

Key Events

1. January 14, 2010

- i. Collus Power holds a Strategic Planning Session and David McFadden gives a presentation on the future of LDCs
 - i. Pertinent Documents **TOC0516594**

2. September 16, 2010

- i. Collus Board and senior staff attend Georgian Bay District EDA Conference titled "Taking Charge of Our Future"

3. November 23, 2010

- i. Ed Houghton reaches out to Brian Bentz to have a brief discussion regarding the changing industry environment
 - i. Pertinent Documents **CPS0008331_00001**

4. December 3, 2010

- i. Houghton & Bentz meet for breakfast and discuss further the changes in the electric industry and issues in Collingwood at the 30,000-foot level.
 - i. Pertinent Documents **ALE0050195**

5. Early 2011

- i. In the leadup to the October 2011 provincial election, all three main political parties make statements about reducing the number of Ontario LDCs.

6. January 30, 2011

- i. Houghton drafts a letter at request of Mayor Cooper regarding Collus undertaking a "valuation" and to look at opportunities to offer our customers, more for less. The draft was forwarded to Bonwick at the Mayor's request and then in turn he forwarded the draft to the Mayor for final edits.
 - i. Pertinent Documents **TOC0038100, TOC003816**

7. February 6, 2011

- i. Houghton contacts John Herhalt of KPMG regarding valuation and options review.
 - i. Pertinent Documents **KPM0000542**

8. February 22, 2011

- i. Collus accepts the scope of work from KPMG and instructs them to begin the valuation and options report. Approved by Chair Muncaster and Mayor Cooper.
 - i. Pertinent Documents **KPM0000600**

9. March 11, 2011

- i. A kick off meeting is scheduled with KPMG. Participants from Collus is Houghton, Fryer and Muncaster.
 - i. Pertinent Documents *KPM0000599*

10. April 2012

- i. The Ontario Ministry of Energy establishes the Ontario Distribution Sector Review Panel and appoints David McFadden to the three-person panel.
 - i. Pertinent Documents *CJI0010462*

11. May 24, 2011

- i. KPMG deliver a draft valuation document and an options analysis.
 - i. Pertinent Documents *KPM0001032*

12. May 30, 2011

- i. Chairman Muncaster, Tim Fryer and Ed Houghton present Collus Annual Report and Business Plan to Council
 - i. Pertinent Documents *CJI0009243, ALE0049388 & TOC0529995*

13. June 4, 2011

- i. Chairman Muncaster and Houghton meet with David McFadden to discuss the possibility of a Collus transaction of some kind.
 - i. Pertinent Documents *CPS0002151*

14. June 10, 2011

- i. The Collus Power Board met in-camera to discuss its upcoming presentation to Council. Mayor Cooper reiterated to the Board that Collus was not interested in a full sale of its utility.
 - i. Pertinent Documents *CPS0007007_0001*

15. June 27, 2011

- i. Presentation of Strategic Partnership concept to Council in-camera. Council appoints the Deputy Mayor to the STT.
 - i. Pertinent Documents *CPS0004397 & TOC0516351*

16. June 29, 2011

- i. A meeting has been arranged with the Mayor, Deputy-Mayor, CAO Wingrove, Chairman Muncaster, Brian Bentz, Mayor Jeff Lehman and Paul Bonwick. The meeting was set up to discuss Bonwick's participation with a potential RFP.

17. July 7, 2011

- i. Chair Muncaster and Houghton meet with PowerStream to introduce the concept and gauge their interest.

18. July 8, 2011

- i. Meeting of Collus Power Board (David McFadden, Dean Muncaster and Mayor Cooper) with guests (Joan Pajunen, Doug Garbutt, Councillor Mike Edwards, Deputy-Mayor Lloyd and Ralph Neate Auditor) to discuss and approve the preferred option of a Strategic Partnership
 - i. Pertinent Document *CPS0007018_0001*

19. July 20, 2011

- i. Chair Muncaster and Houghton meet with Hydro One to introduce the concept and gauge their interest.

20. July 20, 2011

- i. Chair Muncaster and Houghton meet with St Thomas Energy to introduce the concept and gauge their interest.

21. July 26, 2011

- i. Chair Muncaster and Houghton meet with Horizon Utilities to introduce the concept and gauge their interest.

22. July 26, 2011

- i. Chair Muncaster and Houghton meet with Veridian to introduce the concept and gauge their interest.

23. August 3, 2011

- i. First meeting of STT
 - i. Pertinent Documents *CPS0004397*

24. August 29, 2011 *AGENDA*

- i. Second meeting of STT. Also, a letter from David McFadden of August 28th since he could not meet on the 29th. This meeting noted the proposed critical dates including the RFP being sent out on October 4th.
 - i. Pertinent Documents *CPS0002345 & CPS0008756_00001* *AGENDA*

25. August 30, 2011

- i. Houghton reaches out to John Herhalt of KPMG to ask for a proposal to be involved with the STT and prepare the RFP.
 - i. Pertinent Documents *CPS0002356, CPS0002362 & CPS0002363*

26. September 6, 2011

- i. Chairman Muncaster sends letters to four possible bidders to be interviewed by the STT.
 - i. Pertinent Documents *CPS0002373, CPS0002374*

27. September 12, 2011

- i. Collus signs a mutual non-disclosure agreement with Hydro One.

28. September 12, 2011

- i. STT interviews with Hydro One and Veridian
 - i. Pertinent Documents *KPM0003232.0001 & KPM0003233.0001*

29. September 19, 2011

- i. Collus signs mutual non-disclosure agreements with Horizon, Veridian and PowerStream

30. September 19, 2011

- i. STT interviews with Horizon and PowerStream
 - i. Pertinent Documents *KPM0003234.0001 & KPM0003231.0001*

31. September 27, 2011

- i. Collus signs a formal engagement with KPMG to assist with the Strategic Partnership process. Specifically, to prepare and discuss an RFP, participate in the bidder interviews and to assist with the evaluation of the proposals.
 - i. Pertinent Documents *CPS0002417*

32. September 28, 2011

- i. STT met to discuss the creation of the RFP & the evaluation criteria. *KPM 000 3227*

33. September 29, 2011

- i. Met with Collus staff and provided a confidential update. This update included the critical timelines.

34. September 30, 2011

- i. Houghton circulates the revised draft RFP to the STT and received approval to provide an update to Council on October 3rd. *TOC*
 - i. Pertinent Documents *TOC0516412 & TOC0060609*

35. October 3, 2011

- i. Houghton, Fryer, Garbutt and Muncaster attend an in-camera meeting with Council to provide them an update. *o*
 - i. Pertinent Documents *ALE0005133.003 & TOC0512163*

36. October 4, 2011

- i. RFPs are released to possible bidders by Chairman Muncaster. *SUPERS. Muncaster*
 - i. Pertinent Documents *CPS0006891*

37. October 26, 2011

- i. Houghton gives a presentation to Collus Power discussing the communications strategy for the upcoming partnership.
 - i. Pertinent Documents *CPS0002623*

38. November 15, 2011

- i. Met with Collus staff and provided a further update.

39. November 16, 2011

- i. RFPs returned. Pam Hogg will distribute the non-financial portion of the bids to the nine members of the STT for their individual review.

40. November 17, 2011

- i. A special Council meeting was held to update Council on the process and the RFPs. Council publicly approved sending out a media release about holding a Public Information Meeting on November 22, 2011.

- i. Pertinent Documents **TOC0000812**

41. November 22, 2011

- i. Public Information Session was held at the Collingwood Leisure Time Club.

- i. Pertinent Documents **CPS0002643**

42. November 23, 2011

- i. The fourth meeting of the STT took place to review the individual ratings of the members. *CPS 11306*

- i. Pertinent Documents **TOC0516415**

43. November 28, 2011

- i. The fifth meeting of the STT took place to discuss the financial part of the proposals.

44. December 1, 2011

- i. Meeting with PowerStream to discuss their proposal. In attendance was Dean Muncaster, John Rockx and Ed Houghton.

- i. Pertinent Documents **KPM0001901**

45. December 2, 2011

- i. A joint meeting of the STT and the Collus Board was held to pass a resolution to recommend to Council that the Collus Board be directed to undertake negotiations with PowerStream. *KPMG's THIRD ANALYSIS*

- i. Pertinent Documents **CPS0007026_0001**

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46. December 5, 2011

- i. Met with Council in-camera to provide an update and the resolution of the Collus Board. *AGENDA*

- i. Pertinent Documents **TOC0512148, TOC0512149 & ALE0005133.0002**

47. December 12, 2011

- i. Bidders are informed of the outcome.

48. December 12, 2011

- i. A presentation of the Strategic Partnership is given to Clearview Council.

49. January 16, 2012

- i. Provided Council with an update of the SPA and SA in-camera. The presentation was given by Aird & Berlis's Ron Clark. The draft minutes show considerably more of the discussion that took place.
 - i. Pertinent Documents *TOC0531801, CJI0009079*

50. January 20, 2012

- i. Meeting of Collus Board to approve a resolution that recommends to Council that they execute the SPA SA for 50% sale of CUS.
 - i. Pertinent Documents *EHH0000100*

51. January 23, 2012

- i. Town Council approves 50% sale of CUS. *Minutes* *Slide* *- Mascara*
 - i. Pertinent Documents *CJI0008080, KPM0002403 & CJI0009241*

52. March 6, 2012

- i. The Town, Collus and PowerStream enter into a shared purchase agreement along with other related documents.
 - i. Pertinent Documents *ALE0002782*

53. July 12, 2012

- i. The OEB published a letter approving the Collus transaction and giving leave to PowerStream and Collingwood to proceed with the sale.

54. December 2012

- i. The report of the Ontario Distribution Sector Review Panel is released.
 - i. Pertinent Documents *CJI0010462*

ENHANCED COMMUNICATIONS

1. In mid-2010, Bonwick initiated discussions with Ed Houghton with respect to the changing Ontario Electrical Industry. Mr. Bonwick asked if there was anything that he might do in the industry, and if so, who would he talk to. Mr. Houghton advised him that Mr. Bentz was the most local and probably was a prominent player in the industry.
2. On January 10th, 2011, Mr. Bonwick sent a letter of introduction to Mr. Bentz. Very soon after, Bonwick sent a copy of the introduction to Houghton. Soon after reading this introduction Houghton asked if Bonwick had time to speak about Mr. Bentz. (Bonwick's original email ALE0000045) (Copy of Bonwick email to Houghton TOC0036839) (Houghton's email to Bonwick asking to chat TOC0036988)
3. Mr. Houghton recalls speaking with Bonwick and expressing his concern that Bonwick had mentioned Collingwood in his draft email. Houghton had previously discussed with Bonwick that his activities with Bentz should not involve Collingwood and there are many other LDCs.
4. Houghton recalls Mr. Bonwick agreeing that he would send Houghton a copy of the proposal to review to ensure no mention of Collingwood.
5. Houghton reviewed the proposal, noted no Collingwood involvement, made minor changes and forwarded it to Bonwick. (Bonwick sends proposal to Shirley Houghton TOC0037571) (Bonwick proposal TOC0037578) (Houghton email back to Bonwick TOC0037592) (Final proposal with no mention of Collingwood TOC0037593)
6. Mr. Houghton has no memory of Paul Bonwick asking Shirley Houghton to do administrative work on or about January 19th, 2011. At some future point, Mr. Houghton became aware that his spouse was assisting Mr. Bonwick from time to time.
7. On January 20, 2011, Bonwick sends another email to Bentz and attaches the Proposal with no mention of Collingwood. He notes in his email that Houghton had concerns with Bonwick working on anything that may go on in Collingwood and that their focus should be other LDCs. (Bonwick's email to Bentz ALE0000059)
8. On January 30, 2011, Mr. Houghton drafts, at the Mayor's request, a letter for Mayor Cooper to send to Dean Muncaster and Houghton. The letter

contained a similar message to the message delivered by the Mayor at her inauguration and to Town Department Heads. In this correspondence, the Mayor asks Mr. Muncaster to direct Houghton to get a valuation and options for Collus.

9. Mr. Houghton forwarded the letter to Mr. Bonwick at the request of Mayor Cooper because he was one of her trusted advisors and a campaign team member and she wanted to ensure it was in keeping with her recent election platform. (Houghton emails draft Mayor's letter to Bonwick TOC0038100). This is further evidenced in an email of January 31, 2011 where he notes a conversation he had a few weeks ago that the type of direction noted in the draft letter would be supported by the Board of Collus. (email from Bonwick to Mayor Cooper TOC0038162).
10. The final letter sent in hard copy to Mr. Muncaster has significant differences than Mr. Houghton's draft correspondence. The revised document stated that Mr. Muncaster should "direct" Houghton to undertake a valuation and an examination of potential opportunities of Collus and report to Council by May 31, 2011. The most important difference was a sentence that was removed from Houghton's draft that stated "this is not a done deal that Collus will be sold, if after review we are asked about selling Collus we can provide the details that can suggest the contrary". (letter sent to Mr. Muncaster by Mayor TOC0038169)

Foundation Document 1, Chapter 2.6, paragraphs 139-141

11. Bonwick emails Bentz on or about February 1st, 2011 and advises that the Collus valuation has commenced. Paul Bonwick obtained this information from the Mayor's draft correspondence of January 30th, which the mayor had directed Mr. Houghton to send to her advisor Mr. Bonwick. (Houghton's email to Bonwick with draft letter TOC0038100) (Bonwick's email to Bentz ALE0000071)
12. On March 8, 2011, PowerStream staff is giving a presentation to their Audit & Finance Committee regarding a potential sale of Collus Power. On slide 8 it notes that "through informal discussions with Senior Employees of Collus Power, it was suggested that PowerStream explore the potential of hiring Paul Bonwick as a consultant." (Slide Deck page 8 ALE0004218) Houghton recalls the conversation with Bentz regarding the hiring of Bonwick was at

- the level of my knowledge of Bonwick, what I thought of him but at no time did Bentz mention his intent was to hire Bonwick for Collingwood. In closing Houghton recalls telling Bentz that the hiring is totally up to PowerStream and should have nothing to do with him. (Bentz notes page 2 ALE0050195)
13. Emails between Bentz and Mayor Jeff Lehman regarding a meeting with Mayor Cooper. It is mentioned that Bentz will contact Houghton. Houghton has no recollection that a call was made to him. (Emails ALE0004220).
 14. On April 13, 2011, the A & F Committee met and on page 3 of their slides it is mentioned, "based on discussions with representatives from Collus Power, it is our understanding that the utility is planning to move ahead with a potential sale." This is the 2nd time the A & F Committee have heard that representatives (plural) have provided information. (Slide deck page 3 ALE0030995.0001)
 15. On June 3, 2011, Paul Bonwick by email, advises Mr. Glicksman that Collis has completed their valuation using KPMG. Mr. Houghton has no memory of having advised Mr. Bonwick of this fact. Although he has no memory of doing so, Mr. Houghton acknowledges that it is possible, in answer to a question from Bonwick, he advised Bonwick that the valuation was complete. Mr. Bonwick was aware that a valuation was to take place as per Mayor Cooper's January 31st letter to Muncaster. (email from Bonwick to Glicksman ALE0000178)
 16. There is a meeting request from Paul Bonwick to Mr. Bentz and others at PowerStream requesting a meeting and dinner with Houghton on June 15, 2011. Mr. Houghton has no recollection of this meeting taking place. Dennis Nolan testified that he has no recollection of the meeting but if it did it was an introductory meeting and a tour of the Control Centre. Mr. Houghton recalls that his tour of the Control Centre was with Mr. Muncaster at the July 7, 2011 meeting. (Email from Bonwick to Bentz and others ALE0000196)
 17. On June 16/17, PowerStream holds an "off-site" strategic planning session where the potential sale of Collus is discussed. At this point the only salient point made is that Town is considering a sale in whole or part, that KPMG has been engaged in a valuation and that an RFP will be used to gauge interest. Their next steps are to continue informal meetings with President of Collus and to broaden discussions with senior staff and the Chair of Collus. At this time Mr. Houghton only recalls discussions with Mr. Bentz in late

- 2010, December 3rd meeting, call from Mr. Bentz and a call to ask who might be used for a valuation. (Slide deck slides 6, 7 & 8 ALE0000218)
18. In preparation for the upcoming June 27, 2011 in-camera discussions with Council, Councillor Mike Edwards, who is a Collus Board Member wanted to be a representative on the Strategic Partnership Task Team. I explained to him that we need more independent representation of Council on the Team since Mayor Cooper would already be on the Team. Houghton recalls sending Bonwick an email expressing his frustration. (email from Houghton to Bonwick TOC0050768)
 19. A meeting was taking place on June 29, 2011 with Mayor Cooper, Deputy-Mayor Lloyd, CAO Wingrove, Brian Bentz, Mayor Jeff Lehman and Dean Muncaster. This meeting apparently was to introduce PowerStream to Collingwood and to discuss the participation of Bonwick with the Collingwood RFP. Houghton recalls his concern regarding this participation and asked Mr. Muncaster to come to his office for coffee to discuss. Houghton recalls that Muncaster understood my concern and told him not to attend and he would assess the situation. (Email from Houghton to Muncaster TOC0050804)
 20. On June 29, 2011, Bonwick, Mayor Lehman, Bentz and Houghton golfed at Georgian Bay Club. Houghton recalls the only discussion outside of just normal friendly discussion was about the multi-utility model. Houghton also recalls that Mayor Lehman had to leave immediately after the golf to attend to Barrie business.
 21. On July 7, 2011, Dean Muncaster and Ed Houghton attended a meeting with Bentz and others at the PowerStream offices. Houghton recalls that some of the topics were the Solar Vent Partnership Alliance, the water multi-utility model and seeking their thoughts and interests in a possible Strategic Partnership. (email from Bonwick to Bentz ALE0000234)
 22. Bonwick email Bentz and copies Houghton asking Bentz to give Houghton a "call regarding his discussions with other LDCs as it relates to partnership opportunities." Houghton does not recall that this call ever took place but the meeting was in the context of LDCs possibly being interested in the Solar Partnership Alliance. (email from Bonwick to Bentz ALE0000244)
 23. On July 22nd, 2011, Paul Bonwick emailed Mr. Bentz and recommended he call Ed Houghton, who he had spoken to that morning and from whom he

obtained some interesting information with respect to partnership opportunities. Mr. Houghton's memory is that on July 22nd, 2011, he and Mr. Bonwick discussed the prospect of other LDC's joining the solar vent initiative. Mr. Houghton has no memory of discussions had that day with Mr. Bentz. (ALE0000244)

24. On August 3rd, 2011, Paul Bonwick emailed Mr. Bentz and indicated that "I can provide you an update as it relates to Collus' presentation this morning". Mr. Houghton had no conversations with Mr. Bonwick with respect to the August 3rd STT meeting. (ALE0000246)
25. On August 24, 2011, Houghton is invited to attend a meeting at the PowerStream Offices. The meeting was noted as "Strategic Alliance Opportunities". Mr. Houghton recalls the primary discussion being the Solar Vent Strategic Alliance and the multi-utility model. (Bentz notes ALE0000256 and his transcribed notes CJI0009236).
26. On September 14th, 2011, Bonwick sent Mr. Houghton an email containing what Mr. Bonwick described as a competitive analysis of the LDC presentations. (TOC00059013) Mr. Houghton denies that he provided the information contained in the memo to Mr. Bonwick. Mr. Houghton remembers that on receipt of the memo, he called Paul Bonwick and said "What are you doing?" "This information is inappropriate". Mr. Houghton then remembers that he took the memorandum the next day to Mr. Muncaster. (email from Bonwick to Houghton TOC0059012 and attachment TOC0059013)
27. On September 20th, 2011, Bonwick sent an email to John Glicksman regarding information relating to the September 19th STT meeting. Mr. Houghton was not on copied on this email and denies that he provided Mr. Bonwick with any information relating to the September 19th STT meeting. In review, Mr. Houghton sees many errors within this document that further indicates the information was not from himself. (Email from Bonwick to Glicksman ALE0000412)
28. On October 3, 2011, at an in-camera meeting Collingwood council approved the release of the RFP on October 4th. Prior to the meeting on October 3rd, Bonwick advises John Glicksman that the RFPs are going to be sent out on the 4th. Mr. Houghton denies providing this information to Mr. Bonwick however, the information was well known since it was disclosed of our

intentions to do so at the interview meetings. (email from Bonwick to Glicksman ALE0000459)

29. On October 5, 2011 Mr. Bonwick sent a memo to the PowerStream EVP Team. This memo contains his thoughts on what to include in the PowerStream RFP. On page two of this memo he notes that "Veridian emphasized synergies with same union". This information may be garnered from the September 14th memo but is not something to be considered important. Mr. Houghton did not supply this piece of information to Bonwick. (memo from Bonwick to EVP Team ALE0000488)
30. On November 6, 2011, John McNeil sent a memo to Brian Bentz and others and on page 2 he noted, "it has been suggested to us by Bonwick that we present the purchase price in the best possible light which follows the approach apparently taken by KPMG. This involves not be so explicit about the recapitalization....." There is no mention of recapitalization in the Valuation Document. (memo ALE0000819)
31. On November 10th, 2011, Paul Bonwick inquired with Mr. Houghton as to whether Collus Power had been thinking about a communication strategy. Mr. Houghton remembers that he undertook to send him the draft 3-page slide deck that contained the "draft" Communication Strategy and the skeleton of the proposed November 22nd Public Information Session. The 3-page slide deck noted on page 1 "why there should be a communications strategy" and "when should that communications strategy begin". On slide 2 it states "what actions will make up the communications strategy" and "what information will be involved – full disclosure". On the last slide the "what information should be delivered is continued" and then "who will deliver that information". There was nothing confidential contained in either slide deck. (Slide deck TOC0066379) *CPS 8929 - 00001*
32. On November 14, 2011, Erik Fagen sends an email to the EVP Team with the "expected" Collus Power RFP Timelines. Mr. Houghton was asked to provide what the expected timelines are for the release of a Media Release and the review process anticipated. This has nothing to do with the RFP nor does it influence the RFP. PowerStream offered to assist with the drafting of the Media Release and that offer was accepted. (email from Fagen to others ALE0000894)

33. Bonwick sends an email to Fagen and others regarding his comments to the RFP. In the email he states, "the senior person for this (back office) department is presently supportive. I don't want us to lose this support." The senior person in this department is Fryer and he is far from supportive. Mr. Houghton did not supply this information to Mr. Bonwick and in fact disagrees with his comment. (email from Bonwick to others ALE0000916)
34. On November 16th, Bonwick sent a memo to Brian Bentz and others at PowerStream. This information was not obtained from Ed Houghton.
35. On November 28th (ALE0001078), John Glicksman advised Mark Henderson that based on his discussions with Paul, that they would be meeting with "Collus Hydro". Mr. Houghton remembers that he had asked Paul Bonwick to arrange meeting between Dean Muncaster, John Rockx, Ed Houghton and the PowerStream Team to discuss certain issues. (email from Glicksman to others ALE0001078 and the agenda for the December 1, 2011 meeting is CPS0002700).
36. Glicksman sends an email to Houghton and Bentz and notes that the additional \$700,000 to the new amount of \$8.0M represents a 1.60 times book value and pretty well the highest that has been paid in the sector. (email from Glicksman ALE0001099)
37. On January 13, 2012, Houghton sends an email to Brian Bentz and says thank you for allowing me to use Bonwick as a resource. Mr. Houghton recalls that he was primarily meaning his assistance with the Solar Strategic Alliance. (email from Houghton to Bentz ALE0001413)
38. In an email from Bonwick to Mayor Cooper, Deputy-Mayor Lloyd and copied to Houghton dated January 19, 2012 he asks if a meeting can be held to "provide clear direction to Leo and the CAO from both members of the review team who also happen to be Mayor and Deputy-Mayor". The email above from Mayor Cooper to Bonwick and Lloyd and copied to Houghton is dated prior to the email from Bonwick. In this email Mayor Cooper states "I will email Leo to be included". (emails CPS0009063_00001)
39. On January 19, 2012, Bonwick sent an email to Glicksman and others and stated that "the meeting went very well this afternoon with the Town's lawyers (Clark and Kennedy), Deputy-Mayor, CAO and Ed. The motion is completely in keeping with our discussion. It subject to the satisfaction of the Mayor with no mention of their lawyer." Houghton did not provide this

information to Bonwick, however this is after the January 16th in-camera meeting with Council. This also provides context to the fact that the Mayor was not interested in having the by-law being brought back for review by Longo since A&B were already the parties putting together the file. (email from Bonwick ALE0001529)

40. On February 29, 2012, Houghton sends an email (the subject line was Documents to be signed by Mayor and Clerk and Explanatory Memorandum) with attachments that he received from Leo Longo to Bonwick asking him to "ensure that this takes place before end of day Friday". Houghton believed that since the documents were crafted with the full cooperation of both sides of the agreement that asking for Bonwick to facilitate the signing was only being expeditious. (email from Houghton to Bonwick ALE0002075 and the memo ALE0002084)

ISSUES

Legal Issues including By-Law

1. At the September 28th, 2011 Strategic Task Team Meeting it was discussed that at some point prior to the closing of the RFP that a law firm needed to be engaged. It was suggested that since Aird & Berlis are the Town's Law Firm that we contact them first.
2. Early to mid November 2011, Houghton contacts Ron Clark of Aird & Berlis to work on behalf of the Town of Collingwood and Collus to prepare the appropriate "50% sale" agreements. In an email dated November 10th, 2011, Houghton emails Mayor Cooper and asks if they could chat about the Strategic Partnership. At that meeting they discussed the Communications Plan and confirming the hiring of Ron Clark. **(email from Houghton to Mayor Cooper CPS0008929_00001)**
3. On December 5, 2011, Chairman Muncaster, Director Doug Garbutt, John Rockx and Ed Houghton make a presentation to Collingwood Council in-camera in which Leo Longo sat in on. **(In-camera minutes TOC0512149)**
4. On January 10, Longo sends an email to Corrine Kennedy stating that there are 3 things the Town's CAO asked of him respecting the Collus transaction. This is regarding the CAO wishing to continue with the shared services. **(email from long to Kennedy ARB0000006)**
5. On January 11, 2012, Mayor Cooper sends an email to Leo Longo, Deputy-Mayor Lloyd, CAO Wingrove and Houghton asking for a conference call later that day to discuss the Strategic Partnership. **(email from Mayor to Longo page 2 ARB0000129)**
6. On January 16, 2012, Ron Clark emails Leo Longo noting two additional issues with the agreements. A&B had inserted a "call right" whereby Collingwood could repurchase its shares for one year following the transaction that was bargained away by Collingwood (McFadden). As well, there will be a side letter giving Collingwood a right of first refusal should PowerStream wish to acquire. **(AB0000014)**
7. There is an email thread beginning on January 16, 2012 which is started by Leo Longo to Mayor Cooper and Deputy-Mayor Lloyd. Longo states *"I have reviewed the latest agreements. They contain proposed reps and warranties to be made by Town. I will review to ensure Town can make these*

statements. What I cannot comment on are the financial aspects, has the Town received advice."

Mayor Cooper replies 12 minutes later stating that, *"Corrine and Ron from A&B to review documents. Also David McFadden.....reviewing electricity agreements. John Herhalt and John Rockx from KPMG have participated in all aspects including the financial part. They feel the agreement is very fair."*

Longo responds 12 minutes later stating that, *"Ron & Corrine are advising Collus, not the Town. I just want to note that the Town's interests may not be identical to Collus."*

The Deputy-Mayor responds 4 hours later stating, *"I appreciate your counsel and suggestions.....I respectfully want to respond to your one point about Collus and the Town not having the same interests. The fact is the best interest of the Town has been the driving force and objective for this entire initiative. Both the Mayor and I have been part of the review team. Council has been fully briefed and provided unanimous support to continue with this direction."*

Longo responds back 90 minutes later stating, mentioning that he understands that Mayor and Council believe in the proposal but the lawyers (his own colleagues) are representing other entities than the Town. He further states, *"those drafting the agreements wanted Town input on the proposed reps and warranties. John Mascarin and I will be doing so. Ed is in the loop on this."*

The Deputy-Mayor responds 30 minutes later stating, *"I am pleased that the firm of Aird & Berlis will be looking after the interests of the Town and its ownership of Collus. I only expect that you and your colleagues provide the best guidance possible."*

(Email from Longo to Mayor Cooper and Deputy-Mayor Lloyd CJI0006303)

8. On January 16, 2012, Ron Clark provided an update to Council in-camera on the SPA and SA. **(draft in-camera minutes CJI0009079)**

9. January 17, 2012 – This is an email that was sent from Leo Longo to Houghton and copied to Sara Almas, Kim Wingrove and John Mascarin.
- This email states’ “here’s an initial draft of a proposed authorizing by-law for your review and input.”
 - The draft by-law has no whereas clauses and Longo suggests to, “take a stab at drafting the “whereas” clauses”
 - Longo also asks, “who handles the legal work for CUS?” He is suggesting that Aird & Berlis looks after the Town and not CUS.
 - Houghton calls Sara Almas to ask if she knows about this and says Leo wants me to fill in the “whereas” portions. She advises she has not looked at it yet.
 - The draft by-law states that Town Staff and the Town Solicitor will report back as required.

(CJI0008820 page 156)

10. January 17, 2012 – Houghton sends the draft by-law to Dennis Nolan at PowerStream to have him assist with drafting the whereas clauses
- This request is fair since it was clear that Longo felt he was not representing Collus as noted above.
 - As well PowerStream was not a third party in the true sense of the term since they are becoming the 50% partner and both parties drafted the documents that the by-law references.
 - Nolan also corrects the name of the agreement on the draft by-law and inserts Mayor where it originally says Town’s solicitor.

(Draft by-law ALE0001517)

11. January 18, 2012 – Longo sends an email to Cooper, Lloyd, Wingrove, Almas, Houghton, Mascarin, Clark & Kennedy re: draft by-law
- Longo refers to a conference call that occurred earlier in the afternoon on January 18th.
 - Longo notes that “as directed, this by-law will not cite any statutory provisions within the whereas clauses.
 - Longo reinserts the clause that Town Staff and Solicitor report back but notes that “if it is felt that such provision is unnecessary you can remove it”
 - Longo does not provide any indication that removing the clause had any legal or precedence issues.

- His revisions were made as per directions from the group and specifically the Mayor and Deputy-Mayor.

(ARB0000234 page 11 email and page 12 by-law)

12. January 19, 2012 – Longo sends an email to Wingrove and Almas and copies Houghton

- Longo announces that the Mayor has directed that the by-law not contain a “statutory reference” in the whereas clauses.
- At this time Longo has removed the clause for Town Staff and solicitor to review as directed by Mayor & Deputy-Mayor.

(ARB0000234 page 13 email and page 14 by-law)

13. January 19, 2012 – Corrine Kennedy sends an email to Longo and copies Mascarin and Clark. Once the by-law is redrafted Kennedy sends it to Almas, Longo, Mascarin and Clark. None of which Houghton has seen at this time.

- Kennedy states, “after further conversation with Ed and Ron, and in an effort to make sure we cover all bases with respect to the authorizing at the front end of this transaction.
- Kennedy made the following revisions:
 - Added in the 3rd whereas – substantially in the form of a draft share purchase agreement (and unanimous shareholder agreement)
 - In clause 4 Kennedy added 6 new bullets
 - Arrange financing
 - Authorize & file articles of amendment
 - Amend by-laws
 - Amend and enter into service agreements
 - Authorize dividends
 - Authorize repayment of monies owed
 - Reinserted the clause previously removed by Longo

(ARB0000234 page 18)

14. January 19, 2012 – This is an email from Ron Clark to Longo

- a. Clark states that “we tried to shorten it and remove the focus on the “draft” nature of the agreements.

- b. In the 3rd whereas it now states "draft" share purchase agreement (and unanimous shareholder agreement) and reduced the unnecessary words.
- c. In clause 3 the 6 same bullets were incorporated to reduce unnecessary words.
- d. Removed clause 6 which was originally removed by Longo and ultimately at the request of the Mayor and Deputy-Mayor
(ARB0000234 page 25)

15. January 19, 2012 – Completed By-law was sent to Sara Almas, Megan Schollenberger and copied to Wingrove, Mayor Cooper, Deputy-Mayor Lloyd and Dean Muncaster. **(ARB0000234 page 22)**

16. This is an email thread dated February 29, 2012 from Ron Clark to Leo Longo in which Clark outlines the attached memo for Leo's briefing of the Mayor and Clerk and the documents to be signed.

Longo forwards this email and attachment 48 minutes later to Mayor Cooper and Clerk and copying Wingrove and I stating, *"please see attached, especially the memo which describes the purpose of each document. I would be happy to discuss."*

I have been advised that there was a conflict with one of the signatories and that the agreements needed to be signed by all parties by end of day Friday. Bonwick was PowerStream's contact so I asked him to facilitate getting all the documents signed.

Bonwick arranges a meeting for March 1, 2012 at 3:00 pm with all those needed to be in attendance.

(ALE0002075)

17. A memorandum dated February 29, 2012 from Michael Ventresca of A&B to Leo Longo and copying Ron Clark & Corrine Kennedy all of A&B regarding documents to be signed by the Mayor and Clerk. The chart clearly indicates all of the documents along with the purpose of the document and which signatures are needed.

(ALE0002084)

18. An email dated March 5, 2012 from Corrine Kennedy to Leo Longo and copied to Clark mentions that Rockx is providing newly completed financial analysis showing somewhat lower numbers than (as a result of the loss in 2010) hoped for. She is also going to be sending additional information to Leo so he "could appropriately brief the mayor as necessary. *"She goes on to mention that she has attached a side letter to be issued by the Town negotiated on Friday and will have to be signed by today if at all possible."*

Longo responds 6 hours later when he will get the Rockx information.

(ABB0000108)

19. This is a follow up letter from Corrine Kennedy dated March 6, 2012 to Leo Longo where she states that I am briefing the Mayor and dealing with this directly. The reason for this was the delay in response from Leo and myself not being copied.

(AB0000111)

20. On March 6, 2012, Houghton emails Mayor Cooper and provides her with a "draft" email for the Mayor to send to Longo. This email was requested by the Mayor after Houghton provided her with the above noted update. In the email it is noted that Houghton spoke to Longo in advance and described the contents of the email and he was comfortable. He noted the email should be copied to Ron Clark, Corrine Kennedy, John Rockx, Dean Muncaster, Kim Wingrove, Sara Almas and Houghton. **(email form Houghton to Mayor Cooper CPS0007583_0001)**

21. Corrine Kennedy sends an email dated March 5, 2012 to Robert Hull and copies Longo regarding the Schedules and Closing Agendas.

(ALE0002196)

22. This is a "draft" copy of the Closing Agenda but indicates no less than 5 lawyers from A&B, 2 from PowerStream and David McFadden.

(ALE0002209 page 1 & 2)

Key Events for \$14 Million Transaction

1. May 24, 2011

KPMG delivered a draft valuation document and an options analysis to Collus Power. Based on the information available at that time, KPMG valued the outstanding shares of Collus Power at December 31, 2010 at \$14.1 million to \$16.3 million.

- a. Foundation Document paragraph 163 (**Draft Valuation Document from KPMG KPM0001031**)

2. December 5, 2011

From a presentation to Council on December 5, 2011 (in attendance was Dean Muncaster, Larry Irwin, Doug Garbutt, John Rockx and Ed Houghton) on Slide 15 is a summary of the proposals and are shown as evaluated by KPMG. On Slide 16 there is a note that states, "based on \$8.0 million for the 50% equity, the premium offered by PowerStream for Collus is 1.60 times book value or near the highest that has been paid in the sector." On Slide 19 under Further Clarifications, it notes..."PowerStream has agreed to increase their offer up to \$8,000,000. This represents a 10% increase and moves the offer to the highest range for premiums paid in recent years at 1.6 times book value." In the in-camera minutes, there is a resolution that states, "that council direct the Collus Board to continue to negotiate with the preferred proponent being PowerStream Inc. for a potential strategic partnership arrangement."

- b. Foundation Document paragraph 439 (**December 5 Slide Deck ALE0005133.0002 pages 15, 16 & 19**) (**In-Camera Minutes of December 5, 2011 CJI0009074**)

3. January 16, 2012

At an in-camera session with Collingwood Council (in attendance was Ron Clark, Leo Longo, Larry Irwin, John Rockx and Ed Houghton), Ron Clark of Aird & Berlis made a presentation to Town Council and it notes on Slide 6 paragraph 2 (a) PowerStream pays \$8M for 50% of shares of CUS. Further it shows in (b) \$5.2M – Estimated dividend arising from debt injection by PowerStream (or third party) through

Collus up to Town. This is based on draft Working Capital numbers, adjusted post closing and holdback amount of \$1M. On page 7, paragraph 2 (c) it notes \$1.7M – Repayment of Promissory Note to Town

- c. Foundation Document paragraph 489 (**Aird & Berlis Slide Deck TOC0531801 pages 6 & 7**)

4. January 16, 2012

The January 16, 2012 “draft” In-Camera minutes of Collingwood Council recorded the following: “Sale between Collingwood utility services (and not just COLLUS). (will include ... COLLUS, Collus Solutions Corp., Collus Energy Corp.)” As well it records: \$8M (from Power Stream) \$7M (includes the \$1.7M of the promissory) (from Collus Energy through the CUS. COLLUS POWER will have higher debt (higher leveraged) 60% : 40% debt to equity.

- d. Document (**CJI0009079**)

5. January 23, 2012

A slide presentation was delivered to Collingwood Council by John Rockx, Mayor Cooper, Brian Bentz and Ed Houghton. In that presentation on Slide 14 it states that the \$14 - \$15 Million to the Town is predicated on three considerations. 50% share purchase, recapitalization and redeeming of historical promissory note. During the presentation to Council there were a few items to be noted: on page 5 of 14 it mentions the desire to carry on with the shared services as is in an attempt to continue to keep costs low for the Town; on page 6 of 14 it states “we went out to the market and got money but that wasn’t as important to us, what we wanted to do was have a partner that could offer additional resources to our customers; same page it notes “we want to grow Collus; on page 7 of 14 it notes that, “you can see the dollars were important, but they weren’t the most important thing. What was extremely important to us was the strategic resources, the horsepower that a partner can provide us and their ability to help us grow”; on page 10 of 14, I once again note that “David McFadden has spent a great deal of time with our lawyers working on our behalf”; on page 13 of 14 Councillor

Gardhouse states, "I think I made it clear to a few people earlier in the year that we should have had full consideration in selling off electrical utility and quite frankly I didn't have it in my head that would be getting into a partnership but now I look at the business structure and it is a good move and let's get on with it.

- e. Foundation Document paragraph 520 (**January 23, 2012 Slide Deck KPM0002403 Slide 14**) (**Transcribed Notes CJI0009241**)

6. January 23, 2012

Staff Report CAO 2012-01 prepared and submitted by CAO Wingrove states under the section, Effect on Town Finances indicates that, "the Town of Collingwood will receive cash and other considerations valued at approximately \$15M." The salient words are "cash and other considerations valued" which shows that the cash is from PowerStream and other considerations is a dividend from Collus and the Promissory Note.

- f. Foundation Document paragraph 519 (**CAO Staff Report dated January 23, 2012 ALE0001644 Page 4**)

7. March 6, 2012

Collus and PowerStream sign a Share Purchase Agreement, written by Aird & Berlis and Gowlings. It shows the share purchase price is \$8 million, the promissory note is \$1.17 million plus recapitalization (delivered a draft valuation document and an options analysis to Collus Power. Based on the information available at that time, KPMG valued the outstanding shares of Collus Power at December 31, 2010 at \$14.1 million to \$16.3 million.

- g. Listed in Sched. C of the Signed-Share-Purchase-Agreement.pdf)

8. July 29, 2012

In an email to Collingwood Council, Ed Houghton wrote, "If all goes well Monday and Tuesday morning, the transaction between Collus Power and PowerStream will take place late Tuesday afternoon. In Councillor Cunningham's terms, we will be delivering two suitcases of money. One suitcase with \$8,000,000 from PowerStream and one from Collus Power with approximately \$4,000,000 (the

recapitalization dividend calculation is being completed tomorrow). As you know, the Town of Collingwood will still hold the Promissory Note in the amount of \$1,710,000.

h. Document **(email from Houghton to Council TOC0192461)**

options.

KPMG List of Events

1. On February 14, 2011, Jonathon Erling of KPMG sends "draft" letter of proposal. He states, "to assist Collingwood in a review of its utility ownership options". This indicates clearly that KPMG knew the work we were doing was at the instructions of Collingwood. **(email from Erling to Houghton and Herhalt CPS0001999)**
2. Houghton contacts Herhalt via email on February 14, 2011 to see if the proposal can be completed for \$20 K vs. \$30 K **(Houghton email to Herhalt CPS0002002)**
3. Email dated April 4, 2011 from Houghton to Erling asking if they have all the information they needed. **(Houghton email KPM0000711)**
4. Hand written notes from John Rockx regarding his meeting with Houghton & Muncaster on May 13, 2011. **(John Rockx Notes KPM0003491.001)**
5. Email from Houghton to Herhalt dated August 30, 2011 regarding working with the STT for RFP work etc. **(Emails between Houghton & Herhalt CPS0002356)**
6. Response back from Herhalt dates September 2, 2011 and notes that he will be "helping with the strategic partner interviews, RPF preparation and partner candidate review and selection". **(email from Herhalt CPS0002362)**
7. Email dated September 5, 2011 to Muncaster from Houghton seeking the approval of the quotation from Herhalt. **(email from Houghton to Muncaster CPS0002363)**
8. Email with attachment from Herhalt dated September 25, 2011 regarding the KPMG proposal which has the same scope as above. **(email CPS0002404 & proposal CPS0002417).**
9. On October 4, 2011, there are emails confirming that the RFP is ready to go. **(emails KPM0001165)**
10. Herhalt's summary table dated around November 20, 2011, regarding his analysis of the bidders. **(Summary Table 1-4-1)**
11. Herhalt's proponent proposals dated November 23, 2011 **(Herhalt email CPS0002645)**

12. Email dated November 23, 2011 from Herhalt to Rockx advising Rockx that the STT has opened the financials that "evening" and want Rockx to do an "apples to apples" comparison. **(Herhalt email to Rockx KPM0001762)**
13. Herhalt's notes for RFP Criteria and Points, **(undated Herhalt notes KPM0003229.0001)**
14. Agenda for meeting with PowerStream. Attending would be Muncaster, Rockx and Houghton. Some discussion will take place regarding the "Shotgun Clause" and the \$8Million. **(Agenda CPS0002700)**
15. Email from Rockx to Herhalt regarding the December 1, 2011 meeting with PowerStream where he notes that PowerStream has agreed to remove the Shotgun Clause and up the money to \$8M **(email from Rockx to Herhalt KPM0001901)**
16. February 4, 2012 email from Houghton to Rockx and Herhalt regarding Fryer. **(email KPM0002496)**

Solar Vent Initiative

1. Following a conference in Toronto, Peter Budd showed Mr. Houghton a solar vent and described its capabilities.
2. In April or May 2011, Houghton describes Budd's solar vent opportunity to Bonwick. On May 24th, 2011, Paul Bonwick sends Houghton and Budd a draft memo regarding a partnership (TOC0048017) (TOC0048018)
3. Mr. Houghton recalls that he did not respond to Bonwick's email and memo.
4. Mr. Houghton sent an email to Budd asking for a model of the solar vent (TOC0048869)
5. Mr. Houghton recalls that he discussed the solar vent with Mr. Muncaster and thereafter discussed it with Mr. Muncaster and Mr. McFadden at their June 4th meeting.
6. On June 10th, 2011, Houghton took the solar vent to the Collus Board and received approval to proceed with the pilot project.
7. Mr. Houghton recalls receiving four offers from Bonwick and Budd with respect to an interest in ISSI and the solar vents. Mr. Houghton did not respond to any of the offers and advised Mr. Budd that he could not become involved in ISSI or receive any funds from ISSI while he was associated with Collus. (TOC0048018) (TOC0059599) (TOC0065379) (TOC0086569.001)
8. With his Board's full knowledge and approval, Houghton began to plan for a solar initiative event to take place on August 24th, 2011.
9. Houghton provided an invitation to Veridian to join the solar initiative on August 2nd, 2011. (ALE0049458).
10. Mr. Houghton provided Mike Angemeer of Veridian with an invitation to participate in the purchase of solar vents and with an invitation to attend the solar vent initiative on August 24th, 2011.

Results of David McFadden Cross-examination

Transcript Date May 15, 2019

1. McFadden sends a letter expressing a concern about the timing of the RFP primarily based on the "Transfer Tax". Beginning on page 238 line 23 he confirmed that he and the Board were comfortable to move forward once it was recognized that there was a "Transfer Tax Holiday".
2. In regards to doing a valuation, McFadden admits that he learned through conversations with Dean Muncaster that the Town had instructed Collus to get a "valuation" and that Collus had been asked to take the lead with respect to the issue. Beginning on page 244, line 8.
3. McFadden agrees that there was a meeting held with himself, Dean Muncaster and Ed Houghton on June 4, 2011 and that the intent of the meeting was to review the KPMG reports and how to approach the June 27th meeting and "where to go from here in the event that Council gives a green light". Beginning on page 248, line 11.
4. A meeting was requested by McFadden (TOC0516341) with Mayor Cooper for Friday June 10th and the reason was "the mayor needed to be fully informed of what's going on". Beginning on page 251, line 22.
5. At the June 10th Collus Board Meeting, the solar vent project was introduced. McFadden agreed that the Collus Board approved and that it was an interesting idea and that this was for a community pilot and part of our ongoing demand management program. Page 255, line 2.
6. The draft slide deck (TOC0050024) for the June 27th meeting was sent to McFadden for his review and comments. McFadden agrees that the slide deck captures the discussions of Muncaster and McFadden and that the favoured option of strategic partnership was discussed. Beginning on Page 260, line 1.
7. At the August 3rd meeting (CPS0002342) of the STT (1st meeting) McFadden first brings up and agrees that he mentions where the sale shall take place at the level of Collus Power or CUS>. Beginning on Page 262, line 22.
8. McFadden admits that he knew about and agreed that KPMG should be retained. Page 265, line 7.

9. McFadden agrees that he reviewed the criteria that KPMG put into the RFP for both the financial and non-financial and agreed with the 70/30 split. He states, "so it covered, I thought fairly, the distribution of interests". Beginning on page 267, line 13.
10. McFadden admits that PowerStream had, "the most in their bid that reflected what we were asking for". Beginning on page 272, line 16.
11. Beginning on page 276, line 14. This is the discussion surrounding the participation of McFadden regarding the agreements. (SC0000023) (ALE0001183) McFadden admits to reviewing the drafts and states, "I would have scanned them to be sure they fitted the direction we were trying to head in." He also admits he would make comments and on page 28, line 2 he was representing Collus Power and to some extent, the Town. He further admits on page 283, line 21 that he was up to date with respect to the status of the formation of the documents. On page 284, line 9 he admits that he had the opportunity to direct or comment on the direction of the document with Ron Clark and others. Again, on page 286, line 7, McFadden admits he has been involved and he provided necessary instructions to respective counsel. Beginning on page 287, line 7, but specifically on line 10 of page 288, he states, "I was the one Board Member who was involved with working with the legal team." Lastly, McFadden admits (KPM0004987.001) that he was at a meeting of January 12, 2012 where legal counsellor are there and representatives of the parties are there, and you are there, as well, to discuss and instruct with respect to how legal counsel might proceed to conclude this transaction? "Correct"

Meetings/Contacts with Horizon

1. July 12, 2011 – Phone call with Max Cananzi, CEO of Horizon regarding a possible meeting to discuss the future of Collus (ALE0049393)
2. July 14, 2011 – Email from Max Cananzi, CEO of Horizon regarding the above meeting. (TOC0052060)
3. July 26, 2011 – Meeting with Horizon Team (ALE0049409)
4. July 26, 2011 – Email from Freeman providing biographies of Horizon Board Members (TOC0052966)
5. July 26, 2011 – Email from Freeman providing me an unsolicited copy of his paper regarding Bill 107 – regarding the future of the Ontario Clean Water Agency. (TOC0052968)
6. August 2, 2011 – Email to Max Cananzi regarding solar vents (ALE0049458)
7. August 22, 2011 – Email from Freeman to Cananzi mentioning he has had a conversation with Houghton (ALE0049484)
8. September 2, 2011 – Neil Freeman attends Collingwood and then emails Max to mention that he has spoken with me. (ALE0049495)
9. September 2, 2011 – Neil Freeman sends Houghton an email in response to a call from Houghton. (TOC0057676)
10. September 16, 2011 – Email regarding the NDA (TOC0059153)
11. October 4, 2011 – Email to Cananzi regarding RFP (CPS00024443)
12. November 16, 2011 – Email back from Max Cananzi regarding a call I placed to request permission to identify Horizon as a bidder (ALE0050005)
13. December 16, 2011 – Conversation with Freeman (ALE0050099)

Meetings/Contacts with Veridian

1. July 20, 2011 – Email with Michael Angemeer regarding a phone call (CPS0002235)
2. July 21, 2011 – Phone call with Michael Angemeer (CPS0002235)
3. August 8, 2011 – Email from Angemeer regarding solar launch and his visit to Collingwood (CPS0002297)
4. October 4, 2011 – Email to Angemeer regarding the RFP (CPS0002447)
5. October 17, 2011 – Email from Mike Angemeer regarding them rolling out the solar project (CPS0002493)
6. November 17, 2011 – Email to Mike Angemeer asking permission to disclose that Veridian was a bidder. (CPS0002626)

CONFIDENTIAL

COLLINGWOOD JUDICIAL INQUIRY – PART 1

SUMMARY OF ANTICIPATED EVIDENCE OF ED HOUGHTON

In addition to the evidence in Foundation Document 1, it is anticipated that Ed Houghton will give evidence about the following topics at the Inquiry hearing.

BACKGROUND

In 2011 and 2012, Ed Houghton was the President & CEO of Collus Power (Collus PowerStream), President & CEO of Collingwood Public Utilities Municipal Services Board, Executive Director of Engineering & Public Works.

2010 Motivators for Change

- The electricity industry had been changing in the late 90's and early 2000's .
- Mr. Houghton attended a Strategic Planning Session with the Boards of Collus along with Mayor Carrier, Councillor Edwards and CAO Wingrove on January 14, 2010. At that planning session, David McFadden delivers a presentation to the Collus Board regarding the future of electric utilities.
- Mr. Houghton along with a number of Collus Board Members attended a conference of the Georgian Bay District of the EDA themed "Taking Charge of the Future" on September 16, 2010. At this conference a discussion took place amongst the Board members including Dean Muncaster, David McFadden, Doug Garbutt and Joan Pajunen that it was time for Collus to consider our future. This meeting as well as many, many others over the last several months indicated that Collus needed to do something if Collus wishes to survive in the future.
- In October/November of 2010 a new Collingwood Council was elected along with Mayor Cooper. At her inauguration Mayor Cooper challenged all departments to reduce costs and get their spending under control.
- During the run up to the municipal election there were those looking at the sale of the Collus Assets. One such person was Joe Gardhouse and this is evidenced in the transcript of the January 23rd, 2012 Council meeting (CJI0009241) where he states, "I think I made it clear to a few people earlier in the year that we should have had full consideration in selling off electrical utility and quite frankly I didn't have it in my head that would be getting into a partnership but now I look at the business structure and it is a good move and let's get on with it".

Foundation Document 1, Chapter 2.1

Slide Deck (TOC0516594)

Transcript of January 23, Council Meeting (CJI0009241)

Drafting of a Letter for Mayor Cooper

- Mr. Houghton drafts on January 30, 2011, at the Mayor's request, a letter for Mayor Cooper to send to Dean Muncaster and Houghton. The letter contained a similar message to the message

delivered by the mayor to Department Heads. In this correspondence, the mayor addressed a required valuation and options for Collus. (TOC0038100).

- Mr. Houghton forwarded the letter to Mr. Bonwick at the request of Mayor Cooper because he was one of her trusted advisors and campaign team members and she wanted to ensure it was in keeping with her recent election platform.
- The final letter forwarded to Houghton and Muncaster was different than Mr. Houghton's draft correspondence. The revised document stated that Mr. Muncaster should "direct" Houghton to undertake a valuation and an examination of potential opportunities of Collus and report to Council by May 31, 2011."

Foundation Document 1, Chapter 2.6

Draft letter (TOC0038100)

Pre-RFP Interactions with Mr. Muncaster, Mayor Cooper and Brian Bentz

- Mr. Houghton recalls many discussions with his Chairman Dean Muncaster, his conversations with Mayor Cooper and with Brian Bentz, including:
 - Mr. Houghton and Dean Muncaster spoke several times per week on various topics regarding Collus companies.
 - Mr. Houghton also recalls that Mr. Muncaster and Mr. McFadden were in contact with each other on a regular basis.
 - Over the period of time the topic of the future of Collus came up and how are we to answer the needs of a more engaged customer, how do we remain competitive with a significantly regulated environment, how can we supply the greatest benefit to our shareholder, how do we keep rates low and how do we mitigate the risk of owning an LDC.
 - Mr. Houghton, Mr. Muncaster and Mr. McFadden discussed that it was our responsibility to continually look outward to ensure that we are looking after the interests of the shareholder. We were cognoscente of the discussions we have heard from others about selling the assets of Collus along with discussions we had heard in the lead up to the municipal election. We also discussed the challenge that Mayor Cooper put to all of the departments of the Town including Collus. We supported her position.
 - Mr. Houghton recalls that during these discussions we chatted about getting other perspectives other than that of Mr. McFadden and ourselves. We discussed and it was decided that I should contact Mr. Brian Bentz of PowerStream who was the CEO of a utility that knows Collingwood well since he was the CFO of a neighbouring utility for a number of years and the CEO of an LDC that had recently gone through mergers and acquisitions.
 - Mr. Houghton reached out to Mr. Bentz on November 23rd, 30th and December 3, 2010.
 - Mr. Houghton recalls that the discussion was held at a very high level and included topics such as the local Collingwood environment, the issues/outcomes of the recent Barrie merger and activities in the electric industry.
 - Mr. Houghton does not recall that an RFP with multiple bidders was discussed nor was the Enterprise Value of Collus.
 - Mr. Houghton recalls discussing the meeting with Mr. Bentz with Mr. Muncaster.

- Mr. Houghton recalls discussing with Mr. Muncaster what comes next. It was agreed that a valuation needs to take place so that we would know what is the value of Collus. Mr. Houghton recalls that the question of value was posed by Mr. Bentz but Mr. Houghton had no idea and no answer to that question.
- Mr. Houghton and Mr. Muncaster discussed getting a valuation and wondered who would complete it. Muncaster suggested Houghton reach out to Mr. Bentz for a recommendation.
- Mr. Houghton recalls having regular discussions with Mayor Cooper about multiple topic such as Collus, roads, buses, airport, railway, water, wastewater etc.
- Mr. Houghton recalls that it was during these regular conversations that Mayor Cooper asked him to draft the letter of January 30, 2011.
- Mr. Houghton recalls that Mr. Muncaster received a "hard" copy of this letter from Mayor Cooper and discussed our next steps. It was decided to reach out to John Herhalt of KPMG to see if they could perform a valuation.
- Mr. Houghton reached out to KPMG on February 6, 2011.

Foundation Document 1, Chapter 2.2, 2.3, 2.7, 2.8

CPS0008331_00001, ALE0000044, ALE0000054, TOC0038100, TOC0038169, KPM0000542,

Introduction of Bonwick to Powerstream

- In mid-2010, Bonwick initiated a discussion with Ed Houghton with respect to the Ontario Electrical Industry. Mr. Bonwick asked if there was anything that he might do in the industry, and if so, who would he talk to. Mr. Houghton advised him that Mr. Bentz was a prominent player in the industry.
- On January 10th, 2011, Mr. Bonwick sent a letter of introduction to Mr. Bentz. Before doing so, Bonwick sent a copy of the introduction to Houghton. (ALE0000045) (TOC0036839) (TOC0036988)
- Mr. Houghton recalls speaking with Bonwick and expressing concern that he mentioned Collingwood in his draft email. Houghton had previously discussed with Bonwick that his activities with Bentz could not involve Collingwood.
- Houghton recalls Mr. Bonwick agreeing that he would send Houghton a copy of the proposal to review.
- Houghton reviewed the proposal, noted no Collingwood involvement, made minor changes and forwarded it to Bonwick. (TOC0037517) (TOC0037518) (TOC0037592) (TOC0037593)
- Mr. Houghton has no memory of Paul Bonwick asking Shirley Houghton to do administrative work on or about January 19th, 2011. At some juncture, Mr. Houghton became aware that his spouse was assisting Mr. Bonwick.

KPMG hired to do valuation of Options

- Ed Houghton contacts John Herholts on or about February 6, 2011 with respect to valuation and options analysis for Collus Power. (KPM0000542) Thereafter, and on February 14, 2011, Mr. Houghton reviews KPMG's draft proposal. (CPS0001999) (CPS0002000)

- Houghton then sends the draft proposal to Dean Muncaster and the proposal is accepted on February 22nd, 2011. (CPS0002001) (KPM0000599)
- On March 24th, 2011 KPMG delivers a draft valuation and options analysis. (KPM0001030) (KPM0001033)

Solar Vent Initiative

- Following a conference in Toronto, Peter Budd showed Mr. Houghton a solar vent and described its capabilities.
- In April or May 2011, Houghton describes Budd's solar vent opportunity to Bonwick. On May 24th, 2011, Paul Bonwick sends Houghton and Budd a draft memo regarding a partnership (TOC0048017) (TOC0048018)
- Mr. Houghton recalls that he did not respond to Bonwick's email and memo.
- Mr. Houghton sent an email to Budd asking for a model of the solar vent (TOC0048869)
- Mr. Houghton recalls that he discussed the solar vent with Mr. Muncaster and thereafter discussed it with Mr. Muncaster and Mr. McFadden at their June 4th meeting.
- On June 10th, 2011, Houghton took the solar vent to the Collus Board and received approval to proceed with the pilot project.
- Mr. Houghton recalls receiving four offers from Bonwick and Budd with respect to an interest in ISSI and the solar vents. Mr. Houghton did not respond to any of the offers and advised Mr. Budd that he could not become involved in ISSI or receive any funds from ISSI while he was associated with Collus. (TOC0048017) (TOC0048018) (TOC0059599) (TOC0065379) (TOC0070790) (TOC0086569.001)
- With his Board's full knowledge and approval, Houghton began to plan for a solar initiative event to take place on August 24th, 2011.
- Houghton provided an invitation to Veridian to join the solar initiative on August 2nd, 2011. (ALE0049458).
- Mr. Houghton provided Mike Angemeer of Veridian with an invitation to participate in the purchase of solar vents and with an invitation to attend the solar vent initiative on August 24th, 2011.

Houghton's Involvement as President and CEO with the Collus Power Corp. Board

- Throughout 2011 and to July 31st, 2012, Mr. Houghton attended the Board meetings of Collus Power Corp. and will provide his memory of his activities and the Board activities on those occasions.

Strategic Partnership Task Team

- Following a June 27th meeting of the Collingwood Council, which authorized same, and to and including November 28th, 2011, Mr. Houghton was a member of the Strategic Partnership Task Force Team (STT) at five meetings at that organization. Mr. Houghton will provide his recollections of his activities on those attendances and the activities of the STT team.

Mr. Houghton keeps Collingwood Council up-to-date on the activities of the Collus Power Board and the STT Team.

- Between June 27th, 2011 and January 23rd, 2012, Mr. Houghton attended and/or presented at five meetings of the Collingwood Council, and with the assistance of Ron Clarke and John Rockx provided the Collingwood Council and eventually the public, with updates as to the status of the Strategic Partnership Project and its details. Mr. Houghton will provide details of those attendances.

Information

- Bonwick emails Bentz on or about February 1st, 2011 and advises that the Collus valuation has commenced. Paul Bonwick obtained this information from the Houghton draft correspondence of January 30th, which the mayor had directed Mr. Houghton to send to Mr. Bonwick. (TOC0038100) (ALE0000071)
- On July 23rd, 2011, Paul Bonwick by email, advises Mr. Glicksman that Collis has completed their valuation using KPMG. Mr. Houghton has no memory of having advised Mr. Bonwick of this fact. Although he has no memory of doing so, Mr. Houghton acknowledges that it is possible, in answer to a question from Bonwick, he advised Bonwick that the valuation was complete. (KPM0001031)
- On July 22nd, 2011, Paul Bonwick emailed Mr. Bentz and recommended he call Ed Houghton, who he had spoken to that morning and from whom he obtained some interesting information with respect to partnership opportunities. Mr. Houghton's memory is that on July 22nd, 2011, he and Mr. Bonwick discussed the prospect of other LDC's joining the solar vent initiative. Mr. Houghton has no memory of discussions had that day with Mr. Bentz. (ALE0000244)
- On August 3rd, 2011, Paul Bonwick emailed Mr. Bentz and indicated that "I can provide you an update as it relates to Collus' presentation this morning". Mr. Houghton had no conversations with Mr. Bonwick with respect to the August 3rd STT meeting. (ALE0000246)
- On September 14th, 2011, Bonwick sent Mr. Houghton an email containing what Mr. Bonwick described as a competitive analysis of the LDC presentations. (TOC00059013) Mr. Houghton denies that he provided the information contained in the memo to Mr. Bonwick. Mr. Houghton remembers that on receipt of the memo, he called Paul Bonwick and said "What are you doing?" "This information is inappropriate". Mr. Houghton then remembers that he took the memorandum to Mr. Muncaster.
- On September 20th, 2011, Bonwick sent an email to John Glicksman regarding information relating to the September 19th STT meeting. (ALE0000412) Mr. Houghton denies that he provided Mr. Bonwick with any information relating to the September 19th STT meeting.
- On October 3rd, an in-camera meeting of council approved the release of the RFP on October 4th. On October 3rd, Bonwick so advised John Glicksman. (ALE0000459) Mr. Houghton denies providing this information to Mr. Bonwick. The information was known by a number of individuals who would have attended the October 3rd council meeting and all the bidders received the information in their September meetings with the STT team.
- On October 5th, 2011 (ALE0000488) Mr. Bonwick sent a memo to the Powerstream EVP Team. This memo contains new information that was obtained by Bonwick from Mr. Houghton.

- On November 10th, 2011, Paul Bonwick inquired with Mr. Houghton as to whether Collus Power had a communication strategy. Mr. Houghton remembers that he undertook to send him the draft slide deck that contained Collus Power's communication strategy. (TOC0066379) There was nothing confidential contained in the slide deck.
- On November 16th, Bonwick sent a memo to Brian Bentz and others at Powerstream. This information was not obtained from Ed Houghton.
- On November 28th (ALE0001078), John Glicksman advised Mark Henderson that based on his discussions with Paul, that they would be meeting with "Collus Hydro". Mr. Houghton remembers that he had asked Paul Bonwick to arrange meeting between Dean Muncaster, John Rockx, Ed Houghton and the Powerstream Team to discuss certain issues. The agenda for the meeting is CPS0002700.

Instructions to Aird Berlis with respect to the Closing Documents

- Mr. Houghton remembers that he did not instruct Ron Clark nor Corrine Kennedy with respect to the Share Purchase Agreement and Unanimous Shareholders Agreement. Mr. Houghton states that advice and instructions on behalf of Collus and the Town was provided by David McFadden.
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DEAN

TOC0518053

TOC0518053

Sara Almas

From: Ed Houghton
Sent: Tuesday, February 21, 2012 2:20 PM
To: Dean Muncaster
Cc: Pam Hogg
Subject: FW: Work List
Attachments: Workload.xls

Dean:

Earlier this morning I reviewed the attached with Cindy Shuttleworth and Pam and wanted to give you a little additional information.

- IRM – These are being looked after by Bruce Bacon and will be submitted back to the OEB by March 2nd. You will see the note that the PILS is still an issue. Tim's position is a \$250k receivable and the Board Staff are looking it as a \$250k payable. A difference of \$500k. Cindy is not sure what this actually means at this time. Tim originally reported to the Audit Committee a \$150k receivable.
- Smart Meters – the Notice will be published by Friday. The interrogatories and final submissions are being looked after again by Bruce Bacon.
- Cost of Service Application – Tim suggested to Cindy that we may wish to delay this until 2013 because a) we don't have much time and we are already behind the rest of the CHEC members and b) the service agreements with PowerStream and such are not yet in place. It was my intent to email John Glicksman to see what his thoughts are. Possibly they could help us to get back on track or it might be wise to delay.
- John Nichols – I will be doing the CHATS Program on Friday regarding the Drummond Report
- T4's – Cindy and Diane have reviewed the T4's and revised if necessary. Complete
- T5's – Will be complete and on time.
- Unbilled Revenue – Cindy has some previous experience with both Midland and Parry Sound who used different methods to determine the unbilled revenue. She has looked at the ITM method and it appears to further reduce our regulatory liability. She is now looking at the Harris method, which appears to be significant in size, and will see what impacts this will have.
- DRC Audit – As you know from a previous conversation the DRC Auditors did not buy our stance on the amounts to be paid. Tim resubmitted but they rejected that last week. Cindy will pay the outstanding amount of \$54k.
- IFRS – We will concentrate on this when we complete our year-end audit. We are considering hiring a Project Accountant to assist Cindy on things such as this.
- Year-end Audit – As noted the Power and Solutions is in good order but we need to concentrate on the CPU.

I also informed Cindy of our discussion regarding my last year's T4 and the issues with my tax return. I confirmed that you agreed to go with her Option B.

As you can see, Cindy has things in very good order. She has done extremely well with little to no help.

Regards.....Ed

Mr. Ed Houghton, President & CEO

.....
 Collingwood Utility Services Corp.
 P.O. Box 189, 43 Stewart Road
 Collingwood, ON
 L9Y 3Z5
 Phone: 705-445-1800, 2222