

1

Meeting Notes

May 4th, 2015 @ 10am
CAO's Office

Present: Ed Houghton, John Brown and Sara Almas

John reviewed the history of the initiation of the independent shared services agreement review, beginning with the motion requested by Councillor Mike Edwards (re: the 2003-2005 Agreement). John reiterated that the 2003 agreement that had been the sole focus of the entire review which was later criticized for the errors, had been prepared by the consultant that had been specifically requested to speak with Ed, David McFadden and Brian Bentz. John noted that never during the initial consultation or after the final revision follow-up did anyone, including Ed, David or Brian, note that there was this "potentially" binding letter dated July 31/12 that replaced and enhanced the value to PowerStream of the 2013 agreement.

John asked Ed was he aware of the July 31/12 letter. Ed said he had not remembered the letter, however, when Brian Bentz distributed the letter in March this year, that he then recalled being aware of it. He stated that he was first made aware of the letter on July 31, 2012 when he was asked to sign it. He had never been involved in its preparation and did not obtain advice from legal or KPMG before signing it. The SSA had never been an issue for the town until approximately 16 months ago.

Ed confirmed:

- that the July 31/12 letter was prepared and provided by Dennis Nolan on behalf of PowerStream as a last minute item to satisfy the terms to complete the sale.

Ed said

- no legal or other advice of the July 31/12 letter was received by Ed.

Don Clark's disclaimer

- Ed had no involvement in the development of the letter. Believes the letter was reviewed/negotiated between the Mayor and Dennis Nolan directly, but recommended John check with the Mayor.

- Believes Leo was in the room when the documents were all being signed.

and if she was not? was not.

- Ed is tracking down all legal invoices that will indicate Leo's involvement.

- Ed could not confirm that he was fully aware of the contents of the letter/agreement. John asked if he knew about the enhancement about the inclusion of return on equity - Ed said that is not much value - maybe 8 or 9%.

worked out.

apparently he was!

- Ed told John to ask people that were directly involved. Ed can't interpret the letter to be binding or not to be binding, and told John "to ask your share partner."

- need to move forward and renegotiate appropriate terms and work with Brian Bentz. ✓

Asked Don Clark she advised Ed. Was it was binding to Ed. Stated that's what he wanted

recomm/decide to sell the 50%
(note: Council did not recommend the)

Understanding of Strategic Partnership with PowerStream (& Background)

Meeting - August 11, 2015

Attendance: John Brown, Sara Almas, Ed Houghton

John asked how did the sale of half the utility ever happen?

Ed: The changes to the electricity industry warranted an immediate review of the services and future opportunities. Concerns with the OED, LDC's amalgamations, and downward trend of usage due to conservation, alternative energy sources. Therefore they needed to look at mergers, amalgamations, etc... strategic opportunities.

It was a challenge from the Mayor at inauguration, to all departments to better themselves and investigate opportunities for efficiencies.

Spoke with Council, and they hired KPMG to investigate options:

1. No sale
2. Sell all
3. Merger
4. Strategic opportunity / Partnership

(note KPMG examined majority / minority ownership options & was a "merger")

KPMG did not evaluate or recommend any options and did not identify a 50% option - they decided then work on a 20,000 feet - they have decided to provide the town with a 50% option from this (note).

(note: no evaluation or recommendation was made by KPMG of the option based on information available to date)

Council said we are not interested in selling all of the utility.

(note: no record of any Council decision exists with Council confirms this comment)

John: Where did 50% come from? Ed: RFP was prepared to sell up to 50% as recommended by Council. Ed confirmed that the auditor did support selling any of the utility.

(note: the Auditor advised that he did not support selling 50% of the utility)

Jonathan Erling and John Rockx participated early. John Harholt carried through with the majority of the works. Everyone responded to the RFP as 50% partnership.

(note: the RFP was issued only up to 50%)

Council chose 50% -- (not sure if a decision was made??). Ed confirmed that Dean Muncaster was adamant that the partnership needed to be 50% so it would be equal by-in for all parties. Ed confirmed that it was not recommended by staff just options were provided. Sara said that usually staff provides Council with advice and a staff recommendation to make decisions. Ed said he did not recommend 50%.

(note: a report was prepared for the CAO, of providing 50%)

John: Did you prepare the Staff Report that Council considered to authorize the sale. Ed: No the report was from CAO Kim Wingrove. Further stated that Kim and Marianne Nero did the report. Sara questioned Ed's answer. Ed noted the he provided some minor content and revisions to the report but it was the CAO's report.

(note: no record of any Council decision exists with report to the Council in advance of the CAO's report)

which surrounded the 50% sale of shares)

John: Who was the lawyer for the Town of Collingwood? John said Leo wasn't acting on behalf of the Municipality.

Ed: Leo was the Town's lawyer. Ed surprise that Leo would deny this and asked John's permission to talk to Leo. John said Leo was advised to stand down and read changes to the original by-law that was prepared by Leo. Ed didn't recall making the changes.

Ed: Tim Fryer was in charge of the 2003 Share Services Agreement.

John: Why were documents confidential? Ed: Wasn't meant to be confidential and the utility services used to be part the municipal family. The implementation of the agreement changed over the time. John: It was significant change from fee for cost basis, to an allocation basis. Ed: Tim had care and control of the agreement.

Ed: I did a lot of work on behalf of the community, wore several hats and felt good about everything until now – within the last 2 years.

John advised that it was Council's decision to undertake the True North report to investigate the Shared Services Agreement and noted that they spoke with almost all members of PowerStream – CollusPowerStream. Ed: They spoke to the group for less than an hour.

Ed noted that there are many mistakes in the document.

John: Why was the 2012 agreement letter not brought to our attention during the review of the True North Report. Ed: I had no recollection of the letter at the time; I wasn't trying to hide it from staff or the consultants.

John said that he showed Gavillers the 2003 Share Services agreement. Ed said no that Gavillers were also aware of the 2003 agreement. (was they??)

John said he wants to provide an update to Council on the matter. Ed asked why. John believes that Council needs to understand the background of the Partnership deal.

John referred to the 2012 letter, and advised the Mayor confirmed that she knew what the document was about.

Ed: I cannot confirm definitively that I was aware of the document.

John reviewed the email from Ron Clarke that identifies that Ed and Ron Clark developed the letter together and that Ron took direction from Ed and he only reported to Ed from the Town. In the email, Ron noted that he was concerned about the agreement as binding and he expressed his concerns and Ed advised it doesn't matter and it was worked out with Mr. Nolan – and everything was fine. John noted that it appears than Ed and Ron Clark had a phone call

and that the discussion was to confirm that the Town wished to proceed with the letter agreement.

John noted Cindy wasn't aware of the 2012 Agreement and that Ed was aware of and took part in creating it, and the document affected how she bills. Ed: I can't explain why the changes to agreement weren't implemented and why Cindy was not aware. Ed asked why Ron Clark was directed not to speak with him. John confirmed that the Ron Clark was not advised that by the Town.

Ed asked for a copy of the email. John said no he would have to obtain a copy directly from Ron.

Ed said that Tim resigned/retired after the OEB approval and they ran out of time to prepare the updated shared services agreement.

John confirmed that Leo noted that he was not the lawyer of record and he was declined to provide legal advice by 2 members. Ed noted that he was not the lead person in the transaction and that it was a committee. John noted that Ed has the lead contact with Ron Clark.

John asked why there was a clause in the by-law that gave virtually all authority to the Mayor to proceed with the execution of all documents for the sale of the agreement and asked why that happened. Ed: What did the Mayor say? John: I haven't asked.

John expressed concerned with the delegation of authority to the Mayor to complete the sale. John asked where did that authority come from. Ed said he was not even sure that was required. Ed does not recollect who or how the authority was delegated. Don't know how that clause got in.

Ed asked John why all these questions are relevant now.

John reviewed the letter from Leo. He was not instructed to act on behalf of the municipality for the entire agreement. Ed said he does not recall the changes to authorizing by-law for the sale of the utility. John noted that the changes to the authorizing by-law appeared to come from him (Ed), as clearly identified in the email trail.

Ed advised he had to leave for another commitment.

Meeting ended 11:57am.