipal Road Allowance <i>Appendix A – Engineering Drawings of Proposed Distribution System</i>
	3	2	Communication with Municipality <i>Appendix A – Letter to Township dated Dec. 12, 2010</i> <i>Appendix B – Township Moratorium Resolution</i> <i>Appendix C – Ratepayer Presentation to Council Jan. 24, 2012</i> <i>Appendix D – Wainfleet Wind Presentation to Council Jan. 24, 2012</i> <i>Appendix E – Council Minutes of Meeting – January 24, 2012</i> <i>Appendix F – Letter to Township dated February 22, 2012</i> <i>Appendix G – Council Minutes of Meeting – February 28, 2012</i> <i>Appendix H – Planning Staff Report</i>

<u>Exh</u>	<u>Tab</u>	<u>Schedule</u>	<u>Title</u>
B	3	2	<i>Appendix I - Council Minutes of Meeting – March 27, 2012</i> <i>Appendix J – March 28, 2012 Letter to Township</i> <i>Appendix K – Wind Turbine By-law</i> <i>Appendix L - Council Minutes of Meeting – April 10, 2012</i> <i>Appendix M – Letter to Region and Letter to Township</i> <i>September 2012</i> <i>Appendix N - Council Minutes of Meeting – Sept. 25, 2012</i> <i>Appendix O – Letter to Township January 3, 2013</i> <i>Appendix P – Letter from Township to Wainfleet Wind</i>

ONTARIO ENERGY BOARD

IN THE MATTER OF the *Ontario Energy Board Act, 1998*, S.O., c. 15 (Sched. B);

AND IN THE MATTER OF an application by Wainfleet Wind Energy Inc. for an Order or Orders pursuant to section 41(9) of the *Electricity Act, 1998*, S.O. 1998, c. 15 (Sched. A), as amended, establishing the location of the Applicant's distribution facilities within a certain public right-of-way and street owned by the Township of Wainfleet, Regional Municipality of Niagara, all substantially in accordance with the Applicant's plans.

APPLICATION

1. The Applicant is Wainfleet Wind Energy Inc. ("**Wainfleet Wind**" or the "**Applicant**"), an Ontario corporation formed by the Loeffen family and located in the Township of Wainfleet, Ontario ("**Township**"). Wainfleet Wind is a corporation which carries on the business of developing renewable wind energy generation projects and the associated distribution facilities in the Township. It has partnered with Rankin Construction Inc., a local contractor which carries on the business of building renewable infrastructure, including wind projects.
2. Wainfleet Wind hereby applies to the Ontario Energy Board (the "**Board**") pursuant to section 41(9) of the *Electricity Act, 1998*, S.O. 1998, c. 15 (Sched. A), as amended (the "**Electricity Act**") for an order or orders establishing the location of Wainfleet Wind's installation of high voltage power cables, associated ducts and communications cable along and across Concession 1 Road and across the unopened Sideroad 22 road

allowance at the municipal drain more particularly identified in Exhibit B, Tab 3, Schedule 1, Appendix B (collectively referred to as the “**Road Allowances**”) owned by the Township, all substantially in accordance with the Applicant’s plans as set out in Exhibit B, Tab 3, Schedule 1, Appendix A.

3. The Wainfleet Wind Energy Project will involve five wind turbines (together, the “**Turbines**”) that will collect and transmit power to a substation to be located on private property along the unopened road allowance of Sideroad 22.
4. To transport the electricity generated from the Turbines to the existing Hydro One Networks Inc. (“**HONI**”) distribution system, HONI will be constructing an overhead pole line that will connect the substation to their distribution system. The final location of the substation may be different to that shown on the plans, as HONI has not yet constructed anything south of Abbey Rd. However, the location of the proposed road crossings of the unopened Sideroad 22 should not change.
5. Wainfleet Wind will be constructing a 27.6kV underground electrical power distribution system (the “**Distribution System**”). Wainfleet Wind is therefore a distributor of electricity, as defined in the Electricity Act.
6. The Distribution System will use three different construction approaches in various sections, as detailed in the drawings:
 - (a) Direct buried cables across private land and along Concession 1 Rd. and north portions of Station Rd.;
 - (b) Concrete encased duct bank for the crossing of Concession 1 Rd. (optional directional bore);
 - (c) Directional bored ducts for south portion along Station Rd. and for crossing Station Rd.

7. Although Station Rd. is under the jurisdiction of the Region of Niagara, the overall plans are presented for completeness. The drawings applicable to the Township include sheets 123901C1.0 to 123901C1.4, 123901C1.14 and 123901C1.15.
8. The proposed cable installation meets or exceeds the requirements of the Ontario Electrical Safety Code and CSA Standard C22.3-#7, Underground Systems.
9. Permanent Buried Cable Markers will be installed at either end of road crossings and are recommended by CSA for identifying the trench location in rural locations.
10. Wind has chosen to locate certain power lines, poles and other facilities associated with the Distribution System within the Road Allowances pursuant to the statutory right of distributors under subsections 41(1) and 41(5) of the Electricity Act. These subsections, among other things, allow distributors to construct or install distribution facilities over, under or on any public streets without the consent of the owner of or any other person having an interest in such streets.
11. Under section 41(9) of the Electricity Act, a distributor may request the Board to determine the location of a Distribution System where the distributor and the owner of the right-of-way are unable to come to an agreement.
12. Wainfleet Wind has sought to reach an agreement with the Township with respect to the location, construction, operation, and maintenance of the distribution facilities within the Road Allowances (the “**Municipal Consent Application**”) but the Township, through its council, has refused to consider the requests.
13. In the spring of 2012 Wainfleet Wind had requested the Township approve one Road Crossing. The Township denied this request despite Township Staff having no issues or concerns with the proposal.

14. On September 12 and September 13, 2012, Wainfleet Wind sent a letter to the Municipal Law Enforcement Officer of the Regional Municipality of Niagara and the Director of Operations of the Township, respectively, submitting an application for Municipal Consent.
15. On September 25, 2012, in a council meeting of the Township, the Municipal Consent Application was presented to members of council for approval. Council resolved to defer consent due to the uncertainty surrounding Wainfleet Wind's provincial approval date and the outcome of the legal challenge of the Township's 2 km setback for wind turbines.
16. In January 2013, counsel for Wainfleet Wind requested the Township reconsider its prior position. To date, the Township has not responded to the request for reconsideration.
17. Because Wainfleet Wind and the Township cannot reach an agreement with respect to the location of the distribution system, Wainfleet Wind therefore requests that the Board issue an order or orders, pursuant to section 41(9) of the Electricity Act, establishing the location of Wainfleet Wind's distribution facilities within the Road Allowances, all substantially in accordance with the Applicant's plans as set out in Exhibit B, Tab 3, Schedule 1.
18. During the development of the project and the negotiation of the Municipal Consent Application, Wainfleet Wind has substantially mitigated all concerns raised by the Township with respect to the location of the Distribution System. Wainfleet Wind's use of the Road Allowances to locate the Distribution System facilities causes no prejudice to the Township.
19. In contrast, the Township's failure to authorize a consent letter to the Applicant could cause prejudice to Wainfleet Wind.
20. Wainfleet Wind therefore further requests that the Board expedite its hearing of this application in accordance with sections 2.01 and 7.01 of the Board's *Rules of Practice*

and Procedure, particularly because the only person affected by this application is the Township, as the sole owner and controller of the Road Allowances.

21. This Application is supported by written evidence that includes details of the project. The written evidence will be pre-filed and may be amended from time to time, prior to the Board's final decision on this Application.
22. Wainfleet Wind requests that, pursuant to section 34.01 of the Board's *Rules of Practice and Procedure*, this proceeding be conducted by way of written hearing. Wainfleet Wind requests the Board issue a decision prior to May 1, 2013.
23. Wainfleet Wind requests that a copy of all documents filed with the Board by each party be served on the Applicant and the Applicant's counsel, as follows:

(a) The Applicant:

Wainfleet Wind Energy Inc.
c/o Loeffen Farms
42569 Highway #3
Wainfleet, Ontario
L0S 1V0

Attention: Mr. Harold Loeffen
Telephone: 1-905-899-2067
Email: loeffenfarms@sympatico.ca

And to:

(b) The Applicant's Counsel:

Aird & Berlis LLP
Suite 1800, Box 754
181 Bay Street
Toronto, ON M5J 2T9

Attention: Scott Stoll
Email: sstoll@airdberlis.com

Tel: 1-416-865-4703
Fax: 1-416-863-1515

The Applicant hereby requests the following:

- (c) An order(s) for the publication, notice and conduct of this proceeding;
- (d) An order(s) approving the location of the Applicant's facilities all substantially in accordance with the Applicant's plans as set out in Exhibit B, Tab 3, Schedule 1, Appendix A;
- (e) Such other relief as the Board deems appropriate.

DATED this 4th day of February, 2013.

WAINFLEET WIND ENERGY INC.

By its Counsel

Aird & Berlis LLP

Original Signed By

Scott Stoll

1 (iii) refused municipal consent applications for the installation of the Distribution
2 System; and

3 (iv) deferred consideration of the applications for the installation the Distribution System
4 pending the outcome of the court application challenging the wind turbine set-back by-
5 law contrary to the recommendation of Township Staff.

6 Following the rejection of one element of the Distribution System in April 2012, the Applicant
7 took the summer of 2012 and communicated with Township staff and others to establish the
8 location of the Distribution System. The drawings showing the proposed Distribution System
9 and the Township has not conveyed to the Applicant any technical issue regarding the proposed
10 location.

11 As part of the development of the Wainfleet Project, Wainfleet Wind is required to obtain a
12 Renewable Energy Approval from the Ontario Ministry of the Environment (the “**Ministry**”).
13 Wainfleet Wind anticipates receiving approval from the Ministry in the next few weeks. The
14 Applicant wishes to start construction as soon as it obtains the necessary approvals in the spring
15 of 2013.

16 The Applicant therefore requests the Board approve the location of the Distribution System in
17 order that it may not be further harmed and suffer damages as a result of the Township’s
18 intransigence.

The Applicant

1. The Applicant is Wainfleet Wind Energy Inc. (“**Wainfleet Wind**” or the “**Applicant**”), an Ontario corporation located in the Township of Wainfleet, Ontario (“**Township**”).
2. Wainfleet Wind was formed in 2009 by the Loeffen brothers: John, Harold and the late Bill. Wainfleet Wind is a corporation which carries on the business of developing renewable wind energy generation projects and the associated distribution facilities in Wainfleet.
3. In 2012, the Wainfleet Wind partnered with Rankin Construction Inc., a local contractor with similar deep roots in the Niagara Region and a well-known commitment to the environment and renewable energy. In addition to 34 years building local infrastructure and employing many throughout the Niagara Region, Rankin has constructed 15 wind projects including Ontario's first wind farm. Rankin will use this extensive experience to ensure the success of wind power in Niagara providing clean, affordable and sustainable power for future generations.
4. Wainfleet Wind has entered into a contract with the Ontario Power Authority (the “**OPA**”) for the purpose of selling all of the electricity generated by the Wainfleet Project.

1 The Distribution System will use three different construction approaches in various sections, as
2 detailed in the drawings:

3 1) Direct buried cables across private land and along Concession 1 Rd. and north
4 portions of Station Rd.;

5 2) Concrete encased duct bank for the crossing of Concession 1 Rd. (optional directional
6 bore); and

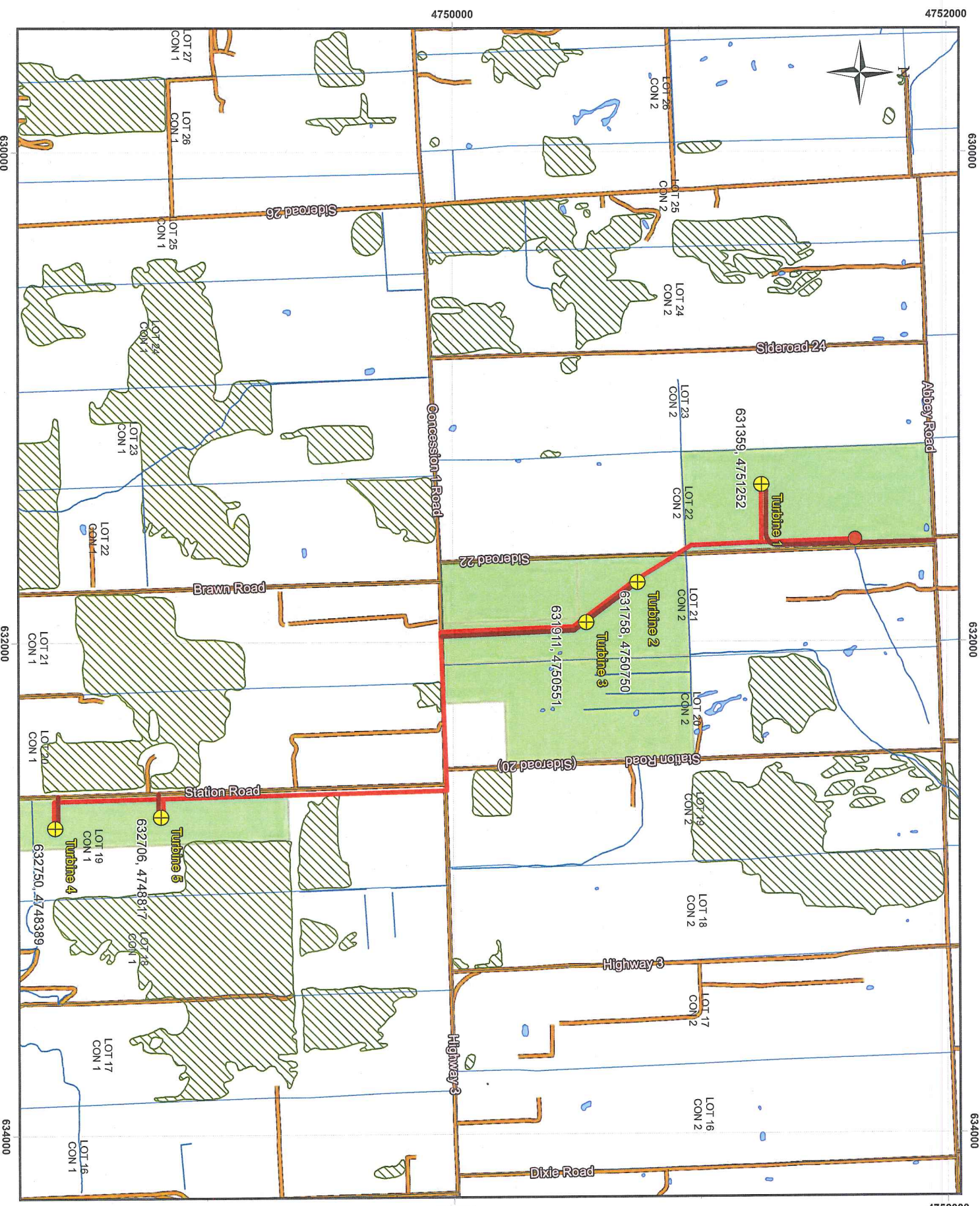
7 3) Directional bored ducts for south portion along Station Rd. and for crossing Station
8 Rd.

9 Wainfleet Wind submitted a Renewable Energy Approval (“**REA**”) and has received notice from
10 the Ministry of the Environment that the REA application is complete and it is currently under
11 technical review. Wainfleet Wind anticipates that the Ministry of the Environment will issue a
12 decision in respect of the REA in the next few weeks.

13

14

15 13952243.2



Legend

- ⊕ Turbines
- Switching Station
- Access Roads
- Tap Lines
- Optioned Properties
- Streams
- Lots
- Roads
- Lakes
- Forests

EB-2013-0031
Exhibit B
Tab 2
Schedule 1
Appendix A
Page 1 of 1

Project Name: Wainfleet Wind Power

Project Title: Alternative Site Plan A

Map Scale: 1:15,000

0 125 250 500 750 1,000 Meters

Version 7 dated February 23, 2012
Created by Geoff Bell, IPC Energy
All coordinates are expressed in UTM 17N NAD83

Project Name: Wainfleet Wind Power

Scale: 1:500,000

4750000 630000 632000 634000

4752000 630000 632000 634000

1 The Applicant intends to install the proposed Distribution System along or across Concession
2 Road 1 and Station Road. Detail drawings of the work proposed to be completed within the
3 right of way is provided at Exhibit B, Tab 3, Schedule 1 Appendix A. For the purpose of this
4 Application, the applicable drawings are 123901C1.0 to 123901C1.4, 123901C1.14 and
5 123901C1.15.

6 The Distribution System will use three different construction approaches in various sections, as
7 detailed in the drawings:

- 8 1) Direct buried cables across private land and along Concession 1 Rd. and north
9 portions of Station Rd.;
- 10 2) Concrete encased duct bank for the crossing of Concession 1 Rd. (optional directional
11 bore); and
- 12 3) Directional bored ducts for south portion along Station Rd. and for crossing Station
13 Rd.

14 The Applicant is unable to come to an agreement with the Township regarding the location of the
15 Distribution System as the Township has, on multiple occasions, rejected or refused to consider
16 the request to install the Distribution System within the municipal highway.

17

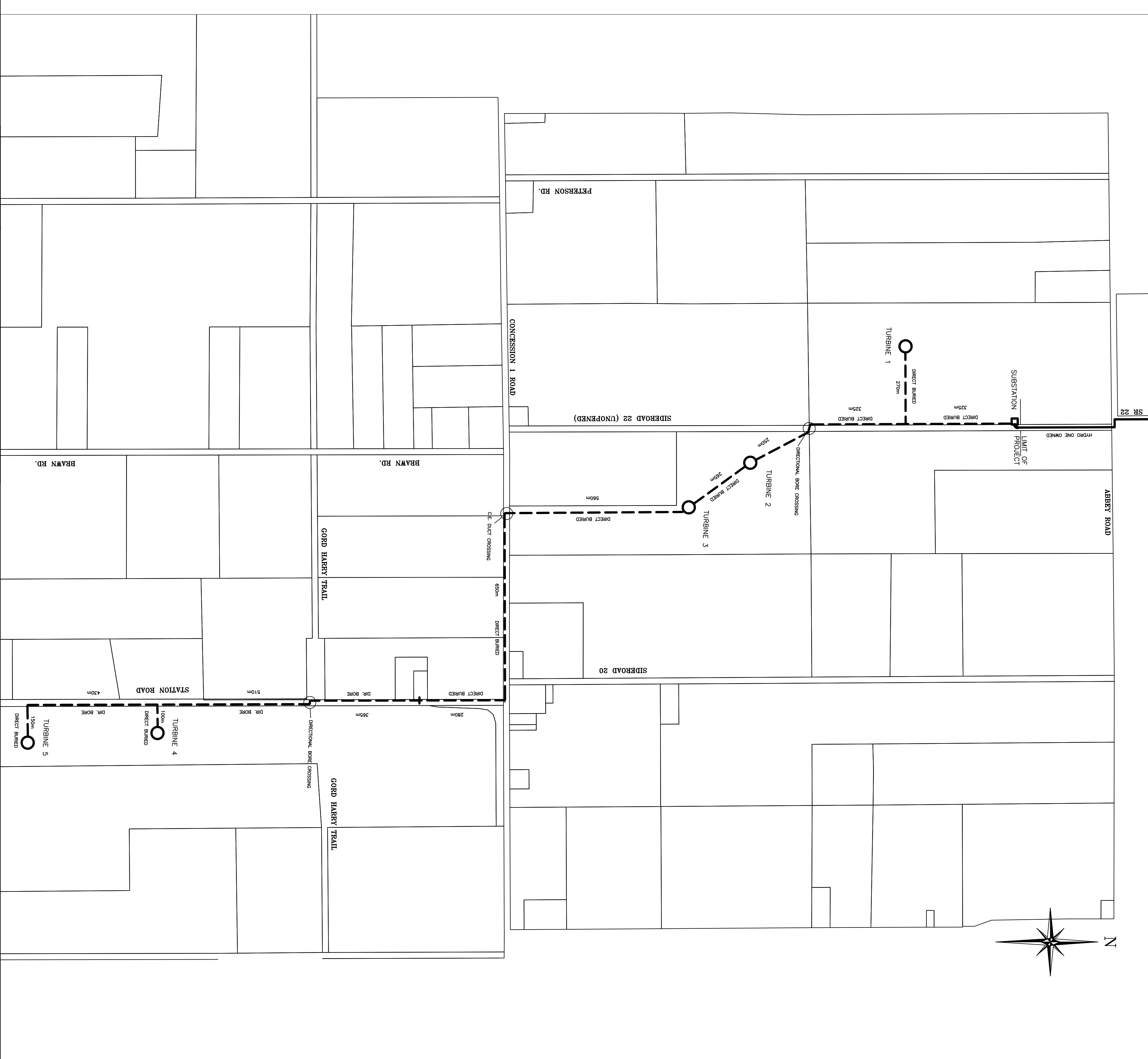
18 13954470.1

LIST OF DRAWINGS - MAINFLEET WIND PROJECT

DWG. #	DRAWING TITLE
123901C1.0	COLLECTOR SYSTEM OVERALL LAYOUT AND CONSTRUCTION NOTES
123901C1.1	COLLECTOR SYSTEM CROSS SECTION DETAIL & PLAN & PROFILE CONC. 1 RD STA. 0+000 TO STA. 0+120
123901C1.2	COLLECTOR SYSTEM PLAN AND PROFILE CONCESSION 1 ROAD STA. 0+120 TO STA. 0+310
123901C1.3	COLLECTOR SYSTEM PLAN AND PROFILE CONCESSION 1 ROAD STA. 0+310 TO STA. 0+500
123901C1.4	COLLECTOR SYSTEM PLAN AND PROFILE CONCESSION 1 ROAD STA. 0+500 TO STA. 0+650
123901C1.5	COLLECTOR SYSTEM PLAN AND PROFILE STATION ROAD STA. 0+000 TO STA. 0+180
123901C1.6	COLLECTOR SYSTEM PLAN AND PROFILE STATION ROAD STA. 0+180 TO STA. 0+370
123901C1.7	COLLECTOR SYSTEM PLAN AND PROFILE STATION ROAD STA. 0+370 TO STA. 0+560
123901C1.8	COLLECTOR SYSTEM PLAN AND PROFILE STATION ROAD STA. 0+560 TO STA. 0+750
123901C1.9	COLLECTOR SYSTEM PLAN AND PROFILE STATION ROAD STA. 0+750 TO STA. 0+940
123901C1.10	COLLECTOR SYSTEM PLAN AND PROFILE STATION ROAD STA. 0+940 TO STA. 1+130
123901C1.11	COLLECTOR SYSTEM PLAN AND PROFILE STATION ROAD STA. 1+130 TO STA. 1+320
123901C1.12	COLLECTOR SYSTEM PLAN AND PROFILE STATION ROAD STA. 1+320 TO STA. 1+510
123901C1.13	COLLECTOR SYSTEM PLAN AND PROFILE STATION ROAD STA. 1+510 TO STA. 1+600
123901C1.14	COLLECTOR SYSTEM PLAN - SIDEROAD 22 CROSSING
123901C1.15	COLLECTOR SYSTEM ROAD CROSSING SECTION DETAILS STATION RD, CONCESSION 1 RD, SIDEROAD 22.

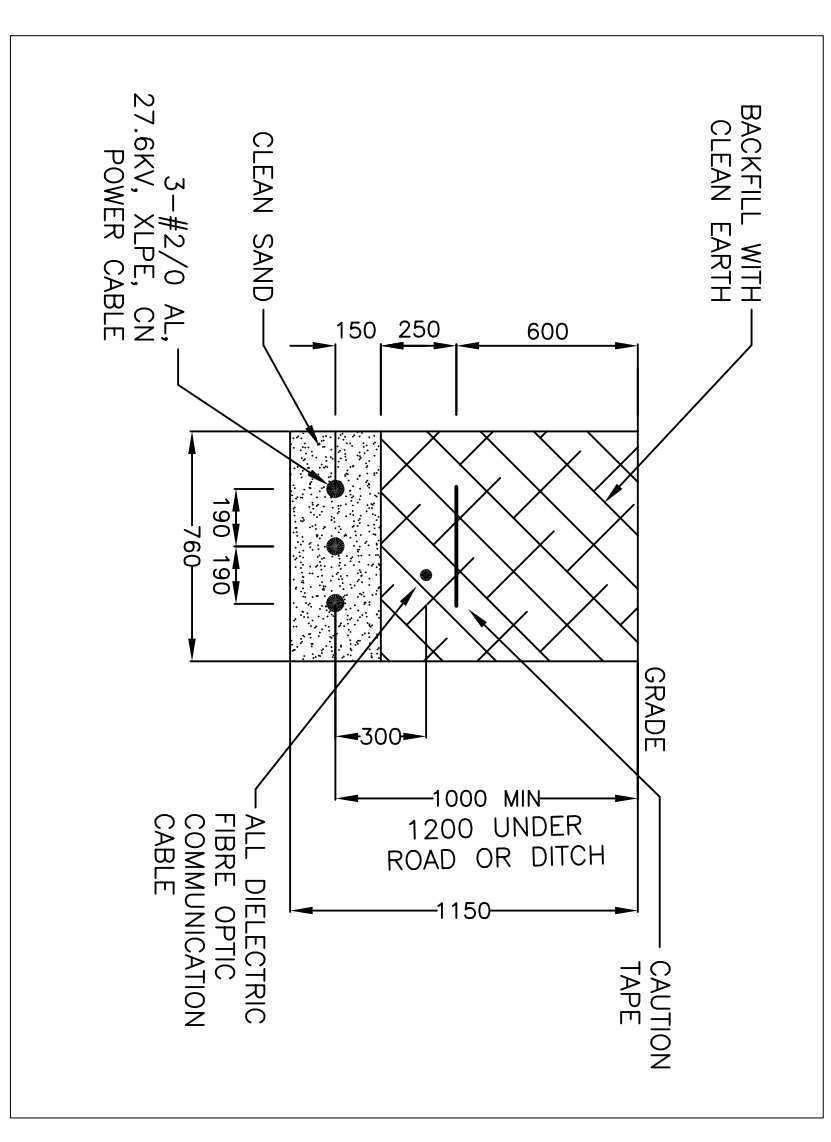
CONSTRUCTION NOTES:

- ALL DIMENSIONS ARE METRIC AND SHOWN IN mm, UNLESS OTHERWISE NOTED.
- TO ENSURE VISIBILITY, CABLES SHOWN IN CROSS SECTIONS ARE SHOWN LARGER THAN SCALE.
- ALL CONSTRUCTION TO BE IN ACCORDANCE WITH THE ONTARIO ELECTRICAL SAFETY CODE, AND CSA C22.3-#10 UNDERGROUND SYSTEMS.
- UTILITIES SHOWN ON THESE PLANS ARE FOR DESIGN REFERENCE ONLY. EXCAVATOR TO OBTAIN LOCATES PRIOR TO ANY EXCAVATION. UTILITY CONFLICTS TO BE RESOLVED ON SITE WITH UTILITY OWNERS(S).
- MAINTAIN AT LEAST 1.0m HORIZONTAL CLEARANCE FROM ALL UTILITIES RUNNING PARALLEL TO TRENCH LINE.
- MAINTAIN AT LEAST 0.3m VERTICAL CLEARANCE FROM OTHER UTILITIES WHERE CROSSINGS OCCUR. IF 0.3m CLEARANCE CANNOT BE MAINTAINED THEN ADDITIONAL MECHANICAL PROTECTION IS REQUIRED TO PREVENT FUTURE CONTACT.
- DO NOT OPEN CUT STATION RD. - CROSSING SHALL BE DIRECTIONAL BORE ONLY.
- CAUTION - SAMPLING WELLS NEAR LANDFILL SITE - WEST SIDE OF STATION RD. SOUTH OF GORD HARRY RECREATIONAL TRAIL.
- FOR CONCRETE ENCASED DUCT BANK ALL DUCTS, FITTINGS AND BENDS SHALL BE PVC TYPE DB2/ES2 AS PER CSA C22.2-#211.1 SOUND WALL ONLY. APPROVED SOLVENT CEMENT SHALL BE USED TO JOIN ALL DUCTS, FITTINGS AND BENDS A MINIMUM OF 30 MINUTES PRIOR TO COVERING OF THE TRENCH.
- CONCRETE ENCASED DUCTS TO BE SUPPORTED WITH IPEX MONOBLOC OR EQUIVALENT SPACERS AND SUITABLY ANCHORED TO PREVENT FLOATING DURING CONCRETE POURING.
- CONCRETE ENCASED DUCT BANK TO BE REINFORCED WITH NON PRE-STRESSED 19mm (5/8") DEFORMED STEEL REINFORCING BARS, GRADE 400 AND IN ACCORDANCE WITH CSA G30.12. STEEL REINFORCING BARS SHALL BE INSTALLED CONTINUOUSLY, MINIMUM 300mm OVERLAP AND TIED, LOCATED AT THE BOTTOM OF THE DUCT BANK AS SHOWN IN DETAIL 4. DUCTS TO BE ENCASED IN 20MPa CONCRETE WITH 10mm AGGREGATE, 4" SLUMP.
- DUCT BENDS SHALL HAVE A MINIMUM 1.5m RADIUS.
- DUCTS TO BE CLEANED, PROVEN AND ROPEL WITH 10mm (3/8") POLYPROPYLENE PULLING ROPE.
- SAND FILL TO BE UNIFORMLY GRADED CLEAN SAND WITH MAXIMUM AGGREGATE SIZE OF 2mm AND MAXIMUM OF 8% PASSING NUMBER 200 SIEVE.
- INSTALL RED CAUTION TAPE IN OPEN CUT TRENCH AS SHOWN IN DETAILS.
- ROAD AND DRIVEWAY CROSSINGS SHALL BE BACKFILLED WITH GRANULAR "A" AND COMPACTED TO 100% STANDARD PROCTOR DENSITY, WITH SURFACE RESTORATION TO MATCH EXISTING, IN ACCORDANCE WITH THE MUNICIPAL OR REGIONAL AUTHORITY.
- TRENCH RESTORATION IN BOULEVARD AND LAWN AREAS SHALL INCLUDE CLEAN BACKFILL WITH SURFACE RESTORATION TO MATCH EXISTING, IN ACCORDANCE WITH THE MUNICIPAL OR REGIONAL AUTHORITY.
- AS-BUILT TRENCH LOCATION TO BE RECORDED WITH OFFSET DIMENSIONS FROM PROPERTY BARS, ROAD CENTRE LINE, FENCE LINES, ETC.
- TRENCH LINE ALONG ROAD ALLOWANCE TO BE MARKED WITH PERMANENT, ABOVE GROUND, RED COLOURED MARKERS - "CAUTION - BURIED HIGH VOLTAGE CABLES". TRENCH MARKERS NOT TO BE INSTALLED WITHIN ___m OF TRAVELLED ROAD SURFACE TO AVOID CONFLICT WITH SNOW PLOWING AND ROAD MAINTENANCE.

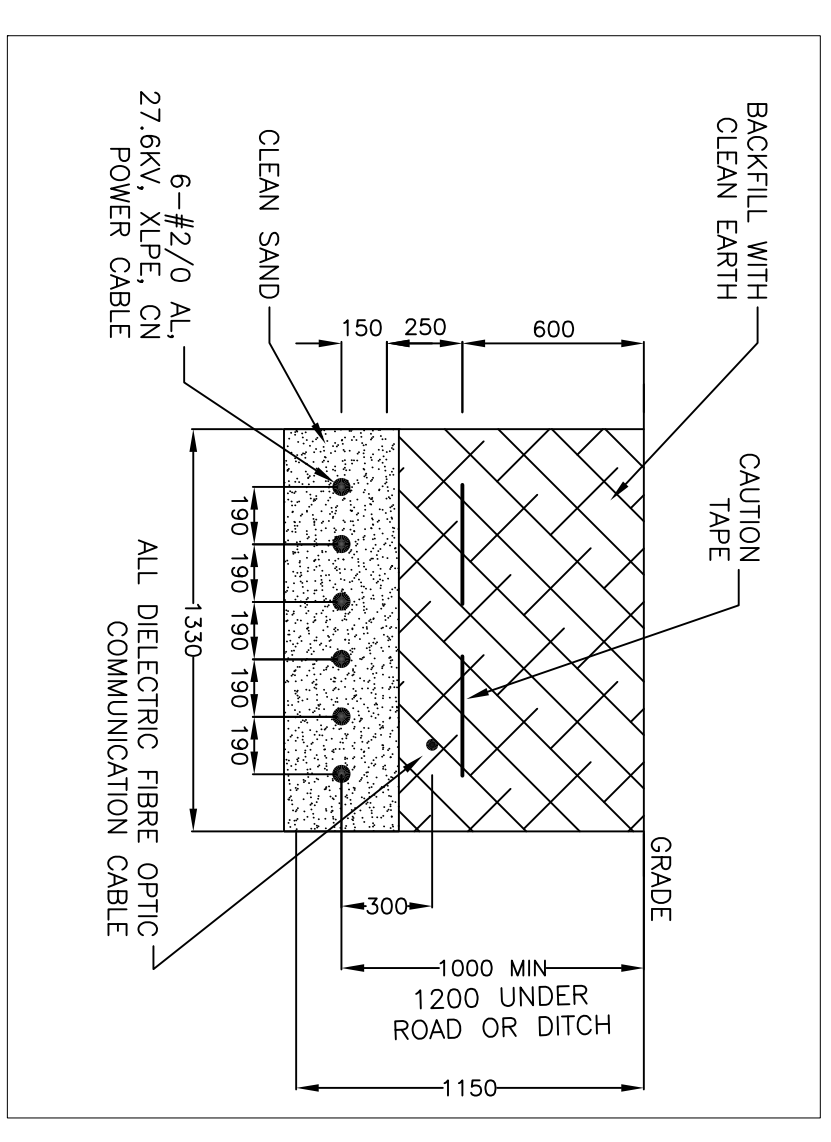


<p>RAVEN Engineering Inc. Niagara Falls, ON. (905) 353-9252</p>	
<p>PROJECT: MAINFLEET WIND PROJECT</p>	<p>CLIENT: MAINFLEET WIND ENERGY INC. 222 MARINDALE RD. PO BOX 11167 ST. CATHARINES, ON, L2R 7A3</p>
<p>DRAWING TITLE: COLLECTOR SYSTEM OVERALL LAYOUT AND CONSTRUCTION NOTES</p>	<p>DESIGNER: A.L.D.D. DRAWING: R.E.</p> <p>DATE: SEPT. 10, 2012</p> <p>SCALE: 750:1</p> <p>DRAWING No.: 123901C1.0 REV.: 0</p>
<p>DESIGN SUBMISSION TO ROAD AUTHORITY</p>	<p>9/10/12</p>
<p>#</p>	<p>REVISION</p>

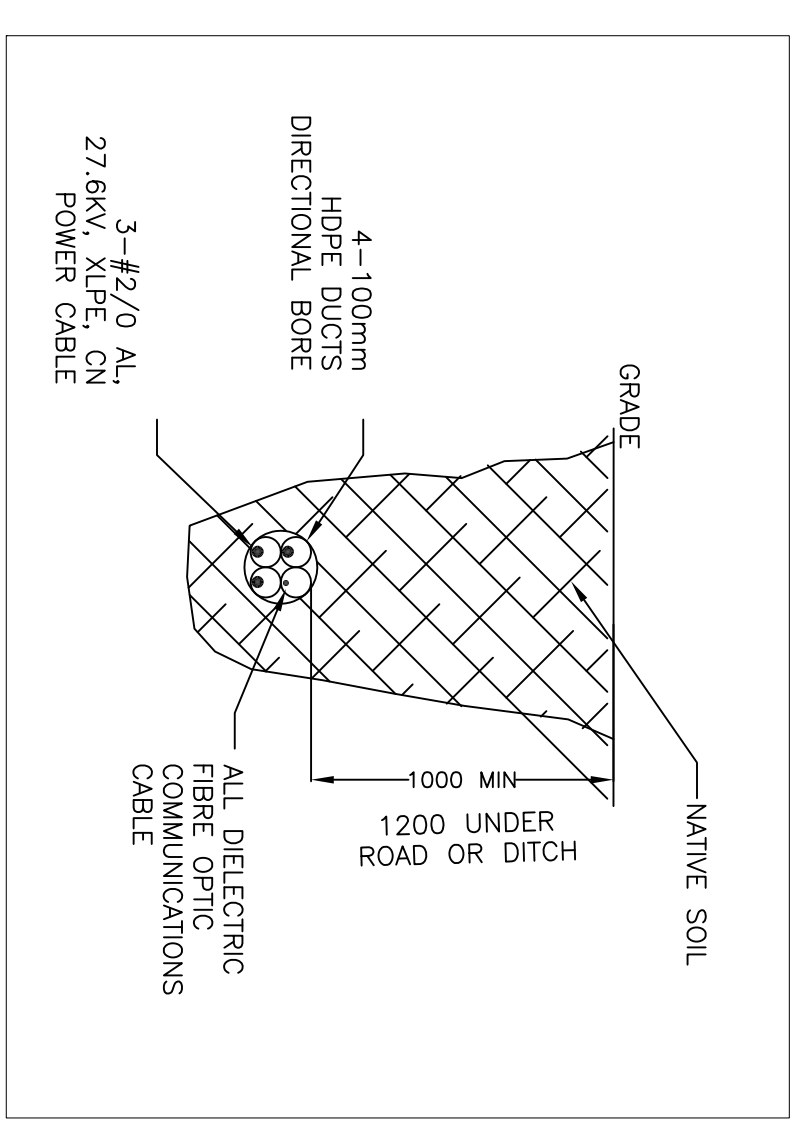
DETAIL 1
TYPICAL TRENCH – DIRECT BURIED
27.6KV COLLECTOR CABLES
ONE CIRCUIT
SCALE 1:25



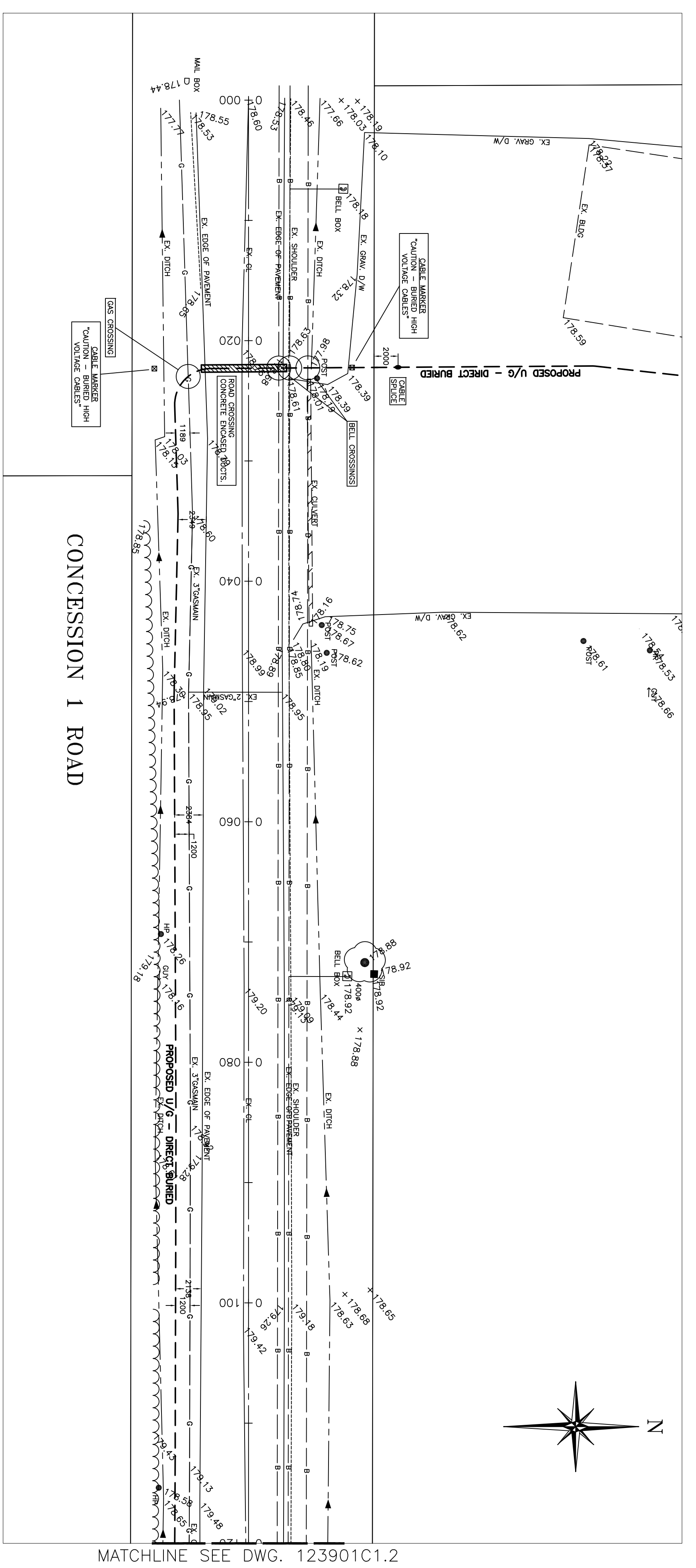
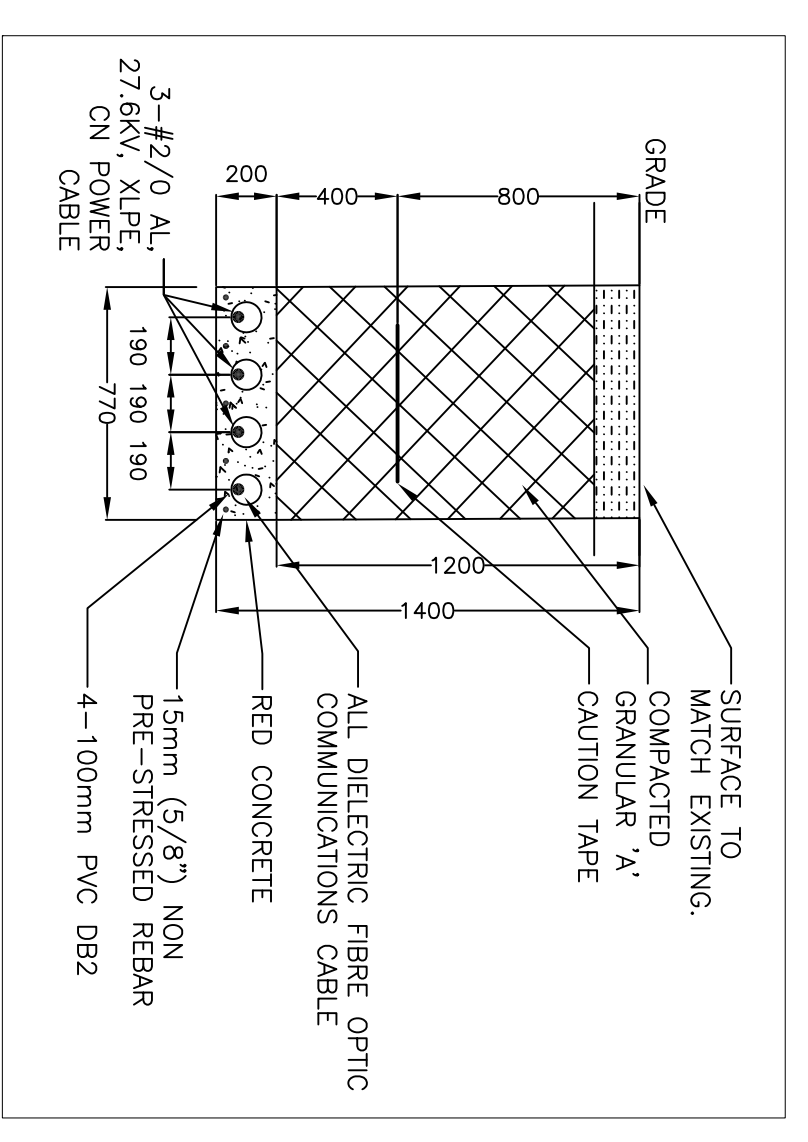
DETAIL 2
TYPICAL TRENCH – DIRECT BURIED
27.6KV COLLECTOR CABLES
TWO CIRCUITS
SCALE 1:25



DETAIL 3
TYPICAL TRENCH – DIRECTIONAL BORE
HDPE DUCTS
27.6KV COLLECTOR CABLES
SCALE 1:25



DETAIL 4
TYPICAL TRENCH – ROAD CROSSING
AND DRIVEWAY CROSSING
CONCRETE ENCASED DUCT BANK
27.6KV COLLECTOR CABLES
SCALE 1:25



ALIGNMENT	0+000	0+010	0+020	0+030	0+040	0+050	0+060	0+070	0+080	0+090	0+100	0+110	0+120	ALIGNMENT
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DESIGNER: A.D.D.		DRAWING: R.E.	
DATE: SEPT. 10, 2012		SCALE: HORIZ 1:250 VERT 1:50	
DRAWING NO: 123901C1.1		REV: 0	

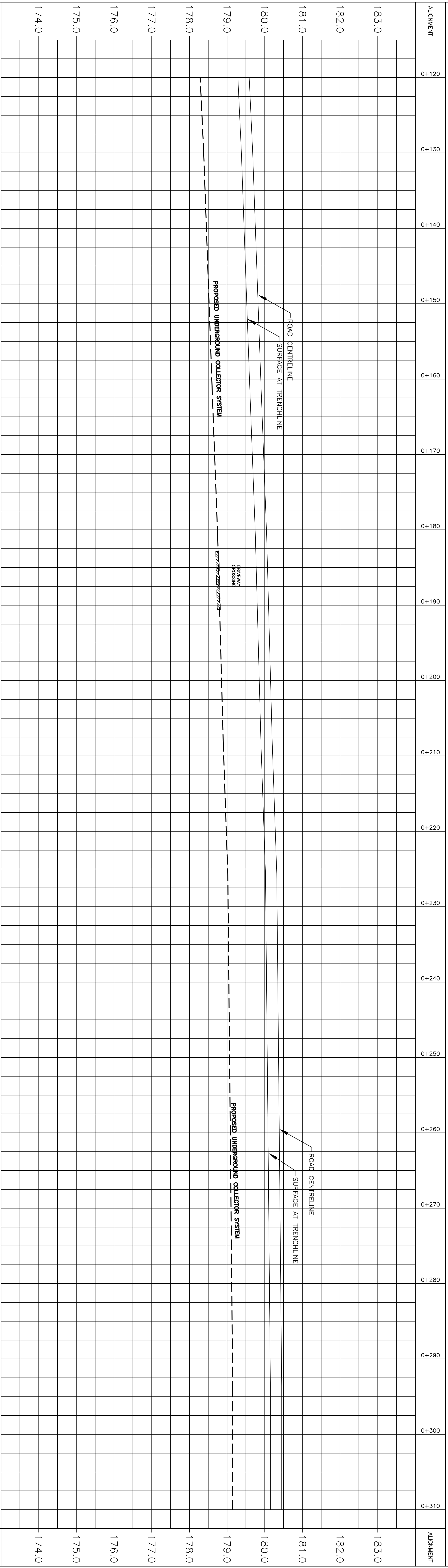
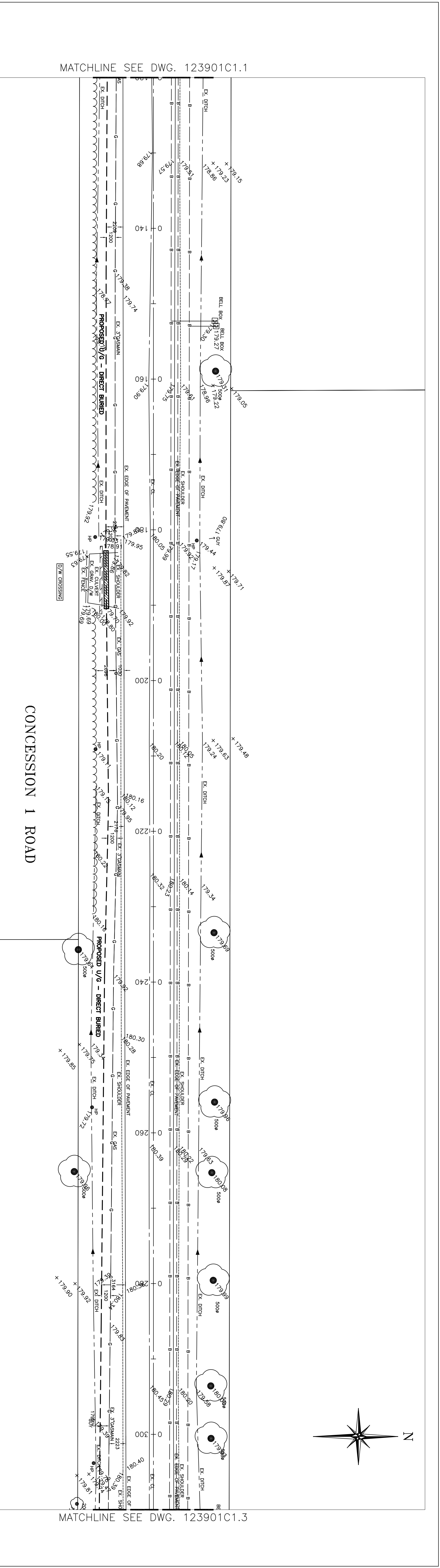
PROJECT: WAINFLEET WIND PROJECT
CLIENT: WAINFLEET WIND ENERGY INC.
 222 MERRIDALE RD.
 PO BOX 11167
 ST. CATHARINES, ON, L2R 7A3

DRAWING TITLE: COLLECTOR SYSTEM CROSS SECTION DETAILS & PLAN AND PROFILE CONCESSION 1 ROAD STA. 0+000 TO STA. 0+120

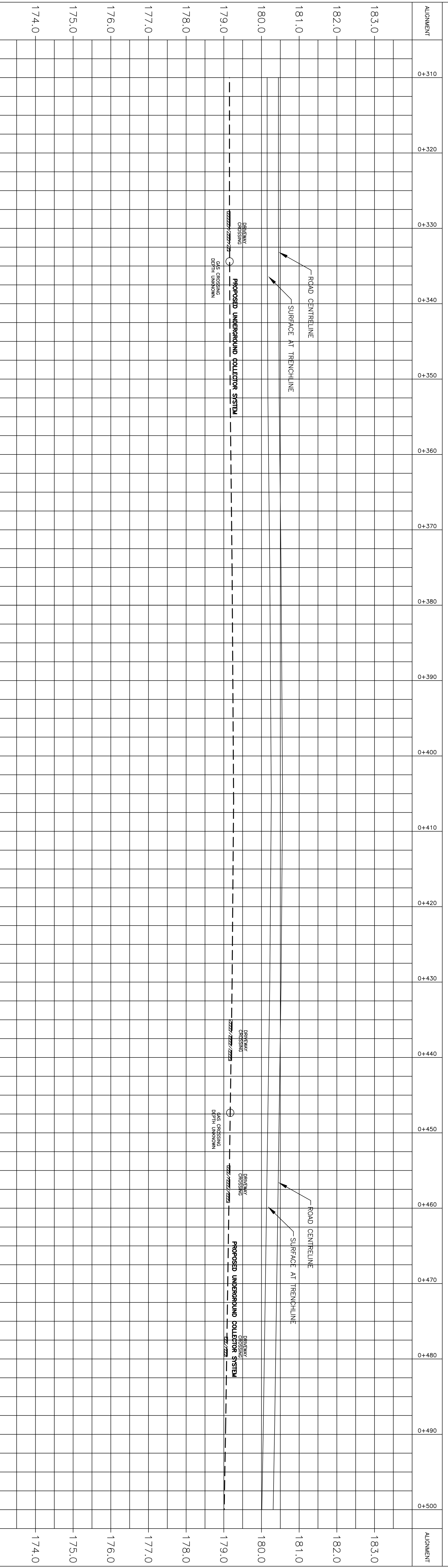
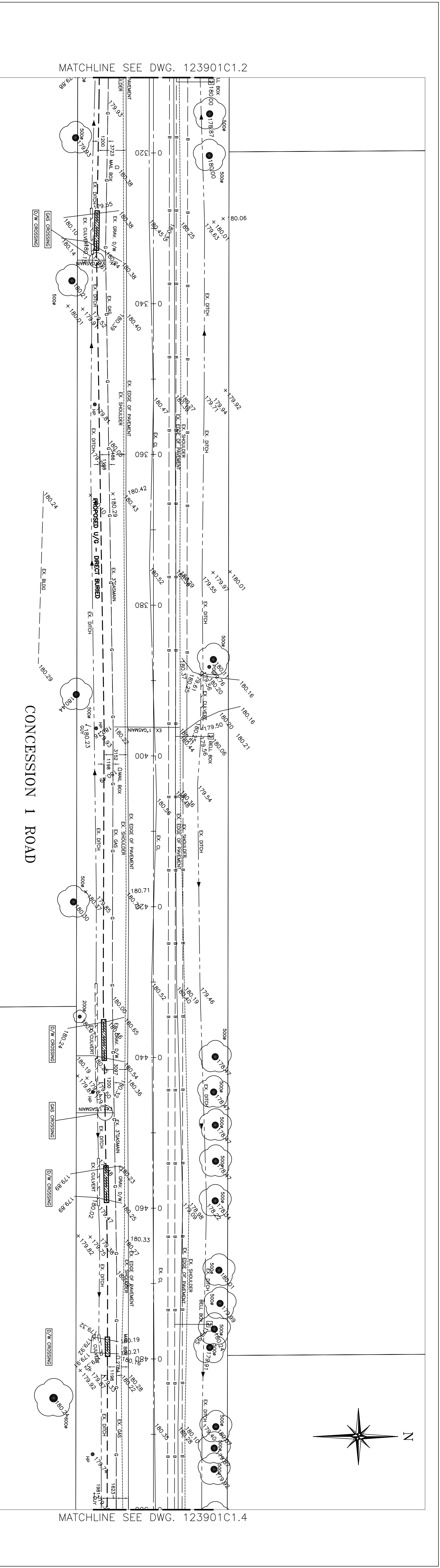
RAVEN Engineering Inc.
 Niagara Falls, ON,
 (905) 353-9252

LICENSED PROFESSIONAL ENGINEER
A. D. DURWARD
 27/07/2013
 ONTARIO

#	REVISION	DATE
0	DESIGN SUBMISSION TO ROAD AUTHORITY	9/10/12
		M/D/Y

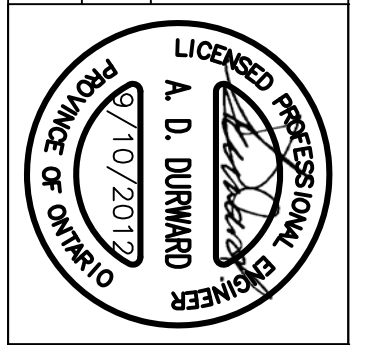


PROJECT: WAINFLEET WIND PROJECT	CLIENT: WAINFLEET WIND ENERGY INC. 222 MARINDALE RD. PO BOX 11167 ST. CATHARINES, ON, L2R 7A3	DRAWING TITLE: COLLECTOR SYSTEM PLAN AND PROFILE CONCESSION 1 ROAD STA. 0+120 TO STA. 0+310	DESIGNER: A.D.D.	DRAWING: R.E.
			DATE: SEPT. 10, 2012	SCALE: HORIZ 1:250 VERT 1:50
PROJECT: RAVEN Engineering Inc. Niagara Falls, ON, (905) 353-9252	PROJECT: WAINFLEET WIND PROJECT	DRAWING TITLE: COLLECTOR SYSTEM PLAN AND PROFILE CONCESSION 1 ROAD STA. 0+120 TO STA. 0+310	DATE: SEPT. 10, 2012	SCALE: HORIZ 1:250 VERT 1:50
DESIGN SUBMISSION TO ROAD AUTHORITY # 0	REVISION #	9/10/12 M/D/Y	LICENSED PROFESSIONAL ENGINEER A. D. DURWARD 9/10/2012 REG. NO. 27773 ONTARIO	REV. 0

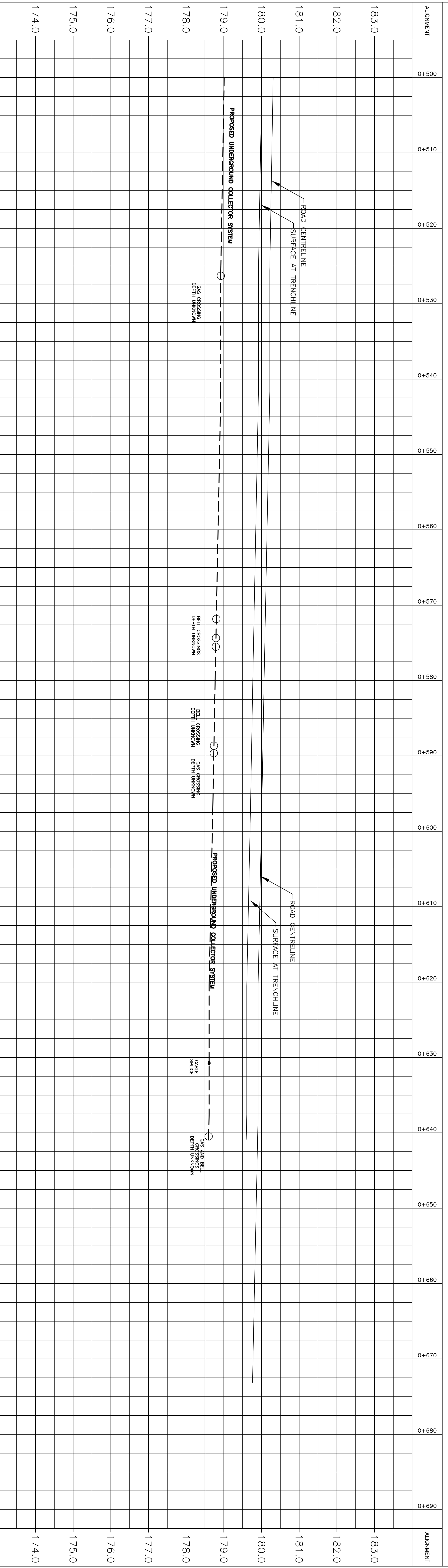
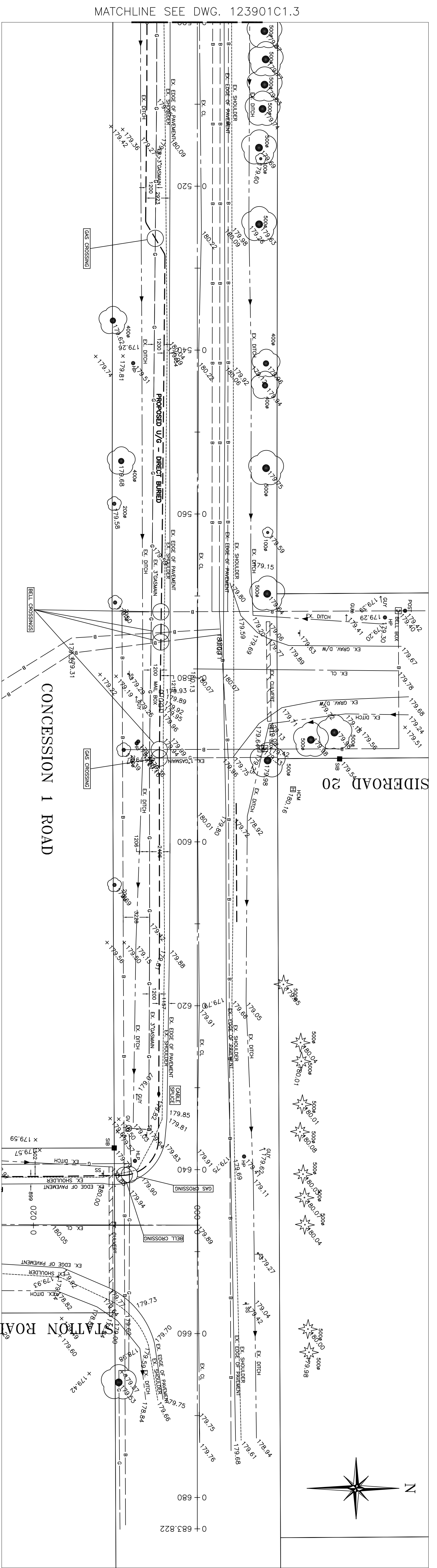


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PROJECT:		DRAWING TITLE:	
WAINFLEET WIND PROJECT		COLLECTOR SYSTEM PLAN AND PROFILE	
CLIENT:	WAINFLEET WIND ENERGY INC. 222 MORTDALE RD. PO BOX 11167 ST. CATHARINES, ON, L2R 7A3	DESIGNER:	A.D.D.
DATE:	SEPT. 10, 2012	DRAWING:	R.E.
SCALE:	HORIZ 1:250 VERT 1:50	DESIGNER:	A.D.D.
DRAWING NO.:	123901C1.3	DATE:	SEPT. 10, 2012
REV.:	0	SCALE:	HORIZ 1:250 VERT 1:50
#	REVISION	9/10/12	M/D/Y
0	DESIGN SUBMISSION TO ROAD AUTHORITY		

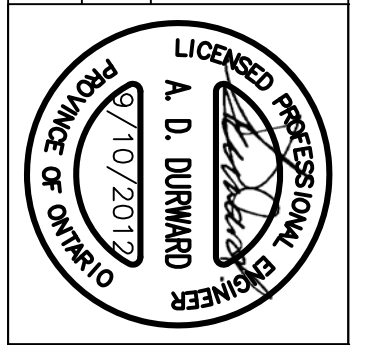


RAVEN Engineering Inc.
Niagara Falls, ON.
(905) 353-9252



ALIGNMENT	0+500	0+510	0+520	0+530	0+540	0+550	0+560	0+570	0+580	0+590	0+600	0+610	0+620	0+630	0+640	0+650	0+660	0+670	0+680	0+690	ALIGNMENT
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#	REVISION	DATE
0	DESIGN SUBMISSION TO ROAD AUTHORITY	9/10/12

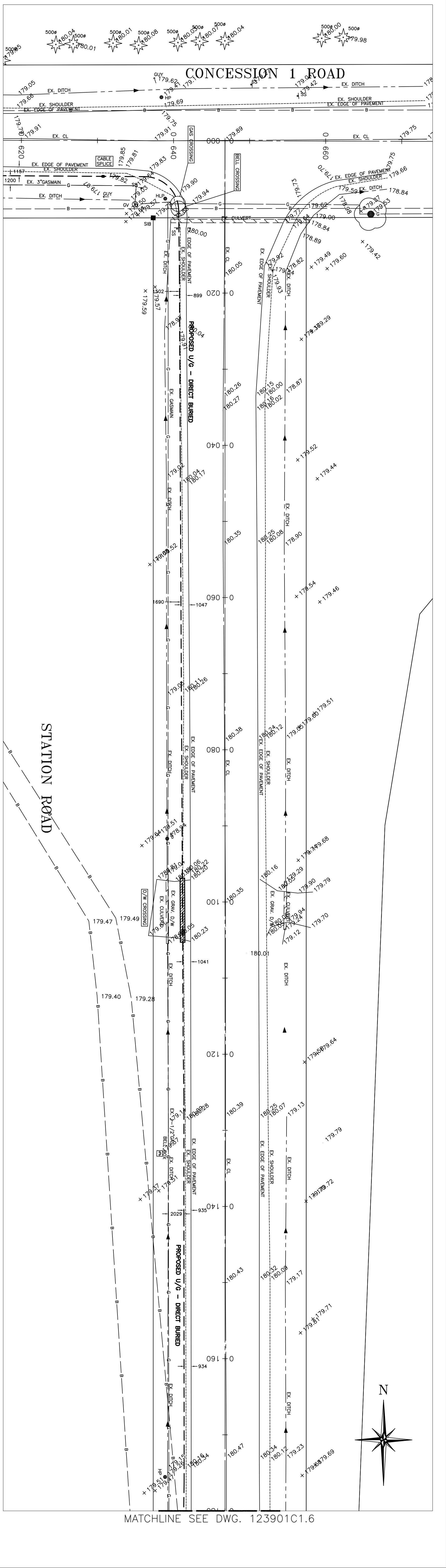


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(905) 353-9252

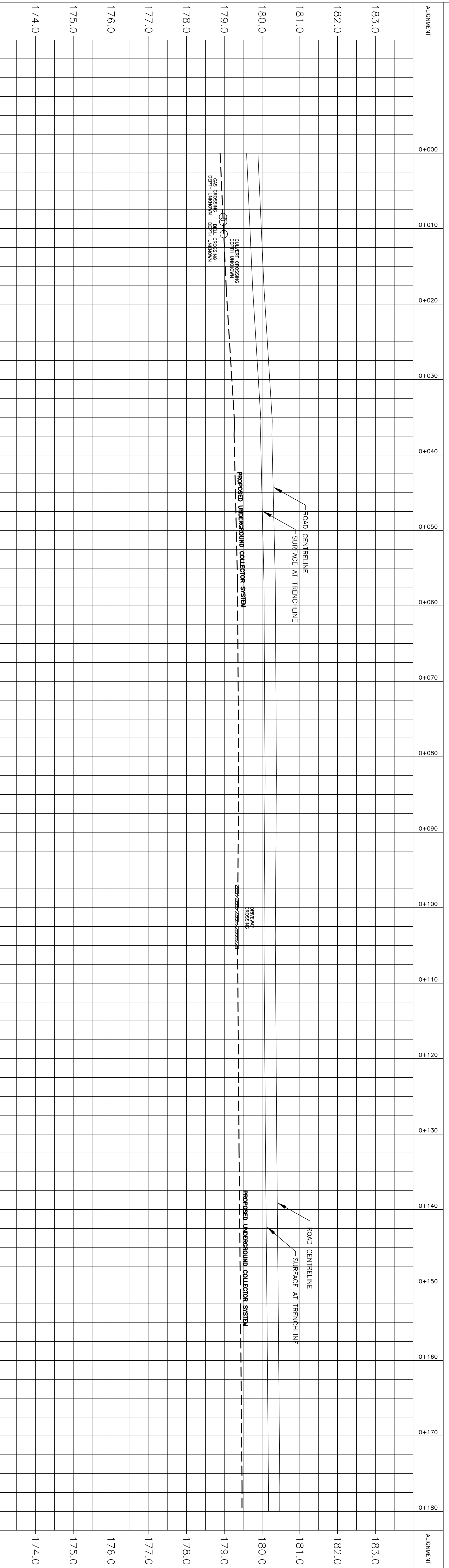
PROJECT: **WAINFLEET WIND PROJECT**
CLIENT: WAINFLEET WIND ENERGY INC.
222 MERRIDALE RD.
PO BOX 11187
ST. CATHARINES, ON, L2R 7A3

DRAWING TITLE: **COLLECTOR SYSTEM PLAN AND PROFILE**
CONCESSION 1 ROAD
STA. 0+500 TO STA. 0+650

DESIGNER: A.L.D. DATE: SEPT. 10, 2012
SCALE: HORIZ 1:250 VERT 1:50
DRAWING NO: 123901C1.4 REV: 0



MATCHLINE SEE DWG. 123901C.1.6



ALIGNMENT	0+000	0+010	0+020	0+030	0+040	0+050	0+060	0+070	0+080	0+090	0+100	0+110	0+120	0+130	0+140	0+150	0+160	0+170	0+180	ALIGNMENT
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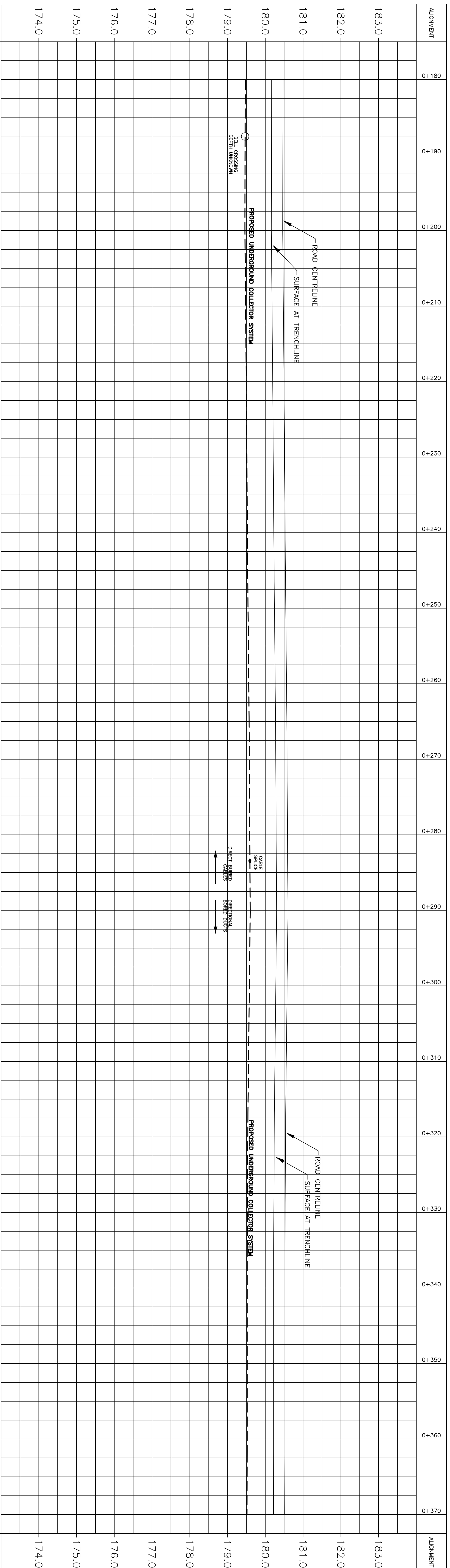
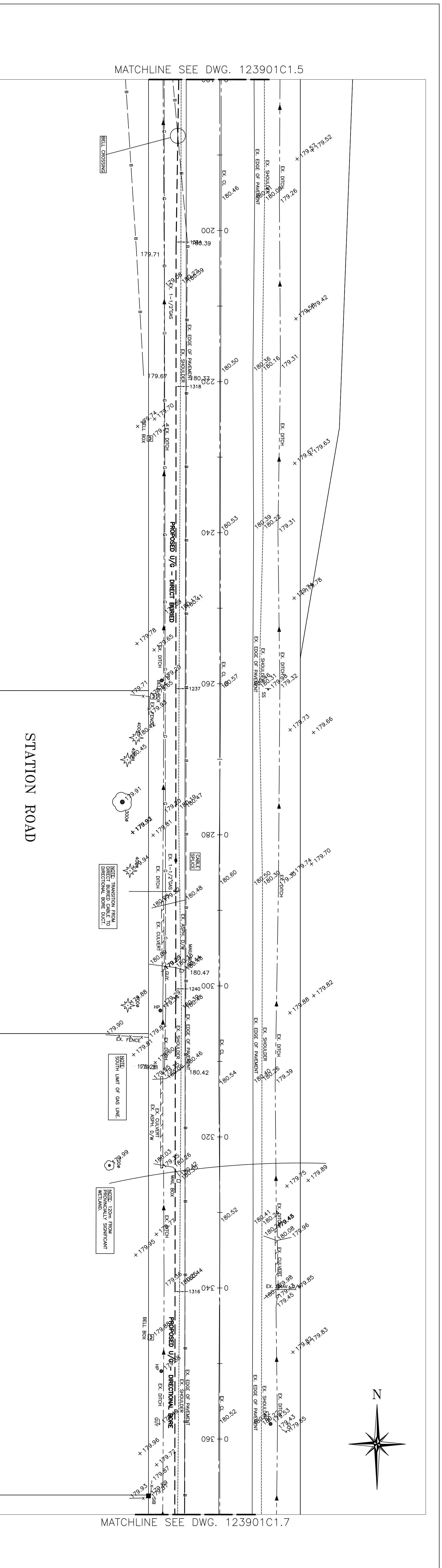
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DRAWING NO.:	REV.:	
123901C.1.5	0	

PROJECT:	CLIENT:
WAINFLEET WIND PROJECT	WAINFLEET WIND ENERGY INC. 222 MARINDALE RD. PO BOX 11167 ST. CATHARINES, ON, L2R 7A3

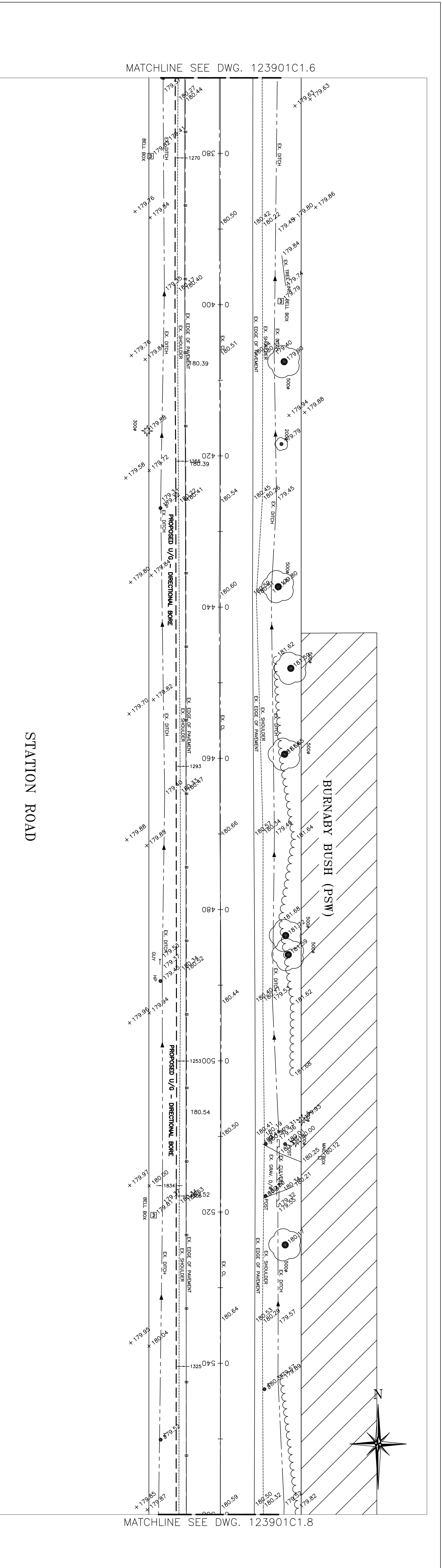
PROFESSIONAL ENGINEER	PROFESSIONAL DESIGNER
A. D. DURWARD	A. D. DURWARD
REGISTERED PROFESSIONAL ENGINEER	REGISTERED PROFESSIONAL DESIGNER
17/07/2012	17/07/2012
ONTOARIO	ONTOARIO

RAVEN Engineering Inc.
Niagara Falls, ON.
(905) 353-9252

DESIGN SUBMISSION TO ROAD AUTHORITY	9/10/12
#	REVISION
0	M/D/V

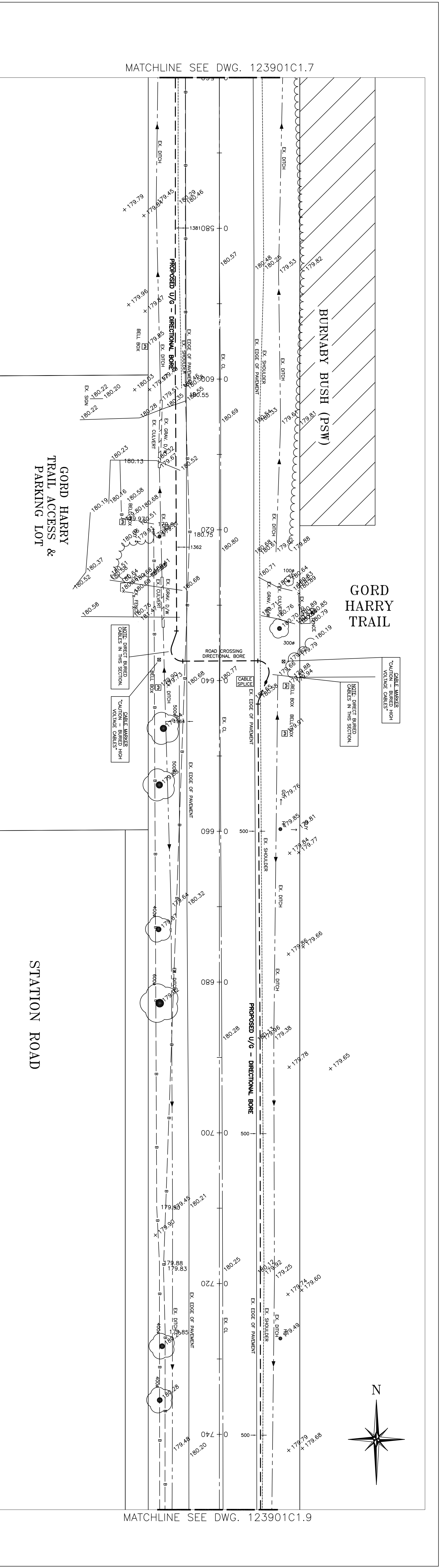


				RAVEN Engineering Inc. Niagara Falls, ON. (905) 353-9252	
PROJECT: WAINFLEET WIND PROJECT CLIENT: WAINFLEET WIND ENERGY INC. 222 MERRIDALE RD. ST. CATHARINES, ON, L2R 7A3					
DRAWING TITLE: COLLECTOR SYSTEM PLAN AND PROFILE STATION ROAD STA. 0+180 TO STA. 0+370					
DESIGN: A.I.D.D. DATE: SEPT. 10, 2012 SCALE: HORIZ 1:250 VERT 1:50				DRAWING: R.E. REV: 0	
REVISION # 0 DESIGN SUBMISSION TO ROAD AUTHORITY 9/10/12 M/D/Y					



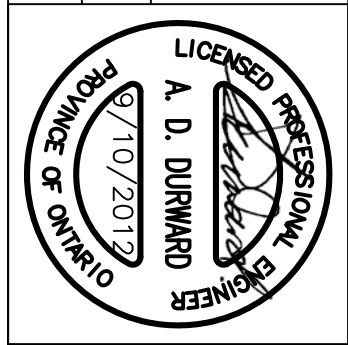
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		RAVEN Engineering Inc. Niagara Falls, ON. (905) 353-9252	PROJECT: WAINFLEET WIND PROJECT CLIENT: WAINFLEET WIND ENERGY INC. 222 MARINDALE RD. PO BOX 11167 ST. CATHARINES, ON. L2R 7A3	DRAWING TITLE: COLLECTOR SYSTEM PLAN AND PROFILE STATION ROAD STA. 0+570 TO STA. 0+560	DESIGNER: A.D.D. DATE: SEPT. 10, 2012 SCALE: HORIZ 1:250 VERT 1:50 DRAWING NO.: 123901C1.7	DRAWING: R.E. REV.: 0
# 0 REVISION DESIGN SUBMISSION TO ROAD AUTHORITY 9/10/12 M/D/Y						



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#	REVISION	DATE
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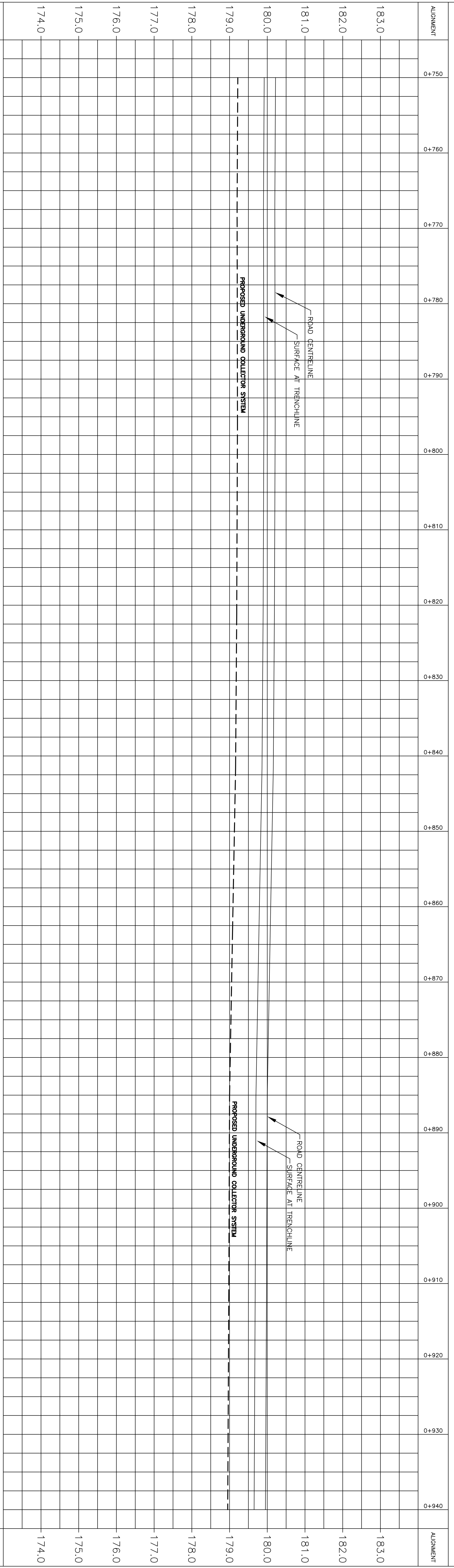
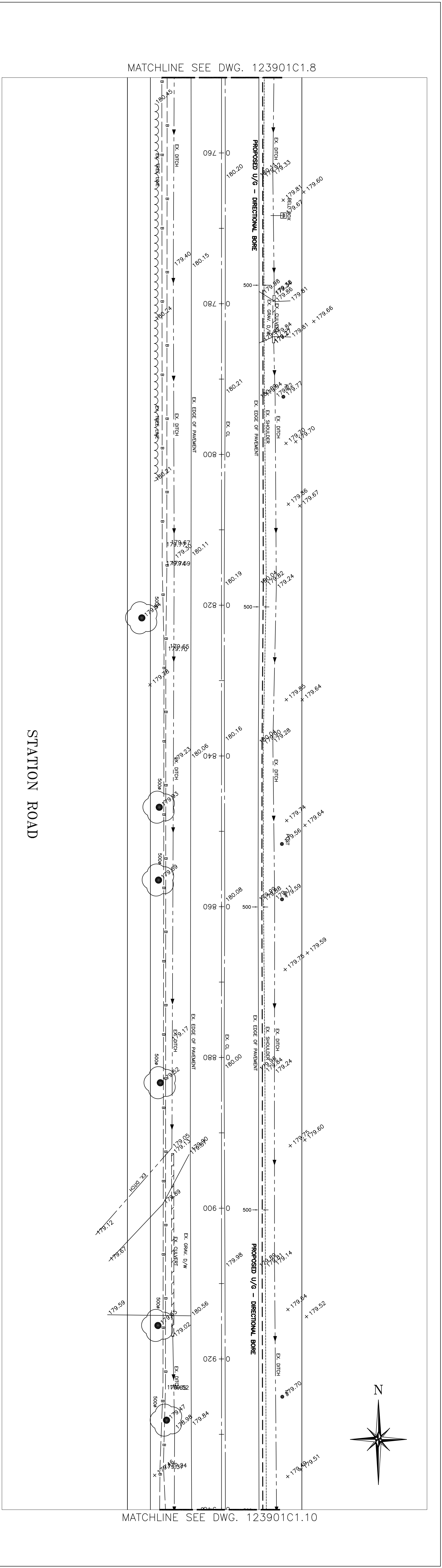


RAVEN Engineering Inc.
 Niagara Falls, ON.
 (905) 353-9252

PROJECT: **WAINFLEET WIND PROJECT**
 CLIENT: WAINFLEET WIND ENERGY INC.
 222 MERIDIAN RD.
 PO BOX 11167
 ST. CATHARINES, ON, L2R 7A3

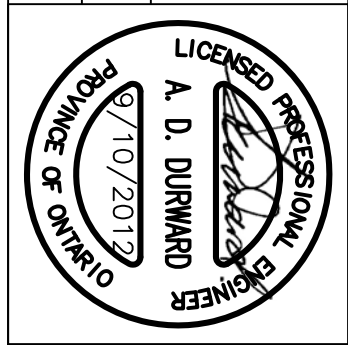
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 STA. 0+560 TO STA. 0+750

DESIGNER: A.L.D.
 DATE: SEPT. 10, 2012
 SCALE: HORIZ 1:250
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 DRAWING NO.: 123901C1.8
 REV: 0



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#	REVISION	DATE
0	DESIGN SUBMISSION TO ROAD AUTHORITY	9/10/12

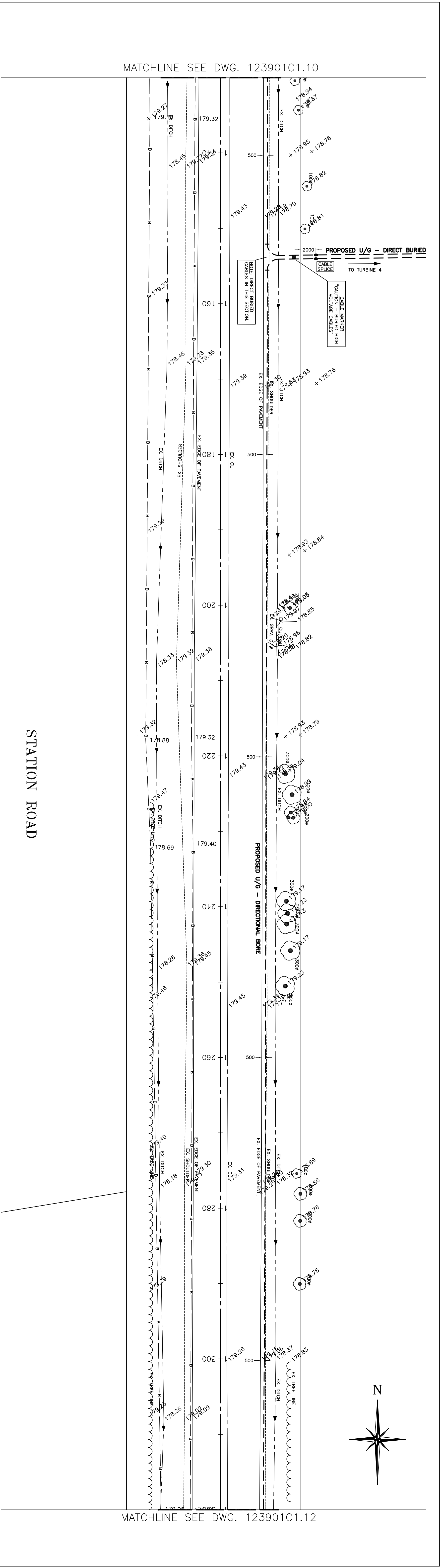


RAVEN Engineering Inc.
 Niagara Falls, ON.
 (905) 353-9252

PROJECT: **WAINFLEET WIND PROJECT**
 CLIENT: WAINFLEET WIND ENERGY INC.
 222 MARINDALE RD.
 PO BOX 11167
 ST. CATHARINES, ON, L2R 7A3

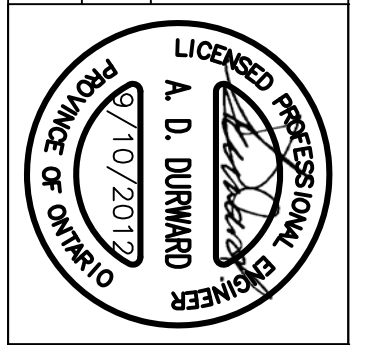
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 STA. 0+750 TO STA. 0+940

DESIGNER:	A.L.D.
DATE:	SEPT. 10, 2012
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REV.:	123901C1.9

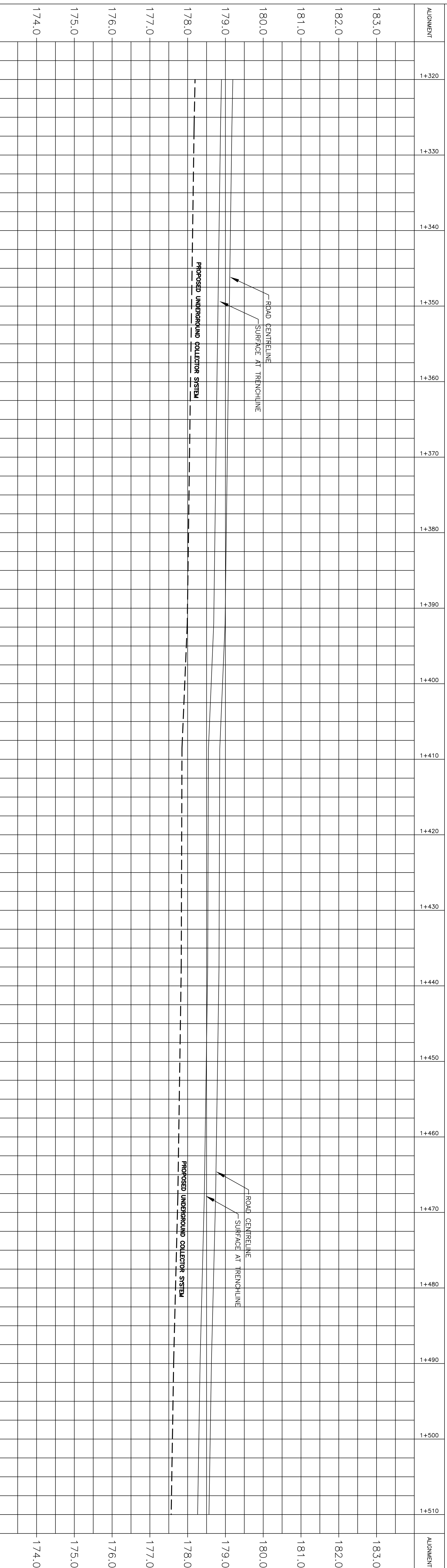
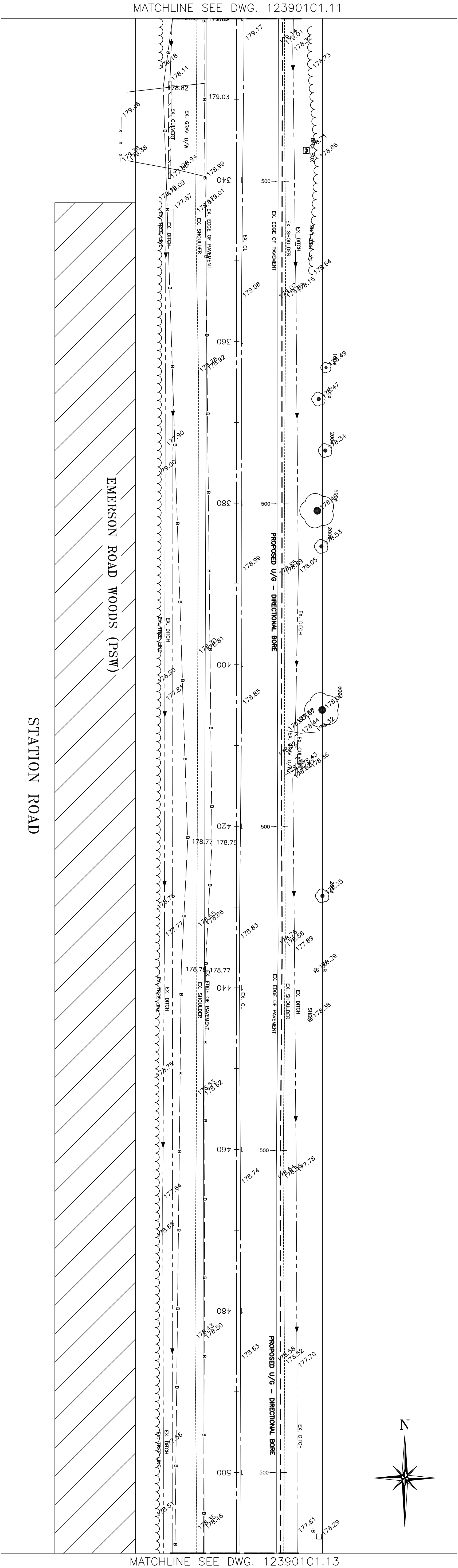


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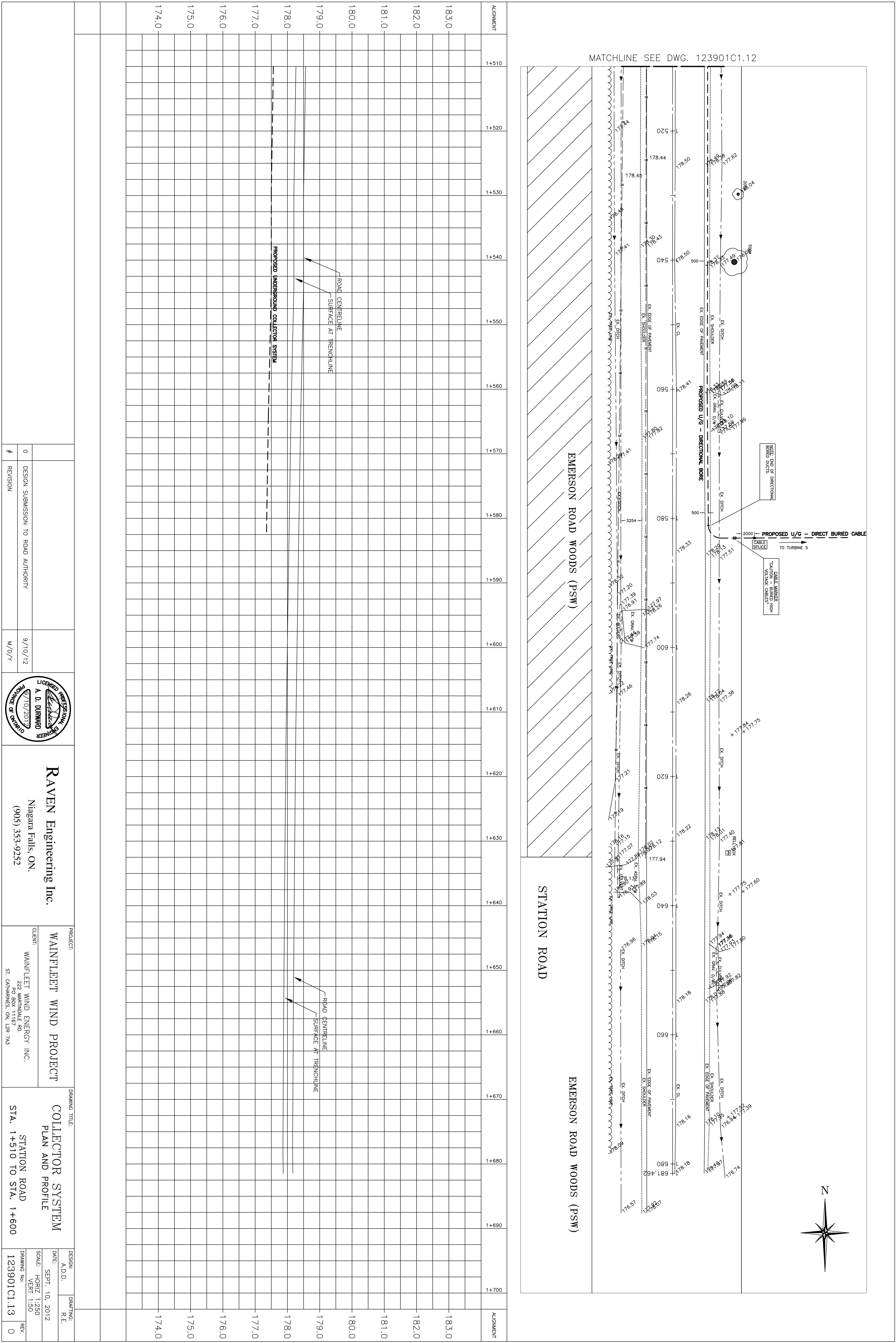
PROPOSED UNDERGROUND COLLECTOR SYSTEM ROAD CENTRELINE SURFACE AT TRENCHLINE	
PROPOSED UNDERGROUND COLLECTOR SYSTEM ROAD CENTRELINE SURFACE AT TRENCHLINE	
PROJECT: WAINFLEET WIND PROJECT CLIENT: WAINFLEET WIND ENERGY INC. 222 MERRIDALE RD. ST. CATHARINES, ON, L2R 7A3	
DRAWING TITLE: COLLECTOR SYSTEM PLAN AND PROFILE STATION ROAD STA. 1+130 TO STA. 1+320	
DESIGNER: A.D.D.	DRAWING: R.E.
DATE: SEPT. 10, 2012	SCALE: HORIZ 1:250
	VERT 1:50
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#	REVISION
0	DESIGN SUBMISSION TO ROAD AUTHORITY
	9/10/12
	M/D/Y



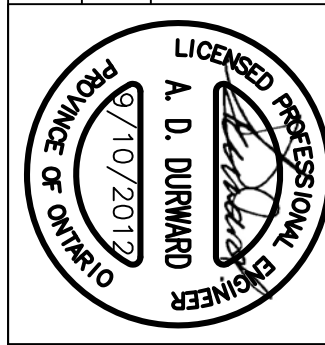
RAVEN Engineering Inc.
 Niagara Falls, ON,
 (905) 353-9252



<p>0 DESIGN SUBMISSION TO ROAD AUTHORITY</p>		9/10/12		<p>RAVEN Engineering Inc. Niagara Falls, ON. (905) 353-9252</p>	<p>PROJECT: WAINFLEET WIND PROJECT</p>	<p>CLIENT: WAINFLEET WIND ENERGY INC. 222 MORTDALE RD. PO BOX 11167 ST. CATHARINES, ON. L2R 7A3</p>	<p>DRAWING TITLE: COLLECTOR SYSTEM PLAN AND PROFILE</p> <p>STATION ROAD STA. 1+320 TO STA. 1+510</p>	<p>DESIGN: A.D.D.</p>	<p>DRAWING: R.E.</p>
#	REVISION	M/D/Y			<p>SCALE: HORIZ 1:250 VERT 1:50</p>			<p>DRAWING NO: 123901C1.12</p>	<p>REV: 0</p>



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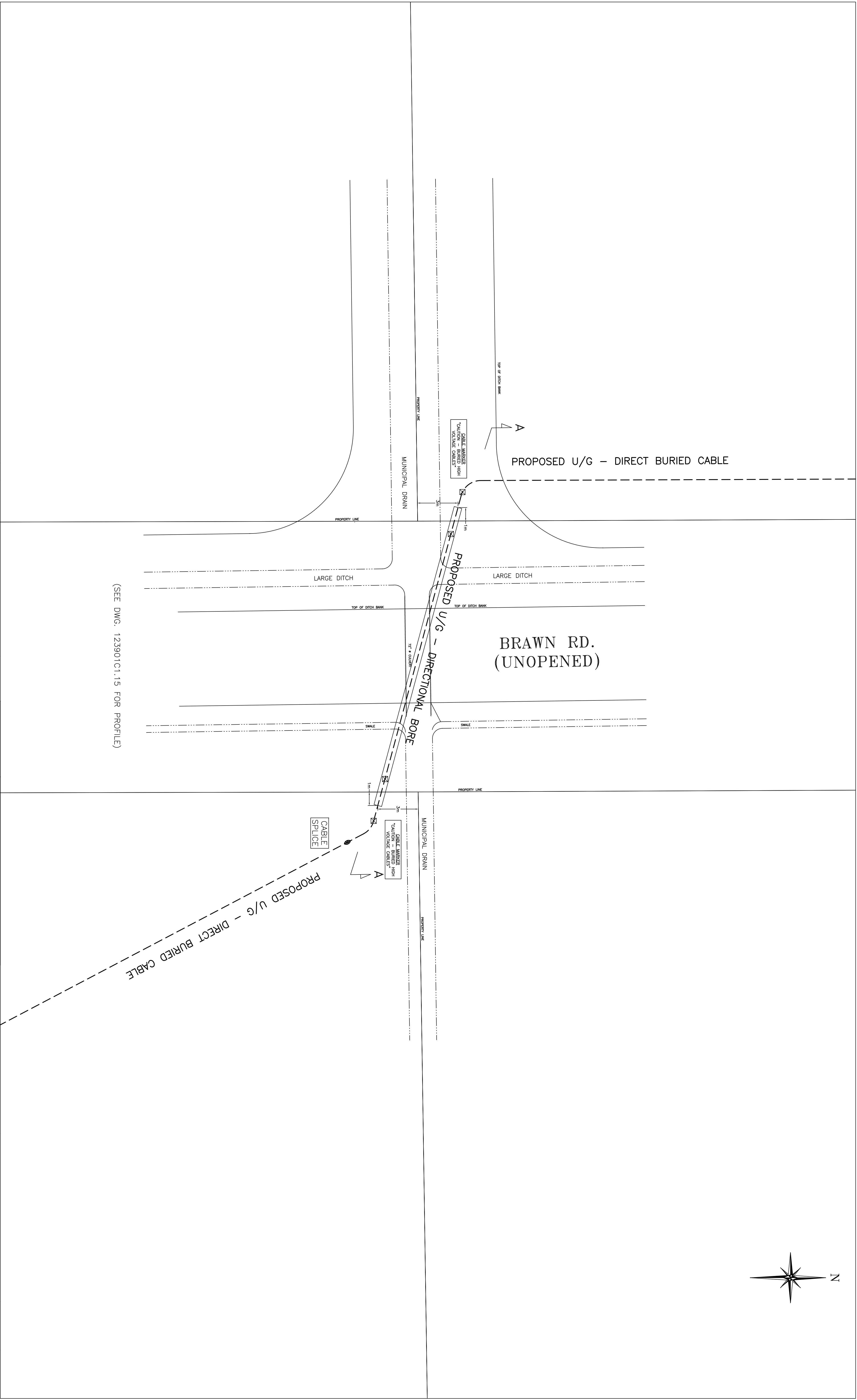
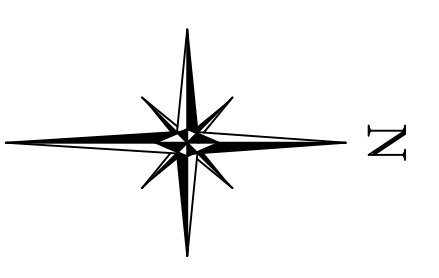


RAVEN Engineering Inc.
Niagara Falls, ON,
(905) 353-9252

PROJECT: **WAINFLEET WIND PROJECT**
CLIENT: WAINFLEET WIND ENERGY INC.
222 MERRIDALE RD.
PO BOX 11187
ST. CATHARINES, ON, L2R 7A3

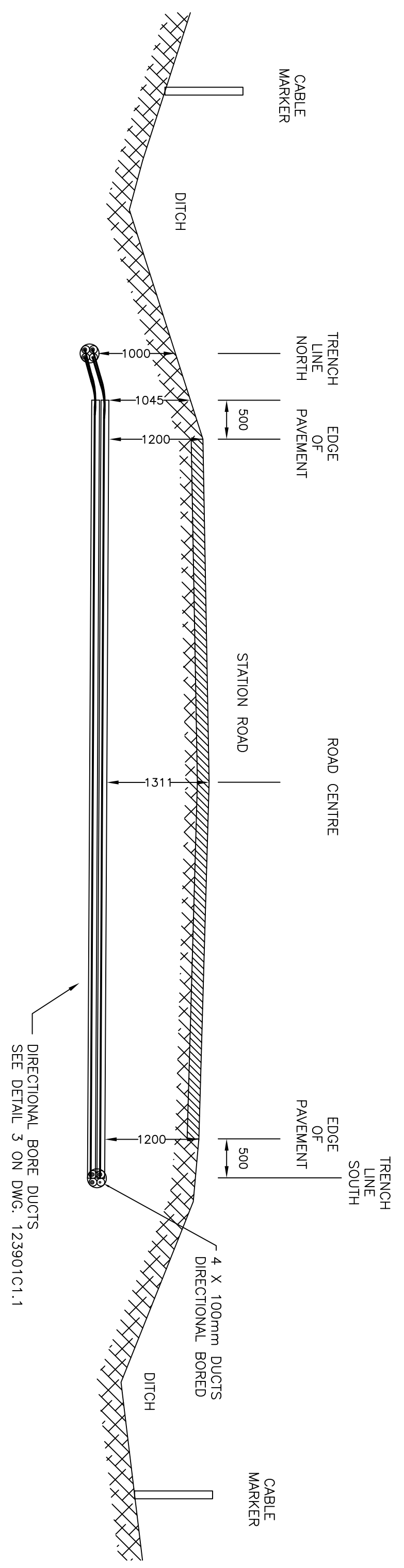
DRAWING TITLE: **COLLECTOR SYSTEM PLAN AND PROFILE**
STA. 1+510 TO STA. 1+600

DESIGNER: A.J.D.
DATE: SEPT. 10, 2012
SCALE: HORIZ 1:250
VERT 1:50
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REV.: 0

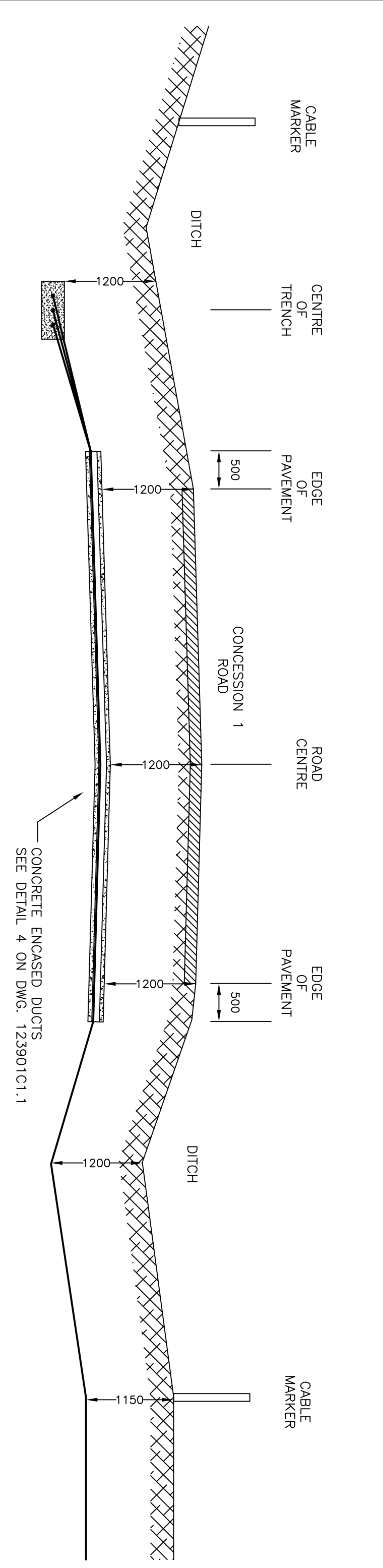


(SEE DWG. 123901C1.15 FOR PROFILE)

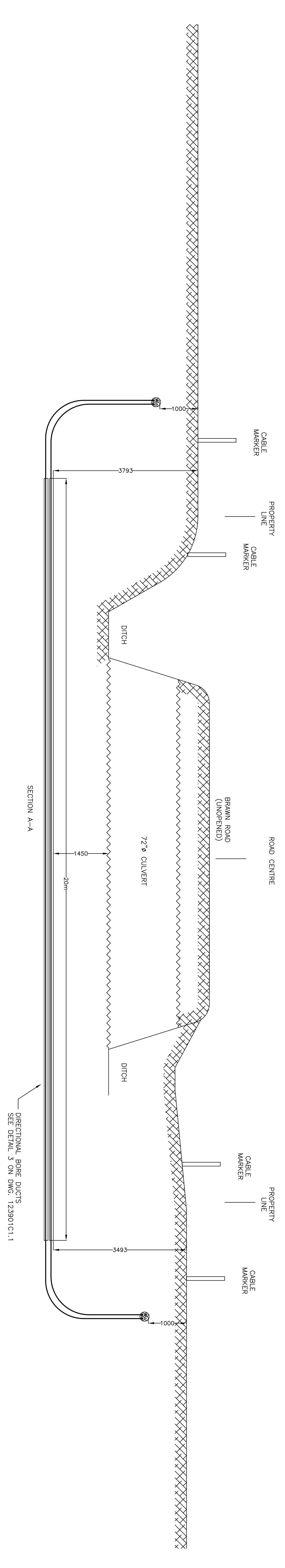
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DRAWING TITLE: COLLECTOR SYSTEM PLAN SIDEROAD 22 CROSSING			
PROJECT: WAINFLEET WIND PROJECT		CLIENT: WAINFLEET WIND ENERGY INC. 222 MERRIDALE RD. PO BOX 11167 ST. CATHARINES, ON, L2R 7A3	
PROJECT: RAVEN Engineering Inc. Niagara Falls, ON. (905) 353-9252			
		9/10/12 M/D/Y	
# 0 REVISION		DESIGN SUBMISSION TO ROAD AUTHORITY	



STATION ROAD CROSSING
SEE DWG. 123901C1.8 FOR PLAN VIEW



CONCESSION 1 ROAD CROSSING
SEE DWG. 123901C1.1 FOR PLAN VIEW



SIDEROAD 22 CROSSING
SEE DWG. 123901C1.14 FOR PLAN VIEW

		RAVEN Engineering Inc. Niagara Falls, ON. (905) 353-9252		PROJECT: WAINFLEET WIND PROJECT	CLIENT: WAINFLEET WIND ENERGY INC. 222 MORTONDALE RD. PO BOX 11167 ST. CATHARINES, ON. L2R 7A3	DRAWING TITLE: COLLECTOR SYSTEM ROAD CROSSING SECTION DETAILS STATION ROAD CONCESSION 1 ROAD SIDEROAD 22	DESIGNER: A.L.D.D.	DRAWING: R.E.	
0	DESIGN SUBMISSION TO ROAD AUTHORITY	9/10/12	M/D/Y			DATE: SEPT. 10, 2012	SCALE: 1:50	DRAWING No.: 123901C1.15	REV.: 0
#	REVISION								

1 **Communication with the Municipality**

2 The Applicant has been communicating with the Township regarding the Wainfleet Project for
3 years as part of the Renewable Energy Approval process and as part of the permitting process. It
4 has become clear the Township has no interest in considering the location of the distribution
5 system and so the Applicant has been forced to bring this Application. The Township's refusal
6 to deal with this issue is connected to the Township's opposition to the *Green Energy Act* and
7 wind Turbines. The Township has deliberately followed a path to disrupt Wainfleet Wind's
8 proposed development despite lacking any jurisdiction authorizing or condoning such actions.

9 The following is a chronology of events:

- 10 1. On **December 12th, 2010**, Wainfleet Wind through its Project Manager – IPC Energy
11 wrote to the Township to initiate discussions for access to the unopened road allowance
12 known as Sideroad 22 between Abby Road and Concession 1. A copy of the letter is
13 provided at Exhibit B, Tab 3, Schedule 2, Appendix A.
- 14 2. On **March 8, 2011**, the Township passed a resolution requesting the Province of Ontario
15 to place a moratorium on any new industrial wind turbine development. The Township
16 council has clearly expressed that it is not in favour of the development of any wind
17 turbines in the Township, including the Wainfleet Project, or otherwise. A copy of the
18 resolution is provided at Exhibit B, Tab 3, Schedule 2, Appendix B.
- 19 3. At its **January 24, 2012** meeting, the Township council received a presentation from the
20 Wainfleet Ratepayers' Association which requested that council enact a by-law to create

1 a two (2) kilometre set back of industrial wind turbines (“IWT”) from residences and
2 required one hundred percent (100%) indemnification of any loss of property value or
3 any adverse health effect by IWT developers. A copy of the presentation is provided at
4 Exhibit B, Tab 3, Schedule 2, Appendix C.

5 4. At its **January 24, 2012** meeting, the Township council also received an update about the
6 Wainfleet Project and the status of the Renewable Energy Generation Approval
7 application. A copy of the presentation is provided at Exhibit B, Tab 3, Schedule 2,
8 Appendix D.

9 5. At its **January 24, 2012** meeting, the Township council directed Township staff to work
10 with the Wainfleet Ratepayers’ Association to create a draft by-law to implement the
11 requested restrictions and to prepare a staff report that outlines and evaluates the different
12 options that Council has in regard to IWTs. A copy of the Minutes of the Meeting is
13 provided at Exhibit B, Tab 3, Schedule 2, Appendix E.

14 6. On **February 22, 2012**, counsel for Rankin Renewable Power Inc., one of the
15 shareholders in Wainfleet Wind, sent a letter to the Township outlining concerns with the
16 Township’s authority to enact such a by-law to regulate wind turbine setbacks. Council
17 received such correspondence at its February 28, 2012 meeting. A copy of the
18 correspondence is provided at Exhibit B, Tab 3, Schedule 2, Appendix F.

19 7. At its **February 28, 2012** meeting, the Township council received a staff report from the
20 Township’s Manager of Planning, with the recommendation that council receive the

1 report. The staff report contained a draft by-law based upon the request made by the
2 Wainfleet Ratepayers' Association. However, the staff report also indicated that:

3 Staff do not recommend or support passing the bylaw attached as Appendix "A".
4 Staff are of the opinion that if this bylaw is passed by Council it would be
5 superseded by Provincial Legislation, would not prevent wind turbines from being
6 built in Wainfleet and could potentially lead to legal action against the Township.

7 8. In the report, Township staff indicated that through the Province's enactment of the
8 *Green Energy and Green Economy Act, 2009*, S.O. 2009, c. 12, (the "***Green Energy and***
9 ***Green Economy Act, 2009***") any land use planning authority and regulation in relation to
10 solar, wind, biomass and other "green" energy was removed from municipalities. The
11 report also noted that the draft by-law would not meet the definition of "applicable law"
12 under section 1.4.1.3 of the Ontario Building Code, Ontario Regulation 350/06, and
13 should an IWT developer receive a renewable energy approval from the Province, the
14 Township's Chief Building Official would be obligated to issue a building permit,
15 provided any such application met the requirements of the Ontario Building Code,
16 Ontario Regulation 350/06. A copy of the Minutes of the Meeting is provided at Exhibit
17 B, Tab 3, Schedule 2, Appendix G. A copy of the Planning Staff Report is provided at
18 Exhibit B, Tab 3, Schedule 2, Appendix H.

19 9. At its meeting held on **March 27, 2012**, the Township council also received a delegation
20 from legal counsel for Rankin Renewable Power Inc., one of the shareholders in
21 Wainfleet Wind, outlining the reasons why the draft by-law should not be enacted and
22 advising that any such by-law would be without effect and would not be enforceable.

- 1 10. On **March 27, 2012**, the Township Council gave first and second reading to By-law 013-
2 2012, enacted pursuant to sections 9, 11, 128, 129 and 130 of the *Municipal Act, 2001*
3 being a By-law for prescribing the minimum setback distances for the construction of all
4 industrial wind turbines, also known as wind turbine generators, to be erected within the
5 borders of the Township and requiring that any such construction shall also provide
6 indemnification for any loss of property value or adverse health effect therefrom to the
7 extent of 100% (the “**Wind Turbine By-law**”). A copy of the Township Minutes of the
8 Meeting is provided at Exhibit B, Tab 3, Schedule 2, Appendix I.
- 9 11. On **March 28, 2012** a letter and drawing were sent to the Township pertaining to the
10 installation across and along Sideroad 22 (sometimes called Brawn Road) between Abby
11 Road and Concession Road 1. A copy of the letter is included at Exhibit B, Tab 3,
12 Schedule 2, Appendix J.
- 13 12. On **April 10, 2012**, the Township Council gave third reading and finally passed the Wind
14 Turbine By-law. A copy of the Wind Turbine By-law is included at Exhibit B, Tab 3,
15 Schedule 2, Appendix K.
- 16 13. The Wind Turbine By-law, if valid and enforceable, would preclude the installation of
17 IWTs in the Township. The Township has confirmed its position that the Wind Turbine
18 By-law applies to the Wainfleet Project. As such, Wainfleet Wind was forced to bring
19 an application in court to quash the Wind Turbine By-law.

1 14. Wainfleet Wind has sought to reach an agreement with the Township with respect to the
2 location, construction, operation, and maintenance of the distribution system facilities
3 within the public roads, highways, or road allowances (the “**Municipal Consent**
4 **Application**”) but the Township, through its council, has refused the request and refused
5 to consider subsequent requests despite Township staff recommending acceptance.

6 15. On **April 10, 2012**, the Township Council also considered a request for approval of a
7 utility crossing on the Brawn Road (Sideroad 22) road allowance for power and
8 communication lines for the Wainfleet Project. The Council Minutes of the Meeting
9 indicate that Council decided to NOT support the request. The Township provided no
10 basis for its refusal. A copy of the Minutes of the Meeting are provided at Exhibit B, Tab
11 3, Schedule 2, Appendix L.

12
13 16. The process followed by Council was not the usual process for such matters as road
14 crossing requests are generally handled at the staff level, ratified by Council. Council’s
15 decision to not support the request, without reason, appears to be targeted at the
16 Applicant, as part of the Township’s ongoing campaign against the Wainfleet Project and
17 IWTs. Council appears to have made such a decision in the context of its dispute with
18 the Province over the renewable energy framework that could permit the development of
19 wind turbines in the municipality rather than for any valid reasons relating to areas of
20 municipal jurisdiction. Clearly, Council did not consider the merits of the utility crossing
21 request or examine such request within its own policy and approval requirements.

- 1 17. Following the rejection for the single road crossing, the Applicant worked with staff at
2 the Township to establish the proposed location of the entire Distribution System to be
3 located within the Township's highways.
- 4 18. The Wainfleet Project is to connect to the Hydro One Networks Inc. ("**HONI**")
5 distribution system. The HONI proposed line will run south toward the sub-station to
6 complete the connection. HONI was repeatedly denied permission by the Township to
7 be able to install the pole line to connect to the Wainfleet Project. However, in
8 September 2012, the Township eventually relented and granted HONI permission.
- 9 19. On **September 12** and **September 13, 2012**, Wainfleet Wind sent a letter to the
10 Municipal Law Enforcement Officer of the Regional Municipality of Niagara and the
11 Director of Operations of Wainfleet, respectively, submitting an application for
12 Municipal Consent. The location incorporated the discussions with staff into the plans
13 submitted to the Township. A copy of the letters is included at Exhibit B, Tab 3,
14 Schedule 2, Appendix M. The drawings included at Exhibit B, Tab 3, Schedule 2,
15 Appendix A were included with each letter.
- 16 20. On **September 25, 2012**, in a council meeting of the Township, the Municipal Consent
17 Application was presented to members of council for approval. Staff recommended
18 approval of Wainfleet Wind's request. Council resolved to defer consent due to the
19 uncertainty surrounding Wainfleet Wind's provincial approval date and the outcome of
20 the legal challenge of the Township's 2 km setback for wind turbines. A copy of the
21 Council Meeting Minutes is included at Exhibit B, Tab 3, Schedule 2, Appendix N.

1 21. On **January 3, 2013**, counsel for Wainfleet Wind wrote to the Township requesting it
2 reconsider its position regarding the Municipal Consent Application. A copy of the letters
3 is included at Exhibit B, Tab 3, Schedule 2, Appendix O.

4 22. On **January 10, 2013**, the Township's Clerk responded by indicating the matter was
5 being referred to legal counsel. A copy of the letter is included at Exhibit B, Tab 3,
6 Schedule 2, Appendix P. There has been no further response from the Township.

7 **Impacts**

8 The Applicant anticipates receiving the Renewable Energy Approval in February of 2013 and the
9 Applicant's application to quash the Wind Turbine By-law is to be heard in the courts during the
10 week of March 11, 2013. Turbines are scheduled to be delivered prior to the end of March 2013
11 and the Applicant plans to commence construction in the spring of 2013 as soon as it receives the
12 necessary approvals.

13 In order to continue with construction in a timely manner and avoid further significant costs
14 attributable to the delay caused by the Township, the Applicant requests a decision approving the
15 requested relief prior to May 1, 2013.

cc: Director of Operations
Council

CORR. 007 Tab 3
FILE Wainfleet 07-27-11 Schedule 2 Appendix 1
Page of 1



Re: Request to Director of Operations
to compose a staff report for Jan 24/2012

ENERGY

December 12th 2010

Madam Clerk Ms. Tanya Lamb
Township of Wainfleet
31940 Highway 3
P.O. Box 40
Wainfleet, ON L0S1N0

RECEIVED
DEC 14 2011

Dear Madam Clerk:

TOWNSHIP OF
WAINFLEET

Re: IPC's request to open side road 22 for the Wainfleet Wind Energy project

IPC Energy (IPC) would like to take this opportunity to further our discussions regarding the opening of the un-travelled portion of Side Road 22 from Abby Rd south to Concession Rd 1.

IPC is requesting to enter into an agreement with the township for the purpose of:

- 1. gaining access to the proposed wind farm facility;
- 2. placement of some project infrastructure.

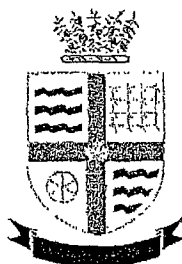
IPC understands that historically the township of Wainfleet conveys untraveled and unopened road allowances to the public when requested. In addition, the townships official comments for this project state the need to enter into such an agreement (Jones Consulting Report of March 16, 2011 Section 5.2.1 paragraph 7):

"In order to access Turbine 1, 2 and 3, the proponent will require access through the unopened road allowance of Side Road 22, located between Abby Road and Concession Road 1. A legal agreement between the Township and the Proponent will be required to permit access through this right of way"

IPC would be grateful if council would see clear to initiate this request. I am available to discuss this further at your convenience.

Respectfully yours,

Tom Lewis
Manager of Planning and Environment



C06/11

THE CORPORATION OF THE TOWNSHIP OF WAINFLEET
REGULAR MEETING OF COUNCIL MINUTES

Minutes of the Regular Meeting of Council held in the Wainfleet Council Chambers located at 31940 Highway #3, Wainfleet, Ontario, on Tuesday, March 8th, 2011 at 7:00 p.m.

PRESENT: A. Jeffs, R. Dykstra, T. Hessels, B. Konc, D. Wyatt

STAFF PRESENT: N. Dawn, R. Madera, G. Munday, G. Wuisman

1. **CALL TO ORDER**
The Council meeting was called to order by Mayor Jeffs.
2. **NATIONAL ANTHEM**
O Canada was sung by Terry Wyatt.
3. **OPENING PRAYER**
Alderman Dykstra delivered the opening prayer.
4. **DISCLOSURE OF PECUNIARY INTEREST AND THE GENERAL NATURE THEREOF**
There were no disclosures of pecuniary interest noted by members of Council.

Resolution No. C-068-2011

Moved by Betty Konc
Seconded by David Wyatt

"**THAT** Section 2.2(e) of the Procedural Bylaw be waived to allow Wind Concerns Ontario to film a portion of the proceedings."

CARRIED.

Resolution No. C-069-2011

Moved by April Jeffs
Seconded by Ted Hessels

"**THAT** the order of the Agenda be amended to move the Bylaw Section to be the fifth item of business."

CARRIED.

5. BYLAWS

First & Second Reading

Resolution No. C-070-2011

Moved by David Wyatt
Seconded by Betty Konc

"THAT the following bylaws be now read a first and second time this 8th day of March, 2011:

Bylaw No. 013-2011 being a bylaw to impose special annual drainage rates upon land in respect of which money is borrowed under the Tile Drainage Act and to repeal Bylaw No. 012-2011.

Bylaw No. 014-2011 being a bylaw to appoint an Acting Deputy Clerk pursuant to Section 228(2) of the Municipal Act, S.O. 2001, Ch. 25."

CARRIED.

Resolution No. C-071-2011

Moved by Richard Dykstra
Seconded by Betty Konc

"THAT Section 15.7 of the Procedure Bylaw be waived to allow Bylaw No. 013-2011 and Bylaw No. 014-2011 be read a third time and finally passed this 8th day of March, 2011."

CARRIED.

Third & Final Reading

Resolution No. C-072-2011

Moved by David Wyatt
Seconded by Ted Hessels

"THAT the following bylaws be now read a third time and finally passed this 8th day of March, 2011:

Bylaw No. 013-2011 being a bylaw to impose special annual drainage rates upon land in respect of which money is borrowed under the Tile Drainage Act and to repeal Bylaw No. 012-2011.

Bylaw No. 014-2011 being a bylaw to appoint an Acting Deputy Clerk pursuant to Section 228(2) of the Municipal Act, S.O. 2001, Ch. 25."

CARRIED.

**Township of Wainfleet
Council Meeting Minutes, March 8th, 2011**

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6. PUBLIC HEARINGS

None.

6. DELEGATIONS

- a) Mr. John Laforet, President of Wind Concerns Ontario, appeared before Council to voice support for the Wind Energy Moratorium based on the potential health impacts and the lack of decision-making in this matter being at the hand of local municipalities.
- b) Mr. Duncan MacFarlane, Solicitor for Skydive Burnaby, appeared before Council representing his client and their support for the Wind Energy Moratorium based on the potential safety issues that may arise with the erection of wind turbines.
- c) Mr. Eugene Canby appeared before Council stating his support for the Wind Energy Moratorium based on his belief that the existing energy produced by Hydro Niagara being a superior source of energy than wind turbines.

Resolution No. C-073-2011

Moved by April Jeffs

Seconded by Ted Hessels

"THAT Section 10.4 be waived to allow Frank DeRuyte to speak to the Wind Energy Moratorium."

CARRIED.

- d) Mr. Frank DeRuyte appeared before Council with concerns over what he believes to be misinformation presented by the media regarding wind energy development.

7. BUSINESS ARISING FROM DELEGATIONS

There was no business arising from the delegations.

8. PRESENTATIONS

None.

9. MAYOR'S ANNOUNCEMENTS & REMARKS

The Mayor met with Karin Vanderzee from the Tribune regarding the Great Kids of South Niagara. An awards ceremony will be held on May 1st at the Welland Lion's Club.

Wainfleet is establishing its own Community Policing Committee. The Committee will address issues specific to Wainfleet (i.e. neighbourhood watch, Beach Day, Safety Day, block parents, etc.). The first meeting was held March 7th.

Scott Luey, Township CAO, was released from the hospital on February 25th and is doing well and communicating with Council and staff from home.

Township of Wainfleet
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On Saturday, February 26th, Council and staff participated in the Bowl for Kids Sake event which benefitted Big Brothers Big Sisters of Niagara. Team Wainfleet had the most pledges.

The Mayor and Alderman Konc met with Matt Robinson, Assistant to Chair Burroughs, on February 28th to discuss the first steps needed to secure a nurse/health care practitioner clinic in Wainfleet. Mr. Robinson is investigating how this project may be rejuvenated.

Alderman Hessels, Alderman Konc and the Mayor attended the Port Colborne-Wainfleet Chamber of Commerce's President's Award Gala on March 2nd. The three Council members congratulated the winners on behalf of the Township.

On March 3rd Council began deliberations on the 2011 budget. The meeting was recessed and will reconvene on Monday, March 14th at 1:00 p.m. The Mayor encouraged members of the community to attend. The Mayor is anticipating holding budget meetings in the evening for next year's budget deliberations.

The Mayor attended the Regional budget meeting on March 3rd at which the 2011 Regional budget was approved.

This past weekend, the Wainfleet Wild played in the Golden Puck Tournament in Port Colborne.

On March 10th the PCW Chamber of Commerce will be holding the quarterly Mayors Breakfast. The Mayor encouraged everyone to attend.

Skydive Burnaby provided the Mayor with a petition sent to the Legislative Assembly concerning wind energy development.

This afternoon, the Mayor met with Ken Brothers, Commissioner of Regional Public Works, to discuss the possibility of assistance from the Region with regard to the implementation of the Township's Find, Replace, Repair incentive. It became evident that the Township (with Regional assistance) will need to strike a committee to set a timeline and focus on the next steps.

10. ADOPTION OF THE MINUTES

- a) Minutes of the Regular Meeting of Council held on February 22nd, 2011
- b) Minutes of the Public Meeting held on February 23rd, 2011

Resolution No. C-074-2011

Moved by Ted Hessels
Seconded by David Wyatt

"THAT the minutes of the Regular Council meeting held on February 22nd, 2011 be adopted as circulated.

Township of Wainfleet
Council Meeting Minutes, March 8th, 2011

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AND THAT the minutes of the Public Meeting held on February 23rd, 2011 be adopted as circulated."

CARRIED.

11. STAFF REPORTS AND RECOMMENDATIONS

a) Planning Staff Reports

None.

b) Administration Staff Reports

None.

c) Drainage Staff Reports

None.

d) Building Staff Reports

- i) BSR-004/2011 Re: Building Permit Report – February 2011

RECOMMENDATIONS:

"THAT this report be received for information."

Resolution No. C-075-2011

Moved by Richard Dykstra
Seconded by Ted Hessels

"THAT Building Staff Report BSR-004/2011 Re: Building Permit Report – February 2011 and the recommendation contained therein be adopted as circulated."

CARRIED.

e) Public Works Staff Reports

- i) PWR-004/2011 Re: Maintenance of the Regional Beach Access Property, Formerly known as Erie Park

RECOMMENDATIONS:

"THAT this report be received for information;

THAT staff be directed to enter into discussions with the Region regarding the possible carrying out of maintenance services on behalf of the Region of Niagara;

AND THAT staff prepare a future report to Council addressing the aforementioned matter."

Resolution No. C-076-2011

Moved by Ted Hessels
Seconded by David Wyatt

"**THAT** Public Works Staff Report PWR-004/2011 Re: Maintenance of the Regional Beach Access Property, Formerly known as Erie Park and the recommendations contained therein be adopted as circulated."

CARRIED.

- f) **Fire Staff Reports**
None.

12. REVIEW OF CORRESPONDENCE .

Resolution No. C-077-2011

Moved by Betty Konc
Seconded by David Wyatt

"**THAT** the report of the correspondence to Council dated March 8th, 2011 and the recommendations contained therein be adopted as circulated."

CARRIED AS AMENDED (see below).

Alderman Dykstra declared a conflict of interest in correspondence item no. 033 since he owns property which abuts the abandoned rail corridor.

Mayor Jeffs requested correspondence item no. 033 be considered separately.

Resolution No. C-078-2011

Moved by Betty Konc
Seconded by David Wyatt

"**THAT** the recommendation of correspondence item no. 033 be amended to the following:

THAT staff respond that the intent is not to cease the sale of sections of the abandoned rail corridor definitely."

CARRIED.

Resolution No. C-079-2011

Moved by Ted Hessels
Seconded by Betty Konc

"**THAT** the recommendation of correspondence item no. 032 be amended to the following:

Township of Wainfleet
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THAT this piece of correspondence be received for information."

CARRIED.

Resolution No. C-080-2011

Moved by April Jeffs
Seconded by David Wyatt

"THAT the recommendation of correspondence item no. 024 be amended to the following:

THAT staff be directed to investigate the possibility of placing certain lands in the Township under the Heritage Conservation District Designation."

CARRIED.

CORRESPONDENCE REFERRED TO COUNCIL 2011 03 08

022. From [REDACTED] expressing her position against wind turbine development and requests Council call for a moratorium on wind turbine development. A copy of this piece of correspondence has been circulated to each member of Council. REC. – receive for information.
023. From Premier Dalton McGuinty acknowledging receipt of a letter from the Township regarding food security and poverty reduction. REC. – receive for information.
024. From the Minister of Tourism and Culture stating support for municipalities that protect local heritage through heritage conservation district designations. A copy of this piece of correspondence has been circulated to the Manager of Planning. REC. – receive for information. staff to investigate the possibility of placing certain lands in the Township under the Heritage Conservation District Designation.
025. From [REDACTED] requesting Council base their decision on wind turbine development on information and facts and not the "squeaky wheel". A copy of this piece of correspondence has been circulated to each member of Council. REC. – receive for information.
026. From Tracy-Lynn Bell, President of Quad Niagara ATV Club, enclosing a proposal for an ATV trail system in the Niagara Region. A hardcopy of this piece of correspondence has been circulated to each member of Council and the Director of Operations. REC. – receive for information.
027. From the Sierra Club Canada requesting the Township consider participating in pre-planned events, or events organized by the Township, which celebrate water as an important resource in recognition of World Water Day on March 22nd, 2011. REC. – receive for information.
028. From the City of Port Colborne copying the Township on a letter sent to the Minister of Health and Long Term Care which requests the conduction of an investigation of the Niagara Health System's Local Improvement Plan. REC. – receive for information.

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029. From the City of Port Colborne copying the Township on a letter sent to the Premier of Ontario which calls on the Provincial Government to move forward on the proposal to build the Mid-Peninsula Transportation Corridor. **REC.** – receive for information.
030. From the City of Port Colborne copying the Township on a letter sent to the Premier of Ontario which requests the Provincial Government introduce a \$100 per month Healthy Food Supplement for all adults on social assistance. **REC.** – receive for information.
031. From the City of Port Colborne copying the Township on a letter sent to the Minister of Health & Long Term Care which endorses a resolution passed by Council for the City of Niagara Falls in its request for an independent investigator to conduct a review of the Niagara Health System. **REC.** – receive for information.
032. From the City of Port Colborne requesting support for its resolution which endorses the Great Lakes and St. Lawrence Cities Initiative in call for renewable energy development in the Great Lakes and St. Lawrence River Region. A copy of this piece of correspondence has been circulated to each member of Council. **REC.** – ~~refer to Council.~~ receive for information.
033. From the Ontario Federation of Agriculture requesting the decision to cease accepting applications from abutting landowners for sections of the abandoned rail corridor be rescinded and that the sales recommence. A copy of this piece of correspondence has been circulated to each member of Council and the Director of Operations. **REC.** – ~~refer to Council.~~ direct staff to respond that the intent is not to cease the sale of sections of the abandoned rail corridor definitely.
034. From Ms. Helen Kozoriz enclosing expressing opposition to wind energy development and enclosing information on wind energy. A copy of this piece of correspondence has been circulated to each member of Council. **REC.** – receive for information.
035. From the Wainfleet Ratepayers Association requesting Council pass a moratorium on wind turbine development and reject applications for building permits that contravene all Township guidelines, bylaws and building codes as set out in the new Official Plan. A copy of this piece of correspondence has been circulated to each member of Council. **REC.** – receive for information.

Unregistered

Niagara Regional Police Services Board – “Board Report”, Volume 1, Issue 7

Community Living (Port Colborne-Wainfleet) – “Newsletter”, February 2011

canwea – “Growing contribution of wind energy continues to fuel economic growth in Ontario”, February 25, 2011. A copy of this piece of correspondence has been circulated to each member of Council.

14. NOTICE OF MOTION

There were no notices of motion.

Township of Wainfleet
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15. PROCLAMATIONS

None.

16. OTHER BUSINESS

a) Wind Energy Moratorium

Alderman Wyatt requested the vote be recorded.

Resolution No. C-081-2011

Moved by David Wyatt
Seconded by Betty Konc

"WHEREAS the Province of Ontario has enacted the Green Energy Act, 2009 with the stated goals of building a stronger, greener economy, creating well-paying green jobs, better protecting our environment, combating climate change and creating a healthier future;

AND WHEREAS the Township of Wainfleet encourages the development of alternative energy forms, it is imperative that any renewable energy proposal not cause a negative impact visually or audibly, nor should it create a significant risk to the health of residents and visitors, to the local environment and to negatively impact the municipality's tax base;

AND WHEREAS a persistent and growing number of Ontarians have expressed serious and numerous concerns regarding the impacts of Industrial Wind Turbines on their health, lifestyle, the operation of their businesses and on their property values;

AND WHEREAS more than 70 municipalities throughout Ontario, many of them rural, have passed resolutions expressing significant concerns that the goals of the Green Energy Act, 2009, to provide safe, economic and environmentally responsible renewable energy may not be achieved through the deployment of Industrial Wind Turbine technology;

AND WHEREAS the Green Energy Act, 2009, has excluded these municipalities from acting in any direct way to address concerns relating to the public interests in comprehensive municipal planning, public health, infrastructure expansion and environmental assessment and thereby limiting their ability to manage the impacts of wind power projects on their communities;

AND WHEREAS the Province is in the early stages of deploying Industrial Wind Turbine Technology which, at present is contributing a limited benefit to Ontario's total renewable energy needs and as such is at an opportune point to pause further deployment to investigate these public concerns;

AND WHEREAS the Act now places the onus on concerned Ontarians to demonstrate the validity and the severity of their concerns rather than on the Province or the applicant in matters of appeal;

BE IT RESOLVED THAT the Township of Wainfleet urges the Province of Ontario to place a moratorium on any new Industrial Wind Turbine agreements and on the issuance of new permits to operate Industrial Wind Turbine facilities until a comprehensive, third party public science-based study of the adverse health effects now being reported by Ontarians can be evaluated and their potential harmful health effects fully understood;

AND FURTHER THAT the Township of Wainfleet requests the Province of Ontario to provide assurances that there will be no negative financial impacts on residents and businesses in the Township through diminished property values or limitations on business operations as a result of the construction of Industrial Wind Turbines;

AND FURTHER THAT this resolution be forwarded to the Office of the Premier of Ontario, the various involved Ministries and Agencies of the Province of Ontario, the office of the Prime Minister of Canada, The Association of Municipalities of Ontario, local MP's and MPP's and area municipalities."

Alderman Dykstra – Yes
Alderman Hessels – Yes
Alderman Konc – Yes
Alderman Wyatt – Yes
Mayor Jeffs – Yes

CARRIED.

b) Amendment to Children's Reform Act

Resolution No. C-082-2011

Moved by Richard Dykstra
Seconded by Betty Konc

"THAT the Council of the Corporation of the Township of Wainfleet, on behalf of the citizens of Wainfleet and its grandparents, support the amending of the Children's Law Reform Act to emphasize the importance of children's relationships with their parents and grandparents, as outlined in Bill 22 introduced by Niagara Falls MPP Kim Craiton, in such a manner as:

- To require parents and others with custody of children to refrain from unreasonably placing obstacles to personal relations between the children and their grandparents
- To include a specific reference to the importance of maintaining emotional ties between children and grandparents and the willingness of each person applying for custody to facilitate as much contact with each parent and grandparent as is consistent with the best interests of the child
- To require the court to give effect to the principle that a child should have as much contact with each parent and grandparent as is consistent with the best interest of the child.

THAT a copy of this resolution be forwarded to the Region and Area Municipalities for their information;

Township of Wainfleet
Council Meeting Minutes, March 8th, 2011

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AND THAT a copy of this resolution be forwarded to the Association of Municipalities of Ontario for its consideration and endorsement."

CARRIED.

c) Wainfleet Community Policing Committee

Alderman Konc stated a Community Policing Committee has been formed for the Township. Previously, Community Policing for Wainfleet was paired with the City of Port Colborne. Alderman Konc invited people interested in becoming part of the Committee to contact the Fire Chief or Sgt Joe Garvey.

d) Library Events

Alderman Wyatt encouraged parents to register their children for events happening at the library during March Break.

e) Heart & Stroke

Alderman Wyatt attended the Heart & Stroke's Volunteer Appreciation night on March 7th. Wainfleet canvassers raised approximately \$14,000.

17. **CLOSED MEETING**

There were no Closed Meeting items.

18. **ADJOURNMENT**

Resolution No. C-083-2011

Moved by Ted Hessels
Seconded by David Wyatt

"THAT Council for the Township of Wainfleet do now adjourn."

CARRIED.

Council adjourned at 8:26 p.m.

A. Jeffs, MAYOR

N. Dawn, ACTING DEPUTY CLERK

Proposal to the Township of Wainfleet - Jan 24, 2012

Presented by – [REDACTED] on behalf of Wainfleet Ratepayers Association

Honorable Mayor, members of council, ladies and gentlemen;

Given that government ministers, ministries, agencies and municipalities have an ethical duty and legal obligation to protect the health, safety, quality of life and well being of citizens and their properties, and

Given that these fundamental legal entitlements cannot be ignored, compromised or denied by elected officials, staff and/or representatives of provincial and local municipal government bodies, agencies, and or boards, and furthermore,

Given that IPC and **NRWC** are NOT community initiatives, but private for-profit corporations using provincial subsidies provided by the tax payers of Ontario,

We therefore respectfully request that this council enact bylaws to reflect,

"a 2 (two) km. setback of the Industrial Wind Turbines from our residences and a guarantee of 100% restitution of any loss of our property values by the Industrial Wind Turbine developer."

The reasoning for this petition is as follows.

Currently, the minimum "set back" distance from a non-participating dwelling is 550m for a 350 foot Industrial Wind Turbine **PLUS** a maximum noise level of 40 decibels.

The computer model used to establish Ontario's wind turbine noise limits and "safe set back distances" for wind turbines was found to be flawed and inadequate (Cameron Hall memo Appendix 1).

Property owners who have complained about noise and health issues and who threatened legal action in the end had only one recourse: the industrial wind turbine company had to buy them out. Subsequently, the

properties were sold at a loss subject to a long list of disclaimers recognizing that the surrounding wind turbine may affect the buyer's "living environment". The energy company thereby admitted the "impacts may include heat, sound, vibration, shadow flickering of light, noise (including grey noise) or any other adverse effect". This is an admission by these companies that wind turbines decrease property values and can cause health problems.

Cameron Hall (April 9, 2010), a Senior Environmental Officer from the Guelph District Office of the Ministry of the Environment, is on record stating that, "given the errors involved in the computer modeling it appears reasonable to suggest that a conservative approach might be to establish setbacks and approve locating IWT's where the predicted sound levels at the receptors are 35 to 37 dBA". Hall also suggested a 5 dB penalty for tonal quality of the sound discharged into the natural environment. Hall's conclusion, therefore, was that "it appears reasonable to suggest the set back distances should be calculated using a sound level limit of 30 to 32 dBA at the receptor, instead of the 40 dBA sound level limit." (Appendix #1)

For example, the 3MW Industrial Wind Turbines that Niagara Region Wind Corporation plans to install in West Lincoln are as tall as 179 meters (600 feet). These larger turbines produce even more low frequency sound (20 – 200 Hz) which is less attenuated by walls and enclosures. Low frequency noise can cross larger distances without significant energy loss from atmospheric and ground attenuation.

According to a Danish study "Low Frequency Noise Emission from Wind Farms – Potential Health Effects" by Brynhild Davidsen 2009, for a 3MW Industrial Wind Turbine to remain within the 40dB noise level, the IWT would have to be installed at least 2100 meters away from the nearest receptor. (Appendix #2). Furthermore, using Cameron Hall's analysis, the setback would be even greater at 32dB.

The Ministry of the Environment KNEW its field officers did not have the capacity to measure compliance with noise regulations, but continued to approve projects.

We are seeking protection from contaminants discharged into the natural environment by Industrial Wind Turbines. The negative impact of noise and vibration is an "abnormal or excessive environmental annoyance" to the neighbourhood.

The lack of concern for the impact of noise and vibration on the health of the citizens of host communities, the lack of concern for the impact on property values, the lack of concern for the environmental impact on livestock, birds, bats etc., by the provincial government demonstrates misfeasance.

The Ontario government, by the creation of the Green Energy Act, changed laws that protected the health of Ontario citizens, and changed laws that required an Environmental Assessment to determine the impact of new development on the environment, and furthermore changed laws so that the authority of municipal councils has been undermined and the democratic process has been compromised.

No legislation can take away the democratic rights of the people of this community. Indeed, one has to ask if the loss of any such rights is an infringement of the Charter of Rights. **As taxpayers of the Township of Wainfleet, we are asking that our legal rights be respected and protected.**

Legislative statutes (laws), regulations and policies are currently in place to protect the health, safety, quality of life and well being of citizens, properties, the natural environment and the environment as a whole.

It is therefore the legal obligation of government ministries, boards, agencies, and municipalities in reviewing applications and making decisions to require and ensure that there will be no "adverse effects" and "negative impacts" on the health, safety, quality of life and well being of citizens, properties, the natural environment and the environment in general.

An "adverse effect" means one or more of:

- Injury or damage to property or to plant or animal life

- Harm or material discomfort to any person
- An adverse effect on the health of any person
- Impairment of the safety of any person
 - o rendering any property or plant or animal life unfit for human use
 - o loss of enjoyment of normal use of property
 - o interference with the normal conduct of business

(Examples of violations have already been documented in Ontario communities hosting Industrial Wind Turbines.)

The Environmental Protection Act also refers to an "adverse effect" in the definition of a contaminant. The definition specifically identifies contaminants that when discharged into the natural environment can cause, or may cause, an adverse effect on the health, safety, quality of life and well being of citizens, properties, plant life, animal life, etc.

"contaminant", in the Act, means any solid, liquid, gas, odour, heat, sound, vibration, radiation or combination of any of them resulting directly or indirectly from human activities that causes or may cause an adverse effect.

The World Health Organization (WHO) recommends that ambient noise levels be below 35 decibels (dB), with a window slightly open, for optimum sleeping conditions. A Dutch study, "Effects of the Wind Profile at Night on Wind Turbine Sound", published in the Journal of Sound and Vibration 277 (2004), reported that noise from a 30 M(ega)W(att) Industrial Wind Turbine project becomes more noticeable and annoying to nearby residents at night. Residents as far away as 1900 meters from the IWT development complained about the nighttime noise. Excessive exposure to noise has been shown to cause health problems. To illustrate the effects, we know that noise and sleep deprivation can both be used as methods of torture. (Appendix #3)

Canada is a member of the **International Standards Organization (ISO)** a non-governmental organization that identifies international standards required by business, government and society. This network of the national standards of 162 countries recommends that daytime noise limits for rural communities be 35 dB and **night time noise limits be 25 dB.**

Internationally, some 410 federations and associations from 21 European countries, have united against deployment of wind projects on the charge of "degrading the quality of life."

The European Platform Against Wind farms (EPAW) is demanding "a moratorium suspending all wind farm projects and a "complete assessment of the economic, social, and environmental impacts of wind projects in Europe."

The EPAW stated it objects to industrial wind farms which "are spreading in a disorderly manner across Europe" under pressure from "financial and ideological lobby groups," and that are "degrading the quality of life in their vicinity, affecting the health of many, devaluing people's property and severely harming wildlife."

A petition for a moratorium has been sent to the European Commission and Parliament, said EPAW chairman J.L Butre.

Australia's new regulations require a 2 km buffer from IWT's and a 5 km buffer around villages to allow for future growth.

United States - Dr. Nina Pierpont, medical authority on Wind Turbine Syndrome recommends a 2 to 4 km set back from homes, schools, hospitals, and such like.

With the benefit of recent acoustic studies and medical papers,(Appendix #4), it has become increasingly clear there is a link between wind turbine operation and health effects.

Since no comprehensive, independent, and peer reviewed scientific study has been completed by the provincial government to determine that Industrial Wind Turbines Projects are not a risk to the community, to the health of its citizens, to property values and to the rural environment, we

are demanding a 2 km set back from our residences and a guarantee of 100% restitution of any loss of our property values.

Since municipalities have an ethical duty and legal obligation to protect the health, safety, quality of life and well being of citizens and their properties, and

Since site location of Industrial Wind Turbines in our community is not an open and transparent process and critical information necessary to make an informed scientific decision is being withheld,

We therefore want a legal guarantee that we are not assuming an unfair financial burden for this initiative.

Other communities are asking for a residential property value guarantee agreement from the wind developer for properties within a 3.2 km radius of any Industrial Wind Turbine to the nearest property line.

This same presentation was given to and well received by the West Lincoln council in December 2011 by [REDACTED], and the authors have given the Wainfleet Ratepayers Association permission to use it.

The West Lincoln group made this prediction:

... in two years ...the taxpayers of Ontario will be making financial payments to those people who have been negatively impacted by the 900 + Industrial Wind Turbines that have already been installed. Secondly, the IWT's that are not below the 40 dB noise limit will have to be removed or shut down from 11 PM to 7 AM.

We concur; and we look further ahead to 20 years when these monsters will have to be decommissioned. Try to image what will happen then.

In conclusion, we are appealing to the members of this council because they have stated that they believe in the values of this beautiful township and have demonstrated by the Moratorium By-law that they have courage to defend those values. When fiscally responsible government is restored to Ontario, and it will be, we want Wainfleet to be among those

municipalities that said, "No", to Industrial Wind Turbines because it is right, and who have protected their citizens' homes, health and happiness by so doing.

We respectfully request this Council unanimously approve a Bylaw regarding the siting of any industrial wind turbine to impose a 2km set back distance from any residence or adjoining property line, and to require a 100% liability agreement from the wind energy companies for any financial loss that results to any properties in proximity to industrial wind turbines.

Finally, the latest good news in this struggle comes from the Ontario Federation of Agriculture. On Jan 20th they requested that the provincial government suspend further development of industrial wind farms.

Respectfully submitted by [REDACTED] on behalf of the 200+ neighbours in our community.

Appendices to the proposal presented at the Township of Wainfleet on Jan 24, 2012:

(next page)

Appendix #1 – April 9, 2010 Memo by Cameron Hall a Senior Environmental Officer of the MOE admits to an error in the computer modeling used in the noise level and siting of the IWT's. He recommends a 5 dB penalty for the tonal quality of the sound discharged into the natural environment and concludes that the acceptable sound level at the receptor should be 30 to 32 dB.

Appendix #2 Low Frequency Noise Emission from Wind Farms was prepared by Brynhild Davidsen, Denmark for StatoilHydro ASA in Oct. 20, 2009. According to his research at 2100 meters a 3 MW wind turbine would have a noise level of 37 dB.

Appendix #3 Addressing Wind Turbine Noise by Daniel Alberts – impact of community noise on people's health, noise levels, etc. WHO recommends that ambient noise levels be below 35 dB for optimum sleeping conditions. Residents 1900 meters from a 30 MW IWT site complained of nighttime noise. ISO 1996-1971 Recommendations for community noise limits – adjusted limits for rural areas 35 dB(A) for daytime limit and 25 dB(A) for nighttime limit.

Appendix #4 Adverse health effects of industrial wind turbines – presented at the 10th International Congress on Noise as a Public health Problem 2011, London, UK – Controlled study of the effects of IWT noise on sleep and health, shows that those living within 1.4 km of IWT have suffered disruption which is sufficiently severe to affect their daytime functioning and mental health. Conclusion – current ordinances determining setback are inadequate to protect the residents and setbacks of less than 1.5 km must be regarded as UNSAFE.

(PP Pg. One)

Your worship, members of Wainfleet Township, public and media thank you for allowing us the time to address council this evening regarding the proposed 5 turbine Wainfleet Wind Energy project.

The purpose of tonight's presentation is to update council on...

- The new ownership of the project,
- The current status in the Renewable Energy Approval process, and
- The projects next steps moving forward.

We are not here by invitation from council, or by any requirement under the Renewable Energy Approval or other government requirement. We are here in an effort to continue to fully cooperate with the Township of Wainfleet and the local community by providing an update of the current status of the project.

(PP Pg. Two)

Wainfleet Wind Energy Inc. was formed in 2009 by the Loeffen brothers: John, Harold and the late Bill. With a long term dedication to a local agricultural-based business they have a desire to diversify into green energy in order to demonstrate their ongoing commitment to environmental and ecological innovation. This led to the development of Wainfleet Wind Energy Inc. The Loeffen family have been long standing members of the Wainfleet community since the 1950's building a reputation as hard working farmers and growing their business through excellence in the farming business.

In January of 2012 Wainfleet Wind Energy Inc. partnered with Rankin Construction, a company with a reputation for excellence in construction and local community support. This maintains continued local ownership of the project. Tom Rankin is a supporter of the Niagara community and of the green energy movement as he, like many other responsible citizens, wants a cleaner and healthier environment for his children.

(PP Pg. Three)

Quick Facts about the project

- Project size up to 9MW
- 5 Turbines Vestas V100-1.8MW with a hub height of 95m and a rotor diameter of 100m
- Estimated power generation 26 million KWh per year
- Estimated homes powered by this project 2500
- Estimated green house gas reduction per year 14000 tons
- Estimated construction start Q1 2013
- Estimated commercial operation Q3 2013
-

(PP Pg. Four)

Tom will walk through the REA process Chart then update council on the following...

A Revised Stage 2 Archeology Assessment was conducted in the fall of 2011 for the project's Switching Station. The switching station was shifted on the subject property outside the previously assessed area due to negotiations with Hydro One. This assessment is currently under review by the Ministry of Tourism and Culture and the Proponent is expecting to receive a revised confirmation letter from the Ministry by the end of January.

IPC Energy is also in active consultation with the Ministry of Natural Resources (MNR) in obtaining the confirmation letter for Natural Heritage. The confirmation letter from MNR for Natural Heritage is expected by the end of January or early February.

The date for the Second Public Open House has not been determined. Once the Proponent has received the confirmation letters from the Ministry of Tourism and Culture (for Archaeology) and the Ministry of Natural Resources (for Natural Heritage) the Proponent will officially file the Draft Renewable Energy (REA) Package for Public review. The Public will be provided at 60-days to review the draft REA package in advance of the last Public Open House. Copies of the draft reports will be made available for review on the Project's website as well as at the local municipal office and library. Notification of the reports availability and the date of the second public open house will be in accordance with Ontario Regulation 359/09 with advertisements placed in local newspapers and letter notification provided to identified stakeholders. IPC Energy is anticipating that the Second Public Open house will be held in late-March or early-April.

After the second public open house is held, comments received will be incorporated into the design of the project and Wainfleet Wind Energy inc. may submit the final Renewable Energy Package to the Ministry of Environment (MOE) for review. The REA application will then be posted on the Environmental Registry for a further 30-day public comment period. Following that, the MOE will make a determination on approving the project.

(PP Pg. Five)

(Tom will show map and go over the project details)

- Location of Turbines 1-5
- Access Driveway
- Buried Utility
- Switching Station Location
- POI

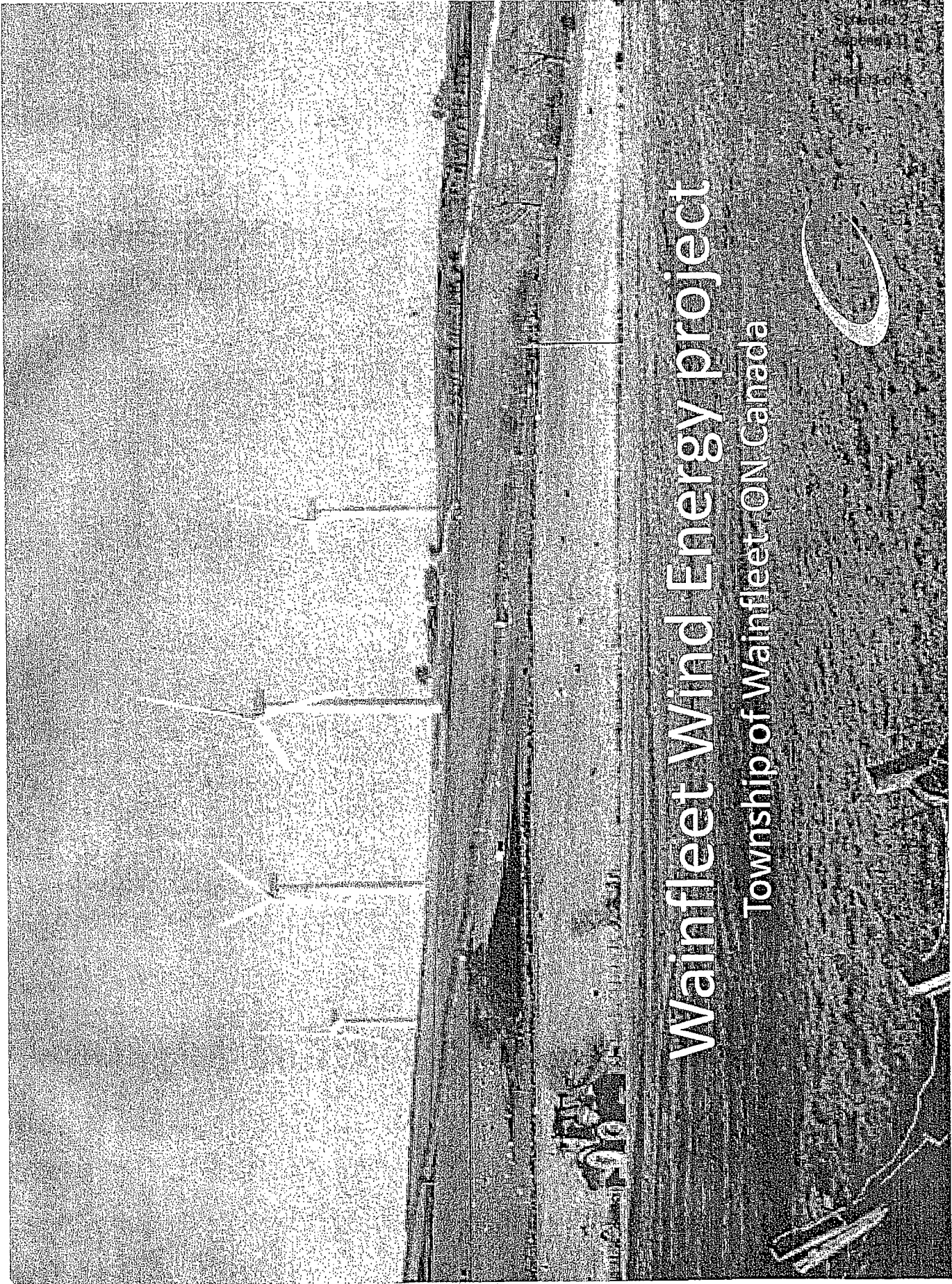
This is when John you may wish to address council yourself to supplement the

(PP Pg. Six)

Thank you and Questions

(PP Pg. Seven)

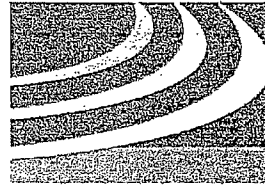
Testimonials



Wainfleet Wind Energy project

Township of Wainfleet ON Canada





Wainfleet
Clean energy for life.

- Wainfleet Wind Energy Inc. was formed in 2009 by the Loeffen brothers: John, Harold and the late Bill. With a long term dedication to a local agricultural-based business they have a desire to diversify into green energy in order to demonstrate their ongoing commitment to environmental and ecological innovation. This led to the development of Wainfleet Wind Energy Inc.
- In January of 2012 Wainfleet Wind Energy Inc. partnered with Rankin Construction, a company with a reputation for excellence in construction and local community support. This maintains continued local ownership of the project.



Project Quick Facts

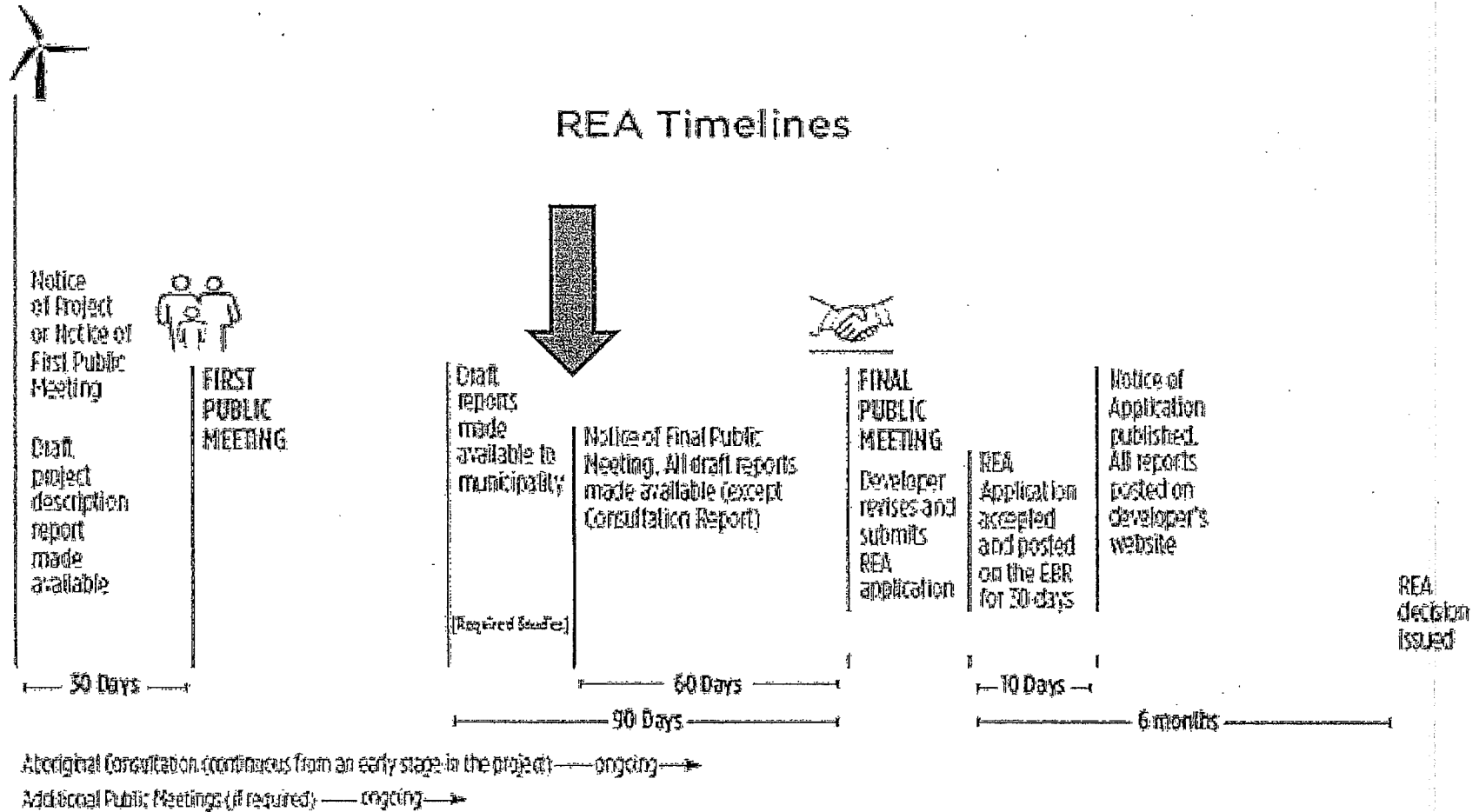
- Project size 9 MW Wind Turbines
- 5 Vestas V100-1.8MW Turbines with a hub height of 95m and a rotor diameter of 100m
- Estimated power generation 26 million KWh per year
- Estimated homes powered by this project 2500
- Estimated green house gas reduction per year 14000 tons
- Estimated construction start Q1 2013
- Estimated commercial operation Q3 2013

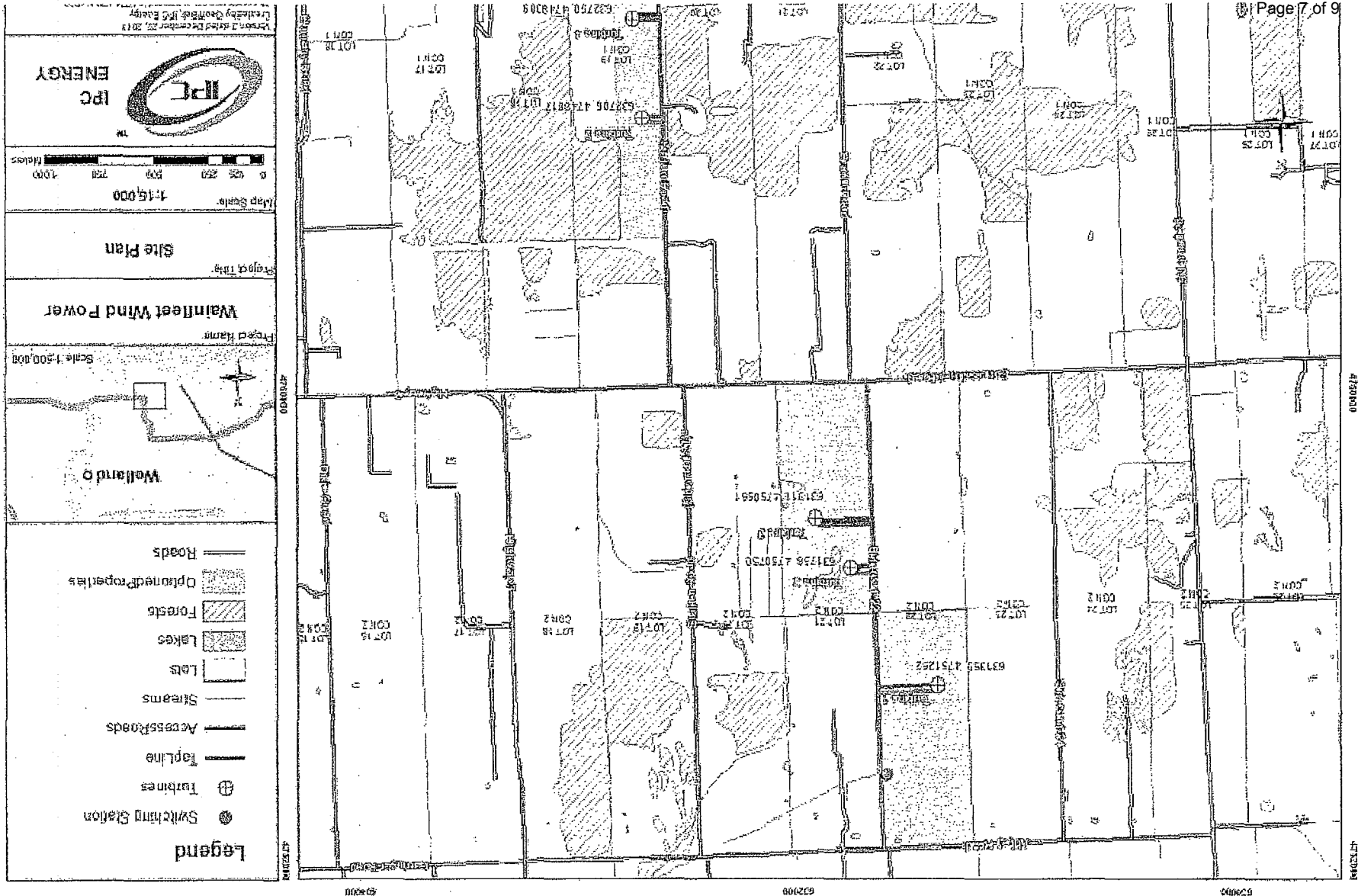


WWW.WAINFLEETWINDENERGY.CA

Consultation Process Flowchart

This flowchart shows the consultation steps that a developer must carry out and the timelines it must meet in order to be able to receive a REA. These steps are explained in further detail below.

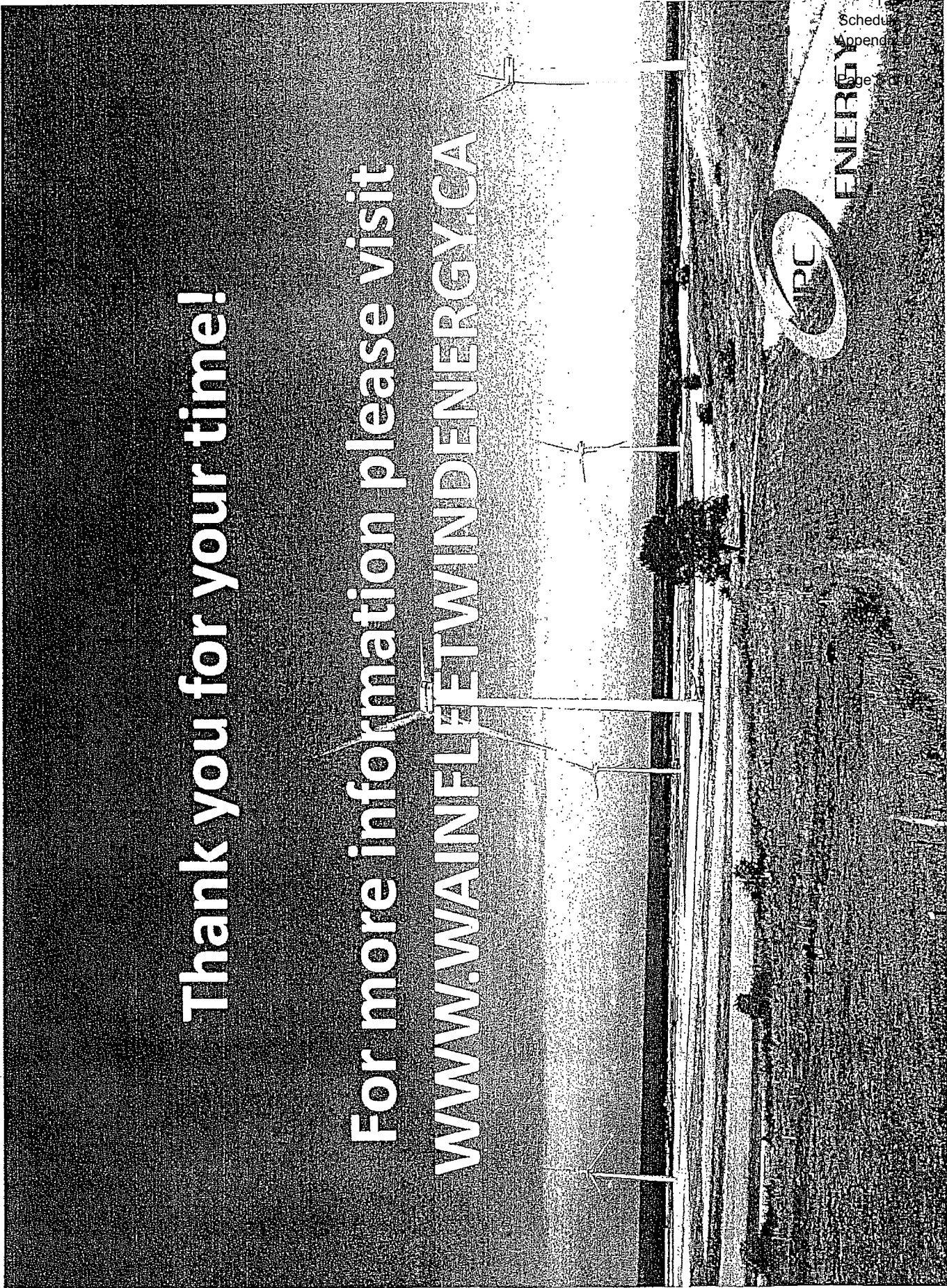




Thank you for your time!

For more information please visit

WWW.WAINFLEETWINDENERGY.CA



Ontario communities embracing wind power development

- *Contributing to the greening of the Ontario power landscape, creating new skilled full-time jobs and adding wealth to our community are all huge achievements. We celebrate this success.*

Mayor Jim Vanden Hoek, Frontenac Islands

Source: TransAlta News Release, December 23, 2009

- *The Erie Shores wind farm has become a part of our identity here in Bayham. We've actually incorporated a wind turbine into our tourism logo. My advice would be to come to the Erie Shores Wind Farm and see for yourself. They are majestic and sleek. Stand beneath a turbine and listen for yourself. Talk to the farmers and hear what they have to say.*

Lynn Acre, Mayor, Municipality of Bayham

Source: Wind for my community document
CANWEA

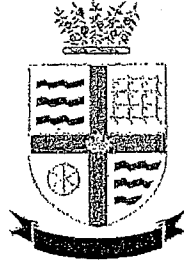
- *The township as a whole is happy with the wind farm. We have 61 of its turbines and I wish we had 60 more. When you consider the revenue, why wouldn't I? We receive taxes from the wind farm, but we don't plough the road, we don't do garbage pickup, and we don't provide policing. For the township, it's a win-win situation.*

Lou Madonna, Reeve, Township of Prince

Source: Wind for my community document
CANWEA

- *86% of Ontarians would like to see their municipal government encourage and facilitate wind energy development.**

Source: IPSOS-Reid July 2010



C03/12

THE CORPORATION OF THE TOWNSHIP OF WAINFLEET
REGULAR MEETING OF COUNCIL MINUTES

Minutes of the Regular Meeting of Council held in the Wainfleet Council Chambers, located at 31940 Highway #3, Wainfleet, Ontario, on Tuesday, January 24th, 2012 at 7:00 p.m.

PRESENT: A. Jeffs, R. Dykstra, T. Hessels, B. Konc, D. Wyatt

STAFF PRESENT: J. Boerema, T. Lamb, S. Luey, R. Madere, G. Munday, G. Wuisman

1. **CALL TO ORDER**
Mayor Jeffs noted that there was quorum present and she called the meeting to order at 7:00 p.m.
2. **NATIONAL ANTHEM**
3. **OPENING PRAYER**
Alderman Richard Dykstra delivered the opening prayer.
4. **DISCLOSURE OF PECUNIARY INTEREST AND THE GENERAL NATURE THEREOF**
There were no disclosures of pecuniary interest noted by members of Council.

Motion

Resolution No. C-026-2012

Moved by Ted Hessels
Seconded by David Wyatt

"**THAT** Council waive Section 2.2 (e) of the Wainfleet Procedural Bylaw No. 021-2010, as amended, to allow Dave Johnson from the Welland Tribune to video tape tonight's Council proceedings."

CARRIED.

5. **PRESENTATIONS**
None.

6. PUBLIC HEARINGS

a) Purpose of the Meeting

This public hearing was chaired by Mayor Jeffs.

The purpose of the meeting is to provide information and gather public comments regarding four (4) conceptual designs presented by Venerio V.P. Panici Architect Inc. for the Wainfleet Arena.

b) Presentation of Conceptual Designs

Mr. Giovinazzo of Venerio V.P. Panici Architect Inc. presented four conceptual designs to Council via PowerPoint Presentation. The estimated costs for the four options ranged from \$2.4 million to \$3.1 million. (A copy of the presentation is attached and forming part of the minutes).

c) Questions from Council

Alderman Hessels requested clarification from the architect regarding the cost calculations and the cost of retrofitting the existing Moore Room to a viewing area in Option "D".

Mr. Giovinazza responded by stating that this would be in addition to the costs and not reflected in the other three options and would also include the cost of rebuilding the exterior wall and replacing the roof. Mr. Giovinazzo stated an error with Option "D" was that the designs included the cost of rebuilding the exterior wall. These costs would have been included in the sq.ft. construction costs with the exception of the west wall and a portion of the North Wall at a cost of +/- \$100,000.00. The revised cost of Option "D" should be:

Ground Floor Area	\$2,295,000.00
Ground Floor Retrofit	\$ 361,000.00
Perimeter Wall	<u>\$ 100,000.00</u>
TOTAL	\$2,756,000.00
Demolition Costs	\$ 36,000.00
Septic System Costs	<u>\$ 50,000.00</u>
TOTAL CONSTRUCTION COSTS	\$2,842,000.00

As noted by Alderman Hessels, the retrofit and costs associated proposed in Option "D" was not proposed in the other options. This component of retrofitting the Moore Room is transferable to the other options however, there would be additional costs associated.

The Director of Operations, Greg Wuisman, provided Council and the gallery with a brief synopsis on the reasoning behind the proposed changes to the arena, noting that last year a fire audit was conducted by the Wainfleet Fire Chief and Fire Marshal for the Wainfleet Arena and found that the change rooms, Moore Room and Friendship Room were all made of combustible material and ordered that a fire suppression system be installed. The Township retained the services

of the architectural firm, Quartek Group Inc. ("Quartek"), to carry out a Fire Code Compliance review of the arena complex and determine cost estimates for bringing the arena into compliance.

Quartek established two main options to bring the area into fire code compliance; Option #1, carry out major alterations, construct fire separations and install an alarm system, or Option #2, carry out minor alterations, install an alarm system and a fire suppression system (sprinkler system). The costs were estimated to be \$453,100 and \$502,550 respectively for Option numbers 1 and 2.

Wainfleet's Chief Building Official (CBO) was also consulted on this matter on a number of occasions by staff, Quartek, and the Fire Chief. The CBO confirmed that most of the additions at the arena complex abutting the main ice pad area were constructed without a Building Permit, utilizing combustible materials and as a result the entire building is in non-compliance.

Potential solutions to the arena Fire Code deficiencies matter has been discussed at length by the Operations Sub-committee. The committee concluded that there was sufficient merit in investigating this option further and an architectural firm should be hired to produce conceptual designs and cost estimates.

Alderman Dykstra expressed concerns regarding the flat roof designs and wonder whether a low pitch roof could be incorporated for Options "A" and "D".

Mr. Giovinazzo stated that incorporating a low slope roof is possible at a pitch of 4/12, resulting in a roof height of approximately 23'-0" from the top of the wall. Option "C" was created to explore a plan that eliminates the need for an extended low slope roof or a flat roof while maintaining the architectural detail and consistency with the celebrated architectural vernacular of the site. Many of the other buildings on site and throughout Wainfleet take advantage of this concept with their two storey volumes of space and gable roofs.

There are also other options for roofs lower than 4/12 that incorporate membranes under the shingles and/or metal roofs, which can be explored in further design studies as these types of roofs are typically used in many utility and pre-engineered building types.

In response Alderman Wyatt inquired whether or not the plans incorporated special features such as 'green energy' to allow the arena to run more efficiently. Mr. Giovinazzo stated specifically that "green energy" was not incorporated into the design. A simple construction technique was applied to insure construction would not be overly complicated, avoiding premium construction costs as a result. Mr. Giovinazzo indicated that their firm has had experience with the inclusion of "green energy" through the use of solar panels, green roof design, rain water bladder systems, light tubes and geo thermal design. At the direction of Council, Mr. Giovinazzo would be happy to explore any "green design" or "green energy" opportunities that would best serve the project.

Township of Wainfleet
Council Meeting Minutes, January 24, 2012

Page 4

d) Public Comments

Terry Maxner, [REDACTED]

Mr. Maxner noted that in each of the drawings the designated figure skating areas are very minimal especially in Option "D". The Wainfleet Figure Skating Club expressed their concerns via letter (attached to and forming part of the minutes) noting that the current plans do not adequately meet their current needs. Mr. Maxner requested that the Club have an input in the finalization of the arena design as they will be strongly impacted.

Mark Michaud, [REDACTED]

Expressed concerns regarding the flat roof proposed in 2 of the 4 designs. Also Mr. Michaud noted that there are no change rooms for female referees and is skeptical that the current kitchen design is sufficient to feed the rooms capacity of 300 people. Mr. Michaud also inquired whether a custodian room was going to be incorporated in the design.

Mr. Giovinazzo responded to Mr. Michaud's concerns my stating that Option "C" most adequately eliminates the need for a flat roof while meeting and exceeding the buildings program.

Mr. Charles Elwell, Architectural Technician, responded to the question re: female change rooms stating that designs are still in the preliminary stages and pliable. He further stated that with the eight (8) change rooms proposed this may provide sufficient space to accommodate female referees.

The kitchen design was created with the intent of a commercial kitchen that would serve 300+ people, if however, additional space is required this can be considered in the design development stage of the project.

Mariah Harry, [REDACTED]

Noted that only one of the designs illustrates a community fitness room and would this space be intended for community use.

Mr. Giovinazzo stated that the community fitness room was developed as a result of "bonus space" remaining from replicating the ground foot print on the second floor in Option "C". Option "C" was the only option that permitted this additional space and as a result it was proposed as a fitness space, maintaining the "wellness theme" of the Community Centre and Arena.

Bert Schetzing, [REDACTED]

Mr. Schetzing inquired how people would access the double deck being proposed in Option "C"

In response to Mr. Schetzing question Mr. Giovinazzo stated that the upper level of Option "C" would be accessed via one elevator and two sets stairs. These are the minimal requirements identified by the Ontario Building Code for Barrier Free Access and proper exiting. The main entrance to the second level would be through the Arena, *however, post presentation discussion revealed the opportunity to create vestibule space so that the second level, arena and friendship room could be accessed independently.*

Frank Stoop, [REDACTED]

Mr. Stoop inquired whether the Township is seeking input from all user groups i.e. hockey, figure skating, Fair Board, Marshville, etc.

Mr. Wuisman noted that all user groups were contacted and will remain involved in the process until completion. As well the Recreation Master Plan Implementation Committee has been invited for comment.

e) **Next Steps**

The Director of Operations noted that the Township will be gathering comments until February 10th. Staff will prepare proposed recommendations to Council for February 28th at which time Council will be re-visiting this issue and giving staff direction on how to proceed with this project.

f) **Closing**

Mayor Jeffs concluded by thanking the public for participating in the public meeting process regarding the proposed arena addition.

The design drawings will remain in the Moore Room until February 10th for viewing, comment sheets will also be available. In addition the public may e-mail our Director of Operations at: gwuisman@wainfleet.ca.

This public hearing was adjourned at 7:45 p.m. by Mayor Jeffs.

7. **DELEGATIONS**

a) **Patricia Waters – Youth Without Secure Housing (YWSH)**

Ms. Waters provided a PowerPoint presentation to educated Council on YWSH Program vision, current status and mandates.

The presenters PowerPoint presentation is enclosed in the January 24th, 2012, Council meeting folder.

b) **Andrew Watts**, [REDACTED]

Mr. Watts provided background information on the detrimental health impacts caused by industrial wind turbines due to current minimum set back distances.

The presenters speaking notes and PowerPoint presentation are enclosed in the January 24th, 2012, Council meeting folder.

c) **Tom Lewis and John Andrews – IPC Energy**

Mr. Lewis addressed Council with respect to the Wainfleet Wind Energy Project and its current status in the Ontario Renewable Energy Approval process, the projects next steps moving forward, introduce the new ownership of the project and provide clarification with respect to IPC's request to open Side Road 22.

The presenters speaking notes and PowerPoint presentation are enclosed in the January 24th, 2012, Council meeting folder.

- d) Judith Atkinson, [REDACTED]
Ms. Atkinson appeared before Council on behalf of the Wainfleet Ratepayers Association to seek support for a two-kilometre setback for wind turbines and 100% restitution of property values affected by the wind energy industry.

The presenters speaking notes and supporting documentation are enclosed in the January 24th, 2012, Council meeting folder.

8. BUSINESS ARISING FROM DELEGATIONS

Resolution No. C-027-2012

Moved by Betty Konc
Seconded by David Wyatt

"THAT the Manager of Planning be directed to work with the Wainfleet Ratepayers Association to create a draft bylaw that incorporates the Ratepayers requests;

AND THAT the staff report cite the different options and subsequent pros and cons for each option for next scheduled Council meeting (February 14th, 2012)."

CARRIED.

9. MAYOR'S ANNOUNCEMENTS & REMARKS

The Mayor's comments are enclosed in the January 24th Council meeting folder.

10. ADOPTION OF THE MINUTES

- a) Minutes of the Regular Meeting of Council held on January 10th, 2012.

Resolution No. C-028-2012

Moved by David Wyatt
Seconded by Richard Dykstra

"THAT the minutes of the Regular Council meeting held on January 10th, 2012 be adopted as circulated."

CARRIED.

11. STAFF REPORTS AND RECOMMENDATIONS

- a) Planning Staff Reports
i) PSR-001/2012 Re: Options for Replacing Committee of Adjustment Vacancy

RECOMMENDATION(S):

THAT this report be received;

THAT Council authorize staff to advertise in the local newspaper for a new Committee of Adjustment member;

AND THAT Staff report back to Council with a list of applicants to fill the existing vacant position on the Committee of Adjustment.

Resolution No. C-029-2012

Moved by Betty Konc
Seconded by David Wyatt

"THAT Planning Staff Report PSR-001/2012 Re: Options for Replacing Committee of Adjustment Vacancy and the recommendations contained therein be adopted as circulated."

CARRIED.

b) Administration Staff Reports
No report(s) submitted

c) Drainage Staff Reports
No report(s) submitted

d) Building Staff Reports

i) BSR-002/2012 Re: Summary of 2011 Building Activity in the Township of Wainfleet

RECOMMENDATION(S):

THAT this report be received for information.

Resolution No. C-030-2012

Moved by David Wyatt
Seconded by Betty Konc

"THAT Building Staff Report BSR-002/2012 Re: Building Permit Report December 2011 and the recommendation contained therein be adopted as circulated."

CARRIED.

e) Public Works Staff Reports

i) PWSR-005/2012 Re: O' Reilly's Road Ditch

RECOMMENDATION(S):

THAT this report be received;

AND THAT the ditching work requested on the east side of O'Reilly's Road in front of the vacant lot owned by Carman Ferri, between municipal address numbers 50849 and 50757, not be carried out at the expense of the Township."

Resolution No. C-031-2012

Moved by Ted Hessels
Seconded by Richard Dykstra

"**THAT** Public Works Staff Report PWSR-005/2012 Re: O'Reilly's Road Ditch and the recommendations contained therein be adopted as circulated."

CARRIED.

- ii) PWSR-006/2012 Re: IPC Energy's Request to Open a Portion of Side Road 22 for the Wainfleet Wind Energy Project

RECOMMENDATION(S):

THAT this report be received;

THAT Council approve the option of leasing the subject section of Road Allowance to the Applicant (Option #3 below);

AND THAT Council approve staff engaging the Township lawyer to prepare a leasing agreement and Council approve staff retaining an appraiser to establish a market leasing rate for the subject section of road allowance.

Resolution No. C-032-2012

Moved by David Wyatt
Seconded by Betty Konc

"**THAT** Public Works Staff Report PWSR-006/2012 Re: IPC Energy's Request to Open a Portion of Side Road 22 for the Wainfleet Wind Energy Project and the recommendations contained therein be adopted as circulated."

LOST.

- f) **Fire Staff Reports**
No report(s) submitted

- g) **Bylaw Enforcement Staff Reports**

- i) BESR-001/2012 Re: Summary of Complaints January to December 2011 and 4th Quarter Report

RECOMMENDATION(S):

THAT this report be received for information purposes.

Resolution No. C-033-2012

Moved by David Wyatt
Seconded by Betty Konc

"THAT Bylaw Enforcement Staff Report BESR-001/2012 Re: Summary of Complaints January to December 2011 and 4th Quarter Report and the recommendation contained therein be adopted as circulated."

CARRIED.

12. REVIEW OF CORRESPONDENCE**Resolution No. C-034-2012**

Moved by David Wyatt
Seconded by Ted Hessels

"THAT the report of the correspondence to Council dated January 10th, 2012 and the recommendations contained therein be adopted as circulated."

CARRIED AS AMENDED (see below).

Resolution No. C-035-2012

Moved by Mayor Jeffs
Seconded by Betty Konc

"THAT correspondence item no. 026 be amended as follows:

THAT the Clerk be directed to circulate the Ontario Municipal Board decision to Peter Colosimo at the Niagara Regional Planning Department."

CARRIED.

CORRESPONDENCE REFERRED TO COUNCIL 2012 01 24

024. From Cindy Forster, M.P.P. requesting a meeting with the Mayor in the month of January to discuss the satellite office and possible locations as well as other issues affecting our constituents. March 13th was given as an alternative date to attend a Wainfleet Council meeting. A copy of this piece of correspondence has been circulated to Council. REC. – receive for information.
025. From West Lincoln/Glanbrook Wind Action Group requesting Honourable David C. Onley support the Action Group's appeal to the Province of Ontario to enact a moratorium on the current questionable development of industrial wind turbines. A

Township of Wainfleet
Council Meeting Minutes, January 24, 2012

Page 10

copy of this piece of correspondence has been circulated to Council and the Manager of Planning. **REC.** – receive for information.

026. From the Ontario Municipal Board enclosing notice of the decision on OMB Case No. PL110882 (Birrell, Yohanna, Leon and Kaas). A copy of this piece of correspondence has been circulated to each member of Council and the Manager of Planning. **REC** – receive for information *and that the Clerk be directed to circulate the OMB decision to Peter Colosimo at the Niagara Regional Planning Department.*
027. From the Welland & District Humane Society enclosing its statistical report for the month of December 2011. **REC.** – receive for information.
028. From the City of Welland enclosing a motion supporting the resolution passed by the City of Port Colborne regarding supportive home care funding. **REC.** – receive for information.
029. From the Ontario Municipal Board enclosing confirmation of hearing room arrangement for OMB Case No. PL110988 (Truman, new dwelling). A copy of this piece of correspondence has been circulated to each member of Council and the Manager of Planning. **REC** – receive for information.

Unregistered

None

13. **BYLAWS**

First & Second Reading

Resolution No. C-036-2012

Moved by David Wyatt
Seconded by Betty Konc

"**THAT** the following bylaws be now read a first and second time this 24th day of January, 2012:

- a) Bylaw No. 005-2012 being a bylaw to amend Bylaw No. 002-2012 being a bylaw to set rental rates for the use of the Township of Wainfleet Firefighter Memorial Community Hall."

CARRIED.

14. **NOTICE OF MOTION**

There were no notices of motion.

15. **PROCLAMATIONS**

There were no proclamations.

16. OTHER BUSINESS**Hewitt Road Update**

The Director of Operations provided Council with an update regarding the road patch over the culvert replacement. The current patch work is only a temporary patch. Once additional settlement occurs over the winter, the Public Works Department will arrange to have an additional layer of asphalt applied in the spring, slightly longer than the existing patch and flush with the existing pavement.

As the Township does not own compaction equipment, the Public Works Department typically replaces the aggregate over a new culvert using only backhoe pressure and then allows the aggregate to compact by natural means (time, rain, and road traffic). As this was an unusually deep excavation, the compaction time and degree of settlement were much greater than typical.

Although the current patch may not appear to be the smoothest stretch of road in the Township, rideability at 80 km/hr over the patch was fair-to-good.

17. CLOSED MEETING**18. BYLAW TO CONFIRM THE PROCEEDING OF COUNCIL****Resolution No. C-037-2012**

Moved by David Wyatt
Seconded by Betty Konc

"THAT the following bylaw be now read a first, second and a third time and finally passed this 24th day of January, 2012:

- a) Bylaw No. 006-2012 being a bylaw to adopt, ratify and confirm the actions of the Council at its regular meeting held on the 24th day of January 2012."

CARRIED.

19. ADJOURNMENT

Resolution No. C-038-2012

Moved by Ted Hessels
Seconded by David Wyatt

"THAT Council for the Township of Wainfleet do now adjourn."

CARRIED.

Council adjourned at 10:05 p.m.

A. Jeffs

A. Jeffs, MAYOR

T. Lamb

T. Lamb, CLERK

Date Approved – February 14th, 2012

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Fluent in Italian & French

R.B. BURNS

E.P. LUSTIG

M. DIGIROLAMO

Z. SASKIN

Fluent in Russian, Croatian
& Serbian

D. F. MARINELLI

(1945 - 1997)

February 22, 2012

Sent by Courier and Email ajeffs@wainfleet.ca

Mayor April Jeffs and
Members of Council
Township of Wainfleet
31940 Highway 3
P.O. Box 40
Wainfleet, Ontario
L0S 1V0

Dear Mayor Jeffs and Members of Council:

Re: Rankin Renewable Power Inc.
Proposed Township of Wainfleet By-law re Regulating Wind Turbines

I act for Rankin Renewable Power Inc. The company is in the business of developing renewable power facilities including wind turbines across Ontario including within the Niagara Region.

I am advised that the Township of Wainfleet proposes to consider enacting a by-law at its meeting on February 28, 2012 to provide for setback regulations for wind turbines of 2 kms. to the nearest noise receptor, whereas the current Provincial regulations in this regard provide for separation distances of between 550 and 600 meters. Normally, setback regulations for buildings or structures would be included as part of a zoning by-law passed by a municipality pursuant to s. 34 under PART V of the *Planning Act*.

In my opinion, the Township of Wainfleet does not possess the legal authority to pass such a by-law as a consequence of the enactment of the "*Green Energy and Green Economy Act, 2009*" of Ontario which received Royal Assent on May 14, 2009.

-2-

The *Green Energy and Green Economy Act* introduces the concept of "renewable energy project", which is a "renewable energy generation facility". A "renewable energy generation facility" is one from which electricity is generated from a "renewable energy source". Those sources are defined as including wind, water, solar and geothermal energy.

Schedule K of the *Green Energy and Green Economy Act* amends the *Planning Act* to provide that the following planning policies or sections of the *Planning Act* do not apply to "renewable energy undertakings" (defined as renewable energy generation facilities, projects, testing facilities or testing projects):

- Policy statements and provincial plans, with certain exceptions.
- Section 24, which requires public works and by-laws to confirm with official plans.
- Demolition control by-laws under section 33.
- **Zoning by-law and related by-laws, site plan control and orders under Part V of the *Planning Act*, subject to a transitional exception for existing agreements under that Part.**
- Development permit regulations and by-laws under section 70.2.
- By-laws under section 113 or 114 of the *City of Toronto Act, 2006*.
- Orders under section 17 of the *Ontario Planning and Development Act, 1994*.
- Leases for the purpose of renewable energy generation facilities or renewable energy projects are exempt from subdivision control and part-lot control under section 50 of the *Planning Act*, if they are for periods which exceed 21 years and up to 50 years.

The *Green Energy and Green Economy Act* amends the *Planning Act* by adding new s. 62.0.2. Subsection 62.0.2(3) provides that official plans do not affect a renewable energy project or a renewable energy generation facility. Under subs. 62.0.2(5), a demolition control by-law does not apply to such facilities and projects. Subsection 62.0.2(6) exempts such facilities and projects from land-use control, including zoning and interim control by-laws and site plan control. Finally, subs. 62.0.2(8) provides that the development permit system does not apply to a renewable energy undertaking (defined as a renewable energy generation facility, a renewable energy project, a renewable energy testing facility or a renewable energy testing project).

The *Green Energy and Green Economy Act* adds clauses 50 (3) (d.1) and 50 (5) (c.1) to the *Planning Act* to exempt renewable energy projects or renewable energy generation facilities from the subdivision and part lot control provisions of the *Act* provided that any entitlement to a renewal does not exceed 50 years.

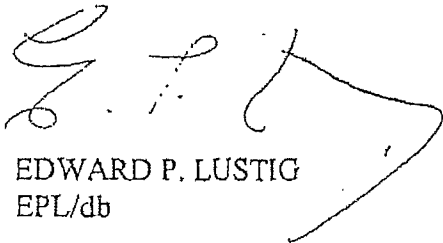
-3-

Attached is a copy of Schedule K to the *Act* for your information.

This letter is not intended to take a position on the scientific, health or business considerations related to the installation of wind turbines, but rather to advise you of our opinion on the law respecting the passing of a by-law by your council relating to the set backs for wind turbines. In democratic societies such as ours, it is fair, reasonable and appropriate for citizens to object to laws passed by their governments by means of lawful dissent such as the ballot box, protests, petitions and resolutions. It is not, however, appropriate to protest objectionable laws by undertaking illegal acts. It is particularly important, in this regard, that citizens who are elected to office as leaders in our society do not undertake illegal actions as a means of protest. I am advised that recently the Township of West Lincoln considered this matter and decided not to pass a by-law for these purposes. We would respectfully request that you also do not pass such a by-law.

If this matter is going to be going before your Council this Tuesday, February 28, 2012, please have this letter considered by the Members of Council. We will be present to speak to the letter.

Yours truly,
BRODERICK & PARTNERS LLP



EDWARD P. LUSTIG
EPL/db

cc: Scott Luey, Chief Administrative Officer sluey@wainfleet.ca
Tom Rankin, Rankin Renewable Power Inc.

SCHEDULE K
PLANNING ACT

1. Subsection 1 (1) of the *Planning Act* is amended by adding the following definitions:

"renewable energy generation facility" has the same meaning as in the *Electricity Act, 1998*; ("installation de production d'énergie renouvelable")

"renewable energy project" has the same meaning as in the *Green Energy Act, 2009*; ("projet d'énergie renouvelable")

"renewable energy testing facility" has the same meaning as in the *Green Energy Act, 2009*; ("installation d'évaluation du potentiel en énergie renouvelable")

"renewable energy testing project" has the same meaning as in the *Green Energy Act, 2009*; ("projet d'évaluation du potentiel en énergie renouvelable")

"renewable energy undertaking" means a renewable energy generation facility, a renewable energy project, a renewable energy testing facility or a renewable energy testing project; ("entreprise d'énergie renouvelable")

2. (1) Subsection 50 (3) of the Act is amended by adding the following clause:

(d.1) the land or any use of or right therein is being acquired, directly or by entitlement to renewal for a period of 21 or more years but not more than 50 years, for the purpose of a renewable energy generation facility or renewable energy project, and in respect of which the person acquiring the land or any use of or right therein has made a declaration that it is being acquired for such purpose, which shall be conclusive evidence that it is being acquired for such purpose;

(2) Subsection 50 (5) of the Act is amended by adding the following clause:

(c.1) the land or any use of or right therein is being acquired, directly or by entitlement to renewal for a period of 21 or more years but not more than 50 years, for the purpose of a renewable energy generation facility or renewable energy project, and in respect of which the person acquiring the land or any use of or right therein has made a declaration that it is being acquired for such purpose, which shall be conclusive evidence that it is being acquired for such purpose;

3. The Act is amended by adding the following section:

Renewable energy undertakings

Policy statements and provincial plans

62.0.2 (1) Despite any Act or regulation, the following do not apply to a renewable energy undertaking, except in relation to a decision under section 28 or Part VI:

ANNEXE K
LOI SUR L'AMÉNAGEMENT DU TERRITOIRE

1. Le paragraphe 1 (1) de la *Loi sur l'aménagement du territoire* est modifié par adjonction des définitions suivantes :

«entreprise d'énergie renouvelable» S'entend d'une installation de production d'énergie renouvelable, d'un projet d'énergie renouvelable, d'une installation d'évaluation du potentiel en énergie renouvelable ou d'un projet d'évaluation du potentiel en énergie renouvelable. («renewable energy undertaking»)

«installation de production d'énergie renouvelable» S'entend au sens de la *Loi de 1998 sur l'électricité*. («renewable energy generation facility»)

«installation d'évaluation du potentiel en énergie renouvelable» S'entend au sens de la *Loi de 2009 sur l'énergie verte*. («renewable energy testing facility»)

«projet d'énergie renouvelable» S'entend au sens de la *Loi de 2009 sur l'énergie verte*. («renewable energy project»)

«projet d'évaluation du potentiel en énergie renouvelable» S'entend au sens de la *Loi de 2009 sur l'énergie verte*. («renewable energy testing project»)

2. (1) Le paragraphe 50 (3) de la Loi est modifié par adjonction de l'alinéa suivant :

d.1) le terrain, le droit d'utilisation de celui-ci ou autre droit y afférent est acquis, directement ou en vertu d'un droit de renouvellement pour une durée de 21 ans ou plus mais d'au plus 50 ans, aux fins d'une installation de production d'énergie renouvelable ou d'un projet d'énergie renouvelable et que l'acquéreur a déclaré que l'acquisition se fait à ces fins, ce qui constitue une preuve concluante;

(2) Le paragraphe 50 (5) de la Loi est modifié par adjonction de l'alinéa suivant :

c.1) le terrain, le droit d'utilisation de celui-ci ou autre droit y afférent est acquis, directement ou en vertu d'un droit de renouvellement pour une durée de 21 ans ou plus mais d'au plus 50 ans, aux fins d'une installation de production d'énergie renouvelable ou d'un projet d'énergie renouvelable et que l'acquéreur a déclaré que l'acquisition se fait à ces fins, ce qui constitue une preuve concluante;

3. La Loi est modifiée par adjonction de l'article suivant :

Entreprises d'énergie renouvelable

Déclarations de principes et plans provinciaux

62.0.2 (1) Malgré toute autre loi ou tout règlement, les documents suivants ne s'appliquent pas à une entreprise d'énergie renouvelable, sauf en ce qui concerne une décision prise en vertu de l'article 28 ou de la partie VI :

62

Planning Act

GREEN ENERGY AND GREEN ECONOMY ACT, 2009

Loi sur l'aménagement du territoire

Sched. K

1. A policy statement issued under subsection 3 (1).
2. A provincial plan, subject to subsection (2).

Exception

- (2) Subsection (1) does not apply in respect of,
- (a) the Niagara Escarpment Plan;
 - (b) another provincial plan, if the provincial plan is prescribed for the purposes of this subsection; or
 - (c) a provision of another provincial plan, if the provision is prescribed for the purposes of this subsection.

Official plans

(3) For greater certainty, an official plan does not affect a renewable energy undertaking.

Same

- (4) Section 24 does not apply to,
- (a) the undertaking of a public work that is a renewable energy undertaking or is intended to facilitate or support a renewable energy undertaking;
 - (b) the passing of a by-law with respect to a public work described in clause (a); or
 - (c) the passing of a by-law that is intended to facilitate or support a renewable energy undertaking.

Demolition control area

(5) A by-law passed under section 33 does not apply to a renewable energy undertaking.

By-laws and orders under Part V

(6) A by-law or order passed or made under Part V does not apply to a renewable energy undertaking.

Transition, existing agreements

(7) An agreement that is entered into under Part V before the day subsection 4 (1) of Schedule G to the *Green Energy and Green Economy Act, 2009* comes into force applies to a renewable energy project, and to any related renewable energy testing facility and renewable energy testing project, until the day a renewable energy approval is issued under section 47.5 of the *Environmental Protection Act* in relation to the renewable energy project.

Development permit system

(8) A regulation or by-law made or passed under section 70.2 does not apply to a renewable energy undertaking.

1. Une déclaration de principes faite en vertu du paragraphe 3 (1).
2. Un plan provincial, sous réserve du paragraphe (2).

Exception

- (2) Le paragraphe (1) ne s'applique pas à l'égard, selon le cas :
- a) du plan de l'escarpement du Niagara;
 - b) d'un autre plan provincial, s'il est prescrit pour l'application du présent paragraphe;
 - c) d'une disposition d'un autre plan provincial, si elle est prescrite pour l'application du présent paragraphe.

Plans officiels

(3) Il est entendu qu'un plan officiel n'a aucune incidence sur une entreprise d'énergie renouvelable.

Idem

- (4) L'article 24 ne s'applique pas, selon le cas :
- a) à des travaux publics qui constituent une entreprise d'énergie renouvelable ou qui visent à faciliter ou à appuyer une telle entreprise;
 - b) à l'adoption d'un règlement municipal sur les travaux publics visés à l'alinéa a);
 - c) à l'adoption d'un règlement municipal visant à faciliter ou à appuyer une entreprise d'énergie renouvelable.

Zone à démolition réglementée

(5) Un règlement municipal adopté en vertu de l'article 33 ne s'applique pas à une entreprise d'énergie renouvelable.

Règlements municipaux, ordonnances et arrêtés visés à la partie V

(6) Un règlement municipal adopté, une ordonnance rendue ou un arrêté pris en vertu de la partie V ne s'applique pas à une entreprise d'énergie renouvelable.

Disposition transitoire : conventions existantes

(7) Une convention conclue en vertu de la partie V avant le jour de l'entrée en vigueur du paragraphe 4 (1) de l'annexe G de la *Loi de 2009 sur l'énergie verte et l'économie verte* s'applique à un projet d'énergie renouvelable ainsi qu'à toute installation d'évaluation du potentiel en énergie renouvelable et tout projet d'évaluation du potentiel en énergie renouvelable connexes jusqu'au jour où une autorisation de projet d'énergie renouvelable est délivrée en vertu de l'article 47.5 de la *Loi sur la protection de l'environnement* en ce qui a trait au projet d'énergie renouvelable.

Système de délivrance de permis d'exploitation

(8) Un règlement pris en application de l'article 70.2 ou un règlement municipal adopté en vertu de celui-ci ne s'applique pas à une entreprise d'énergie renouvelable.

annexe K

LOI DE 2009 SUR L'ÉNERGIE VERTE ET L'ÉCONOMIE VERTE
Planning Act *Loi sur l'aménagement du territoire*

63

City of Toronto Act, 2006, ss. 113, 114

(9) A by-law passed under section 113 or 114 of the *City of Toronto Act, 2006* does not apply to a renewable energy undertaking.

Ontario Planning and Development Act, 1994, s. 17

(10) An order made under section 17 of the *Ontario Planning and Development Act, 1994* does not apply to a renewable energy undertaking.

Commencement

4. This Schedule comes into force on a day to be named by proclamation of the Lieutenant Governor.

Loi de 2006 sur la cité de Toronto : art. 113 et 114

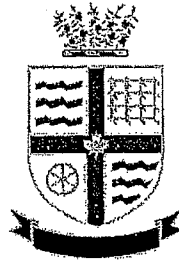
(9) Un règlement municipal adopté en vertu de l'article 113 ou 114 de la *Loi de 2006 sur la cité de Toronto* ne s'applique pas à une entreprise d'énergie renouvelable.

Loi de 1994 sur la planification et l'aménagement du territoire de l'Ontario, art. 17

(10) Un arrêté pris en vertu de l'article 17 de la *Loi de 1994 sur la planification et l'aménagement du territoire de l'Ontario* ne s'applique pas à une entreprise d'énergie renouvelable.

Entrée en vigueur

4. La présente annexe entre en vigueur le jour que le lieutenant-gouverneur fixe par proclamation.



C08/12

THE CORPORATION OF THE TOWNSHIP OF WAINFLEET
REGULAR MEETING OF COUNCIL MINUTES

Minutes of the Regular Meeting of Council held in the Wainfleet Council Chambers located at 31940 Highway #3, Wainfleet, Ontario, on Tuesday, February 28th, 2012 at 7:00 p.m.

PRESENT: A. Jeffs, R. Dykstra, T. Hessels, B. Konc, D. Wyatt

STAFF PRESENT: H. Flagg, S. Luey, R. Madere, G. Munday, C. Wood, G. Wuisman

1. **CALL TO ORDER**
The Council meeting was called to order by Mayor Jeffs.
2. **NATIONAL ANTHEM**
O Canada was sung by Kaitlin Wyatt.
3. **OPENING PRAYER**
Alderman Dykstra delivered the opening prayer.
4. **DISCLOSURE OF PECUNIARY INTEREST AND THE GENERAL NATURE THEREOF**
There were no disclosures of pecuniary interest noted by members of Council.
5. **PRESENTATIONS**
 - a) Jason Mous, President of the Wainfleet Firefighters Association and Gord Davies, Past President, presented Council with a state of the art thermal imaging camera which was made possible due to local donations and the support of staff.
 - b) On behalf of Council, Mayor Jeffs congratulated and presented the successful slogan entrants Amanda Aarts, Melissa Loeffen and Lauren Nuccitelli with a Wainfleet Slogan T-Shirt and framed Certificate of Commendation.
6. **PUBLIC HEARINGS**
 - a) Application for Rezoning File No. Z-01-2012 (Marr)

This public hearing was chaired by Mayor Jeffs.

Mayor Jeffs explained the purpose of the public hearing is to consider a proposed amendment to the Township's Zoning Bylaw 581-78, as amended, under Section 34 of the Planning Act. The Township has received an application on behalf of Stephen & Denise Marr, authorized agent Harold Hyde to amend the

Township of Wainfleet
Council Meeting Minutes, February 28th, 2012

Page 2

zoning on a property on the east side of Smith Road, north of Highway #3, being Part of [REDACTED] and known municipally as [REDACTED]. Specifically, the meeting is intended to ensure that adequate information respecting the application is made available to the public and to afford any person an opportunity to make representation in respect to the file.

The subject lands, being a portion of the property (Parcel 2) is proposed to be rezoned from "A2 Agricultural" to "A2-Special" intended as an "Agricultural Purposes Only" zone and to recognize a reduced lot area. The "consent to sever" proposes to convey Parcel 1 (.406 ha) as a "surplus farm dwelling" and retain Parcel 2 (8.30 ha) for continued agricultural purposes.

The Planner, Grant Munday, informed those in attendance that the Planning Act includes provisions that allow the Ontario Municipal Board to dismiss an appeal of a decision on the file if the appellant has not provided Council with oral submissions at this meeting or written submission before a bylaw is passed. Mr. Munday explained that if anyone interested in the file has input, they should provide it at this meeting or before Council makes a decision in this matter.

Mr. Hyde approached Council to address issues raised by the Niagara Peninsula Conservation Authority (NPCA) with regard to the existing dug well within 100 metres of the proposed lot. Mr. Hyde noted that the applicants (Stephen & Denise Marr) are prepared to adjust the lot line by one (1) metre to the north in order to meet NPCA requirements.

Mr. Munday announced that the Township Planning Department will prepare a report for a subsequent Township Council meeting which will provide a detailed review of the application and a recommendation to Council respecting a rezoning bylaw for the property.

Should Council pass the rezoning bylaw, notice of that passage will be given to those individuals and agencies specified by Section 34 of the Planning Act and Ontario Regulation 199/96. That notice will include explanation of the appeal procedure to the Ontario Municipal Board.

Mayor Jeffs concluded by informing Council and the public that should any individual want to be informed of when the staff report will be presented to Council, or want to be ensured that notice of passage of the rezoning bylaw will be sent to them, they should inform the Clerk, in writing, which could be done following the meeting.

This public hearing was adjourned at 7:14 p.m. by Mayor Jeffs.

7. DELEGATIONS

- a) Jay McKnight, [REDACTED].
Mr. McKnight appeared before Council as a resident and as a Niagara Regional Police Officer to provide statistical information regarding non-posted speed limits on Wainfleet's rural roads. Mr. McKnight requested that Council consider changing the speed limit on non-posted roads from 80 km/hr to 60 km/hr and further that all rural roads be posted accordingly.

b) Sarah Rang, Ontario Program Director, Great Lakes and St. Lawrence Cities Initiative

Ms. Rang provided Council with a PowerPoint presentation addressing key projects and strategies being undertaken by the organization. Ms. Rang extended an invitation to all of Council to attend the Ontario Regional Meeting being held on March 9th in Jordan.

A copy of the PowerPoint presentation is enclosed in the February 28th, 2012 Council folder.

c) Pat Cusack, [REDACTED]

Mrs. Cusack was unable to attend the Council meeting and had requested that the Mayor read aloud prepared text which she submitted regarding the current pollution level of the Great Lakes.

A copy of Mrs. Cusack letter is enclosed in the February 28th, 2012 Council folder.

d) Zijad Saskin, Solicitor for Rankin Renewable Power Inc. – Broderick & Partners

Mr. Saskin stated that the Township does not have the legal authority to enact a bylaw to provide for setback regulations for wind turbines of 2 kms to the nearest noise receptor. Mr. Saskin noted that there are other means of lawful dissent that the Township of Wainfleet may enact to protest their objections.

Mr. Saskin read from prepared text and is enclosed in the February 28th, 2012 Council folder.

8. BUSINESS ARISING FROM DELEGATIONS

Resolution No. C-075-2012

Moved by David Wyatt
Seconded by Ted Hessels

"THAT the presentations by Mr. Jay McKnight, Ms, Sarah Rang, Mrs. Pat Cusack (written) and Mr. Zijad Saskin be received."

CARRIED.

Resolution No. C-076-2012

Moved by David Wyatt
Seconded by Ted Hessels

"THAT the Director of Operations be directed to explore the costs involved in posting speed limit signs on Wainfleet's non-posted rural roads."

CARRIED.

Mayor Jeffs requested that the Director of Operations work in conjunction with Jay McKnight.

Resolution No. C-077-2012

Moved by April Jeffs
Seconded by David Wyatt

"THAT the Chief Administrative Officer be directed to investigate and prepare a staff report regarding funding options available for becoming a member of the Great Lakes and St. Lawrence Cities Initiative."

CARRIED.

Hearing no objection from Council the Mayor called a four (4) minute recess at 8:15 p.m. Council resumed at 8:19 p.m.

9. **MAYOR'S ANNOUNCEMENTS & REMARKS**
Enclosed in February 28th, Council meeting folder

10. **ADOPTION OF THE MINUTES**

- a) Minutes of the Special Budget Committee meetings held on February 7th, 2012 and February 21st, 2012 and the Regular meeting of Council held on February 14th, 2012.

Resolution No. C-078-2012

Moved by Betty Konc
Seconded by David Wyatt

"THAT the minutes of the Special Budget Committee meetings held on February 7th, 2012 and February 21st, 2012 and the Regular meeting of Council held on February 14th, 2012 be adopted as circulated.

CARRIED AS AMENDED (see below).

Resolution No. C-079-2012

Moved by David Wyatt
Seconded by Betty Konc

"THAT resolution C-044-2012 be amended to insert David Wyatt as the mover and Richard Dykstra as the seconder."

CARRIED.

11. **STAFF REPORTS AND RECOMMENDATIONS**

- a) Planning Staff Reports
i) PSR-002/2012 Re: Appointment of a New Committee of Adjustment/Fence-Viewers/Property Standard Committee Member

RECOMMENDATION(S):

THAT this report be received;

THAT Council review and select one (1) member to replace the existing vacant position on the Committee of Adjustment/Fence-Viewers/Property Standard Committee Member;

AND THAT Council pass a bylaw at the March 13, 2012 Council Meeting approving the new member.

Resolution No. C-080-2012

Moved by David Wyatt
Seconded by Richard Dykstra

"THAT Planning Staff Report PSR- 002/2012 Re: Appointment of a New Committee of Adjustment/Fence-Viewers/Property Standard Committee Member and the recommendations contained therein be adopted as circulated."

CARRIED AS AMENDED (see below).

Resolution No. C-081-2012

Moved by David Wyatt
Seconded by Ted Hessels

"THAT the following applicant be appointed to the Committee of Adjustment/Fence Viewers/Property Standard Committee and be so notified by the Manager of Planning:

1. Zack Emerson."

CARRIED.

- ii) PSR-003/2012 Re: The *Green Energy and Green Economy Act* and a 2 Kilometre Setback Bylaw for Wind Turbines

RECOMMENDATION(S):

THAT this report be received.

Resolution No. C-082-2012

Moved by Betty Konc
Seconded by Richard Dykstra

"THAT Planning Staff Report PSR- 003/2012 2012 Re: The *Green Energy and Green Economy Act* and a 2 Kilometre Setback Bylaw for Wind Turbines and the recommendation contained therein be adopted as circulated."

CARRIED.

- iii) PSR-004/2011 Re: Application for Zoning Bylaw Amendment Z-04-2011
43069 Wills Road Part of Lots 28 & 29, Concession 4 Newhouse Onions
Limited

RECOMMENDATION(S):

THAT this report be received;

THAT Council approve the amending Zoning Bylaw attached as Appendix
"C" to this report;

THAT pursuant to the provisions of Section 34 (17) of the Planning Act,
Council determine that no further notice of the proposed bylaw is
required;

AND THAT the owner (Newhouse Onion Limited) and the Secretary-
Treasurer of the Committee of Adjustment be so informed.

Resolution No. C-083-2012

Moved by Richard Dykstra
Seconded by Ted Hessels

"THAT Planning Staff Report PSR- 004/2012 Re: Application for Zoning
Bylaw Amendment Z-04-2011 43069 Wills Road Part of Lots 28 & 29,
Concession 4 Newhouse Onions Limited and the recommendations
contained therein be adopted as circulated."

CARRIED.

b) **Administration Staff Reports**

- i) ASR-006/2012 Re: 2011 Development Charge Reserve Fund Statement

RECOMMENDATION(S):

THAT the attached schedule "A" – Development Charge Reserve Fund
Activity be received as information;

AND THAT a copy of the report be forwarded to the Ministry of Municipal
Affairs and Housing, in accordance with Development Charges Act, 1997.

Resolution No. C-084-2012

Moved by David Wyatt
Seconded by Richard Dykstra

"THAT Administration Staff Report ASR-006/2012 Re: 2011 Capital
Budget Variance and the recommendations contained therein be adopted
as circulated."

CARRIED.

Township of Wainfleet
Council Meeting Minutes, February 28th, 2012

c) Drainage Staff Reports
No report(s) submitted

d) Building Staff Reports
No report(s) submitted

e) Public Works Staff Reports

i) PWR-008/2012 Re: Public Comments regarding Architectural designs and Fire Code upgrades

RECOMMENDATION(S):

THAT this report be received;

AND THAT Council review the appended public comments for information only.

Resolution No. C-085-2012

Moved by Ted Hessels
Seconded by David Wyatt

"THAT Public Works Staff Report PWR-008/2012 Re: Public Comments regarding Architectural designs and Fire Code upgrades and the recommendations contained therein be adopted as circulated."

CARRIED.

ii) PWR-009/2012 Re: Mandatory Inspection Program - Private On-Site Sewage Systems

iii)

RECOMMENDATION(S):

THAT this report be received;

AND THAT the attached draft bylaw (Appendix "A") receive first and second reading, with third and final reading reserved for the March 13th, 2012 Council meeting.

Resolution No. C-086-2012

Moved by Betty Konc
Seconded by Ted Hessels

"THAT Public Works Staff Report PWR-009/2012 Re: Mandatory Inspection Program - Private On-Site Sewage Systems and the recommendations contained therein be adopted as circulated."

CARRIED.

Township of Wainfleet
Council Meeting Minutes, February 28th, 2012

- f) Fire Staff Reports
No report(s) submitted
- g) Bylaw Enforcement Staff Reports
No report(s) submitted

12. REVIEW OF CORRESPONDENCE

Resolution No. C-087-2012

Moved by Ted Hessels
Seconded by Richard Dykstra

"THAT the report of the correspondence to Council dated February 28th, 2012 and the recommendations contained therein be adopted as circulated."

CARRIED AS AMENDED (see below).

Resolution No. C-088-2012

Moved by Ted Hessels
Seconded by Betty Konc

"THAT correspondence item number 062 recommendation be amended to read receive for information."

CARRIED.

Resolution No. C-089-2012

Moved by Ted Hessels
Seconded by Betty Konc

"THAT correspondence item number 061 recommendation be amended to read receive for information."

CARRIED.

CORRESPONDENCE REFERRED TO COUNCIL 2012 02 28

- 048. From the Welland & District Humane Society enclosing its statistical report for the month of January 2012. REC. – receive for information.
- 049. From the Regional Clerk enclosing report ICP 15-2012 respecting Background Information Report, Application to Amend the Regional Policy Plan (RPPA 5-2011), Two Sisters Estate Winery, Proposed Connection to Sanitary Services. REC. – receive for information.
- 050. From the Regional Clerk enclosing report ICP 16-2012 revised February 1, 2012 respecting Temporary Closure of a Section of the Greater Niagara Circle Route Trail and Proposed Alternate Route. REC. – receive for information.

Township of Wainfleet
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051. From the Town of Halton Hills requesting support of a resolution passed by its Council respecting Provincial Regulations regarding Commercial Fill Operations. A copy of this piece of correspondence has been circulated to each member of Council. **REC.** – support resolution.
052. From the City of Thorold requesting support of a resolution passed by its Council regarding the Closure of Thorold Secondary School. **REC.** – support resolution.
053. From the City of St. Catharines enclosing a resolution passed by its Council regarding the removal of roadblocks to allow the development of offshore wind power in Ontario and that a letter of support be sent to the Lake Ontario Offshore Network for the work it is doing to see that this industry brings the jobs to Ontario. A copy of this piece of correspondence has been circulated to each member of Council. **REC.** – receive for information.
054. From the Township of West Lincoln enclosing Notice of Public Meeting for Planning Matters, File Number 1601-021-09 Restrictive Employment Zoning By-law Amendment. A copy of this piece of correspondence has been circulated to the Manager of Planning. **REC.** – receive for information, refer to Manager of Planning to comment if required.
055. From Malcolm Allen regarding the cost of improvements to the Wainfleet arena and assisted funding. A copy of this piece of correspondence has been circulated to each member of Council, the Director of Operations and the Treasurer. **REC.** – receive for information.
056. From the Niagara Peninsula Conservation Authorities enclosing a handout respecting frequently asked questions regarding the Welland River Floodplain Mapping. **REC.** – receive for information.
057. From Enbridge Gas Distribution enclosing information regarding their Winter Warmth program. **REC.** – receive for information.
058. From Mr. Inneo enclosing correspondence to Honourable Jim Bradley, M.P.P. which expresses concern regarding the Welland River Floodplain Mapping. A copy of this piece of correspondence has been circulated to each member of Council and the Manager of Planning. **REC.** – receive for information.
059. From Mr. and Mrs. Goulden expressing concern regarding the Welland River Floodplain Mapping. A copy of this piece of correspondence has been circulated to each member of Council and the Manager of Planning. **REC.** – receive for information.
060. From Amberley Gavel Ltd. Enclosing the Report of Amberley and Gavel Ltd. as the closed meeting Investigator of the Township Council meetings held on June 28, 2011 and on July 19, 2011 and about a closed meeting of the Municipality's Operations Sub-Committee held on August 16, 2011. A copy of this piece of correspondence has been circulated to each member of Council and the Director of Operations. **REC.** – receive for information.

Township of Wainfleet
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061. From the Regional Clerk enclosing a copy of correspondence item C7769 for Council's consideration. A copy of this piece of correspondence has been circulated to each member of Council. **REC.** – refer to Council receive for information.
062. From Broderick & Partners, LLP on behalf of Rankin Renewable Power Inc, enclosing correspondence regarding proposed Township of Wainfleet bylaw regulating wind turbines. A copy of this piece of correspondence has been circulated to each member of Council, the Chief Administrative Officer and the Manager of Planning. **REC.** – refer to Council receive for information.

Unregistered

Niagara Regional Housing Quarterly Report – October 1, 2011 – December 31, 2011

13. BYLAWS

First & Second Reading

Resolution No. C-090-2012

Moved by Richard Dykstra
Seconded by David Wyatt

"**THAT** the following bylaws be now read a first and second time this 28th day of February, 2012:

- a) Bylaw No. 008-2012 being a bylaw pursuant to the provisions of Section 34 of the Planning Act, R.S.O. 1990 to amend Zoning Bylaw No. 581-78 of the Corporation of the Township of Wainfleet with respect to those lands forming Part of Lots 28 and 29, Concession 4, known municipally as 43069 Wills Road, in the Township of Wainfleet.
- b) Bylaw No. 009-2012 being a bylaw to establish a Mandatory On-Site Sewage System Inspection Program in the Corporation of the Township of Wainfleet."

CARRIED.

Third & Final Reading
None

14. NOTICE OF MOTION

There were no notices of motion.

15. PROCLAMATIONS

Resolution No. C-091-2012

Moved by David Wyatt
Seconded by Ted Hessels

“WHEREAS the Niagara Peninsula Conservation Authority is constantly updating floodplain mapping to reflect changes in bridges, culverts, land development and other modifications within the landscape that may have an effect on the extent of the floodplain;

AND WHEREAS the Niagara Peninsula Conservation Authority is proposing an expansion to the historical limits of the floodplain based on the results of the Central Welland River 100 Year Floodplain Mapping Study dated March 2011;

AND WHEREAS the proposed floodplain mapping impacts approximately 268 properties within the Township of Wainfleet;

AND WHEREAS affected property owners are concerned that proposed restrictions by the Niagara Peninsula Conservation Authority on properties within the floodplain may negatively affect property valuations, the ability to develop or re-develop, the ability to build, the ability to mortgage or re-mortgage, the ability to insure, the ability to use land to conduct business or for their own purposes and enjoyment, and any other restrictions that may be caused by changes to the floodplain limits;

AND WHEREAS the Welland River Floodplain Committee (composed of local residents) addressed various concerns regarding the proposed floodplain mapping to Council for the Township of Wainfleet at its regularly scheduled Council meeting held on January 19, 2012;

THEREFORE NOW BE IT RESOLVED that Council for the Township of Wainfleet hereby supports and encourages the Welland River Floodplain Committee, and those they represent, in establishing an open line of communication between the Niagara Peninsula Conservation Authority, the authors of the said reports and affected property owners regarding the proposed floodplain mapping;

AND BE IT FURTHER RESOLVED that the Township of Wainfleet encourages the City of Welland, Welland Recreational Canal Corporation, St. Lawrence Seaway Authority, and Ontario Power Generation that currently control existing hydraulic infrastructure on the Welland River to improve and maintain that infrastructure to help minimize the possibility or severity of flooding;

AND BE IT FURTHER RESOLVED that the Township of Wainfleet encourages the Niagara Peninsula Conservation Authority in consultation with impacted property owners, to develop and implement non-restrictive policies that minimize or eliminate the stated concerns raised by property owners who are affected by floodplain mapping along the Welland River and its tributaries in the Township of Wainfleet without compromising the ability to protect the public from avoidable loss of property and life;

AND BE IT FURTHER RESOLVED that the Clerk forward copies of this resolution to the Town of Pelham, City of Welland, Township of West Lincoln, Welland Recreational Canal Corporation, St. Lawrence Seaway Authority and Ontario Power Generation for their consideration and support.”

CARRIED.

16. OTHER BUSINESS

There were no items noted.

17. CLOSED MEETING

There were no closed meeting items.

Township of Wainfleet
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18. BYLAW TO CONFIRM THE PROCEEDING OF COUNCIL

Resolution No. C-092-2012

Moved by Ted Hessels
Seconded by David Wyatt

"THAT the following bylaw be now read a first, second and a third time and finally passed this 14th day of February, 2012:

- a) Bylaw No. 010-2012 being a bylaw to adopt, ratify and confirm the actions of the Council at its regular meeting held on the 28th day of February 2012."

CARRIED.

19. ADJOURNMENT

Resolution No. C-093-2012

Moved by Ted Hessels
Seconded by David Wyatt

"THAT Council for the Township of Wainfleet do now adjourn."

CARRIED.

Council adjourned at 9:15 p.m.

A. Jeffs
A. Jeffs, MAYOR

T. Lamb
T. Lamb, CLERK

Date Approved – March 13th, 2012

PLANNING STAFF REPORT

PSR-003/2012

TO: Mayor Jeffs & Members of Council
FROM: G. Munday, Manager of Planning
DATE OF MEETING: February 28, 2012
SUBJECT: The *Green Energy and Green Economy Act* and a 2 Kilometre Setback Bylaw for Wind Turbines

RECOMMENDATION(S):

THAT this report be received. (*Amended by Resolution No. On March 13th, 2012*)

EXECUTIVE SUMMARY:

On January 24, 2012, Township Council directed staff to work with the Wainfleet Ratepayers Association to create a draft bylaw that restricts wind turbines within 2 km of any property and to prepare a staff report that outlines and evaluates the different options before Council. Planning Staff have examined four different options for the Township to consider. Staff do not recommend or support passing the bylaw attached as Appendix "A". Staff are of the opinion that if this bylaw is passed by Council it would be superseded by Provincial Legislation, would not prevent wind turbines from being built in Wainfleet and could potentially lead to legal action against the Township.

BACKGROUND:

The powers of municipal governments (including the Township of Wainfleet) are determined by the Provincial Government, not by municipal councils. The Province has exclusive jurisdiction over municipal affairs under the Constitution Act, 1867. The Province, through provincial acts, establishes the parameters and boundaries within which municipalities may pass bylaws and conduct their business.

The Province of Ontario approved the *Green Energy and Green Economy Act* on May 14th, 2009. The Act is intended to attract new investment, create new green economy jobs and better protect the environment. The act removed all Planning Act authority from municipalities and established the Province as the regulatory approval authority for solar, wind, biomass and other facilities.

Two wind turbine proposals are currently in the works in the Township (Wainfleet Wind Energy Project and the Niagara Wind Power Project). The Province of Ontario currently requires a wind turbine be setback a minimum of 550 m from a non-participant dwelling. Numerous solar projects have been constructed in the Township which have received approval by the Province and in some case have been required to apply for and obtain building permits from the Township.

On March 8, 2011, Township Council passed Resolution No. C-081-2011 which requested that Province place a moratorium on any new industrial wind turbine development. The Province has yet to pass any moratorium on land based wind turbines. On January 24, 2012, Township Council directed staff to work with the Wainfleet Ratepayers

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Association to create a draft bylaw that restricts wind turbines within 2 km of any property and to prepare a staff report that outlines and evaluates the different options before Council.

OPTIONS/DISCUSSIONS

1) Do Nothing Option/Operate within the Existing Regulatory Framework Established by the Province.

Under this option the Township would operate under the existing renewable energy approval framework established by the Province as it relates to the development of wind turbines. The Township would continue to comment on certain wind turbine proposals through the completion of the Municipal Consultation Form for consideration by the respective proponent and the Province. For example, in the case of the Wainfleet Wind Energy Project, the Township's comments with respect that project are contained in Appendix "B". It is hoped that any Provincial approval of this project includes consideration and incorporation of the Township's concerns and requests as outlined in that letter and the referenced attachments.

No matter what decision Township Council makes regarding wind turbine setbacks, the regulatory framework established by the Province will continue to be "in force" unless the Province decides to change or modify the *Green Energy and Green Economy Act*. The approval process for wind turbines is very complex and involves extensive studies. Nonetheless, under the existing regulatory framework, if the Province approves, approves with conditions or denies a specific wind turbine project it can be appealed by a developer or a third party. If Township is considering such an appeal it should seek legal opinion of the pros and cons of pursuing such an appeal, including the financial costs.

Planning staff are of the opinion that Option 1 involves relying on the existing complex approval process that includes extensive expert studies and extensive expert review by the Province. In the case of the Wainfleet Wind Energy Project it includes a third party review which was done on behalf of the Township.

2) Pass Bylaw attached as Appendix "A"

The Bylaw attached as Appendix "A" would require wind turbines to be setback 2 kilometres from any property. This bylaw was prepared by representatives from the Wainfleet Ratepayers Association in consultation with municipal staff. The bylaw relies on case law, the Canadian Charter of Rights and Freedoms, the Municipal Act, and the Environmental Protection Act to obtain its authority. Based on a preliminary analysis, the effect of this bylaw would be to eliminate the potential for the development of wind turbines in Wainfleet.

Three other municipalities in Ontario have passed similar variations to the bylaw attached as Appendix "A" (Township of Ashfield-Colborne-Wawanosh, Township of Huron-Kinloss and the Municipality of Arran-Elderslie). These municipalities confirm that their approved bylaws have no power over wind turbine installations regulated under the *Green Energy and Green Economy Act*.

Based on a review of information available from the Province of Ontario (including information from the Legal Services Branch – Ministry of Municipal Affairs and Housing), it is clear that such a bylaw would not be enforceable and may be considered illegal since it would prevent or restrict a wind turbine project. There is the potential that this bylaw could be repealed by the Province or through legal action initiated by the proponent or some other party

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since it would conflict with the *Green Energy and Green Economy Act*. As mentioned in the background, the bylaw would seem to conflict with the regulations established by the Province.

Another issue with this bylaw is that it would not meet the definition of applicable law under Section 1.4.1.3 of the Ontario Building Code (OBC). Should a proponent receive a renewable energy approval from the Province of Ontario, the Township's Chief Building Official would be obligated to issue a building permit provided the proposal met the requirements of the OBC.

Planning staff does not support Option 2 since it conflicts with Provincial Policy, would be deemed inoperative and could potentially trigger legal action by a wind turbine proponent or some other interested party. If Council is seriously considering passing the bylaw contained in Appendix "A" or a similar variation, it is advised that it seeks a legal opinion from the Township's law firm. This would be essential in determining the financial cost of passing such a bylaw and having it upheld by the courts should the proponent and/or another party seek legal action against this bylaw.

3) Send a Letter to the Province

A third option for the Township is to send a letter to the Province requesting that it reconsider the minimum wind turbine setback of 550 metres and apply a 2 kilometre setback requirement from any property. The Township could highlight studies and reports which suggest that a 2 kilometre setback is more appropriate.

This option would not pose the same potential financial risks as Option 2 and would assist in sending a clear message to the Province that the municipality does not accept the existing minimum 550 metre setback requirement. Staff have no position on this option since the Province has set the minimum required setback.

4) Pass a resolution to be circulated to other municipalities in Ontario and to the Province.

Under this option the municipality would pass a resolution requesting that the Province implement a minimum 2 kilometre setback requirement from any property. The resolution could then be circulated to other municipalities in Ontario for their consideration and support.

Similar to Option 3, this option would not likely pose any financial risks to the Township and would assist in sending a clear message to the Province that the Township and other municipalities do not accept the existing 550 metre setback requirement. Staff have no position on this option since the Province has set the minimum required setback.

FINANCIAL CONSIDERATIONS:

The financial impact of each option has been reviewed and considered as outlined in the options/discussion section of this report.

OTHERS CONSULTED:

Township of West Lincoln Planning Department,

PSR-003/2012

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Schedule 2

Appendix H

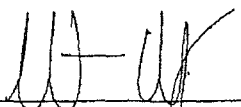
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ATTACHMENTS:

1. Appendix "A" – Bylaw regulating the minimum required setback for wind turbines from any property.
2. Appendix "B" - Letter to the Director, Environmental Assessment and Approvals Branch.

Respectfully submitted by,

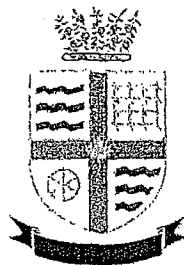
Approved by,



Grant Munday
Manager of Planning



Scott Luey
Chief Administrative Officer



C10/12

THE CORPORATION OF THE TOWNSHIP OF WAINFLEET
REGULAR MEETING OF COUNCIL MINUTES

Minutes of the Regular Meeting of Council held in the Wainfleet Council Chambers located at 31940 Highway #3, Wainfleet, Ontario, on Tuesday, March 27th, 2012 at 7:00 p.m.

PRESENT: A. Jeffs, R. Dykstra, T. Hessels, B. Konc, D. Wyatt

STAFF PRESENT: H. Kelly, T. Lamb, S. Luey, G. Munday, G. Wuisman

1. **CALL TO ORDER**
The Council meeting was called to order by Mayor Jeffs.
2. **NATIONAL ANTHEM**
3. **OPENING PRAYER**
Alderman Hessels delivered the opening prayer.
4. **DISCLOSURE OF PECUNIARY INTEREST AND THE GENERAL NATURE THEREOF**
There were no disclosures of pecuniary interest noted by members of Council.
5. **PRESENTATIONS**
None.
6. **PUBLIC HEARINGS**
None.
7. **DELEGATIONS**
 - a) **Gary Bellhouse and Sandra Sabo, The Big Move Cancer Ride**
Mr. Bellhouse and Ms. Sabo appeared before Council to promote the 'Big Move Cancer Ride' and to request support from the Township of Wainfleet by sponsoring volunteering or entering a team to participate in the race. All proceeds from the Big Move Cancer Ride will be directed toward equipment and services for the Walker Family Cancer Center.

A copy of the PowerPoint presentation is enclosed in the March 27th, 2012 Council folder.

b) Lenny Aarts, Bev Leppard, and Norman Johnson – Welland River Flood Plain Association

Mr. Aarts and Mr. Johnson addressed Council to express the Associations concerns and opposition to the Niagara Peninsula Conservation Authority Proposed Floodplain Mapping. Mr. Johnson outlined the Associations immediate short term and long term goals in relation to the proposed mapping.

The Welland River Flood Plain Association will be hosting a public meeting on Thursday, April 12, 2012, at the Wellandport Hall. For further information please contact the Welland River Flood Plain Association at wellandriverriverfloodplain@gmail.com

A copy of the delegates speaking notes are enclosed in the March 27th, 2012 Council folder.

c) Donna Cridland & Debora Power, Niagara Wind Power Inc.

Ms. Cridland and Ms. Power approached Council to present various alternative wind energy solutions (i.e. SMALL and MEDIUM wind).

A copy of the delegates speaking notes are enclosed in the March 27th, 2012 Council folder.

d) Edward P. Lustig, Broderick & Partners

Mr. Lustig appeared before Council to state for the record his opposition to proposed Bylaw No. 013-2012 respecting setback for industrial wind turbines scheduled for first and second reading tonight.

Mr. Lustig reiterated that the Township does not have the legal authority to enact such a bylaw nor is the proposed bylaw enforceable as it goes against provincial legislation (i.e. the *Planning Act* and the *Green and Green Economy Act*). Mr. Lustig noted that there are other means of lawful dissent that the Township of Wainfleet may enact to protest their objections, other means that may not be as costly as passing the proposed bylaw.

8. BUSINESS ARISING FROM DELEGATIONS

Resolution No. C-122-2012

Moved by David Wyatt
Seconded by Ted Hessels

"THAT the presentations made by Gary Bellhouse and Sandra Sabo; Lenny Aarts, Bev Leppard; Donna Cridland and Deborah Power and Edward P. Lustig be received."

CARRIED.

Resolution No. C-123-2012

Moved by David Wyatt
Seconded by Betty Konc

"**THAT** the Chief Administrative Officer be directed to form a team and/or group of volunteers for The Big Move Cancer Ride."

CARRIED.

9. MAYOR'S ANNOUNCEMENTS & REMARKS

Enclosed in March 27th, Council meeting folder.

10. ADOPTION OF THE MINUTES

- a) Minutes of the Regular Meeting of Council held on March 13th 2012

Resolution No. C-124-2012

Moved by David Wyatt
Seconded by Richard Dykstra

"**THAT** the minutes of the Regular Council meeting held on March 13th, 2012 be adopted as circulated.

CARRIED.

11. STAFF REPORTS AND RECOMMENDATIONS

a) **Planning Staff Reports**

- i) PSR-005/2012 Re: Application for Zoning Bylaw Amendment Z-01-2012
Stephen & Denise Marr, Owners; Harold Hyde, Agent, 53625 Smith Road
Part Lot 35, Concession 5

RECOMMENDATION(S):

THAT this report be received;

THAT Council approve the amending Zoning Bylaw attached as Appendix "C" to this report;

THAT pursuant to the provisions of Section 34 (17) of the Planning Act, Council determine that no further notice of the proposed bylaw is required;

AND THAT the owner (Stephen & Denise Marr), the agent (Harold Hyde) and the Secretary-Treasurer of the Committee of Adjustment be so informed.

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Resolution No. C-125-2012

Moved by Ted Hessels
Seconded by David Wyatt

"THAT Planning Staff Report PSR-005/2012 Re Application for Zoning Bylaw Amendment Z-01-2012 Stephen & Denise Marr, Owners; Harold Hyde, Agent, 53625 Smith Road Part Lot 35, Concession 5 and the recommendations contained therein be adopted as circulated."

CARRIED.

b) Administration Staff Reports

No report(s) submitted

c) Drainage Staff Reports

i) DSR-001/2012 Re: 2011/2012 Drainage Program Summary

RECOMMENDATION(S):

THAT this report be received for information.

Resolution No. C-126-2012

Moved by Richard Dykstra
Seconded by David Wyatt

"THAT Drainage Staff Report DSR-001/2012 Re 2011/2012 Drainage Program Summary and the recommendation contained therein be adopted as circulated."

CARRIED.

d) Building Staff Reports

No report(s) submitted

e) Public Works Staff Reports

i) PWR-013/2012 Re: Addition of three (3) public members to the Wainfleet Arena Renovations Public Liaison Committee

RECOMMENDATION(S):

THAT this report be received;

AND THAT Council review the applications received and select three (3) additional members for the Wainfleet Arena Renovations Public Liaison Committee.

Resolution No. C-127-2012

Moved by Ted Hessels
Seconded by David Wyatt

"THAT Public Works Staff Report PWR-013/2012 Re Addition of three (3) public members to the Wainfleet Arena Renovations Public Liaison Committee and the recommendations contained therein be adopted as circulated."

CARRIED AS AMENDED (see below).

Resolution No. C-128-2012

Moved by Betty Konc
Seconded by Richard Dykstra

"THAT the two applications for the Arena Renovations Public Liaison Committee received after the deadline be accepted and considered.

Alderman Hessels requested a recorded vote on the amending motion.

Recorded Vote:

Richard Dykstra – Yes
Ted Hessels – No
Betty Konc – Yes
David Wyatt – No
April Jeffs – Yes

CARRIED.

Resolution No. C-129-2012

Moved by Richard Dykstra
Seconded by Betty Konc

"THAT the following applicants be appointed to the Wainfleet Arena Renovations Public Liaison Committee and be so notified by the Director of Operations:

1. William Altoft
2. H.W. Stolk
3. Frank Stoop"

CARRIED.

Ballot voting was conducted – Council ballots and Clerk's tally sheet is enclosed in the March 27th, 2012 Council meeting folder.

- ii) PWR-014/2012 Re: Design of Arena Temporary Fire Separations

RECOMMENDATION(S):

THAT this report be received;

THAT Council approve the proposal from Venerino V. P. Panici Architect Inc. to provide design and administrative services for the construction and installation of temporary fire separations, fire exit opening, and alarm system;

AND THAT Council authorize the Director of Operations to enter into agreement with Venerino V. P. Panici Architect Inc. to provide design and administrative services for the construction and installation of temporary fire separations, fire exit opening, and alarm system.

Resolution No. C-130-2012

Moved by Ted Hessels
Seconded by Richard Dykstra

"THAT Public Works Staff Report PWR-014/2012 Re Design of Arena Temporary Fire Separations and the recommendations contained therein be adopted as circulated."

CARRIED.

- f) Fire Staff Reports
No report(s) submitted

12. REVIEW OF CORRESPONDENCE

Resolution No. C-131-2012

Moved by Betty Konc
Seconded by David Wyatt

"THAT the report of the correspondence to Council dated March 27th, 2012 and the recommendations contained therein be adopted as circulated."

CARRIED.

CORRESPONDENCE REFERRED TO COUNCIL

2012 03 27

078. From Malcolm Allen's office requesting that the Township of Wainfleet reconsider its decision regarding Carmen Ferri's roadside ditching. A copy of this piece of correspondence has been circulated to Council, the Director of Operations and the Drainage Superintendent. REC. – receive for information.

Township of Wainfleet
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079. From The Town of Niagara-On-The-Lake enclosing a resolution passed by their Council requesting that the Government of Ontario direct Ontario School boards to respect the principles of Smart Growth and abide by the Provincial Policy Statement and Places to Grow Act. A copy of this piece of correspondence has been circulated to Council. **REC.** – support resolution.
080. From the City of Thorold requesting support of a resolution passed by its Council imploring that the Federal and Provincial governments be called upon to take leadership roles in the establishment of Urban Forestry mandates and programs. A copy of this piece of correspondence has been circulated to Council. **REC.** – support resolution.
081. From the Welland & District Humane Society enclosing its statistical report for the month of February 2012. **REC.** – receive for information.
082. From the Town of Halton Hills requesting support of a resolution passed by its Council regarding the exemption of all Legion Halls in Ontario from Property Tax Rolls within the Province of Ontario and further that the Province contribute back to affected municipalities a Payment in Lieu of Taxes for their Legion Halls that are eligible for the exemption. A copy of this piece of correspondence has been circulated to Council. **REC.** – support resolution.
083. From the Corporation of the Township of Havelock-Belmont-Methuen requesting support of a resolution passed by its Council regarding Ontario Wildlife Damage Compensation Program. A copy of this piece of correspondence has been circulated to Council. **REC.** – support resolution.

Unregistered

Niagara South Federation of Agriculture March Issue 2012

13. BYLAWS

First & Second Reading

Resolution No. C-132-2012

Moved by Betty Konc

Seconded by David Wyatt

"THAT the following bylaws be now read a first and second time this 27th day of March, 2012:

- a) Bylaw No. 013-2012 being a bylaw to Being a bylaw for prescribing the minimum Setback distance for the Construction of all Industrial Wind Turbines, also known as Wind Turbine Generators, to be erected within the borders of the Township of Wainfleet, AND to require that any such Construction, in compliance with this bylaw or not, shall also provide indemnification for any loss of Property value or adverse health effect therefrom to the extent of 100%.

Township of Wainfleet
Council Meeting Minutes, March 27th, 2012

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- b) Bylaw No. 014-2012 being a bylaw to appoint members and adopt Terms of Reference for the Wainfleet Youth Advisory Council for the Corporation for the Township of Wainfleet.

- c) Bylaw No. 015-2012 being a bylaw pursuant to the provisions of Section 34 of the Planning Act, R.S.O. 1990 to amend Zoning Bylaw No. 581-78 of the Corporation of the Township of Wainfleet with respect to those lands forming Part of Lot 35, Concession 5, known municipally as 53625 Smith Road, in the Township of Wainfleet.

CARRIED.

Third & Final Reading

Resolution No. C-133-2012

Moved by David Wyatt
Seconded by Ted Hessels

"THAT the following bylaw be now read a third time and finally passed this 27th day of March, 2012:

- a) Bylaw No. 011-2012 being a bylaw to amend Schedule "A" to Bylaw No. 010-2011 being a bylaw to appoint a Committee of Adjustment, to delegate the authority for considering applications for minor variances and consents, to provide for compensation for the members of the Committee of Adjustment, and to adopt Policies, Procedures and Conditions for the Operation of the Committee of Adjustment."

CARRIED.

- 14. **NOTICE OF MOTION**
There were no notices of motion.

- 15. **PROCLAMATIONS**
There were no proclamations.

- 16. **OTHER BUSINESS**
There was no other business noted.

17. **CLOSED MEETING**

Resolution No. C-134-2012

Moved by Betty Konc
Seconded by David Wyatt

"THAT Council now move in closed session to discuss an item under:

- a) Item under Section 239 (2) (b) and (d) of the *Municipal Act, 2001 S.O. 2001, c.25*, personal matters about an identifiable individual, including municipal or local board employees – labour relations or employee negotiations regarding deferred Confidential Staff Report ASR-004/2012 addressing management compensation schedule (1 item)."

CARRIED AS AMENDED (see below)

Resolution No. C-135-2012

Moved by Ted Hessels
Seconded by Richard Dykstra

"THAT an item under Section 239 (2) (c) of the *Municipal Act, 2001 S.O. 2001, c.25*, a proposed or pending acquisition or disposal of land by the municipality or local board regarding an unopened road allowance (1 item) be added to the closed session portion of the agenda for consideration."

CARRIED.

18. **RISE WITH REPORT**

Resolution No. C-136-2012

Moved by David Wyatt
Seconded by Betty Konc

"THAT Confidential Staff Report ASR-004-2012 and the recommendations contained therein be adopted as amended."

CARRIED.

19. **BYLAW TO CONFIRM THE PROCEEDING OF COUNCIL**

Resolution No. C-137-2012

Moved by David Wyatt
Seconded by Ted Hessels

"THAT the following bylaw be now read a first, second and a third time and finally passed this 27th day of March, 2012:

Township of Wainfleet
Council Meeting Minutes, March 27th, 2012

- a) Bylaw No. 016-2012 being a bylaw to adopt, ratify and confirm the actions of the Council at its regular meeting held on the 27th day of March 2012."

CARRIED.

20. ADJOURNMENT

Resolution No. C-138-2012

Moved by David Wyatt
Seconded by Ted Hessels

"THAT Council for the Township of Wainfleet do now adjourn."

CARRIED.

Council adjourned at 9:43 p.m.

A. Jeffs

A. Jeffs, MAYOR

T. Lamb

T. Lamb, CLERK

Date Approved – April 10th, 2012

From: "Greg Wuisman" <GWuisman@wainfleet.ca>
Subject: Wainfleet Wind Energy
Date: April 5, 2012 2:56:42 PM EDT
To: "Tom Lewis" <Tom@ipcenergy.ca>, "Jordan Beekhuis" <jbeekhuis@rankinconstruction.ca>, <jmaclellan@rankinconstruction.ca>
Cc: "Fabio Magazzeni" <operations@wainfleet.ca>, "Grant Munday" <planning@wainfleet.ca>, "Tanya Lamb" <TLamb@wainfleet.ca>

I have received a number of phone calls from both IPC and Rankin inquiring about the utility crossing permit.

There will be no formal report to Council requesting approval however, the request letter will be circulated to Council via "Correspondence Referred to Council" at the April 10 Council Meeting and Council will have the opportunity to ask questions at that time.

It is Staff's recommendation that the application be approved.

If you still have questions on this matter, feel free to call me.

Greg Wuisman, P.Eng.
Director of Operations
Township of Wainfleet
31940 Hwy #3, P.O. Box 40
Wainfleet, ON L0S 1V0
Ph 905-899-3022
Fx 905-899-2642

"Wainfleet - find your country side!"

The Township of Wainfleet Confidentiality Notice:

The information contained in this communication including any attachments may be confidential, is intended only for the use of the recipient(s) named above, and may be legally privileged. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution, disclosure, or copying of this communication, or any of its contents, is strictly prohibited. If you have received this communication in error, please resend this communication to the sender and permanently delete the original and any copy of it from your computer system. Thank you.

Greg Wuisman, P. Eng.
Director of Operations
Township of Wainfleet
31940 Hwy #3, P.O. Box 40
Wainfleet, ON L0S 1V0
Ph 905-899-3022
Fx 905-899-2642

Attention: Greg Wuisman, P. Eng. Director of Operations

RE: Side Road 22 (Brawn Rd.) Utility Crossing

As discussed we are providing a drawing showing the location and elevation of the proposed right of way crossing of side road 22/Brawn Rd. between Abbey Rd. and Concession 1 Rd. in order to obtain a permit from the township. The 27.6kV power lines and communication lines for the Wainfleet Wind Energy Project will cross the townships road allowance at the municipal drain crossing and will go from the property on the southern half of lot 21 to the property on the northern half of lot 22.

The crossing will consist of four 8" diameter conduits to carry three conductors and two 4" diameter conduits for communications. This will allow one spare conduit for both power and communications. Four double sided signs indicating buried high voltage cable will be installed at the point of crossing on either side as shown.

The ducts will be directional bored to avoid disturbing the municipal drain and embedded culvert. A minimum depth of 1.45m below the municipal drain and culvert will be maintained, exceeding the 1.2m requested by the township as well as the 450mm required for uneven ground in OPSD - 2103.02.

The conduits will cross the East boundary of the township right of way a minimum of three meters South of the centerline of the municipal drain and will cross the West boundary a minimum of 3m North of the centerline of the municipal drain at an approximate angle of 20 degrees from perpendicular.

The construction timeline is contingent upon the project receiving Renewable Energy Approval and a Notice to Proceed from the Ontario Power Authority. Construction will take place either fall of 2012 or spring of 2013 and we requests that the permit effective date be contingent upon the project obtaining Notice to Proceed so that an extended construction window for the permit is not required.

Rankin Construction Inc. is submitting this permit application as one of the two owners partnered on this project and requests that a copy of this permit also be provided to IPC Energy as the developer in order to maintain a consistent point of communications with the Township.

Regards,

John MacLellan, Operations Superintendent - Rankin Construction Inc.

CC. Tom Lewis, Manager Planning and environment - IPC Energy

Rankin Construction Inc.
222 Martindale Rd. P.O. Box 1116
St. Catharines ON, L2R 7A3
Tel. 905.684.1111 Fax. 905.684.2260

IPC Energy Inc.
2550 Argentia Rd. Suite 105
Mississauga ON, L5N 5R1
Tel. 905.607.1016

**THE CORPORATION OF THE
TOWNSHIP OF WAINFLEET
BYLAW NO. 013-2012**

Being a bylaw for prescribing the minimum setback distance for the construction of all Industrial Wind Turbines, also known as Wind Turbine Generators, to be erected within the borders of the Township of Wainfleet, **AND** to require that any such construction, in compliance with this bylaw or not, shall also provide indemnification for any loss of property value or adverse health effect therefrom to the extent of 100%.

WHEREAS government Ministers, Ministries, Agencies and Municipalities have an ethical duty and legal obligation to protect the health, safety, quality of life and well being of citizens and their properties;

AND WHEREAS the Supreme Court of Canada, in *114957 Canada Ltée (Spraytech, Société d'arrosage) v. Hudson (Town)*, 2001 SCC 40. File No.: 26937, held that Municipalities, in addition to specific powers conferred by statute, also have included in that authority "general welfare" powers, upon which Municipalities can draw to enact bylaws genuinely aimed at furthering goals such as public health and safety, protection of Property and the like;

AND WHEREAS s.9 of the *Municipal Act, 2001, SO 2001, c 25*, grants Municipalities Powers of a natural person;

AND WHEREAS the *Canadian Charter of Rights and Freedoms*, being Part 1 of the *Constitution Act, 1982*, confers specific rights and freedoms on all Canadians, including that of Due Process, which rights and freedoms are to be protected by all levels of government, including the Municipal;

AND WHEREAS s.130 of the *Municipal Act, 2001, SO 2001, c 25*, in force until July 1, 2012, still states "A municipality may regulate matters not specifically provided for by this Act or any other Act for purposes related to the health, safety and well-being of the inhabitants of the municipality";

AND WHEREAS ss.128 – 129 of the *Municipal Act, 2001* confer powers to regulate Public Nuisances, Noise, Odour, Dust, etc.;

AND WHEREAS s.128 (2) also states "The opinion of council under this section, if arrived at in good faith, is not subject to review by any court";

AND WHEREAS s. 11 of the *Municipal Act, 2001* confers broad authority on the Municipality, including the passing of bylaws, *inter alia*, for the "Economic, social and environmental well-being of the municipality" and for the "Health, safety and well-being of persons";

BYLAW NO. 013-2012

AND WHEREAS s.1 (1) of the *Environmental Protection Act, R.S.O. 1990, c. E-19* states that:

"adverse effect" means one or more of;

- (a) impairment of the quality of the natural environment for any use that can be made of it*
- (b) injury or damage to property or to plant or animal life,*
- (c) harm or material discomfort to any person,*
- (d) an adverse effect on the health of any person,*
- (e) impairment of the safety of any person,*
- (f) rendering any property or plant or animal life unfit for human use,*
- (g) loss of enjoyment of normal use of property, and*
- (h) interference with the normal conduct of business; ("consequence préjudiciable"),*

and further states,

"contaminant" means any solid, liquid, gas, odour, heat, sound, vibration, radiation or combination of any of them resulting directly or indirectly from human activities that causes or may cause an adverse effect ("contaminant");

AND WHEREAS s.3 of the *Environmental Protection Act, R.S.O. 1990, c. E-19* also states *"The purpose of this Act is to provide for the protection and conservation of the natural environment";*

AND WHEREAS there is mounting documented evidence of the adverse impact of IWT technology on humans, wildlife and livestock;

AND WHEREAS the *World Health Organisation* recommends ambient noise levels be less than 30dB (a) inside a Property dwelling;

AND WHEREAS several jurisdictions worldwide have enacted or recommended laws or bylaws to regulate Setback distances of 2 to 10km for Industrial Wind Turbines;

AND WHEREAS more than 70 Ontario Municipalities, including Wainfleet, as well as the Ontario Federation of Agriculture and the Christian Farmers Federation of Ontario, have asked for a Moratorium on wind power development and for more and better studies on the impact of wind power;

AND WHEREAS some Ontario realtors have asserted that properties within sight and sound of IWT's are available at prices 20 to 40% lower than those properties without IWT interference;

AND WHEREAS restrictions in the laws of Ontario governing Municipalities and the Environment variously contradict one another and restrictions in the laws governing Alternative Energy generation do the same;

AND WHEREAS nothing in this bylaw frustrates the purpose of the laws governing alternative energy generation, it being the Municipality's concern to promote the responsible use of alternative energy in a manner that does no harm to persons, wildlife and livestock;

BYLAW NO. 013-2012

AND WHEREAS s.92 of the *Constitution Act, 1982* provides further that the "Exclusive Powers of Provincial Legislatures" includes upholding *Canadian Charter of Rights and Freedoms*, being Part 1 of said Act;

AND WHEREAS the fundamental rights of Canadian persons cannot be extinguished or modified except by s.33 ("*Notwithstanding*", clause) of the *Canadian Charter of Rights and Freedoms, The Constitution Act, 1982*;

AND WHEREAS it is reasonable and prudent for the protection of the Municipality's citizens;

NOW THEREFORE the Council of the Corporation of the Township of Wainfleet HEREBY ENACTS AS FOLLOWS:

Definitions:

1. In this By-law, the listed words have the following meanings:
 - (a) "Setback" means a horizontal radial distance;
 - (b) "Industrial Wind Turbine" (IWT), means a wind turbine power generator using blade technology with a hub height exceeding 30 metres;
 - (c) "Property" means property line, vacant land, dwelling or structure and their inhabitants of all species used for private or business or public purposes;
 - (d) "Municipality" means the Corporation of the Township of Wainfleet;
 - (e) "Construction" includes placement, erection, alteration, repair, dismantling, demolition, structural maintenance, painting, moving, land clearing and cleaning, earth moving, grading, excavating, the laying of pipe and conduit whether above or below ground level, street and highway building, concreting, equipment installation and alteration and the structural installation of construction components and materials in any form or for any purpose and includes any work in connection therewith.
 - (f) "Noise" means unwanted sound, vibration, or both, emitted by or related to an Industrial Wind Turbine or Turbines;
 - (g) "Developer" means any person or business or company involved in the development, Construction and operation of an Industrial Wind Turbine, including the legal owner of said Turbine; AND, person, business, company, Turbine and owner can be construed in the singular and in the plural;

Application:

This bylaw applies to all property within the territory of the Municipality.

This bylaw applies to all property owned by the Municipality.

Prohibition:

1. For the Construction, erection or operation of any IWT inside the Municipality, there shall be a minimum Setback of a distance of 2km from any property measured from the tip of the rotor blade in horizontal position;
2. In any case, noise emitted by the IWT shall not exceed 32dB at the nearest property;
3. The Developer shall provide an indemnification of 100% for any loss of property value or adverse health effect directly or indirectly caused by an IWT.

BYLAW NO. 013-2012

Severability:

If a portion of this bylaw is held invalid by a court of competent jurisdiction then the invalid portion must be severed and the remainder of this bylaw is deemed to have been adopted without the severed section.

Force and Effect:

This bylaw shall come into force and take effect on the day of its Final passing.

BYLAW READ A FIRST TIME THIS 27th DAY OF MARCH, 2012.

BYLAW READ A SECOND TIME THIS 27th DAY OF MARCH, 2012.

BYLAW READ A THIRD TIME AND FINALLY PASSED THIS 10th DAY OF APRIL, 2012.

A. Jeffs, MAYOR

T. Lamb, CLERK



THE CORPORATION OF THE TOWNSHIP OF WAINFLEET
REGULAR MEETING OF COUNCIL MINUTES

Minutes of the Regular Meeting of Council held in the Wainfleet Council Chambers located at 31940 Highway #3, Wainfleet, Ontario, on Tuesday, April 10th, 2012 at 7:00 p.m.

PRESENT: A. Jeffs, R. Dykstra, T. Hessels, B. Konc

STAFF PRESENT: T. Lamb, S. Luey, R. Madere, G. Munday, C. Wood, G. Wuisman

1. CALL TO ORDER

The Council meeting was called to order by Mayor Jeffs.

2. NATIONAL ANTHEM

3. OPENING PRAYER

Alderman Ted Hessels delivered the opening prayer.

4. DISCLOSURE OF PECUNIARY INTEREST AND THE GENERAL NATURE THEREOF

There were no disclosures of pecuniary interest noted by members of Council.

5. PRESENTATIONS

None scheduled.

6. DELEGATIONS

Resolution No. C139-2012

Moved by Ted Hessels
Seconded by Betty Konc

“**THAT** Section 12.1 (vii) of the Procedural Bylaw be waived to allow Delegations to appear prior to the Public Meeting.”

CARRIED.

a) **Dr. Jeffrey Remington and Joanne Ferraccioli, Inter-Professional Care (IPC) Pilot Project**

Dr. Remington and Joanne Ferraccioli appeared before Council to promote and bring awareness to Wainfleet residents regarding a model of care for residents of Niagara that is driven by the community and patient needs, determinants of

health and perceived gaps in care known as the Inter-Professional Care (IPC) Pilot Project.

8. BUSINESS ARISING FROM DELEGATIONS

Resolution No. C-140-2012

Moved by Betty Konc
Seconded by Ted Hessels

“**THAT** the presentation made by Dr. Jeffrey Remington and Joanne Ferraccioli be received.”

CARRIED.

6. PUBLIC HEARINGS

a) Mandatory On-Site Sewage System Inspection Program Fees for Service

This public hearing was chaired by Mayor Jeffs.

Mayor Jeffs explained the purpose of the public hearing is to provide information and gather public comments regarding fees for mandatory onsite sewage system inspections to be conducted in the Boil Water Advisory area and related services to be provided by the Township of Wainfleet Private Sewage System Regulating Department. This public meeting is held to meet the requirements of Ontario Building Code Act S.O. 1992., c.23 as amended under (Section 7 Bylaws, Resolution and Regulation) and O.Reg. 350/06 under Division C Article 1.9.1.2. Change of Fees.

The Director of Operations, Greg Wuisman, provided an explanation of the rate being applied for the leaching bed repair only, stating that in order to accommodate residents who only require repairs to their leaching bed will not be obligated to pay the new system fee of \$975.00. In addition, Mr. Wuisman noted that upon further review of the rates staff are of the opinion that the NEC per parcel is not applicable to Wainfleet and has therefore been eliminated from the fee schedule.

Alderman Dykstra requested further clarification on costs with regard to leaching bed repairs and holding tanks. Mr. Wuisman stated that there are separate fees for leaching bed repairs and holding tanks they are as follows:

Leaching Bed Repairs - \$500.00
Tank Replacement - \$525.00
A complete new system - \$975.00

Mr. Wuisman noted that the Region did not impose a fee for leaching bed repairs only.

Alderman Konc questioned how the Private Sewage System Regulating Department intends to educate residents on the difference between Phase One and Phase Two. Mr. Wuisman responded by stating that Phase One is a non intrusive visual inspection of the various sewage system components. Compliance with the Ontario Building Code will also be confirmed in Phase One, while Phase Two involves excavating and physical examination of the components.

Ashleigh Miatello-Skrubbeltrang – [REDACTED]

Mrs. Skubbeltrang inquired about the expected cost of Phase 2. Mr. Wuisman stated that Phase 2 will only be initiated if a problem is detected during the Phase 1 inspection. Phase 2 is a business arrangement between the homeowner and the approved Phase 2 inspection company, the Township is not involved in the relationship between the proprietor and the homeowner. The Inspector hired in Phase 2 will investigate to determine the cause of the malfunctioning system and compliance with the Ontario Building Code.

Mrs. Skubbeltrang also inquired how residents will be notified when an inspection will be taking place. Mr. Wuisman noted that the Boil Water Advisory Area is broken down into three (3) zones:

- Zone 1 - Etling Rd to Brawn Rd
- Zone 2 – Brawn Rd to Golf Course Rd
- Zone 3 - Golf Course Rd to Cement Rd

One zone will be covered in one year's time resulting in all inspections completed within three (3) years. Mail-outs and phone confirmation will be carried out prior to each inspection. Every attempt will be made to ensure that the resident has been properly notified of the inspection. Accommodations will be made for those homeowners who are not available during normal business hours.

Mrs. Skrubbeltrang stated that conducting the public meeting on a Tuesday night at 7:00 p.m. when many cottagers are unavailable is not a very open and transparent process. Mayor Jeffs responded that the staff have attempted to publicize the meetings as much as possible both through local newspapers and the website. The Township realizes seasonal residents may not have had the opportunity to attend; however, it was prudent that we hold the meeting in advance of the program start date in June to allow residents to gather as much information as possible and ask questions.

Ann Hasznosy – 11205 Golf Course Road

Mrs. Hasznosy inquired where residents who maintained their systems on a regular basis and carry out private inspections, at a significantly lower fee, would those residents be exempt from the Township's mandatory inspection program.

Mr. Wuisman responded by stating that unfortunately those residents will not be exempt from the inspection program due to the fact that the process must be consistent from property to property. Mayor Jeffs noted that the Township inspections will be very robust and different from a private inspection as the Township is being closely watched by the Region of Niagara. In addition, the

Township's inspections will assist in the development of creating a highly resourceful database of all properties located in the Boil Water Advisory area.

Laurie Dayboll – [REDACTED]

Ms. Dayboll applauded Council's efforts to address the problem that exists along the Lakeshore; however, took issue with the \$550.00 fee that is associated with the inspection program, especially for those homes that do not pose a risk and are being responsible homeowners with regard to their septic systems. Ms. Dayboll is aware that independent contractors will conduct an identical inspection at a fraction of the price being proposed. Furthermore, Ms. Dayboll inquired whether Council and staff have sought external funding for this project.

Mayor Jeffs stated that she has spoken with the Minister of Environment and representatives from the Great Lakes and St. Lawrence Cities Initiative regarding the program, as well sought advice from municipalities such as the Township of Huron-Kinloss who have implemented a similar regulating private sewage system will great success. Mayor Jeffs stated that there is no funding available at this time.

Wesley McDonald – [REDACTED]

Mr. McDonald expressed concerns regarding the exorbitant cost involved in running the Mandatory Inspection Program, noting that the program should operate more cost effectively.

Mrs. Madere provided a breakdown of the department costs and how figures were derived in order for the program to be operated on a cost neutral basis. Please refer to the chart listed below:

2012 Budget

Expenses	Budget Amount	
Personnel Costs	\$ 219,500	
Office Costs	35,400	
Vehicle Expenses	20,500	
Indirect Costs	<u>30,400</u>	
TOTAL EXPENSES		<u>\$ 305,800</u>
Revenue		
Part 8 Septic Permits	\$ (90,000)	
Mandatory Septic Inspections	<u>(215,800)</u>	
TOTAL REVENUE		<u>\$ (305,800)</u>

Number of septic systems subject to mandatory inspections is approximately 1,175.

Approximately 392 systems will be inspected yearly.

Total cost per inspection is \$550.00.

(215,800/392) = \$550.50. Rounded to \$550.00

Patricia Cusack – [REDACTED]

Mrs. Cusack solicited answers from Council and staff to the following questions:

1. What will be the cost in three-years time?
2. Was it tendered?
3. Are all septic systems being tested within the Township of Wainfleet?

Mr. Wuisman responded by stating that the department will review all the expenses incurred after three-years and a review of the financial viability will be conducted at that time. Staff have consulted with the Ontario Onsite Waste Water Association and the Region of Niagara to determine applicable fees and program structure. Mr. Wuisman also noted that after conducting extensive testing along the Lakeshore a Boil Water Advisory was issued, the Township of Wainfleet's only mandate is to only address the Boil Water Advisory area at this time.

Frank Memme – [REDACTED]

Mr. Memme inquired whether the septic inspections will continue should the conditions of the aquifer improve and the boil water advisory is lifted. Mr. Memme also expressed concern that the program will be a burden to taxpayers if it's not being utilized.

Mr. Wuisman stated that the program will be on going and it is the Township's hope that the Boil Water Advisory will be lifted once the aquifer has been rejuvenated. Scott Luey, Chief Administrative Officer noted that the inspection program is self-funded with no burden to the taxpayer. Mayor Jeffs concluded by stating that the program is more involved than the Mandatory Inspection Program, it also includes taking over Part 8 from the Region.

John Kramer – [REDACTED]

Mr. Kramer inquired whether certain weather conditions would impede on the inspection program.

Mr. Wuisman stated that inspections can be carried out during rainy conditions; however, there are limitations when there is heavy frost and snow. Should the weather prohibit staff from conducting inspections, staff will be responsible for inputting data, contacting residents and will be encouraged to take their vacation time during the slower months.

Norma Bird – [REDACTED]

Ms. Bird requested clarification for those properties incorporated into the Mandatory Inspection Program and whether failing septic systems outside of the Boil Water Advisory area could be contributing to the problem.

Council only approved the Mandatory Inspection Program for the Boil Water Advisory Area at this time.

Glen Skrubbeltrang – [REDACTED]

Mr. Skrubbeltrang inquired whether every property will be held accountable under the Ontario Building Code Regulations.

Mr. Wuisman replied that the goal is to make all systems compliant with the Ontario Building Code; however, there are provisions in Ontario Building Code for some functioning non-compliant systems to remain as is until repairs or replacement is required.

Frank deRuyte – [REDACTED]

Mr. deRuyte recited observations of rain water collecting along the roadways, noting that the poor ditching is contributing to the current problem along the Lakeshore.

Andrew Watts – [REDACTED]

Mr. Watts congratulated Council on their efforts to address the situation along the Lakeshore, noting that the “Big Pipe” would have been a far more costly alternative.

In response to a question raised by Alderman Konc regarding whether the \$550.00 inspection fee could be spread over a three-year period, Mrs. Madere, Treasurer, stating that staff have looked at options in breaking the cost down. A better option would be to deem the lakeshore area a local improvement area in order to have the costs applied to residents tax bills. A bylaw would need to be enforced should Council wish to explore such an option.

Phil Bearss [REDACTED]

Mr. Bearss requested clarification as to why his property is included in the Boil Water Advisory area as he is situation at the corner of Cement Plant Road and Lakeshore. Mr. Bearss noted that all of Wainfleet should be held accountable not just those living along the Lakeshore.

Alderman Konc stated that it is unfortunate that the Township is being painted with the same brush. Wainfleet Council felt it necessary to conduct inspections on every property within the Boil Water Advisory Area. The upper levels of government are watching us very closely and could at any time take back the programs if they are not satisfied with our progress.

Ashleigh Miatello-Skrubbeltrang – [REDACTED]

Mrs. Skrubbeltrang inquired whether alternative arrangements have been made for those who cannot pay the applicable fees.

It was noted that Council would explore possible options available.

Hans Meyden – [REDACTED]

Mr. Meyden questioned why a septic system needs to be re-inspected in three-years time, if that septic system passed the Phase 1 inspection three-years prior.

Mr. Wuisman stated that the average sewage system only lasts 20 to 30 years consequently as many as 1/20th of all the systems fail each year. Due to the existing and continuing new failures, a three year cycle is required.

Kate Ostryhon – Lumsden – [REDACTED]

Mrs. Ostryhon – Lumsden expressed concerns regarding undersized lots of record and how they would be addressed and whether the Township would be considering holding tanks.

Mr. Wuisman stated that tertiary systems are available for smaller footprint parcels and that holding tanks would be a last case scenario. Permitted holding tanks will have a float with an alarm system that will indicate when the pump needs to be pumped out. Our inspectors are trained in detecting when a tank has been tampered.

Ann Hasznosy – [REDACTED]

Mrs. Hasznosy inquired what the percentage of homes in the Boil Water Advisory area are seasonal cottages.

Mr. Wuisman responded by noting that 40% of the Boil Water Advisory area is made up of seasonal cottages. The Sewage Regulating Department will make every attempt to make alternative arrangements for seasonal property owners.

Frank Hintenberger – [REDACTED]

Mr. Hintenberger expressed concerns regarding the lack of public notification regarding the proposed program and applicable fees and consequently was only recently made aware of the subject bylaw from Facebook.

Mr. Wuisman noted that the Township has held several legislated public meetings regarding the Private Sewage System Regulating Inspection Program, as well as taking over Part 8 from the Region. Numerous staff reports pertaining to the On-Site Sewage Program have gone before Council in 2011 and 2012. Several public notice meeting advertisements have been placed in the Welland Tribune, The Leader, In Port, in addition to continually being posted on the Township's website.

Brittany Newstage – [REDACTED]

Ms. Newstage requested clarification on how the weather will impede on inspections.

Mr. Wuisman reiterated that only during server weather conditions will inspections not take place.

Lynda Tonnos – [REDACTED]

Ms. Tonnos stated that she has resided along the lake for 36 + years and is proud to be a resident of Wainfleet; however, Ms. Tonnos expressed concerns that the Lakeshore is being unfairly targeted and rather the Township as a whole should be a part of this process.

Don Graham – [REDACTED]

Mr. Graham inquired should he apply for a holding tank permit will it exempt him from Inspection.

Mr. Wuisman replied that new installations are exempt from first round of inspections.

Hans Meyden – [REDACTED]

Mr. Meyden reproached Council to inquire whether the horse droppings along the Gord Harry trail are a contributing factor to the contamination of the aquifer.

Mr. Wuisman noted that he could not respond to Mr. Meyden's question.

Dwayne Marr - [REDACTED]

Mr. Marr expressed concerns regarding animal waste run-off, noting that failing septic systems may not be the culprit contributing to the problem and referenced Walkerton.

Mayor Jeffs noted that Walkerton was a completely different situation as they have municipal water and sewers.

James Farr – [REDACTED]

Mr. Farr requested copies of the bylaws for taking over Part 8 and the Mandatory On-Site Sewage System Inspection Program.

Mr. Wuisman announced that the Private Sewage System Regulating Department will prepare a report for the next regularly scheduled Council meeting (Tuesday, April 24th, 2012) which will provide a detailed review of the comments received from the public meeting and a recommendation to Council respecting the Private Sewage System Regulation Fees for Service.

This public hearing was adjourned at 9:00 p.m. by Mayor Jeffs.

9. MAYOR'S ANNOUNCEMENTS & REMARKS

Enclosed in April 10th, Council meeting folder.

10. ADOPTION OF THE MINUTES

- a) Minutes of the Regular Meeting of Council held on March 27th, 2012

Resolution No. C-141-2012

Moved by Richard Dykstra

Seconded by Betty Konc

"THAT the minutes of the Regular Council meeting held on March 27th, 2012 be adopted as circulated.

CARRIED.

11. STAFF REPORTS AND RECOMMENDATIONS

- a) **Planning Staff Reports**

- i) PSR-006/2012 Re: Options for Potential Sale of Unopened Road Allowance between Part of Lots 1 and 2, Concession 1

RECOMMENDATION(S):

THAT this report be received.

Resolution No. C-142-2012

Moved by Ted Hessels
Seconded by Richard Dykstra

“THAT Planning Staff Report PSR-006/2012 Re: Options for Potential Sale of Unopened Road Allowance between Part of Lots 1 and 2, Concession 1 and the recommendation contained therein be adopted as circulated.”

CARRIED AS AMENDED (see below).

Resolution No. C-143-2012

Moved by April Jeffs
Seconded by Richard Dykstra

“THAT PSR-006/2012 Re: Options for Potential Sale of Unopened Road Allowance between Part of Lots 1 and 2, Concession 1 be deferred to the next regularly scheduled Council meeting.”

CARRIED.

b) **Administration Staff Reports**

No report(s) submitted.

c) **Drainage Staff Reports**

No report(s) submitted.

d) **Building Staff Reports**

i) **BSR-005/2012** Re: Building Permit Report – March 2012

RECOMMENDATION(S):

THAT this report be received for information.

Resolution No. C-144-2012

Moved by Betty Konc
Seconded by Ted Hessels

“THAT Building Staff Report BSR-005/2012 Re: Building Permit Report – March 2012 and the recommendation contained therein be adopted as circulated.”

CARRIED.

e) **Public Works Staff Reports**

- i) **PWR-015/2012** Re: Eligibility for Summer Student Employment

RECOMMENDATION(S):

“**THAT** this report be received;

THAT Council provide staff with policy direction on the issue of hiring children of existing Township employees for summer student positions;

AND THAT Council direct staff to prepare a Township policy reflecting Council’s direction.”

Resolution No. C-145-2012

Moved by Richard Dykstra
Seconded by Ted Hessels

“**THAT** Public Works Staff Report PWR-015/2012 Re: Eligibility for Summer Student Employment and the recommendations contained therein be adopted as circulated.”

CARRIED AS AMENDED (see below).

Resolution No. C-146-2012

Moved by Richard Dykstra
Seconded by Ted Hessels

“**THAT** Council directs the Director Operations to proceed with creating a policy for Option #2 for the next regularly scheduled Council meeting.”

CARRIED AS AMENDED (see below).

Resolution No. C-147-2012

Moved by Betty Konc
Seconded by Ted Hessels

“**AND THAT** returning summer student employees be grandfathered in the newly created policy for summer employment for 2012 only.”

CARRIED.

f) **Fire Staff Reports**

No report(s) submitted.

g) **Bylaw Enforcement Staff Reports**

No report(s) submitted.

12. REVIEW OF CORRESPONDENCE

Resolution No. C-148-2012

Moved by Betty Konc
Seconded by Ted Hessels

“**THAT** the report of the correspondence to Council dated April 10th, 2012 and the recommendations contained therein be adopted as circulated.”

CARRIED AS AMENDED (see below).

Resolution No. C-149-2012

Moved by April Jeffs
Seconded by Betty Konc

“**THAT** correspondence item No. 093 be amended to read the following:

THAT the Director of Operations be directed to contact Hydro One to request that they appear before Wainfleet Council to provide further information on Hydro One’s hydro pole policies.”

CARRIED.

Resolution No. C-150-2012

Moved by Richard Dykstra
Seconded by Betty Konc

“**THAT** correspondence item No. 092 be amended by inserting the word “not” in front of the word support.”

CARRIED.

CORRESPONDENCE REFERRED TO COUNCIL

2012 04 10

- 084. From the Regional Clerk requesting support of a resolution passed by its Council respecting the closure of Thorold Secondary School. A copy of this piece of correspondence has been circulated to each member of Council. **REC.** – support resolution.
- 085. From the City of Mississauga requesting support of a resolution passed by its Council regarding interim telecommunication tower/antenna facilities protocol. A copy of this piece of correspondence has been circulated to each member of Council. **REC.** – support resolution.
- 086. From the Ministry of Community Safety and Correctional Services congratulating the Township for completing the mandatory emergency management program elements required under the *Emergency Management and Civil Protection Act*. **REC.** – receive for information.

**Township of Wainfleet
Council Meeting Minutes, April 10th 2012**

087. From the Regional Clerk enclosing Report CSD 24-2012 and certified copies of Bylaws 29-2012 and 30-2012 respecting 2012 Tax Policy, Tax Ratios and Tax Rates. A copy of this piece of correspondence has been circulated to each member of Council and the Treasurer. **REC.** – receive for information.
088. From the Region of Niagara Public Works Water & Wastewater Services regarding the 2011 Bylaw Wastewater Reconciliation. The purpose of the correspondence is to provide actual flows and resulting reconciliation adjustments to be carried into the 2013 budget process. **REC.** – receive for information.
089. From John Perry, Planner acting on behalf of Spencer and Jodi Fox, requesting an exemption to the Interim Control Bylaw 019-2011 to permit construction of a new home located at 12625 Lakeshore Road. A copy of this piece of correspondence has been circulated to each member of Council and the Manager of Planning. **REC.** – refer to the Manager of Planning to respond citing Council's position on the Interim Control Bylaw – no exemptions.
090. From Josh Tonnos expressing concern regarding the mandatory sewage system re-inspection of recently installed systems. A copy of this piece of correspondence has been circulated to each member of Council, the Director of Operations and the Senior Sewage Inspector. **REC.** – receive for information/consideration.
091. From Dan Augustine expressing opposition regarding the proposed BL013-2012, being a bylaw to regulate the minimum required setback for wind turbines from any property. A copy of this piece of correspondence has been circulated to each member of Council and the Manager of Planning (via email). **REC.** – receive for information.
092. From John MacLellan on behalf of Rankin Construction Inc. and IPC Energy Inc. requesting approval for a utility crossing of the Brawn Road (Sideroad 22) road allowance for power and communications lines for the Wainfleet Wind Energy Project. A copy of this piece of correspondence has been circulated to each member of Council and the Director of Operations. **REC.** – “not” support Rankin's request.
093. From Cindy Forster, M.P.P. enclosing correspondence regarding Melissa Thornton's threatened ESA order for Hydro One. A copy of this piece of correspondence has been circulated to each member of Council and the Director of Operations. **REC.** – ~~receive for information~~ **THAT the Director of Operations be directed to contact Hydro One to request that they appear before Wainfleet Council to provide further information on Hydro One's hydro pole policies.**

Unregistered

Niagara Regional Police Services Board Report, Volume 8, Issue 2

13. BYLAWS

First & Second Reading
None.

Third & Final Reading

Resolution No. C-151-2012

Moved by Betty Konc
Seconded by Richard Dykstra

“**THAT** the following bylaw be now read a third time and finally passed this 10th day of April, 2012:

- a) Bylaw No. 013-2012 being a bylaw to for prescribing the minimum Setback distance for the Construction of all Industrial Wind Turbines, also known as Wind Turbine Generators, to be erected within the borders of the Township of Wainfleet, AND to require that any such Construction, in compliance with this bylaw or not, shall also provide indemnification for any loss of Property value or adverse health effect therefrom to the extent of 100%.
- b) Bylaw No. 014-2012 being a bylaw to appoint members and adopt Terms of Reference for the Wainfleet Youth Advisory Council for the Corporation for the Township of Wainfleet.
- c) Bylaw No. 015-2012 being a bylaw pursuant to the provisions of Section 34 of the Planning Act, R.S.O. 1990 to amend Zoning Bylaw No. 581-78 of the Corporation of the Township of Wainfleet with respect to those lands forming Part of Lot 35, Concession 5, known municipally as 53625 Smith Road, in the Township of Wainfleet.”

CARRIED.

14. NOTICE OF MOTION

There were no notices of motion.

15. PROCLAMATIONS

There were no proclamations.

16. OTHER BUSINESS

Forks Road Signage

Alderman Dykstra requested a status update from the Director of Operations with regard to erecting slow moving farm vehicle signage on all Wainfleet Regional Roads (service provided by the Niagara Region). It was agreed that the Director of Operations would contact the Niagara Region to provide an update and possible completion date.

Engine Pumper No. 4

Alderman Hessels encouraged residents to take home a part of Wainfleet history and place a bid on Wainfleet's Firefighter Pumper No. 4. The auction closes

Animals Running at Large - Cyclists

Mayor Jeffs noted that she has received a number of complaints from residents who enjoy cycling along our rural roads but have become reluctant due to dogs running off their property and attacking the cyclists. Mayor Jeffs respectfully requested that dog

owners be mindful of the situation to avoid potential injury and instructed staff to post Wainfleet's Animals Running at Large Bylaw and the contact information for the Welland Humane Society on the Township's website, as they are the appointed enforcement officers for animal control.

17. CLOSED MEETING

There were no Closed Meeting items.

18. BYLAW TO CONFIRM THE PROCEEDING OF COUNCIL

Resolution No. C-152-2012

Moved by Ted Hessels
Seconded by Betty Konc

"THAT the following bylaw be now read a first, second and a third time and finally passed this 10th day of April, 2012:

- a) Bylaw No. 018-2012 being a bylaw to adopt, ratify and confirm the actions of the Council at its regular meeting held on the 10th day of April, 2012."

CARRIED.

18. ADJOURNMENT

Resolution No. C-153-2012

Moved by Ted Hessels
Seconded by Richard Dykstra

"THAT Council for the Township of Wainfleet do now adjourn."

CARRIED.

Council adjourned at 10:05 p.m.

A. Jeffs
A. Jeffs, MAYOR

T. Lamb
T. Lamb, CLERK

Date Approved – April 10th, 2012

Raven Engineering Inc.

3075 Kingswood Cres.
Niagara Falls, ON
L2J 2H5
905-353-9252

Regional Municipality of Niagara
2201 St. David's Rd., PO Box 1042
Thorold, ON
L2V 4T7

Sept. 12, 2012

Attn: Mr. Jim Zeoli
Permits, Municipal Law Enforcement Officer

Re: Municipal Consent Application – HV Buried Cables for Wainfleet Wind Project

Mr. Zeoli,

On behalf of Wainfleet Wind Energy Inc., we are submitting this application for Municipal Consent for the installation of high voltage power cables, associated ducts and communications cable along and across Station Road (Regional Road #3) in Wainfleet.

The cables will be installed, owned and maintained by Wainfleet Wind Energy Inc. and will be used to collect the power produced by five wind turbines and transmit it to a substation to be located on private property along the unopened road allowance of Sideroad 22.

Attached is a set of drawings showing the overall plan of the collector system, plan and profile along municipal right of ways, and road crossing and trench cross section details. The collector system will use three different construction approaches in various sections, as detailed in the drawings:

- Direct buried cables across private land and along Concession 1 Rd. and north portions of Station Rd. ,
- Concrete encased duct bank for the crossing of Concession 1 Rd. (optional directional bore),
- Directional bored ducts for south portion along Station Rd. and for crossing Station Rd.

We recognize that some of the proposed cable route is outside the jurisdiction of the Region of Niagara, but are presenting the overall plans to you for completeness. The drawings applicable to Niagara Region include sheets 123901C1.0, 123901C1.1, 123901C1.4 to 123901C1.13, and 123901C1.15.

The proposed cable installation meets or exceeds the requirements of the Ontario Electrical Safety Code and CSA Standard C22.3-#7, Underground Systems.

Permanent Buried Cable Markers will be installed at either end of road crossings and are recommended by CSA for identifying the trench location in rural locations. Installing cable markers near the travelled portion of the roadway may interfere with road maintenance, snow plowing in particular. We would appreciate the Region's direction in what would be a suitable setback from the travelled portion of the road where such signage would not conflict.

Wainfleet Wind Energy Inc. has been awarded a FIT contract from the Ontario Power Authority and REA approval is in process. The turbines are on order and we anticipate the start of construction of this cable collector system to be mid-March 2013.

If you require any additional information regarding this application, please contact me in the office.

Regards,



Andrew Durward, P.Eng.

Raven Engineering Inc.

cc John MacLellan, Rankin Construction Inc.
 Jordan Beekhuis, Rankin Renewable Power Inc.
 Terry Hawrysh, IPC Energy

Raven Engineering Inc.

3075 Kingswood Cres.
Niagara Falls, ON
L2J 2H5
905-353-9252

Township of Wainfleet
31940 Hwy.#3, PO Box 40
Wainfleet, ON, L0S 1V0

Sept. 13, 2012

Attn: Mr. Greg Wuisman, P.Eng.
Director of Operations

Re: Municipal Consent Application – HV Buried Cables for Wainfleet Wind Project

Mr. Wuisman,

On behalf of Wainfleet Wind Energy Inc., we are submitting this application for Municipal Consent for the installation of high voltage power cables, associated ducts and communications cable along and across Concession 1 Road and across the unopened Sideroad 22 road allowance at the municipal drain.

The cables will be installed, owned and maintained by Wainfleet Wind Energy Inc. and will be used to collect the power produced by five wind turbines and transmit it to a substation to be located on private property along the unopened road allowance of Sideroad 22. Hydro One is constructing an overhead pole line that will connect the substation to their distribution system. The final location of the substation may be different to that shown on these plans, as Hydro One has not yet constructed anything south of Abbey Rd. However, the location of the cable crossing the unopened Sideroad 22 should not change.

Attached is a set of drawings showing the overall plan of the collector system, plan and profile along municipal right of ways, and road crossing and trench cross section details. The collector system will use three different construction approaches in various sections, as detailed in the drawings:

- Direct buried cables across private land and along Concession 1 Rd. and north portions of Station Rd. ,
- Concrete encased duct bank for the crossing of Concession 1 Rd. (optional directional bore),
- Directional bored ducts for south portion along Station Rd. and for crossing Station Rd.

We recognize that Station Rd. is under the jurisdiction of the Region of Niagara, but are presenting the overall plans to you for completeness. The drawings applicable to the Township of Wainfleet include sheets 123901C1.0 to 123901C1.4, 123901C1.14 and 123901C1.15.

The proposed cable installation meets or exceeds the requirements of the Ontario Electrical Safety Code and CSA Standard C22.3-#7, Underground Systems.

Permanent Buried Cable Markers will be installed at either end of road crossings and are recommended by CSA for identifying the trench location in rural locations. Installing cable markers near the travelled portion of the roadway may interfere with road maintenance, snow plowing in particular. We would appreciate the Township's direction in what would be a suitable setback from the travelled portion of the road where such signage would not conflict.

Wainfleet Wind Energy Inc. has been awarded a FIT contract from the Ontario Power Authority and REA approval is in process. The turbines are on order and we anticipate the start of construction of this cable collector system to be mid-March 2013.

If you require any additional information regarding this application, please contact me in the office.

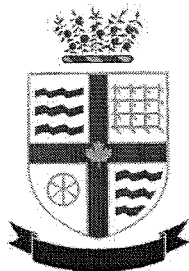
Regards,



Andrew Durward, P.Eng.

Raven Engineering Inc.

cc John MacLellan, Rankin Construction Inc.
 Jordan Beekhuis, Rankin Renewable Power Inc.
 Terry Hawrysh, IPC Energy



C21/12

THE CORPORATION OF THE TOWNSHIP OF WAINFLEET
REGULAR MEETING OF COUNCIL MINUTES

Minutes of the Regular Meeting of Council held in the Wainfleet Council Chambers located at 31940 Highway #3, Wainfleet, Ontario, on Tuesday, September 25th, 2012 at 7:00 p.m.

PRESENT: A. Jeffs, R. Dykstra, T. Hessels, B. Konc, D. Wyatt

STAFF PRESENT: T. Lamb, S. Luey, R. Madere, G. Munday, G. Wuisman

1. CALL TO ORDER

Mayor Jeffs noted that there was quorum present and she called the meeting to order at 7:00 p.m.

2. NATIONAL ANTHEM

3. OPENING PRAYER

Alderman David Wyatt delivered the opening prayer.

4. DISCLOSURE OF PECUNIARY INTEREST AND THE GENERAL NATURE THEREOF

Alderman Hessels declared a conflict of interest with respect to PSR-14/2012 Re: Application for Zoning Bylaw Amendment Z-02-2012, France & Denise Selders, Owners, [REDACTED] and Bylaw No. 043-2012, as Alderman Hessels is the bona fide farmer purchasing the subject parcel.

5. PRESENTATIONS

Upon the request of Council, John Greer, Executive Director and Amanda Ellis, Senior Enforcement Officer from the Welland Humane Society appeared before Council to discuss the level of animal control service the Township has been receiving as per their agreement with the Welland Humane Society.

A copy of the presentation material is enclosed in the September 25, 2012 Council meeting folder.

6. PUBLIC HEARINGS

There were no public hearings scheduled.

**Township of Wainfleet
Council Meeting Minutes, September 25th, 2012**

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7. DELEGATIONS

- a) Marian Bannerman, Culture Plan Implementation Coordinator address Council to discuss the benefits of the Niagara Region's Cultural Canada 2012 Program and Wainfleet's involvement.

A copy of Ms. Bannerman's PowerPoint presentation is enclosed in the September 25, 2012 meeting folder.

8. BUSINESS ARISING FROM DELEGATIONS

Resolution No. C-315-2012

Moved by David Wyatt
Seconded by Ted Hessels

"**THAT** the presentation made by Ms. Bannerman be received."

9. MAYOR'S ANNOUNCEMENTS & REMARKS

The Mayor's comments are enclosed in the September 25th Council meeting folder.

10. ADOPTION OF THE MINUTES

- a) Minutes of the Regular Meeting of Council held on September 11th, 2012

Resolution No. C-316-2012

Moved by David Wyatt
Seconded by Betty Konc

"**THAT** the minutes of the Regular Council meeting held on September 11th, 2012 be adopted as circulated."

CARRIED.

11. STAFF REPORTS AND RECOMMENDATIONS

a) **Planning Staff Reports**

- i) PSR-014/2012 Re: Application for Zoning Bylaw Amendment Z-02-2012, France & Denise Selders, Owners, [REDACTED]

RECOMMENDATION(S):

THAT this report be received;

THAT Council approve the amending Zoning Bylaw attached as Appendix "C" to this report;

THAT pursuant to the provisions of Section 34 (17) of the Planning Act, Council determine that no further notice of the proposed bylaw is required;

AND THAT the owner (Fränce & Denise Selders), the Region of Niagara and the Secretary-Treasurer of the Committee of Adjustment be so informed.

Resolution No. C-317-2012

Moved by David Wyatt
Seconded by Richard Dykstra

“**THAT** Planning Staff Report PSR-014/2012 Re: Application for Zoning Bylaw Amendment Z-02-2012, Fränce & Denise Selders, Owners, 72587 Regional Road 27, Part of Lot 25, Concession 7 and the recommendations therein be adopted as circulated.”

CARRIED.

Alderman Hessels did not partake in debate or voting.

- ii) PSR-015/2012 Re: Application for Zoning Bylaw Amendment Z-03-2012, Keith Pirson, Owner; James Reesor, Agent, Keith Pirson, Owner; James Reesor, Agent, Part of Lot 15, Concession 2

RECOMMENDATION(S):

THAT this report be received;

THAT Council approve the amending Zoning Bylaw attached as Appendix “C” to this report;

THAT pursuant to the provisions of Section 34 (17) of the Planning Act, Council determine that no further notice of the proposed bylaw is required;

AND THAT the owner (Keith Pirson), the agent (James Reesor), the Region of Niagara and the Secretary-Treasurer of the Committee of Adjustment be so informed.

Resolution No. C-318-2012

Moved by David Wyatt
Seconded by Betty Konc

“**THAT** Planning Staff Report PSR-015/2012 Re: Application for Zoning Bylaw Amendment Z-03-2012, Keith Pirson, Owner; James

**Township of Wainfleet
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Reesor, Agent, Part of Lot 15, Concession 2 and the recommendations therein be adopted as circulated.”

CARRIED.

- iii) PSR-016/2012 Re: Subdivision Agreement – Marshville Estates Subdivision, East Side of Deeks Road South, Part of Lots 8 and 9, Concession 5

RECOMMENDATION(S):

THAT this report be received;

THAT the Subdivision Agreement (Attached as Appendix “A”) between Mem-Ros Ltd, Francesco Memme and the Township of Wainfleet in connection with draft plan of subdivision 26T-WAINFLEET-2005-01 be approved subject to any revisions required by the Township Solicitor;

AND THAT the Mayor and Clerk be authorized to sign a Subdivision Agreement between Mem-Ros Ltd, Francesco Memme and the Township of Wainfleet.”

AND THAT the owner (Keith Pirson), the agent (James Reesor), the Region of Niagara and the Secretary-Treasurer of the Committee of Adjustment be so informed.

Resolution No. C-319-2012

Moved by David Wyatt
Seconded by Ted Hessels

“**THAT** Planning Staff Report PSR-016/2012 Re: Subdivision Agreement – Marshville Estates Subdivision, East Side of Deeks Road South, Part of Lots 8 and 9, Concession 5 and the recommendations therein be adopted as circulated.”

CARRIED.

b) **Administration Staff Reports**

- i) ASR-020/2012 Re: Reappointment of Auditors

RECOMMENDATION(S):

THAT this report be received;

AND THAT Grant Thornton be appointed the Township of Wainfleet’s Auditors for the fiscal years ending December 31, 2012, 2013 and 2014.

Resolution No. C-320-2012

Moved by Ted Hessels
Seconded by David Wyatt

"**THAT** Administration Staff Report ASR-020/2012 Re: Reappointment of Auditors and the recommendations therein be adopted as circulated."

CARRIED.

c) **Drainage Staff Reports**
No report(s) submitted.

d) **Building Staff Reports**
No report(s) submitted.

e) **Public Works Staff Reports**

i) **PWSR-033/2012 Re: Request for Buried Cable Consent for Wainfleet Wind Energy Inc. Project**

RECOMMENDATION(S):

THAT this report be received;

THAT Council approve the request for consent for the installation of high voltage buried cables, associated ducts and communication cables along and across Concession 1 Road and across the Side Road 22 (Brawn Road) unopened road allowance;

AND THAT Council authorize the Director of Operations to issue a consent letter to the applicant.

Resolution No. C-321-2012

Moved by Ted Hessels
Seconded by April Jeffs

"**THAT** Public Works Staff Report PWSR-033/2012 Re: Request for Buried Cable Consent for Wainfleet Wind Energy Inc. Project and the recommendations therein be adopted as circulated."

CARRIED AS AMENDED (see below).

Resolution No. C-322-2012

Moved by Betty Konc
Seconded by David Wyatt

"**THAT** PWSR-033/2012 Re: Request for Buried Cable Consent for Wainfleet Wind Energy Inc. Project be deferred due to the uncertainty surrounding the applicants Provincial approval date and the outcome of the legal challenge of the Townships' 2 km setback for wind turbines."

CARRIED.

- f) **Fire Staff Reports**
No report(s) submitted.
- g) **Bylaw Enforcement Staff Reports**
No report(s) submitted.

12. **REVIEW OF CORRESPONDENCE**

Resolution No. C-323-2012

Moved by David Wyatt
Seconded by Betty Konc

"**THAT** the report of the correspondence to Council dated September 25, 2012 and the recommendations contained therein be adopted as circulated."

CARRIED AS AMENDED (see below).

Resolution No. C-324-2012

Moved by David Wyatt
Seconded by Ted Hessels

"**THAT** the Clerk extend an invitation to the Wainfleet Historical Society to appear as a delegate before Council to present their ideas for a cenotaph;

AND THAT the Director of Operations locate and forward the conceptual design of the cenotaph to Council."

CARRIED.

Resolution No. C-325-2012

Moved by April Jeffs
Seconded by Ted Hessels

"**THAT** the recommendation for Correspondence Item No. 222 be amended to read receive for information."

CARRIED.

CORRESPONDENCE REFERRED TO COUNCIL**2012 09 25**

212. From the Welland & District Humane Society enclosing its statistical report for the month of August 2012. **REC.** – receive for information.
213. From the City of Port Colborne regarding the passing of Bylaw 5855/109/12 on September 10th, 2012 to adopt the City of Port Colborne Official Plan. A copy of this correspondence has been circulated to Council and the Manager of Planning. **REC.**– receive for information; refer to Manager of Planning for comment, if required.
214. From the Lupus Foundation of Ontario requesting the proclamation of the month of October as “Lupus Awareness Month”. A copy of this correspondence has been circulated to Council. **REC.** – support proclamation.
215. From Melissa Thornton, 40250 Youngs Rd., regarding safe driving practices on Forks Road, particularly slowing down when passing riders on horseback. A copy of this correspondence has been circulated to Council and the Director of Operations. **REC.** – receive for information.
216. From CUPE/SCFP Ontario requesting the proclamation of Wednesday, October 24th, 2012 as “Child Care Worker & Early Childhood Educator Appreciation Day”. **REC.** – support proclamation.
217. From Steve Sokulski, [REDACTED], regarding suggestions for dog control in Wainfleet. A copy of this correspondence has been circulated to Council and to the Manager of Planning. **REC.**- receive for information.
218. From Women’s Place of South Niagara enclosing its 2011/2012 Annual Report and requesting continued financial support. A copy of this correspondence has been circulated to Council and to the Treasurer. A hard copy of the enclosure has been provided to Council and is available in the Township Office. **REC.** - refer to 2013 Budget.
219. From the City of Hamilton regarding the approval of the Emerald Ash Borer (EAB) Action Plan (PW10088(a)) at their Council meeting on September 6, 2012 and requesting the support of municipalities in the EAB-Regulated areas in Ontario. A copy of this correspondence has been circulated to Council and to the Manager of Planning. **REC.** – support request.
220. From the Office of the Regional Clerk, Region of Niagara enclosing Report ICP 82-2012 respecting Best Practices Research Paper – *Implementing Agricultural Value-Added Activities Policies*, and the recommendations therein approved by Regional Council on September 13, 2012. **REC.** – receive for information.
221. From the Office of the Regional Clerk, Region of Niagara enclosing Report ICP-81-2012 respecting Bill 51 and the Right to Appeal Land Use Planning Decisions and the recommendations therein, approved by Regional Council on September 13,

**Township of Wainfleet
Council Meeting Minutes, September 25th, 2012**

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2012. A copy of this correspondence has been circulated to the Manager of Planning. **REC.** – receive for information.
222. From the Office of the Regional Clerk, Region of Niagara regarding the motion approved by Regional Council on September 13, 2012 respecting the 2014 FCM Conference and Tradeshow at the Niagara Falls Scotiabank Convention Centre from May 30-June 2, 2014, and requesting engagement of Council members in planning, promotion and execution of the event. **REC.** – ~~refer to Council~~ *receive for information.*
223. From the Wainfleet Historical Society requesting consideration of establishing a cenotaph to commemorate the men and women of Wainfleet who have served in past wars and conflicts. A copy of this correspondence has been circulated to Council and to the Director of Operations. **REC.** – ~~refer to Council~~ **THAT** the Clerk extend an invitation to the Wainfleet Historical Society to appear as a delegate before Council to present their ideas for a cenotaph; **AND THAT** the Director of Operations locate and forward the conceptual design of the cenotaph to Council.

Unregistered

Niagara Regional Police Services Board Report, Volume 8, Issue 7

13. BYLAWS

First & Second Reading

Resolution No. C-326-2012

Moved by David Wyatt
Seconded by Betty Konc

“**THAT** the following bylaw now be read a first and second time this 25th day of September, 2012:

- a) Bylaw No. 043-2012 Being a bylaw pursuant to the provisions of Section 34 of the Planning Act, R.S.O. 1990 to amend Zoning Bylaw No. 581-78 of the Corporation of the Township of Wainfleet with respect to those lands forming Part of Lot 25, Concession 7, known municipally as 72587 Regional Road 27, in the Township of Wainfleet.”

CARRIED.

Alderman Hessels did not partake in debate or voting.

Resolution No. C-327-2012

Moved by Betty Konc
Seconded by Richard Dykstra

**Township of Wainfleet
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“THAT the following bylaws now be read a first and second time this 25th day of September, 2012:

- a) Bylaw No. 042-2012 being a bylaw to appoint an Acting Building Inspector when the office of Chief Building Official is vacant.
- b) Bylaw No. 044-2012 being a bylaw pursuant to the provisions of Section 34 of the Planning Act, R.S.O. 1990 to amend Zoning Bylaw No. 581-78 of the Corporation of the Township of Wainfleet with respect to those lands forming Part of Lot 15, Concession 2, known municipally as 11568 Highway 3, in the Township of Wainfleet.
- c) Bylaw No. 045-2012 being a bylaw to close and convey a portion of a Public Road Allowance designated as Part 1 on Plan 59R-13028, between Lots 13 and 14, Concession 1 and confirm the actions of the Mayor and Clerk in respect to Registration Number SN148952 dated January 3, 2007.”

CARRIED.

Third & Final Reading

Resolution No. C-328-2012

Moved by David Wyatt
Seconded by Richard Dykstra

“THAT Section 15.7 of the Procedural Bylaw No. 021-2010 be waived to allow the third reading and final passing of Bylaw No. 042-2012, Bylaw No. 043-2012, and Bylaw No. 044-2012.”

CARRIED.

Resolution No. C-329-2012

Moved by Betty Konc
Seconded by David Wyatt

“THAT the following bylaw be now read a third time and finally passed this 25th day of September, 2012:

- a) Bylaw No. 043-2012 Being a bylaw pursuant to the provisions of Section 34 of the Planning Act, R.S.O. 1990 to amend Zoning Bylaw No. 581-78 of the Corporation of the Township of Wainfleet with respect to those lands forming Part of Lot 25, Concession 7, known municipally as 72587 Regional Road 27, in the Township of Wainfleet.”

CARRIED.

Alderman Hessels did not partake in debate or voting.

Resolution No. C-330-2012

Moved by David Wyatt
Seconded by Betty Konc

“THAT the following bylaws be now read a third time and finally passed this 25th day of September, 2012:

- a) Bylaw No. 042-2012 being a bylaw to appoint an Acting Building Inspector when the office of Chief Building Official is vacant.
- b) Bylaw No. 044-2012 being a bylaw pursuant to the provisions of Section 34 of the Planning Act, R.S.O. 1990 to amend Zoning Bylaw No. 581-78 of the Corporation of the Township of Wainfleet with respect to those lands forming Part of Lot 15, Concession 2, known municipally as 11568 Highway 3, in the Township of Wainfleet.
- c) Bylaw No. 045-2012 being a bylaw to close and convey a portion of a Public Road Allowance designated as Part 1 on Plan 59R-13028, between Lots 13 and 14, Concession 1 and confirm the actions of the Mayor and Clerk in respect to Registration Number SN148952 dated January 3, 2007.”

CARRIED.

14. NOTICE OF MOTION

There were no notices of motion.

15. PROCLAMATIONS

- a) Community Health Week, Oct. 1-5, 2012

WHEREAS Ontario must achieve the best-possible health and well-being for everyone living in the province; and

WHEREAS health is much more than the absence of illness; it is the complete state of physical, mental, spiritual and social well-being; and

WHEREAS Ontario's health providers, health agencies, Local Health Integration Networks and the provincial government must work towards a future without systemic barriers that prevent people from reaching their full health potential, a future where everyone can make the choices that allow them to live a fulfilling life; and

WHEREAS to achieve this future we need community-based health services that encourage the active participation of community members in the governance of their health care organizations and the design and delivery of services; and

WHEREAS during the first week of October, Bridges Community Health Centre, along with Canadians across the country will be spotlighting the importance of community-based services that respond to the fact that better health and well-being begins in our homes, in our schools, in our workplaces; and

NOW THEREFORE BE IT RESOLVED THAT the Council of Wainfleet does hereby proclaim the first week of October to be "Community Health Week" in the Township of Wainfleet.

Resolution No. C-331-2012

Moved by Betty Konc
Seconded by David Wyatt

"THAT the week of October 1st to the 5th, 2012 be hereby proclaimed as 'Community Health Week' in the Township of Wainfleet."

CARRIED.

b) Lupus Awareness Month, October 2012

WHEREAS lupus is an autoimmune disease that can cause severe damage to the tissue and organs in the body and, in some cases, death; and

WHEREAS more than five million people worldwide suffer the devastating effects of this disease and each year over a hundred thousand young women, men and children are newly diagnosed with lupus, the great majority of whom are women of childbearing age; and

WHEREAS medical research efforts into lupus and the discovery of safer, more effective treatments for lupus patients are under-funded in comparison with diseases of comparable magnitude and severity; and

WHEREAS many physicians worldwide are unaware of symptoms and the health effects of lupus, causing people with lupus to suffer for many years before they obtain a correct diagnosis and medical treatment; and

WHEREAS there is a deep, unmet need worldwide to educate and support individuals and families affected by lupus; and

WHEREAS there is an urgent need to increase awareness in communities worldwide of the debilitating impact of lupus;

NOW THEREFORE BE IT RESOLVED THAT The Township of Wainfleet do hereby proclaim October 2012 as "**October is Lupus Awareness Month**" when lupus organizations around the world call for increases in public and private sector funding for medical research on lupus, targeted education programs for health professionals, patients and the public, and worldwide recognition of lupus as a significant public health issue.

Resolution No. C-332-2012

Moved by David Wyatt
Seconded by Richard Dykstra

"**THAT** the month of October, 2012 be hereby proclaimed as 'Lupus Awareness Month' in the Township of Wainfleet."

CARRIED.

c) Child Care Worker & Early Childhood Educator Appreciation Day, October 24, 2012

WHEREAS years of research confirms the benefits of high quality child care for young children's intellectual, emotional, social and physical development and later life outcomes; and

WHEREAS child care promotes the well-being of children and responds to the needs of parents, child care workers and the broader community by supporting quality of life so that citizens can fully participate in and contribute to the economic and social life of their community; and

WHEREAS many studies show trained and knowledgeable Early Childhood Educators and child care staff are the most important element in quality child care, and that good wages and working conditions are associated with higher job satisfaction and morale, lower staff turnover which leads to high quality education and care; and

NOW THEREFORE BE IT RESOLVED THAT The Township of Wainfleet do hereby proclaim October 24th, 2012 as "Child Care Worker & Early Childhood Educator Appreciation Day" in recognition of the education, dedication and commitment of child care workers to children, their families and quality of life of the community.

Resolution No. C-333-2012

Moved by Betty Konc
Seconded by David Wyatt

"**THAT** the day of October 24, 2012 be hereby proclaimed "Child Care Worker & Early Childhood Educator Appreciation Day."

CARRIED.

16. OTHER BUSINESS

Noise Bylaw

Resolution No. C-334-2012

Moved by Betty Konc
Seconded by David Wyatt

“**THAT** the Clerk be directed to review and revise the Township’s Noise Bylaw, in consultation with our municipal lawyers and any agents they deem necessary.”

CARRIED.

Niagara’s Southern Tier Hospital

Resolution No. C-335-2012

Moved by Betty Konc
Seconded by Richard Dykstra

“**THAT** the Clerk be directed to send the attached letter to the Minister of Health outlining Council’s concerns with the proposed South Niagara Hospital location.”

CARRIED.

17. CLOSED MEETING

Resolution No. C-336-2012

Moved by Ted Hessels
Seconded by David Wyatt

“**THAT** Council now move in closed session to discuss an item under:

- a) Section 239 (2) (c) of the *Municipal Act, 2001 S.O. 2001, c.25*, a proposed or pending acquisition or disposition of land by the municipality or local board – possible municipal bid on property subject to tax sale (1 item).
- b) Adoption of Minutes of the In-Camera Meetings of Council for January 10th, 2012, March 13th, 2012, March 27th, 2012, July 17th, 2012 and August 14th, 2012.”

CARRIED.

18. RISE AND REPORT

Mayor Jeffs noted that Council met in closed session to discuss an item under Section 239 (2) (c) with regard to a proposed or pending acquisition or disposition of land by the municipality regarding possible acquisition of property within the

Township. Mayor Jeffs noted that no resolutions emanated therefrom and that staff were given direction to contact the property owner.

19. **BYLAW TO CONFIRM THE PROCEEDING OF COUNCIL**

Resolution No. C-337-2012

Moved by Betty Konc
Seconded by David Wyatt

“**THAT** the following bylaw be now read a first, second and a third time and finally passed this 25th day of September, 2012:

- a) Bylaw No. 046-2012 being a bylaw to adopt, ratify and confirm the actions of the Council at its regular meeting held on the 25th day of September, 2012.”

CARRIED.

20. **ADJOURNMENT**

Resolution No. C-338-2012

Moved by Betty Konc
Seconded by David Wyatt

“**THAT** Council for the Township of Wainfleet do now adjourn.”

CARRIED.

Council adjourned at 9:06 p.m.

A. Jeffs

A. Jeffs, MAYOR

T. Lamb

T. Lamb, CLERK

Date Approved – October 9th, 2012

AIRD & BERLIS LLP

Barristers and Solicitors

Scott A. Stoll
Direct: 416.865.4703
E-mail: sstoll@airdberlis.com

January 3, 2013

VIA COURIER & EMAIL

Her Worship Mayor April Jeffs and Members of Council
c/o Ms. Tanya Lamb, Township Clerk
The Corporation of the Township of Wainfleet
P.O. Box 40
Wainfleet, ON L0S 1V0

Your Worship Jeffs and Members of Council:

**Re: Wainfleet Wind Energy Inc.
Council's Refusal of Municipal Consent for Utility Crossing**

We are legal counsel to Wainfleet Wind Energy Inc. ("**Wainfleet Wind**"). As you are aware, Wainfleet Wind Energy Inc. is in the process of developing a wind energy project, with five wind turbines, in the community of Wainfleet. We are asking you to reconsider the September 25th, 2012 decision wherein Council refused the application for municipal consent in PWSR-033/2012 and grant the approval immediately.

As part of the development process, Wainfleet Wind brought forward an application to permit a road crossing of Brawn Road in the spring of 2012. This application was rejected by Council for no reason other than its association with a wind development project. Further, we understand that Council's decision was inconsistent with the position of Township staff.

Subsequent to that decision of Council, Wainfleet Wind worked with the Township staff and other stakeholders to finalize the proposed location of all road crossings associated with the wind development project. In September of 2012, Wainfleet Wind filed an application with the Director of Operations of the Township of Wainfleet seeking municipal consent for the installations. A copy of the application for municipal consent is attached for ease of reference. The decision regarding municipal consent came before Council on September 25, 2012 as item PWSR-033/2012. At that time, Council did not accept Township staff's recommendation for approval. We are asking that Council reconsider its decision and grant approval as requested by Wainfleet Wind and recommended by Township staff.

Section 41(9) of the *Electricity Act, 1998*, S.O. 1998, c. 15, Sched. A, provides that the Ontario Energy Board shall determine the location of electrical plant within a municipal right-of-way where a distributor and the owner of such right-of-way are unable to agree on

January 3, 2013
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such location. Failure to reconsider the decision of September 25, 2012 and approve the application for municipal consent will necessitate Wainfleet Wind applying to the Ontario Energy Board for approval of the locations detailed in the municipal consent application.

We also, understand that Hydro One Networks Inc. had difficulty securing permits for certain works from Council that would normally have been granted but for their relationship to wind energy. Eventually, the Township reconsidered its position and issued the necessary permits to Hydro One. We suggest the present situation is not materially different and, therefore, the Township should issue the permits immediately.

In the past Mayor Jeffs, you have indicated the Township has no authority over the location of wind developments. Yet, the Council's actions have directly encroached upon areas which you have admitted are not within the Township's jurisdiction. In addition, your statements make it clear the basis for the Township's actions is a personal disagreement with valid provincial legislation and not for any legitimate reason within the Township's jurisdiction.

The actions taken by Council have directly and significantly increased the cost and delayed the project and potentially affect its ability to comply with the agreement between Wainfleet Wind and the Ontario Power Authority. Council had to be aware that its actions would have this impact and that Wainfleet would suffer damages accordingly. Given the statements and actions of you and the actions of the members of Council, Wainfleet Wind must consider, and may pursue, all available recourse to recover its losses and damages.

I look forward to hearing that Council has revisited the September 25, 2012 decision and has issued an approval of that request. Failure to provide such approval before January 31, 2013, will result in our application to the Ontario Energy Board.

Yours truly,

AIRD & BERLIS LLP



Scott A. Stoll

SAS/hm



Township of Wainfleet

"Wainfleet - find your country side!"

January 10, 2013

Aird & Berlis, LLP
c/o Scott A. Stoll
Brookfield Place
181 Bay Street, Suite 1800
Box 754
Toronto, ON M5J 2T9

Via email to: ssoll@airdberlis.com

Dear Mr. Stoll,

Re: Wainfleet Wind Energy Inc. – Municipal Consent for Utility Crossing

Thank you for your correspondence received by this office on January 4th, 2013, requesting Wainfleet Council to reconsider their September 25th, 2012, decision wherein Wainfleet Council refused the application for municipal consent in PWSR-033/2012, and urging Council to grant the approval before January 31st, 2013.

Please be advised that Council for the Township of Wainfleet at its meeting held on January 8th, 2013, reviewed your request and passed the following amended resolution:

THAT the recommendation for correspondence item 006 be amended as follows:

THAT the motion be amended by striking out "refer to Council" and inserting in lieu therein "**THAT** the Clerk be directed to refer correspondence item 006 to the Township's solicitors to respond to Mr. Stoll on Council's behalf; **AND THAT** the Clerk notify Mr. Stoll, in writing, of Council's direction."

CARRIED.

Should you require anything further, please do not hesitate to contact the undersigned.

Sincerely,

Tanya Lamb
Clerk