

Orillia Water Light and Power Commission

c/o Commissioners:

Gord Pye
37 Dancy Drive
Orillia, ON
L3V 7M1

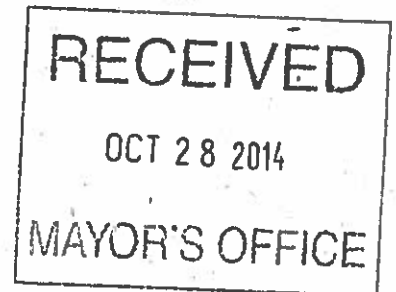
Frank Kehoe
304-95 Matchedash St. N.
Orillia, ON
L3V 4T9

Ken McLaughlin
217 Barrie Road
Orillia, ON
L3V 2P6

Dan Valley
66 Maple Drive
Orillia, ON
L3V 3W4

October 22nd, 2014

Mayor Angelo Orsi
Orillia City Centre
50 Andrew Street South, Suite 300
Orillia, ON
L3V 7T5



Dear Mayor Orsi,

Thank you for your letter dated October 15th, 2014.

To properly deal with your correspondence, it is necessary for you to comprehend certain facts:

Paragraph 1 (of your letter)

As mayor it must be explained to you that Bylaw 557 was enacted for the sole purpose of removing control of the electricity generation, distribution and administration from the hands of council at the time for good reason. The Orillia Water, Light and Power Commission is a municipal corporation operating under the provincial business corporation act.

The OWLP commissioners, had they been aware of Section 142 (attached) of the Electricity Act (1998), would have been, with the help and cooperation of council, been the authorized corporation to form these required corporations – not city council. In the forming of these corporations the elected commission could then maintain the intent of Bylaw 557 which was keeping an at-arms length relationship with council.

With a party (or parties) influencing council to thwart the existing bylaw and illegally act unilaterally keeping the elected commission in the dark and out of the total picture, the council

did not have the authority, nor did they make any attempt by referendum, to repeal Bylaw 557. **The municipal law is clear that any bylaw enacted by a referendum of the people could only be repealed or amended in the same manner it was enacted. This has been municipal law for close to 150 years.**

Mr. Mayor, I am somewhat amazed that you appear not to recognize the democratic power of the peoples' action. You can best relate this to (possible) outside influences having a direct impact on the decisions made by the elected council.

Once the utility was legally placed into corporations, which was a requirement of the legislation, then these corporations were to stand in the shoes of OWLP. To set up these corporations the party (or parties) doing so had to clearly state that they had the authority to make such a transfer, which clearly council, by itself, did not (as per Bylaw 557), as council's authority was taken away, on this matter, by a vote of the people. However, within the intent of the legislation, OWLP could not, by itself, set up the transfer bylaw as this required council, with negotiation with OWLP, to do so {see Section 145(1) - attached}.

Paragraph Two

It was never the intent of the commissioners to remain as active commission members until fourteen years later, having discovered that the commission were deceived and kept in the dark while the council manipulated this transfer. Upon inquiry, we recognized that Bylaw 557 was never legally extinguished by Bylaw 2000-146. There is no question that the council had lots and lots of legal representation. This, of course, is evident within the complexity of the transfer bylaw. But was this legal group made aware of the existence of the peoples' bylaw enacted by referendum?

Key Points

Item 1 – This is totally incorrect. The legislation only deals with the requirement of Section 142 and 145 of the act and the required transfer bylaw.

Item 2 – We agree, as long as the legislation is followed and council sees that their action did not follow the arms-length intent of Bylaw 557.

Item 3 – This is wrong information. I direct you to look at Section 142 of the Electricity Act.

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It is regrettable that you, Mr. Mayor, have been given this bad information or, it would appear, not being aware of the law regarding a plebiscite of the people.

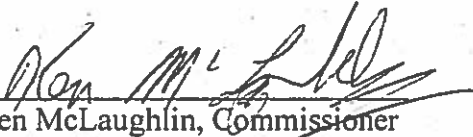
The last paragraph has no meaning as the legal forming of the transfer bylaw and the set up of the corporations were meant to be a joint process by the elected commission and the elected council.


We would respectfully request that our letter of September 23rd, 2014 be appropriately answered and that we request that council initiate a negotiated settlement that will, we hope, correct the past council's actions. **The citizens of Orillia should never be exposed to this double-taxation process.**

Respectfully submitted,


Gord Pye, Chairman


Frank Kehoe, Commissioner


Ken McLaughlin, Commissioner


Dan Valley, Commissioner

Attachments:
Section 142 and 145

The Former Orillia Water Light and Power Commission

c/o People-Elected
Commissioners:

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September 17, 2015

Mayor and Council
City of Orillia

RE: DISPOSING OF ANY PORTIONS OF THE ASSET

Dear Mayor Clarke and Members of Council,

By this letter we would, again, like to put the council on notice that we, the legally elected people acting as trustee of the peoples' asset, formerly called the Orillia Water, Light and Power Commission, do hereby state that we, have a fiduciary obligation to the people in Orillia to protect their ownership and its value from any illegal or inappropriate move on part of council.

Two things that council must be aware of are: 1) No legally elected member of the former OWLP has been informed, in any manner whatsoever, that their authority and tenure as the elected representatives of the people, has illegally been taken away by city council. 2) The citizens and customers of the former Orillia Water, Light and Power, by a strong plebiscite of the people, removed any and all authority of city council over the management, control and decision making regarding this asset.

The council did, however, at any time, have the right to take the result of this plebiscite back to the people to amend it to try to get a positive vote to reverse this process so as to name city council as their sole agent. I strongly believe that council is already aware of this process but chose inappropriate actions to attempt to disguise the necessity of calling another plebiscite and depending on a positive vote in council's favour.

The following is a brief excerpt of the history regarding this very clear and deciding plebiscite:

In 1912, with an outcry from industry related to the mismanagement and the high number of outages of the generation, the town elected industrialists that included J.B. Tudhope and Erastus Long and other small industry leaders who recognized that the power asset, to work effectively,

must be removed from council control. This new council then prepared a permanent bylaw to be approved by the citizens of Orillia and they ordered a referendum to decide this issue. On January 27th, 1913, the vote was certified and the referendum passed to create a separate elected commission (corporation), free of council, to administer and run both the generation and distribution in trust for the people. This was endorsed by 65.8% of the electors and became the peoples' Bylaw 557 forming the Orillia Water, Light and Power Commission that could not be changed, nor amended without approval by the people through another referendum voted on and approved by the people.

We, as the duly elected representatives, are now in possession of a strong legal opinion confirming the necessity of this process from a well-respected top municipal legal firm. There was never an indication that the Town of Orillia Act 1915, to the best of our knowledge, has ever been appealed nor amended. It clearly states council's role. It states:

The Province of Ontario, in the Town of Orillia Act, 1915, brought in legislation and under Section 11 of the Act included the following:

"11(1) – subject to subsection 2, all the powers, rights and privileges with regard to the government of the Orillia Power Transmission plant or the generation, distribution and sale of electrical power and light heretofore or hereafter granted by any special Acts to the council or Corporation of the Town of Orillia shall, while the bylaw appointing such commission remains in force, be exercised by the Orillia Water, Light and Power Commission, and not by the council of the corporation.

11(2) – Nothing contained in this section shall divest the council of its authority with reference to providing the money required for such works, and the treasurer to the municipality shall, upon the certificate to the Commission, pay out any money so provided."

If the article appearing in today's Orillia Today is correct and city council is considering selling the distribution of the peoples' utility, then please be on notice that we have a fiduciary obligation to the people to seek a legal remedy to prevent this from happening and to continue with the utility remaining in the management and control of the duly elected commissioners keeping the asset at arms-length as was intended by our forefathers in 1913 when the plebiscite occurred and it was made into law.

Respectfully submitted,

Gord Pye, Chairman

Frank Kehoe, Commissioner

Ken McLaughlin, Commissioner

Dan Valley, Commissioner

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RECEIVED
SEP 23 2014
CLERK'S DEPT

Orillia Water Light and Power Commission

c/o Commissioners:

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Dan Valley
66 Maple Drive
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L3V 3W4

September 23rd, 2014

Mayor and Council
City of Orillia
50 Andrew Street South
Orillia, ON

RE: A DOCUMENT DATED APRIL, 2000 ENTITLED "RECOMMENDATIONS ON THE FUTURE OF ORILLIA HYDRO UTILITY BY THE BILL 35 TRANSITION COMMITTEE" *(Many of the recommendations that were previously never seen in this format by this commission, were to be negotiated. However the council decided to proceed in this format to go ahead with producing a bylaw which became Bylaw 2000-144 passed on April 17th, 2000 without input from this commission)*

Dear Mayor and Councillors,

The aforementioned somewhat confidential document was never, in anyway, adopted by this commission and it was only a month ago (August, 2014) that any member saw this document in its present form. It was thought to be a clear understanding that any and all recommendations, apart from those dictated specifically through legislation, would be negotiated with the commission. To be very clear, we, as commission members, do not aspire for any control in the day-to-day operation of the utility. We are, however, obligated with a fiduciary responsibility to defend the peoples' bylaw that kept the utility at arms' length of council. When this is finalized, the commission members will resign. This action does not reflect upon or have any bearing on council's appointment of dedicated people to the current board that were never party to past decisions of council.

There was never a single meeting or any direct discussion with the elected commission and the city officials or its self-appointed transition committee. The title page of the April, 2000

[Handwritten initials and signatures]

document indicates that a commissioner was present, which was never the case. The elected commission, for the most part, was kept oblivious in regards to this document. We, as a commission, would never have agreed to a transfer of any of the rights, powers and privileges to city council which would be in direct contravention of the intent of Bylaw 557 and the Town of Orillia Act, Section 11, Clause 1 and 2 (1915).

The intent of the peoples' Bylaw 557, that could only be amended by a vote of the people, was to ensure the following:

1. That all the powers, rights and privileges with regard to the government of the Orillia Power transmission or the generation, distribution and sale of electric power shall, while the bylaw appointing such commission remains in force, be exercised by the Orillia, Water Light and Power Commission and not by the council of the Corporation;
2. That rates for electrical energy were to, where possible, be kept low so as to keep Orillia as a magnet for attracting new industry and maintaining this advantage for its citizens (the owners);
3. To prevent any future council from selling this, the peoples' asset, to a profit corporation without first getting approval by a referendum voted upon by the people.

There were means within the provincial legislation dealing with the transfer to accomplish the process with the Orillia Water, Light and Power transferring this power and council forming the corporations that would replace and succeed the commission. The council, through negotiation, could then complete this agreed upon bylaw. However, it would appear that the city's hidden agenda, from the beginning, was to gain full control of the utility for its financial benefit and to become the self-appointed agent for the people.

The citizens, who are the electors, are the only true shareholders of the commission assets and profits from the corporations, not required for expansion or maintenance, or other reserve accounts, should be transferred to them – both in the form of reduced electrical rates and earned dividends. The new corporation should then have been allowed to have reserve accounts in the event of the city doing an annexation as well as to carry on with building and acquiring additional generation so as to create profit for the people.

As long as Bylaw 557 is in place the OWLP elected commission, without a subsequent election, are still in place and capable of carrying on a negotiated process benefiting both the shareholders and appointed representatives keeping the corporations at arm's length of council. The corporations would then "walk in the shoes" of OWLP.

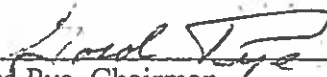
The members of the commission would respectfully request the following:

1. Any and all information which would indicate that the OWLP Commission consented to this document without first being a party to a negotiated process prior to its adoption.
2. Information on the exact date that the city uses as their formal date of transfer;
3. The corporation documents and who swore the document that council had the authority to act for the formation of separate municipal corporations;

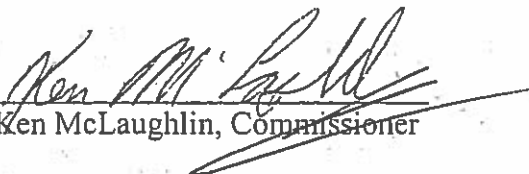
4. The reasons why the commission were left out of all the negotiations by a working committee for and on behalf of city council;
5. Did council, in all good conscience, not recognize that Resolution 2000-127 had a serious impact on all industrial, commercial and residential electrical customers in the city and may have negatively impacted on some industry that may have caused industry to move out of Orillia?
6. Is council aware that hydro rates in the province have increased as much as 300% to many customers in the period from implementation of Bill 35 to the present? With the implementation of wholesale rates of hydro, why was there no effort on the part of council to subsidize these increases using the profits from Orillia's generation company?
7. Will the city permit the elected OWLP Commission, as elected by the people through Bylaw 557, to use meeting room space at city hall so as to have a public commission meeting to provide shareholder input to be used in the negotiation to amend Bylaw 2000-144 and the three corporations formed, in part, by council?

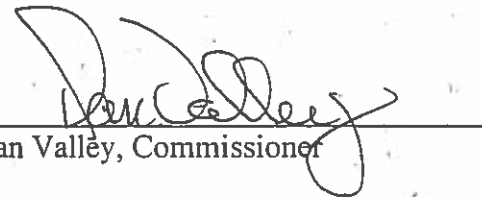
May we please have the courtesy of an early reply to this correspondence?

Respectfully submitted,


Gord Pye, Chairman


Frank Kehoe, Commissioner


Ken McLaughlin, Commissioner


Dan Valley, Commissioner

Attachments:

- Recommendations of the city appointed transition committee, dated April, 2000
- Peoples' Bylaw 557
- Section 11 of the Town of Orillia Act, 1915
- Resolution of City Council 2000-127, April 17th, 2000

The Former Orillia Water Light and Power Commission

c/o People-Elected
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June 24, 2015

Office of the Ombudsman of Ontario
Bell Trinity Square
483 Bay Street, 10th Floor, South Tower
Toronto, ON
M5G 2C9

**RE: ALEDGED ILLEGAL TAKEOVER OF THE ORILLIA WATER LIGHT AND
POWER COMMISSION AND PUT INTO THE HANDS OF CITY COUNCIL**

Dear Sir,

We, the legally elected members of the Orillia Water Light and Power Commission, an Ontario Corporation, have a fiduciary obligation to the people of Orillia to respect their trust and their ownership of this utility. Fourteen years after the alleged illegal transfer of the utility, we, as the elected members, came across a confidential document and, upon investigation, found the ownership transferred to be in complete contravention of the peoples' bylaw.

We would respectfully request, on behalf of the citizens of Orillia, for you to investigate the following:

- The duly elected commission, that held the utility in trust, will offer all cooperation and background material as required.

Background

There is now a situation whereby a vote of the electors the people elected made a binding decision to create a municipal corporation operating under the Provincial Corporations Act to manage, operate and maintain a municipal electric generation and distribution plant, in trust, and apart from municipal council involvement.

To give the electorate assurance, a protection of this municipal asset, the people chose to have key people elected by the electorate. This process happened as a result of the 1912 council putting a serious bylaw forward to be voted upon by the people. The substance of this bylaw essentially was to remove the utility, intact, from any council control. The people voted on and endorsed this bylaw on January 7th, 1913.

The purpose of this peoples' bylaw was meant to be clear so as to give assurance that any subsequent council could not use the corporation (utility) to supplement or add funds to the general revenue accounts of the municipality without first having the people approve by another positive vote of the electors.

To give absolute assurance of this peoples' authority the legislature included the process chosen by the electors in provincial legislation as part of the Town of Orillia Act 1915.

Subsequent councils made attempts to get control and even sell the utility and, each time, by vote of the electors, this was rejected.

Since the enactment of the bylaw spanning 87 years, the province chose an amendment of the Electricity Act that changed a number of things such as the mode of operation, the words "municipal commission" now converted to "corporation", and incorporated a debt factor to the utility.

Most municipal power commissions who, unlike Orillia, were under the umbrella of municipal councils. The province changed the rules and now allowed those other commissions to appoint boards in corporations or even sell municipal power commissions.

The municipal council of the City of Orillia, conceived in secrecy, that they could disguise the legislation so as to incorrectly gain full control of the corporation known as the Orillia Water Light and Power Commission and, from the beginning operated under complete secrecy to clearly state that the provincial legislation now gave council full and unlimited control of the transfer.

The elected board commission were not to be included in the transfer to the corporation process and as they were repeatedly told, it was by provincial legislation that dictated the transfer to council's role alone. This process was confirmed by a senior provincial staff member who highlighted that this legislation overrode all previous legislation – both municipal and provincial.

The legislation now thwarted the democratic process used by the citizens of Orillia to create the corporation known as O.W.L.P. Regretfully, no elected member was trained in the legal field,

hence they believed what they were told by provincial and municipal authorities. The council then used the legislation that allowed council, by bylaw, to create debt where there was none and, at the same time, and following to increase the municipal revenue by raising electrical rates. In addition, they created the corporations and appointed boards so the municipality could not only extract interest on the debt so created but they could all receive dividends from the newly formed corporations.

The debt created by council was: \$9,762,000 for distribution and \$5,034,000 for generation for a total of \$14,796,000. The interest rate that council set on this manufactured debt was 7.5%. However, the bylaw did not permit the utility to pay off any of the principle until December 31st, 2030 – 40 years down the road. So now the council could rely on the former utility, at an interest rate of 7.5% to generate \$1,109,700 each year for the next 40 years. We calculate in the 40 years up to December 31st, 2030, the utility would have received \$44,388,000 at an interest rate of 7.5%. And, at this time, the utility would still owe \$14,796,000.

The municipal greed does not stop there as the council have now stated they are the true shareholders and entitled to dividends from the new corporations. And in order to get dividends, the electrical rates will need to be increased. Now it must be clear that the utility was set up as a corporation by the citizens of Orillia and they had clearly voted that this corporation was to be separate and apart from council and the elected members were elected to protect this trust and any subsequent takeover by a municipal council.

This money referred, to the best of our belief, does not include the \$7.2 million that the O.W.L.P. had in cash and receivables. We, as the elected commission, with the secrecy clause in the city bylaw, have never been able to receive accountability of where this sum of money went or how it was used. As of April 13th, 2015 from the year 2000, \$37.1 million has been allocated as possibly illegally or fraudulently redirected to “special projects” of council. In addition, \$4,325,000 has been given in large donations (gifts) as part of council’s share to Orillia Soldiers’ Memorial Hospital Foundation, Lakehead University, together with a roof replacement on a municipally owned building. The aforementioned information is taken from the Orillia Power Corporations agenda as part of the report submitted to city council.

Summary

Orillia, as a pioneer of long distance transmission, followed all of the rules and legal requirements as well as receiving the required legislative approval from the provincial legislature on all phases of electrical generation and distribution.

Orillia, in its early years, rendered assistance to the formation of the province’s crown agency by sharing its energy surplus to the newly formed H.E.P.C.

Orillia was able to contribute, in a substantial way, to major industry in both world wars. Key industrialists, in Orillia backed the debentures and borrowing of all the monies required to build hydraulic generation and distribution. The money so borrowed was paid back from the rates set by the corporation with no monies coming out of the general revenue (taxes) of the municipality.

As a result of mismanagement of council and council committee the industrialists, elected to council, initiated the bylaw so as to have the utility stand alone, in trust, for the citizens and consumers.

From the aforementioned it is easy to conclude that there was a great injustice – both in the provincial legislature and the municipal council – in not giving credence to the wishes and bylaw enacted by the voters of the municipality which made the forming of the new corporation not only improper, but illegal.

With your intervention as Ombudsman, you have the legislative right, duty and authority to address this topic from the legal standpoint of the province's democratic process. Therefore we, as the legally elected members of the board of directors, respectfully request that you do an extensive investigation to clearly address this serious situation on behalf of the more than 14,500 industrial, commercial and residential customers in Orillia.

A few of the questions you might consider:

1. Did the amendment of the Electricity Act dealing with the electricity distribution and/or generation have the legislative authority to change the ownership and overrule the people who are the shareholders who elected the board of directors to run their corporation operating under the Provincial Corporation Act?
2. Did this, or any other related legislation, have the power to use the Electricity Act to change, retroactively the Town of Orillia Act of 1915 which was clearly in place up to the alleged inappropriate transfer?

“11(1) – subject to subsection 2, all the powers, rights and privileges with regard to the government of the Orillia Power Transmission plant or the generation, distribution and sale of electrical power and light heretofore or hereafter granted by any special Acts to the council or Corporation of the Town of Orillia shall, while the bylaw appointing such commission remains in force, be exercised by the Orillia Water, Light and Power Commission, and not by the council of the corporation.

11(2) – Nothing contained in this section shall divest the council of its authority with reference to providing the money required for such works, and the treasurer to the municipality shall, upon the certificate to the Commission, pay out any money so provided.”

3. Did the city council have the municipal authority to take away the legal ownership of the peoples' corporation which has paid financial dividends to the people over the years and to now redirect these dividends, together with increasing the electrical rates, directly to council as they now claim to be sole shareholder of this previously people-owned asset?
4. Did city council and/or the provincial legislature have the authority to make the people working in the newly formed corporation work in fear with an obligation to keep all matters secret with council's inclusion of the following clause in the municipal bylaw?

CONFIDENTIALITY

The Shareholder and the Directors and Officers of the Corporation and the Subsidiaries (each a "receiving party") will ensure that no confidential information of the Shareholder or the Corporation or the Subsidiaries is disclosed or otherwise made available to any person, except to the extent that:

- a. Disclosure to a receiving party's employees or agents is necessary for the performance of any receiving party's duties and obligations under this or any other Shareholder Declaration;*
- b. Disclosure is required in the course of judicial proceedings or pursuant to law; or*
- c. The confidential information becomes part of the public domain (other than through unauthorized disclosure by the receiving party).*

With the secrecy clause is it appropriate to disguise, from the consumers of electricity in Orillia, that a large number of the rate increases, as levied in their electrical bill, is initiated locally by council's appointed members of the new corporations?

5. Would it be fair to say that 99% or more of Orillia consumers think that the increases to their electricity bill relate to the high costs of Hydro One and the installation of the smart meters and have no idea that the majority of the increases have been implemented and approved by the new corporations formed by council with no input from the O.W.L.P.?
6. Would it be considered a form of loan sharking where legislation creates a debt where previously there none previously existed? \$7.2 million in cash and receivables is no longer on the books and council demands an interest rate more than twice the normal borrowing rate of the private sector?
7. Would it be possible to conceive that Orillia, taking these alleged loans approved by the legislature, not only carry this high rate of interest but do not have a process to reduce this alleged debt by paying off the principal or portions of the principal until December 31st, 2030?
8. Could you imagine this happening in the private sector without the offending parties going to jail?

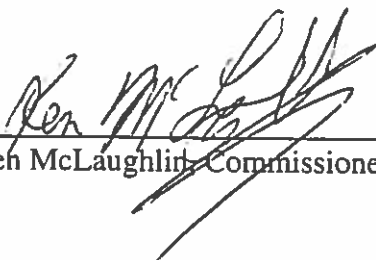
The elected board of directors (former commissioners of the O.W.L.P.) are **NOT** requesting legal answers to the aforementioned questions, but only for the Ombudsman to try to walk in our shoes to do what is possible to meet our fiduciary obligation to the electorate in the job we were elected to do.

We are prepared to share the legal opinion that we have in our possession from a top municipal law firm on the understanding you will investigate, report and act upon your findings.

Respectfully submitted,


Gord Pye, Chairman


Frank Kehoe, Commissioner


Ken McLaughlin, Commissioner


Dan Valley, Commissioner

Complaint

In a letter dated June 24, 2015, you detailed a number of complaints relating to the restructuring and ultimate dissolution of the OWLP Commission. You said that you are complaining now, after fifteen years have passed, because you recently received a copy of a Transition Committee report.

In our conversations on July 16 and 23, 2015, you summarized your concerns into three primary complaints:

1. It is was illegal for Parliament to amend the *Electricity Act* in such a way that required the Orillia Council to dissolve the OWLP Commission and organize a new corporation controlled by Council;
2. The Orillia Council, because of bylaw 557, did not have the authority to transfer ownership and control of the OWLP Commission; and
3. It was illegal for the Orillia Council to structure the reorganization in such a way that created promissory notes with certain payment restrictions.

In our conversations, you also indicated that a “senior official” from the Ontario Energy Board (OEB) was unaware of the bylaws governing the OWLP Commission and therefore misled the Orillia Council during the reorganization and dissolution of the Commission. You said that you do not know the name of or have any documentation about this individual.

You indicated that you have raised your concerns with the Council but that you have not received a satisfactory response. You also said you have sought additional documentation from the Council but that they have been unwilling to provide any.

Review

In reviewing your complaint, we considered the information and documentation you submitted to our Office, as well as the relevant legislation, regulations, policies and procedures. We also made inquiries to the Ontario Energy Board.

Legislative Assembly - Amending the *Electricity Act*

Our Office does not have the jurisdiction to review the Legislative Assembly’s decision to amend the *Electricity Act*. In the future, you may wish to raise your concerns regarding proposed amendments to the *Electricity Act* with your member of provincial parliament.

Orillia Municipal Council - Reorganization

Our Office does not have jurisdiction over the City of Orillia or the Orillia Council because they are not provincial government organizations.

On January 1, 2016, this Office will have jurisdiction over Ontario's municipalities, including municipal councils, local boards and municipally-controlled corporations (with some exemptions.) As I indicated during our conversation on July 23, 2015, you will need to call back after January 1, 2016 if you want this Office to review a complaint against the Orillia Council or Orillia Power Corporation. At that time, we will be in a better position to determine what action, if any, we will take. However, as I explained during our conversation, it would likely be difficult to obtain the documentation necessary to further review your complaint given that the reorganization occurred fifteen years ago.

OEB – Misled during Reorganization

Our Office has the authority to review the administrative conduct of provincial government ministries, services and agencies. This means that our Office has jurisdiction over the Ontario Energy Board, which oversees and licenses energy companies in Ontario. However, as we discussed, the Ombudsman is a recourse of last resort. This generally means that complainants should raise their issues and exhaust their avenues of appeal prior to bringing the complaint to the Ombudsman.

You indicated during our conversations on July 16 and 23, 2015 that you have not complained to the OEB about the conduct of the “senior official” who you feel misled the Orillia Council. The OEB has a Consumer Relations Centre that handles inquiries and complaints relating to the OEB and utility market participants. You may wish to raise your concerns with the OEB. The Consumer Relations Centre can be reached at 1-877-623-2727.

Obtain Further Documentation

You indicated during our discussions that the Orillia Council has been unwilling to provide additional documentation regarding the dissolution and reorganization of the Commission. For your reference, the OEB told us that it keeps a library archive of materials received in relation to license applications for electricity generators or distributors. These materials are available to the public for inspection. If you wish to review these records, you can contact the OEB library at 416-440-7655.

Conclusion

As I stated during our discussion on July 23, 2015, this Office will not be taking any further action in response to your complaint. At that time, you indicated you were not satisfied with the outcome of our review. If you remain dissatisfied after receiving this letter, you may write to my supervisor, Wendy Ray, and set out your concerns regarding our service. She can be reached at the following address:

Wendy Ray, *Senior Legal Counsel*
Ombudsman Ontario
Bell Trinity Square
483 Bay Street, 10th Floor, South Tower
Toronto, ON M5G 2C9

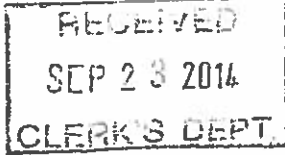
Should you have any further questions, feel free to contact me at 416-586-3438 or at rbates@ombudsman.on.ca.

Sincerely,



Robin Bates
Legal Services
Office of the Ontario Ombudsman

Cc: Gord Pye, Chairman, Former Orillia Water Light and Power Commission
Ken McLaughlin, Commissioner, Former Orillia Water Light and Power Commission
Dan Valley, Commissioner, Former Orillia Water Light and Power Commission



Orillia Water Light and Power Commission

c/o Commissioners:

Gord Pye
37 Dancy Drive
Orillia, ON
L3V 7M1

Frank Kehoe
304-95 Matchedash St. N.
Orillia, ON
L3V 4T9

Ken McLaughlin
217 Barrie Road
Orillia, ON
L3V 2P6

Dan Valley
66 Maple Drive
Orillia, ON
L3V 3W4

September 23rd, 2014

Mayor and Council
City of Orillia
50 Andrew Street South
Orillia, ON

RE: A DOCUMENT DATED APRIL, 2000 ENTITLED "RECOMMENDATIONS ON THE FUTURE OF ORILLIA HYDRO UTILITY BY THE BILL 35 TRANSITION COMMITTEE" *(Many of the recommendations that were previously never seen in this format by this commission, were to be negotiated. However the council decided to proceed in this format to go ahead with producing a bylaw which became Bylaw 2000-144 passed on April 17th, 2000 without input from this commission)*

Dear Mayor and Councillors,

The aforementioned somewhat confidential document was never, in anyway, adopted by this commission and it was only a month ago (August, 2014) that any member saw this document in its present form. It was thought to be a clear understanding that any and all recommendations, apart from those dictated specifically through legislation, would be negotiated with the commission. To be very clear, we, as commission members, do not aspire for any control in the day-to-day operation of the utility. We are, however, obligated with a fiduciary responsibility to defend the peoples' bylaw that kept the utility at arms' length of council. When this is finalized, the commission members will resign. This action does not reflect upon or have any bearing on council's appointment of dedicated people to the current board that were never party to past decisions of council.

There was never a single meeting or any direct discussion with the elected commission and the city officials or its self-appointed transition committee. The title page of the April, 2000

Handwritten initials and signatures:
PK
MM
D

document indicates that a commissioner was present, which was never the case. The elected commission, for the most part, was kept oblivious in regards to this document. We, as a commission, would never have agreed to a transfer of any of the rights, powers and privileges to city council which would be in direct contravention of the intent of Bylaw 557 and the Town of Orillia Act, Section 11, Clause 1 and 2 (1915).

The intent of the peoples' Bylaw 557, that could only be amended by a vote of the people, was to ensure the following:

1. That all the powers, rights and privileges with regard to the government of the Orillia Power transmission or the generation, distribution and sale of electric power shall, while the bylaw appointing such commission remains in force, be exercised by the Orillia, Water Light and Power Commission and not by the council of the Corporation;
2. That rates for electrical energy were to, where possible, be kept low so as to keep Orillia as a magnet for attracting new industry and maintaining this advantage for its citizens (the owners);
3. To prevent any future council from selling this, the peoples' asset, to a profit corporation without first getting approval by a referendum voted upon by the people.

There were means within the provincial legislation dealing with the transfer to accomplish the process with the Orillia Water, Light and Power transferring this power and council forming the corporations that would replace and succeed the commission. The council, through negotiation, could then complete this agreed upon bylaw. However, it would appear that the city's hidden agenda, from the beginning, was to gain full control of the utility for its financial benefit and to become the self-appointed agent for the people.

The citizens, who are the electors, are the only true shareholders of the commission assets and profits from the corporations, not required for expansion or maintenance, or other reserve accounts, should be transferred to them – both in the form of reduced electrical rates and earned dividends. The new corporation should then have been allowed to have reserve accounts in the event of the city doing an annexation as well as to carry on with building and acquiring additional generation so as to create profit for the people.

As long as Bylaw 557 is in place the OWLP elected commission, without a subsequent election, are still in place and capable of carrying on a negotiated process benefiting both the shareholders and appointed representatives keeping the corporations at arm's length of council. The corporations would then "walk in the shoes" of OWLP.

The members of the commission would respectfully request the following:

1. Any and all information which would indicate that the OWLP Commission consented to this document without first being a party to a negotiated process prior to its adoption.
2. Information on the exact date that the city uses as their formal date of transfer;
3. The corporation documents and who swore the document that council had the authority to act for the formation of separate municipal corporations;

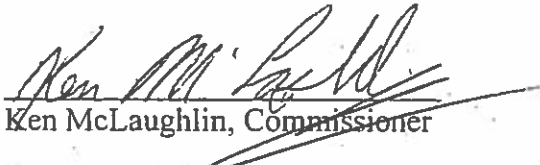
4. The reasons why the commission were left out of all the negotiations by a working committee for and on behalf of city council;
5. Did council, in all good conscience, not recognize that Resolution 2000-127 had a serious impact on all industrial, commercial and residential electrical customers in the city and may have negatively impacted on some industry that may have caused industry to move out of Orillia?
6. Is council aware that hydro rates in the province have increased as much as 300% to many customers in the period from implementation of Bill 35 to the present? With the implementation of wholesale rates of hydro, why was there no effort on the part of council to subsidize these increases using the profits from Orillia's generation company?
7. Will the city permit the elected OWLP Commission, as elected by the people through Bylaw 557, to use meeting room space at city hall so as to have a public commission meeting to provide shareholder input to be used in the negotiation to amend Bylaw 2000-144 and the three corporations formed, in part, by council?

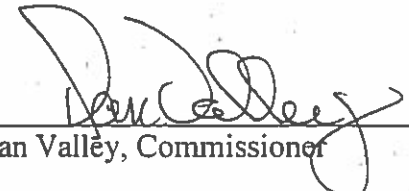
May we please have the courtesy of an early reply to this correspondence?

Respectfully submitted,


Gord Pye, Chairman


Frank Kehoe, Commissioner


Ken McLaughlin, Commissioner


Dan Valley, Commissioner

Attachments:

- Recommendations of the city appointed transition committee, dated April, 2000
- Peoples' Bylaw 557
- Section 11 of the Town of Orillia Act, 1915
- Resolution of City Council 2000-127, April 17th, 2000



ORILLIA CITY CENTRE
50 ANDREW ST. S., SUITE 300
ORILLIA, ON. L3V 7T5

TELEPHONE (705) 326-1177
FACSIMILE (705) 325-1612
Email: mayor@orillia.ca

Office of the Mayor

October 15, 2014

Mr. Gord Pye
Mr. Frank Kehoe
Mr. Dan Valley
Mr. Ken McLaughlin

Dear Sirs,

I am responding to your letter dated September 23, 2014 in which you expressed your concerns that Orillia Power Corporation was formed without proper regard to City by-law 557, that the commission was not consulted in the formation of Orillia Power Corporation, and that until a subsequent election the membership of the commission remains intact.

Let me begin by stating that the actions that you are now questioning occurred fourteen years ago, and I believe that the time to raise these concerns would have been during the transition in 2000. Although these actions were done long before my time on Council, I understand that lawyers from McCarthy Tetrault and Russell, Christie, Miller, Koughan, Winnitoy advised the City on the issue to ensure that the actions were taken legally.

There are two key points to consider when reviewing old by-laws and legislation:

1. From time to time by-laws and/or legislation are passed that have the effect of nullifying earlier by-laws and/or legislation. There is no requirement to repeal an outdated by-law; it just becomes outdated by the new by-law and therefore is unenforceable.
2. Ontario municipalities exist at the pleasure of the province. As such, provincial legislation takes precedence over any conflicting by-law of the municipality.

In 1998 the province made changes to the Electricity Act, which required the City (and not the Commission) to take certain actions in regards to Orillia Water Light and Power (OWLP) Assets. Any attempt to engage the Commission in any discussion would have been at the discretion of the City.

Mr. Gord Pye
Mr. Frank Kehoe
Mr. Dan Valley
Mr. Ken McLaughlin

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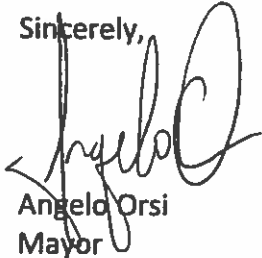
October 15, 2014

Subsequently, as you know, Orillia Power Corporation (OPC) and subsidiaries were formed, and the assets of OWLP were transferred to the new corporations. Further, the City took the action to repeal any by-law establishing OWLP, and to dissolve the Commission effective November 1, 2000 (by-law 2000-146, attached).

Although we are past the time of negotiating terms of reference for OPC, the City will always consider suggestions regarding the use of any of its assets, including OPC. The best way to provide these suggestions is in writing to Mayor and Members of Council.

Thank you for your continued interest in the assets of Orillia Power Corporation.

Sincerely,



Angelo Orsi
Mayor
City of Orillia

Copy to: Members of Council
 Robert Ripley, CFO

Encl.

Frank Kehoe
304-95 Matchedash Street North
Orillia, ON
L3V 4T9
(705) 325-6608
fm.kehoe@rogers.com

December 10th, 2014

Honourable Bob Chiarelli, MPP (Ottawa West-Nepean)
Ministry of Energy
4th Floor, Hearst Block
900 Bay Street
Toronto, Ontario
M7A 2E1

Dear Minister Chiarelli,

RE: THE ELECTRICITY ACT ORIGINATING FROM BILL 35 AND THE PROVINCIAL REQUIREMENTS RELATED TO THE ACT FOR THE TRANSFER OF THE FORMER PUBLIC UTILITIES INTO CORPORATION STATUS

Background

Eight years prior to the establishment of the provincial crown corporation called the Hydro Electric Power Commission (HEPC). The legislator enacted approval for the Town of Orillia to debenture, generate and transmit electrical energy from its first generation plant located on the Severn River and approval to operate through adjacent townships.

On the construction of the plant and completion of eighteen miles of transmission lines, the plant went into service in 1902. The plant, at that time, was managed by a committee of town council. The debenture, by agreement, was all paid by the consumers of energy with no monies flowing from the general revenue of the town.

Ten years later, in 1912, it was discovered that the town had deviated from its original requirement by removing all reserve funds from the utility and using this money for other municipal projects as well as lowering taxation.

The town, in its next election, voted out the people responsible and elected a new council who had a dedicated commitment to the utility. The new council, in order to ensure the mismanagement would never take place in the future, enacted a bylaw to be voted upon by the people of Orillia. On passing this bylaw with a vote of the people through referendum, the management and control of the utility was transferred to a separate commission (corporation) who would be elected by the people and kept at arm's length from council.

At or about this time, the Hydro Electric Power Corporation was starting their operation and looked at Orillia to purchase their plant. However, the bylaw that was in place, was binding. The Town of Orillia had no choice but to go to a second referendum that would give them the opportunity to sell this asset. However, after a vote of the electors, the town council was told by a huge margin NOT to sell the utility and keep the status quo.

It is very clear, where there is a referendum of the people, which the outcome of this vote is binding on all parties – including the province. And to change or amend this bylaw would require direction through another referendum. The majority of municipal referenda, that was common in that day, related to prohibition or other significant borrowing bylaws.

The legislature over the years, commencing with the Town of Orillia Act in 1915, was clear that the utility was a separate entity apart from council authority (attached is a copy of the legislation).

The members of the former commission were not aware that the commission was a corporation under the Corporation Acts until advised of case law “Collins vs. The Hydro Electric Commission of Renfrew, 1948 OR 29, Court of Appeal – Chief Justice Robertson”.

Mr. Minister, I, with the approval of the other elected commission members, would respectfully request for you to have a person (or persons), operating under your authority, to give their informal position on the following points, particularly as it relates to the intention of the legislation and the rules pertaining to the transfer:

- 1) Could the new Electricity Act override all other provincial legislation and reverse the peoples’ referendum that was enacted to keep the utility (now corporations) at arm’s length from council?
- 2) Did the commission members have the right to participate within the intent of the legislation – to participate jointly with council on an appropriate bylaw that would comply with the intent of provincial legislation and still work with the peoples’ bylaw?
- 3) Could the commission, which was a corporation, just make an application to delete the name “commission” and operate as the Orillia Water Light and Power Corporation and continue to be a board administering the generation assets for the municipal owners?
- 4) Does this legislation require the corporations, in a municipal ownership, to operate in complete secrecy outside of the “Freedom of Information Act”?

Mr. Minister, as we have just had a municipal election, and with a council who has a clear slate regarding electricity matters, the elected commission would appreciate, if possible, a reply by December 20th as some members are snowbirds leaving for the south immediately after Christmas.

Respectfully yours,



Frank Kehoe

Ministry of Energy

77 Grenville St.
6th Floor
Toronto ON M7A 2C1

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Fax: (416) 325-7041

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Strategic, Network and Agency Policy Division

JAN - 7 2014

Mr. Frank Kehoe
304-95 Matchedash Street North
Orillia, Ontario
L3V 4T9

Dear Mr. Kehoe:

Thank you very much for your letter of December 10, 2014 inquiring about how certain provincial legislation may affect Orillia's hydroelectric assets. I understand your interest and concern regarding this matter. However, it is not the practice of the Ministry to give legal advice. If you require specific legal interpretation of any Ontario legislation or statutes, you may wish to seek advice from legal counsel.

I am sorry we could not have been of more assistance.

Sincerely,

A handwritten signature in black ink, appearing to read "Doug MacCallum".

Doug MacCallum
Director
Delivery and Agency Policy Branch



CITY OF ORILLIA
Special Budget Committee Meeting
re Major Capital Facilities Plan
(portion of meeting may be held in Closed Session)
Wednesday, October 28, 2015 - 9:30 a.m.
Council Chamber, Orillia City Centre

AGENDA

Page

Chair - Mayor S. Clarke

Call to Order

Approval of Agenda

Disclosure of Interest

Purpose of Meeting

The purpose of this meeting is to discuss the Major Capital Facilities Plan and the Port of Orillia Building Replacement Project.

For Discussion

3 - 8 1. Chief Administrative Office - re Capital Plan Update. File: F05-MCP

THAT this Committee recommends to Council that the report dated October 26, 2015 from the Chief Administrative Officer regarding the October 28 Capital Plan Update be received as information.

Adjournment

SCHEDULE "B"

Funding Source	2018	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028
Investment Proceeds	3,000,000													
Available Free Cash	10,000,000	2,000,000					1,000,000	2,000,000						
Recreation Fundraising				1,000,000	1,000,000									
Senior Level Grant														
OPC Dividend	1,100,000	1,100,000	1,100,000	1,100,000	1,500,000	1,500,000	1,500,000	1,500,000	1,500,000	1,500,000	1,500,000	1,500,000	1,500,000	1,500,000
Increase to OPC Dividend (Expansion)														
OPC Interest to reserve	824,780	721,000	721,000	721,000	721,000	721,000	721,000	721,000	721,000	721,000	721,000	721,000	721,000	721,000
Tax Contributions to MCF Reserve Increase 1% for 4 years	1,777,972	1,841,912	2,111,912	2,111,912	2,111,912	2,111,912	2,111,912	2,111,912	2,111,912	2,111,912	2,111,912	2,111,912	2,111,912	2,111,912
Tax Contributions to MCF Reserve	2,972,000	2,972,000	2,972,000	2,972,000	2,972,000	2,972,000	2,972,000	2,972,000	2,972,000	2,972,000	2,972,000	2,972,000	2,972,000	2,972,000
Redeemed Capital Tax Levy to MCF Reserve	800,000	800,000	800,000	800,000	800,000	800,000	800,000	800,000	800,000	800,000	800,000	800,000	800,000	800,000
Excess Contributions to Water/Wastewater Reserve	3,731,857	2,318,219	2,534,130	2,534,130	2,534,130	1,095,072	1,488,825	1,573,787	1,652,455	1,652,455	1,652,455	1,652,455	1,652,455	1,652,455
Tertiary Treatment Grant														
Land Sales		6,800,000			1,500,000									
Borrowing														
Debtenture 2		0												
Debtenture 3														
Debtenture 4														
Debtenture 5				16,000,000										
Debtenture 6														
Debtenture 7														
Debtenture 8														
Debtenture 9														
Debtenture 10														
Recreation User Fees														
Sale of Mount Staven		600,000												
Sale of Fire Station		559,900												
Sale of James St			800,000											
Sale of Brian Orser														
Sale of Community Centre		500,000												
Sale of CN Station		633,900												
Sale of Employment Lands						400,000	400,000							
Defer Road Reconstruction														
Total Funding Sources	23,700,299	20,663,131	27,339,042	28,239,042	33,539,042	33,308,924	33,387,679	33,387,679	33,387,679	33,387,679	33,387,679	33,387,679	33,387,679	33,387,679

Orillia electric customers have been cheated for the past 15 years

Chapter 1

O.W.L.P. changes to Orillia Power

Orillia electrical customers up until 1990 enjoyed among the lowest hydro rates in the province but things were about to change. New legislation was introduced that changed the business model, the Electricity Act was amended and the Ontario Energy Board Act planned a bigger controlling role.

The Commissions across the province were now required to be changed to Corporations operating under the Provincial Business Corporation Act.

In the late 1980's key senior city staff, with the Mayor and the Council of the day, had an inside track on how the legislation could be manipulated so as to give the Council, not the elected commission, the lead role in the transfer process. The City and Council recognized that if the elected commission could give financial dividends to its customers then possibly the legislation could be secretly maneuvered in such a way so as to set up corporations to show that Council was the sole shareholder and not the people who were the true owners. In doing so they could redirect the dividends for their own pet municipal projects. **This would be a second form of taxation that the people of Orillia would not be aware of.**

Chapter 2:

The Financial State of the Orillia Water, Light, and Power Commission (OWLP)

The elected commission, not being trained in the law and told by a senior staff member of the Ontario Energy Board as well as the Mayor truly believed that the legislation over-ruled all conflicting Municipal and Provincial legislation and that the Commission were powerless to fight it. Six months prior to any transfer the OWLP had in cash and receivables over **7 million dollars**. We believe it was 7.2 million dollars so the elected commission members voted to grant a dividend of 1 million dollars, not to exceed one million, fifty thousand dollars, to appear as a credit on their next electricity bill. The dividend amount was always based on the customers' electrical consumption so it varied with each customer. When the commission vote was taken the member of Council who was sitting in for the Mayor voted against it. The other commission members, however, carried the vote yet found it strange that a Council member did not support it.

The Council or senior city staff with an inside track, with internal help, cancelled this dividend even though it was done by the legal commission while they were still in charge.

Changing a commission to three different corporations was done in using a somewhat secretive process. The Commissioners fully expected that at least two or more experienced

Commissioners, who possessed vast knowledge and experience of the plans in place for additional generations and with the goal of making the utility self-sufficient in electrical energy by 2005 would remain working with this new corporation. This never happened and the elected commission goodbye to the employees and left with reluctance. Their 40+ years of dedicated municipal experience did not rate recognition from the City Council nor were they given a letter or a hand-shake or appropriate notice that they had been replaced.

We, as the elected Commission were misinformed, lied to and set aside from any change in status brought about by the amendment of the Electricity Act. The Commission members were asked to step aside as the new legislation clearly over-rode all Municipal and Provincial legislation and shifted the process from the Commission to the Council giving them the ability to form new Corporations that in the future would ensure future dividends would be taken away from its customers and now paid to Council. The transition would now follow a process totally controlled by the Mayor and City Council.

We, the elected representatives of the utility, have never, up to this date, ever signed off or created a transfer document or bill of sale, or been officially or even unofficially notified that our election as Commissioners has been terminated. We were elected to serve the Municipal owners of this utility not the Council. We have no intention of negating this role as we feel we have a fiduciary obligation to try to correct the wrong that was done to our electrical customers and their Municipal ownership that the Commission held in trust. To do what is right we need the help of the Citizens in an effort to try to correct the aforementioned Provincial misdemeanors.

The Commission on the word of a senior Government official, no longer had status and we as the elected Commission were not given a letter or resolution stating that we were now replaced, or given any recognition for our years of Municipal dedicated service. This service amounted to keeping the utility as a model utility, with well trained staff, free of debt and at the same time, having electrical rates the second lowest in the Province, which included block customers of Hydro One. The objective of the Commission was to bring on additional generation so as to be totally self-sufficient in electrical generation by the year 2005.

The clock has now advanced fourteen plus years to 2004 when a former commission member was given a somewhat secret document called the "Recommendation on the Future of Orillia's Hydro Utility by the Bill 35 Transition Committee".

This secret document contained what one member called absolute treason and a direct betrayal of all of Orillia's electricity customers. The Council did not recognize the people's ownership or the effect it would have on its' customers - **or maybe they did.** The full transition document at its council meeting 2000-87 April 17, 1990 gave their approval to this total document. This approval was buried among other by-laws so as to be overlooked by the press or members of the

public present. This Council adoption happened six months in advance of any conversion from a democratic process to a secretive conversion stacked in favour of shifting electrical funds to now be re-directed to Council.

No elected member of the Commission was ever aware of this misrepresentation to the electorate until fourteen years later. It was believed, up until this point, that the transfer was made in legal conformance to both the Municipal and Provincial legislation.

Chapter 3:

The Process to Rob the Electrical Customers of Their Dividends

The first order of Council business was to implement a maximum return on dividends on the back of electrical consumers in order that Council could gain greater revenue. The Council would now implement a fifteen per cent raise in Orillia's electrical rates which they did.

Chapter 4:

Now Comes the Move by Council to Create Debt Where There was None

As previously mentioned the OWLP had seven plus million dollars with absolutely no debt but nevertheless Council now required the new corporation to issue two promissory notes to the City as follows:

- Orillia Power Distribution Corporation would now owe the City nine million seven hundred and sixty-two thousand dollars (**\$9,762,000.00**). This debt is at an interest rate of 7.5% per annum to December 31, 2005 and after that at a fluctuating rate based on a fixed formula of 2% above the Royal Bank lending rate.
- Orillia Power Generation Corporation now shows a debt to the City of five million, thirty-four thousand dollars (**\$5,034,000.00**). This debt is at an interest rate of 7.5% per annum to December 31, 2005 and after that at a fluctuating rate based on a fixed formula of 2% above the Royal Bank lending rate.
- **The debt now owing to Orillia Council is nine million, seven hundred and sixty-two thousand dollars plus five million and thirty-four thousand dollars for a total of \$14,796,000.00.**

This borrowing rate comes close to two times the normal borrowing rate of the City but the model we would expect is stick it to the people (customers) the Council have other uses for the money.

Chapter 5:

More Loan Sharking

The new corporations are now required to pay the interest alone with nothing going against the principal until December 31, 2030. Could anyone imagine paying a mortgage for thirty years and at the end of the thirty year period you would still owe the same amount as when you started or in this case fourteen million, seven hundred and ninety-six dollars (\$14,796,000.00).

The Council now requires their sole appointed Board of Directors to carry out the Council requirements so as to ensure ever increasing dividends flow freely back to the Council as well as the Corporations always continuing to operate in the Council's best interest, not the customers. The Council passes another by-law 2001-48 and appoints five directors to the board that will, we expect, will tow the line for Council and run the resemblance of the now demised OWLP.

For the distribution arm the Council institutes in the amended by-law under financial policies that the distribution arm will establish policies to maximize the return to the shareholder (the Council) to the extent permitted by the Ontario Energy Board over a transition period of three to five years. For the generation arm the shareholder (Council) expects that the Corporation through its Board of Directors will establish policies to move to a profit maximization approach over a transition period of three to five years.

The directors shall be elected (and appointed) for a term of three years on a rotational basis except for the initial five directors who shall be elected as follows:

- One for a one-year term
- Two for a two-year term
- Three for a three-year term

We would expect since there has been no change in the appointed directors over the last fifteen years that this could be best referred to as the Electricity Club. The remuneration for the board members is now close to ten times that of the former elected commission who had dedicated loyalty to the people (customers) and who would never be party to the now organized destruction of Orillia's greatest asset.

Too much information on the operation of the newly formed Corporations may be harmful to your health so the by-law to prevent this happening now includes a requirement that the people (the true owners) be kept in the dark.

Chapter 6:**Confidentiality**

The shareholders and the directors and officers of the Corporation and the subsidiaries (each a receiving party) will ensure that no confidential information of the shareholders or the corporation or subsidiaries is discussed or otherwise made available to any person, except to the extent that:

- a. Disclosure to a receiving party's employees or agents if necessary for the performance of any receiving party's duties and obligations under this or any other shareholders' declaration.
- b. Disclosure is required in the course of judicial proceedings or pursuant to law
- c. The confidential information becomes part of the public domain (other than through unauthorized disclosure by the receiving party)

So by bylaw, it is apparent that the appointed Board of Directors are, at every opportunity, required to apply for increases in the electricity rates to its customers so as to generate, in part, more and more cash to be given to Council in the form of dividends. The Directors, in 2014, applied to the Ontario Energy Board for an adjustment of the rates which was approved on March 19th, 2015.

Chapter 7:**Dividends**

The former OWLP Commission after they were free of debt and in times of good generation years shared their good fortune with the true owners, the people of Orillia (customers) and mailed them a dividend cheque or gave them a credit on their next hydro bill.

As freedom of information legislation does not exist in the new corporations and there is no co-operation on the part of Orillia Power Corporation to give this information we the former commissions have to depend on city by-laws, council resolutions, and city minutes as well as the annual shareholder meeting of Orillia Power Corporation for the information herewith.

We can however, take the last figures that is by no means the complete figure, from the April 13th agenda of Orillia Power Corporation presentation to City Council on April 13, 2015. As part of the presentation of Orillia Power Corporation they show that Orillia Council, over the fifteen-year period 1990 to 2015, received **(37.1 million dollars)** together with the city's share to the hospital and university for an additional amount of **\$4.325 million** for a total of **\$41.425 million dollars**. The report shows that there are 13,400 Orillia customers so let's do the math on the assumption that each person's electrical bill is exactly the same. We of course know that this is not the case as some will be higher and some lower. So **\$41.425 million divided by 13,400 customers is equal to \$3,091.42 per customer but this is for fifteen years so we divide**

\$3,091.42 by 15 and we arrive at \$206.09 per customer per year. You are no longer getting a dividend cheque, but it is being taken by the city as a hidden form of additional taxation.

It is evident to all customers, the true owners (the people) could not fathom that their Council could implement a process to gain revenue without their knowledge as part of their electricity bill. If you want to cry then look at your electricity bill and see that you have paid GST on the amount extracted from you.

In the Council Special Budget Committee meeting last week October 28, 2015, Schedule "B" from the Chief Administrator Office are showing that Orillia Power Corporation interest to reserve of \$924,760.00 for the year 2015 then \$721,000.00 for the years 2015 through 2029. In the same report they are showing the dividends from Orillia Power Corporation as \$1,100,000.00 for the years 2015 to 2018, then increasing to \$1,500,000.00 for 2019 to 2029. On a separate line they are showing an increase to Orillia Power Corporation dividend (expansion) which starts in 2020 as \$1,709,000.00 through 2029. We have no idea of what or where this expansion figure is coming from and we hope with favour that this does not relate in any way to Mayor Clarke's article relating to negotiations with Hydro One on any sale of the distribution arm of the utility.

Chapter 8:

The Ownership of the Utility

The ownership of the utility belongs to the people of Orillia, not the Council and it requires that their elected representatives not Council's appointed people to act as their agent in trust for the people. To make a change in this process requires City Council to go back to the people in an amended referendum to make changes or attempt to dissolve the people's by-law 557.

In 1911 when there was an uproar from both industry leaders and the people regarding the complete mismanagement of their electrical asset and the depletion of all its contingency monies and lack of appropriate maintenance which lead to a great number of outages. Key industrialists (including J.B. Tudhope, Eratus Long, William Frost (father of Leslie Frost), Mayor Goffat) and supporters of the electrical utility ran for and were elected to the 1912 town Council with their platform being to remove the utility from the control and mismanagement of town Council. This Council then composed by-law 557 that would be put to a vote of the people as a binding referendum that could only be changed or amended in the same manner as instituted, that is with another supporting vote of the people. This plebiscite or binding referendum remained in place for 87 years under the name OWLP until the Council or staff said that this old by-law can now be ignored and that Council can now again take control.

On January 7, 1913 the above vote was certified and the referendum passed to create a separate elected commission (corporation), free of Council to administer and run both the generation and distribution in trust for the people. **This was endorsed by 65.8% of all the electors and became**

people's by-law 557 forming the Orillia Water Light and Power Commission that could not be changed nor amended by any future council without the approval by the people through another referendum voted on and approved by the people. The Council on two occasions attempted to sell the utility to H.E.P.C. but were forced to call a second referendum in which they lost by a large majority.

Chapter 9:

Town of Orillia Act 1915

The legislature of the Province of Ontario passed the Town of Orillia Act and section 11(1) of the Act merely confirms the aforementioned.

“11(1) – subject to subsection 2, all the powers, rights and privileges with regard to the government of the Orillia Power Transmission plant or the generation, distribution and sale of electrical power and light heretofore or hereafter granted by any special Acts to the council or Corporation of the Town of Orillia shall, WHILE THE BYLAW APPOINTING SUCH COMMISSION REMAINS IN FORCE, BE EXERCISED BY THE ORILLIA WATER, LIGHT AND POWER COMMISSION, AND NOT BY THE COUNCIL OF THE CORPORATION.”

(2) Nothing contained in this section shall divest the council of its authority with reference to providing the money required for such works, and the treasurer of the municipality shall, upon the certificate of the Commission, pay out any money so provided.”

3. That the Province within the amendments did not have the intent within its legislation to create laws to over-ride the people's ownership or dictate the process that would change the separation so as to give Council control over the legal referendum of the people.

Back in 1990 the Council had a legal obligation to support the transfer process to the only elected members of the utility to conform to by-law 557 and to the Town of Orillia Act so as to assist the elected commission in the transfer, not thwart the process. The Orillia Water Light and Power was a corporation and section 142 of the Electricity Act permitted other Municipal Corporations to make the transfer. Council had a role in the transfer process however, they did not have the right to name themselves the only shareholder. It was a simple process to change the name Orillia Water Light and Power Commission to Orillia Power Corporation. The elected commission are adamant that until by-law 557 is appropriately repealed by the vote of the people that the transfer in our opinion is not legal.

Chapter 10:**Orillia Statistics 2012**

- **Orillia's population is approximately 32,000.**
- **One third of Orillia's population, unfortunately, exists at or below the poverty line.**
- **40% of the population is on fixed income and unable to absorb increases related to their cost of living.**
- **The growth rate in Orillia, when you remove the students who live temporarily in our city during their 8-month school year and whose principal residence is elsewhere, is stagnate or, now negative falling from 0.5% in 2011 census to now minus figures. The national growth rate is 5.9%.**
- **The population of people over 65 in Orillia is 24.1% where the national average is 14.8%.**
- **Orillia's median age is 49.2 years where the provincial median is 40.4 years.**

Chapter 11:**Sale of the Distribution Arm**

Any sale of any portion of the former OWLP (Orillia Power or Orillia Distribution) would have a catastrophic negative effect on the utility and the people of Orillia and should never be considered - at any price.

All electrical customers and citizens of Orillia have an obligation to make their position known. To do nothing should not be an option. We should not allow the sale of our electrical asset to Hydro One or any other bidder and we should ask Council to have an open discussion and people's referendum on this issue.

Call your Ward Council representatives and mayor to ask them why they are in negotiations with the mismanaged Hydro One and if they are selling a portion of our profitable public utility just to pay for a recreation centre we cannot afford.

Mayor Steve Clarke: mayor@orillia.ca, (705) 325-2447

Councilor Ted Emond: ted@tedemond.com, (705) 826-2347

Councilor Sarah Valiquette-Thompson: votevaliquette@gmail.com, (705) 826-2351

Councilor Rob Klootra: cameronhouse@rogers.com, (705) 826-2350

Councilor Ralph Cipolla: cipolla@encode.com, (705) 826-2466

Councilor Mason Ainsworth: mason4orillia@gmail.com, (705) 826-2328

Councilor Jeff Clark: jn10clark@gmail.com, (705) 826-2343

Councilor Pat Hehn: pmhehn5@gmail.com, (705) 826-3497

Councilor Tim Lauer: tlauer@sympatico.ca, (705) 325-5812

**DO NOT LET YOUR COUNCIL GAMBLE BY SELLING A PORTION OF ORILLIA'S
GREATEST ASSET TO HYDRO ONE. OUR RATES WILL GO UP AND OUR
REVENUE STREAM WILL BE GONE.**

The Former Orillia Water Light and Power Commission

c/o People-Elected
Commissioners:

Gord Pye
37 Dancy Drive
Orillia, ON
L3V 7M1

Frank Kehoe
304-95 Matchedash St. N.
Orillia, ON
L3V 4T9
Email: fm.kehoe@rogers.com

Ken McLaughlin
217 Barrie Road
Orillia, ON
L3V 2P6

Dan Valley
66 Maple Drive
Orillia, ON
L3V 3W4

September 17, 2015

Mayor and Council
City of Orillia

RE: DISPOSING OF ANY PORTIONS OF THE ASSET

Dear Mayor Clarke and Members of Council,

By this letter we would, again, like to put the council on notice that we, the legally elected people acting as trustee of the peoples' asset, formerly called the Orillia Water, Light and Power Commission, do hereby state that we, have a fiduciary obligation to the people in Orillia to protect their ownership and its value from any illegal or inappropriate move on part of council.

Two things that council must be aware of are: 1) No legally elected member of the former OWLP has been informed, in any manner whatsoever, that their authority and tenure as the elected representatives of the people, has illegally been taken away by city council. 2) The citizens and customers of the former Orillia Water, Light and Power, by a strong plebiscite of the people, removed any and all authority of city council over the management, control and decision making regarding this asset.

The council did, however, at any time, have the right to take the result of this plebiscite back to the people to amend it to try to get a positive vote to reverse this process so as to name city council as their sole agent. I strongly believe that council is already aware of this process but chose inappropriate actions to attempt to disguise the necessity of calling another plebiscite and depending on a positive vote in council's favour.

The following is a brief excerpt of the history regarding this very clear and deciding plebiscite:

In 1912, with an outcry from industry related to the mismanagement and the high number of outages of the generation, the town elected industrialists that included J.B. Tudhope and Erastus Long and other small industry leaders who recognized that the power asset, to work effectively,

must be removed from council control. This new council then prepared a permanent bylaw to be approved by the citizens of Orillia and they ordered a referendum to decide this issue. On January 27th, 1913, the vote was certified and the referendum passed to create a separate elected commission (corporation), free of council, to administer and run both the generation and distribution in trust for the people. This was endorsed by 65.8% of the electors and became the peoples' Bylaw 557 forming the Orillia Water, Light and Power Commission that could not be changed, nor amended without approval by the people through another referendum voted on and approved by the people.

We, as the duly elected representatives, are now in possession of a strong legal opinion confirming the necessity of this process from a well-respected top municipal legal firm. There was never an indication that the Town of Orillia Act 1915, to the best of our knowledge, has ever been appealed nor amended. It clearly states council's role. It states:

The Province of Ontario, in the Town of Orillia Act, 1915, brought in legislation and under Section 11 of the Act included the following:

"11(1) – subject to subsection 2, all the powers, rights and privileges with regard to the government of the Orillia Power Transmission plant or the generation, distribution and sale of electrical power and light heretofore or hereafter granted by any special Acts to the council or Corporation of the Town of Orillia shall, while the bylaw appointing such commission remains in force, be exercised by the Orillia Water, Light and Power Commission, and not by the council of the corporation.

11(2) – Nothing contained in this section shall divest the council of its authority with reference to providing the money required for such works, and the treasurer to the municipality shall, upon the certificate to the Commission, pay out any money so provided."

If the article appearing in today's Orillia Today is correct and city council is considering selling the distribution of the peoples' utility, then please be on notice that we have a fiduciary obligation to the people to seek a legal remedy to prevent this from happening and to continue with the utility remaining in the management and control of the duly elected commissioners keeping the asset at arms-length as was intended by our forefathers in 1913 when the plebiscite occurred and it was made into law.

Respectfully submitted,

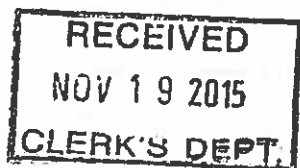
Gord Pye, Chairman

Frank Kehoe, Commissioner

Ken McLaughlin, Commissioner

Dan Valley, Commissioner

*The Legally Elected People voted into Office in accordance with the
People's Bylaw 557, as enacted by a Binding Referendum of the Electors*



Gord Pye
37 Dancy Drive
Orillia, ON
L3V 7M1

Frank Kehoe
304-95 Matchedash St. N.
Orillia, ON
L3V 4T9

Ken McLaughlin
217 Barrie Road
Orillia, ON
L3V 2P6

Dan Valley
66 Maple Drive
Orillia, ON
L3V 3W4

November 19, 2015

Mayor Steve Clarke and Members of Council
Orillia City Centre
50 Andrew Street South
Orillia, ON L3V 7T5

Dear Mayor Clarke and Councilors,

This correspondence is meant to flag this council that they, in talking with Hydro One concerning a possible sale of the distribution arm of the people's owned utility, are in direct violation of the Peoples' Bylaw 557 and the referendum of the people that removed any and all control (for good reason) from council to a separately elected body only answerable directly to the people – the true owners.

This council, as mature adults, must recognize how democracy works:

- a) When a council formulates a bylaw, in this manner, and transfers the outcome (decision) to the electorate in conformity to the provincial requirements of the day this is called a **referendum**.
- b) The outcome of a referendum, duly voted upon by the people, is a binding form of the democratic practice and cannot be revoked nor amended, in any other manner, other than by way of a calling second referendum.

This council, in not abiding themselves in the acceptance of this practice is putting themselves in violation of the laws they were elected to uphold.

The aforementioned people (former commissioners of the OWLP) are the only duly elected representatives of the people and were elected in conformity to Bylaw 557 and, to this date, were never legally replaced. The referendum of the people dictated this position and the amended

Electricity Act only directly applied to utilities that were, at the time, under the control of a municipal council. Other forms of the legislation could be, otherwise, satisfied by the duly elected people with council's required assistance.

The alleged transfer to city council happened with the 2000 council choosing, on their own, to take over the transfer process alleging to the Ontario Energy Board that they had the right to do so and return the management and control of the utility back to council. Why the council of the day made this choice is unknown to us. It may be that they did not understand the ramifications of Bylaw 557 that took control away from council and placed it into the hands of the electorate by voting in four commissioners, separate from council, to manage the utility in the peoples' best interest. They may not have been aware that the only way of reversing a decision made by way of referendum or plebiscite is to have another referendum. **This was never done.**

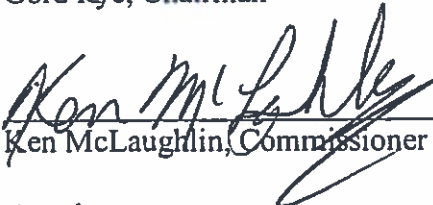
The former elected commission, with now full knowledge of the transfer process that took place 15 years ago, are unanimous that we have a fiduciary obligation to the people to advise them of what we believe was an illegal decision made by council that robbed them of the fair and equitable management control of their utility by a separately elected body that operated in arm's length of council. By one sweep of the pen the true shareholders that was clearly decided by way of referendum were the people of Orillia. But this right was taken away so as to have the council, as shown as it's only shareholder. The City of Orillia, with this action, were in direct contravention of the referendum resulting in Bylaw 557.

Out of consideration to the members of council and with the goal of being as accurate as possible as proven by the past bylaws, minutes, motions and background information that the city has in its possession, we respectfully ask that you read the attached document that will be published as to provide key information to the people of Orillia. You may also want staff to confirm that council had the legal right to change Bylaw 557 without having a second referendum asking for control to be transferred back to the city. We have a written legal opinion that states the city DID NOT have the legal right to do so and, if necessary, if council continues to proceed with the sale of the distribution arm, we will have no recourse other than to allow the courts make the determination as to the legality of the city's right to override the referendum of the people.

Respectfully submitted,

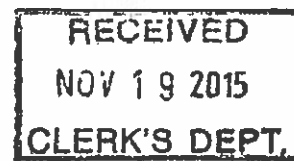

Gord Rye, Chairman


Frank Kehoe, Commissioner


Ken McLaughlin, Commissioner


Dan Valley, Commissioner

Attachment:
Disclosure document (9 pages)



206
1

Disclosure Document

Orillia electric customers have been cheated for the past 15 years

Chapter 1

O.W.L.P. now changed to Orillia Power Corporation

Orillia electrical customers up until 2000 enjoyed among the lowest hydro rates in the province but things were about to change. New legislation was introduced that changed the business model, the Electricity Act was amended and the Ontario Energy Board Act planned a bigger controlling role.

The Commissions across the province were now required to be changed to Corporations operating under the Provincial Business Corporation Act.

In the late 1990's key senior city staff, with the Mayor and the Council of the day, had an inside track on how the legislation could be manipulated so as to give the Council, not the elected commission, the lead role in the transfer process. The City and Council recognized that if the elected commission could give financial dividends to its customers then possibly the legislation could be secretly maneuvered in such a way so as to set up corporations to show that Council was the sole shareholder and not the people who were the true owners. In doing so they could redirect the dividends for their own pet municipal projects. **This would be a second form of taxation that the people of Orillia would not be aware of.**

Chapter 2:

The Financial State of the Orillia Water, Light, and Power Commission (OWLP)

The elected commission, not being trained in the law and told by a senior staff member of the Ontario Energy Board as well as the Mayor truly believed that the legislation over-ruled all conflicting Municipal and Provincial legislation and that the Commission were powerless to fight it. Six months prior to any transfer the OWLP had in cash and receivables over **7 million dollars**. We believe it was 7.2 million dollars so the elected commission members voted to again grant a dividend of 1 million dollars, not to exceed one million, fifty thousand dollars, to now appear as a credit on the customers' next electricity bill. The dividend amount was always based on the customers' electrical consumption so it varied with each customer. When the commission vote was taken the appointed member of Council, who was sitting in for the Mayor, voted against it. The other commission members, however, carried the vote yet found it strange that a Council member did not support it.

The Council or senior city staff with an inside track, with internal help, cancelled this dividend even though it was done by the legal commission while they were empowered to do so.

Changing a commission (utility) to three different corporations was done in using a somewhat secretive process. The Commissioners fully expected that at least two or more experienced Commissioners, who possessed vast knowledge and experience of the plans in place and the previous negotiation with the outside involved parties for additional generation and with the goal of making the utility self-sufficient in electrical energy by 2005 it would remain working with this new corporation. This never happened and the elected members of the commission said goodbye to the employees and left with somewhat dismay and reluctance. Their 40+ years of dedicated municipal experience did not appear to rate recognition from the City Council nor were we given a letter or a hand-shake or appropriate notice, of any kind, that we had been replaced.

We, as the elected Commission were misinformed, lied to and set aside from any change in status brought about by the amendment of the Electricity Act. The Commission members were asked to step aside as the new legislation, we were told, over-rode all Municipal and Provincial legislation and shifted the process from the Commission to the Council allowing them the ability to form new Corporations that in the future would ensure future dividends would be taken away from its customers and now paid to Council. The transition would now follow a process totally controlled by the Mayor and City Council.

We, the elected representatives of the utility, have never, up to this date, ever signed off or created a transfer document or bill of sale, or been officially or even unofficially notified that our election as Commissioners has been terminated. We were elected to serve the Municipal owners of this utility not the Council. We have no intention now of negating this role as we feel we have a fiduciary obligation to try to correct the wrong that was done to our electrical customers and their Municipal ownership that the elected Commission held in trust. To do what is right – to force the council to abide by the People's Referendum that legally required all control of the utility removed from council control we need the help of the Citizens in an effort to try to correct the aforementioned Provincial misdemeanors.

The elected Commission, on the word of a senior energy board official, were told, incorrectly, that we no longer had status and we, as the elected Commission, were not given a letter or resolution stating that we were now replaced, nor given any recognition for our years of dedicated municipal service. This service amounted to keeping the utility as a model utility, with well-trained dedicated staff, free of debt and at the same time, having electrical rates the second lowest in the province, which included preferred block customers of Hydro One. The objective of the Commission was to bring on additional generation so as to be totally self-sufficient in electrical generation by the year 2005.

The clock has now advanced fourteen plus years to 2014 when a former commission member was given a somewhat secret document called the “Recommendation on the Future of Orillia’s Hydro Utility by the Bill 35 Transition Committee”.

This secret document contained, what one commission member called, absolute treason and a direct betrayal of all of Orillia’s electricity customers. The Council did not recognize the people’s ownership nor the effect it would have on its’ customers. The full transition document, that no commissioner had ever seen in its completion, went before council at its meeting 2000-87 April 17, 2000 where council gave their approval. This motion was buried among other by-laws and went overlooked by the press or members of the public present. This Council adoption happened six months in advance of any conversion from a democratic process to a secretive conversion stacked in favour of shifting electrical funds to now be re-directed to Council.

No elected member of the Commission was ever aware of this misrepresentation to the electorate until fourteen plus years later. It was believed, up until this point, that the transfer was made in legal conformant to both the Municipal and Provincial legislation. So one member of the former commission started to research the internal related bylaws, rate increases to the customers, and Orillia Power Corporation’s reports to council that now shifted the alleged corporate ownership from the people to city council that allegedly now owned all of the shares. Hence, council could carry on, what commission members, called a charade.

Chapter 3:

The Process to Rob the Electrical Customers of Their Dividends

The first order of Council business was to implement a maximum return on dividends on the back of electrical consumers in order that Council could gain greater revenue. The Council would now implement a fifteen per cent raise in Orillia’s electrical rates which they did.

Chapter 4:

Now Comes the Move by Council to Create Debt Where There was None

As previously mentioned the OWLP had seven plus million dollars with absolutely no debt but nevertheless Council now required the new corporation to issue two promissory notes to the City as follows:

- Orillia Power Distribution Corporation would now owe the City nine million seven hundred and sixty-two thousand dollars (\$9,762,000.00). This debt is at an interest rate of 7.5% per annum to December 31, 2005 and after that at a fluctuating rate based on a fixed formula of 2% above the Royal Bank lending rate.
- Orillia Power Generation Corporation now shows a debt to the City of five million, thirty-four thousand dollars (\$5,034,000.00). This debt is at an interest rate of 7.5% per

annum to December 31, 2005 and after that at a fluctuating rate based on a fixed formula of 2% above the Royal Bank lending rate.

- **The debt now owing to Orillia Council is nine million, seven hundred and sixty-two thousand dollars plus five million and thirty-four thousand dollars for a total of \$14,796,000.00.**

This borrowing rate comes close to two times the normal borrowing rate of the City but the model we would expect is stick it to the people (customers) the Council have other uses for the money.

Chapter 5:

More Loan Sharking

The new corporations are now required to pay **only** the interest alone with nothing going against the principal until December 31, 2030. Could anyone imagine paying a mortgage for thirty years and at the end of the thirty-year period you would still owe the same amount as when you started or in this case fourteen million, seven hundred and ninety-six dollars (\$14,796,000.00).

The Council now requires their sole appointed Board of Directors to carry out the Council requirements so as to ensure ever increasing dividends flow freely back to the Council as well as the Corporations always continuing to operate in the Council's best interest, not the customers. The Council passes another by-law 2001-48 and appoints five directors to the board that will, we expect, will tow the line for Council and run the resemblance of the now partially demised utility.

For the distribution arm the Council institutes in the amended Bylaw #2000-144, revised October 16th, 2000 under financial policies that the distribution arm will establish policies to maximize the return to the shareholder (the Council) to the extent permitted by the Ontario Energy Board over a transition period of three to five years. For the generation arm the shareholder (Council) expects that the Corporation through its Board of Directors will establish policies to move to a profit maximization approach over a transition period of three to five years.

The directors shall be elected (and appointed) for a term of three years on a rotational basis except for the initial five directors who shall be elected as follows:

- One for a one-year term
- Two for a two-year term
- Three for a three-year term

We would expect since there has been no change in the appointed directors over the last fifteen years that this could be best referred to as the Electricity Club. The remuneration for the board

members is now close to ten times that of the former elected commission who had dedicated loyalty to the people (customers) and who would never be party to the now organized destruction of Orillia's greatest asset.

We see in the bylaw (2000-144) what we assume that too much information on the operation of the newly formed Corporations may be harmful to the peoples' health so the bylaw to prevent this happening now includes a requirement that the people (the true owners) be kept in the dark.

Chapter 6:

Confidentiality (included in the bylaw)

The shareholders and the directors and officers of the Corporation and the subsidiaries (each a receiving party) will ensure that no confidential information of the shareholders or the corporation or subsidiaries is discussed or otherwise made available to any person, except to the extent that:

- a. Disclosure to a receiving party's employees or agents if necessary for the performance of any receiving party's duties and obligations under this or any other shareholders' declaration.**
- b. Disclosure is required in the course of judicial proceedings or pursuant to law**
- c. The confidential information becomes part of the public domain (other than through unauthorized disclosure by the receiving party)**

So by bylaw, it is apparent that the appointed Board of Directors are, at every opportunity, required to apply for increases in the electricity rates to its customers so as to generate, in part, more and more cash to be given to Council in the form of dividends. The Directors, in 2014, applied to the Ontario Energy Board for an adjustment of the rates which was approved on March 19th, 2015 by the Ontario Energy Board.

Chapter 7:

Dividends

The former OWLP Commission after they were free of debt and in times of good generation years shared their good fortune with the true owners, the people of Orillia (customers) and mailed them a dividend cheque or gave them a credit on their next hydro bill.

As freedom of information legislation does not exist in the new corporations and there is no absolutely no co-operation on the part of Orillia Power Corporation to give this information we the former commissions have to depend on city by-laws, council resolutions, and city minutes as well as the annual shareholder meeting of Orillia Power Corporation for the information herewith.

We can, however, take the last figures that is by no means the complete figure, from the last agenda of the Orillia Power Corporation presentation to City Council on April 13, 2015. As part of the presentation of Orillia Power Corporation they show that Orillia Council, over the fifteen-year period 2000 to 2015, received (37.1 million dollars) together with the city's share to the hospital and university for an additional amount of \$4.325 million for a total of \$41.425 million dollars. The report shows that there are 13,400 Orillia customers so let's do the math on the assumption that each person's electrical bill is exactly the same. We of course know that this is not the case as some will be higher and some lower. So \$41.425 million divided by 13,400 customers is equal to \$3,091.42 per customer but this is for fifteen years so we divide \$3,091.42 by 15 and we arrive at \$206.09 per customer per year. Customers are no longer getting a dividend cheque, but it is being taken by the city as a hidden form of additional taxation.

It is evident to all customers, the true owners (the people) could not fathom that their Council could implement a process to gain revenue on the backs of consumers without their knowledge so as to direct part of their monthly electricity bill. If consumers want to cry they should look at their electricity bill and see that you have also paid GST on the amount extracted from you, the consumer, for council purposes.

In the Council Special Budget Committee meeting on October 28, 2015, Schedule "B" from the Chief Administrator Office are showing that Orillia Power Corporation interest to reserve of \$924,760.00 for the year 2015 then \$721,000.00 for the years 2015 through 2029. In the same report they are showing the dividends from Orillia Power Corporation as \$1,100,000.00 for the years 2015 to 2018, then increasing to \$1,500,000.00 for 2019 to 2029. On a separate line they are showing an increase to Orillia Power Corporation dividend (expansion) which starts in 2020 as \$1,709,000.00 through 2029. We have no idea of what or where this expansion figure is coming from and we hope with favour that this does not relate in any way to Mayor Clarke's article relating to negotiations with Hydro One on any disastrous sale of the distribution arm of the utility.

Chapter 8:

The Ownership of the Utility

The ownership of the utility belongs to the people of Orillia, not the Council and it requires that their elected representatives not Council's appointed people to act as their agent in trust for the people. **To make any change in this process requires City Council to go back to the people in an amended referendum to make changes or attempt to dissolve the people's Bylaw 557 that they are legally bound to uphold.**

In 1911, when there was an uproar from both industry leaders and the people regarding the complete mismanagement of their electrical asset and the depletion of all its contingency

monies and lack of appropriate maintenance which lead to a great number of outages. Key industrialists {including J.B. Tudhope, Eratus Long, Benjamin Johnston, Harold Hale (Packet and Times), and Mayor William Sword Frost (father of Provincial Premier Leslie Frost)} and supporters of the electrical utility ran for and were elected to the 1912 Town Council with their platform being to remove the utility from the control and mismanagement of Council. This Council then composed a Special bylaw that would be put to a vote of the people as a binding referendum that could only be changed or amended in the same manner as instituted, that is with another supporting vote of the people. This plebiscite or binding referendum (Bylaw 557) remained in place for 87 years under the name OWLP until the Council or staff said that this old bylaw should now be ignored and that Council could now regain control without involving a vote by the people.

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Chapter 10:

Orillia Statistics 2012

- **Orillia's population is 30,586 (2011 Census)**
- **One third of Orillia's population, unfortunately, exists at or below the poverty line.**
- **40% of the population is on fixed income and unable to absorb increases related to their cost of living.**
- **The growth rate in Orillia, when you remove the students who live temporarily in our city during their 8-month school year and whose principal residence is elsewhere, is stagnate or, now negative falling from 0.5% in 2011 Census to now minus figures. The national growth rate is 5.9%.**
- **Orillia's median age is 49.2 years where the provincial median is 40.4 years.**

Chapter 11:

Sale of the Distribution Arm

Any sale of any portion of the former OWLP (Orillia Power or Orillia Distribution) would have a catastrophic negative effect on the peoples' utility and should never be considered - at any price.

All electrical customers and citizens of Orillia have an obligation to make their position known. To do nothing should not be an option. We should not allow the sale of our electrical asset to Hydro One or any other bidder and we should ask Council to have an open discussion and people's referendum on this issue.

Call your Ward Council representatives to ask them why they are in negotiations with the mismanaged Hydro One and if they are selling a portion of our profitable public utility just to pay for a recreation centre we cannot afford.


- Mayor Steve Clarke: mayor@orillia.ca, (705) 325-2447
- Councilor Ted Emond: ted@tedemond.com, (705) 826-2347
- Councilor Sarah Valiquette-Thompson: votevaliquette@gmail.com, (705) 826-2351
- Councilor Rob Kloostra: cameronhouse@rogers.com, (705) 826-2350
- Councilor Ralph Cipolla: cipolla@encode.com, (705) 826-2466
- Councilor Mason Ainsworth: mason4orillia@gmail.com, (705) 826-2328
- Councilor Jeff Clark: jn10clark@gmail.com, (705) 826-2343
- Councilor Pat Hehn: pmhehn5@gmail.com, (705) 826-3497
- Councilor Tim Lauer: tlauer@sympatico.ca, (705) 325-5812

DO NOT LET YOUR COUNCIL GAMBLE BY SELLING A PORTION OF ORILLIA'S GREATEST ASSET TO HYDRO ONE AS ALL FUTURE CONTROL WILL THEN BE LOST. OUR RATES WILL CONTINUE IN AN UPWARDS SPIRAL AND OUR REVENUE STREAM WILL BE GONE FOREVER.

The content of this document, to the best of our knowledge, is correct. We, as both lifelong citizens of Orillia and as the only elected trustees of the public ownership of the utility, clearly are of the opinion that the electrical consumers (the People) are the only true owners of the utility and are deserving of the facts contained herein. This informational (paid by the former O.W.L.P. Commission members) should be part of the public domain and we strongly feel that a Freedom of Information process must be made available to all of its customers.

The Packet (Sunmedia) are released from any adverse liability related to the publication of this material.

Respectfully submitted, under the signature of your elected commission,


Gord Pye


Frank Kehoe


Ken McLaughlin


Dan Valley

2015

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Russell, Christie, LLP

Barristers & Solicitors

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Michael F. Sirdevan, B.A. (Hons), LL.B.
Jennifer E. Biggar, B.A., (Hons), J.D.
W.D. (Rusty) Russell, Q.C., Retired

Please reply to: Douglas S. Christie (Ext. 248)
Email: dchristie@russellchristie.com

December 1, 2015

SENT BY EMAIL

The Corporation of the City of Orillia
50 Andrew Street South, Suite 300
ORILLIA, Ontario, L3V 7T5

Attention: Ms. Gayle Jackson

Dear Ms. Jackson:

Re: City of Orillia - OPDC Sale to Hydro One

I have reviewed the letter received by the Mayor and Council from several former members of the Orillia Water, Light and Power Commission (OWLP) dated November 19, 2015. This letter alleges that the transfer of responsibility for electrical distribution and generation from the OWLP to Orillia Power Corporation and its subsidiaries in 2000 was not legally carried out. The rationale for this statement is By-law No. 557 of the Town of Orillia passed in 1913 under the authority of the *Municipal Light and Heat Act* which established a Board of Commissioners to manage the generation, distribution and sale of electrical power and light in the Town of Orillia. This By-law required a vote of the electors of the Town before it came into effect. The By-law contains a certification of the Clerk dated January 7, 1913 which confirmed a vote in favour of the By-law. Subsequently, the *Town of Orillia Act, 1915* provided that while By-law No. 557 remained in force the powers, rights and privileges for the generation, distribution and sale of electrical power and light would be exercised by the OWLP and not by the Council of the Town.

The authors of the letter of November 19th claim that as the creation of the Board of Commissioners required the assent of the electors then so did the dissolution of the Board of Commissioners.

In 1998 the Government of Ontario passed the *Electricity Act, 1998* which essentially mandated the dissolution of all municipal commissions that formerly generated, transmitted, distributed or retailed electricity. The Act required municipalities that wished to remain in the electricity business to incorporate a corporation under the *Business Corporations Act*. The deadline set for this changeover was November 7, 2000.

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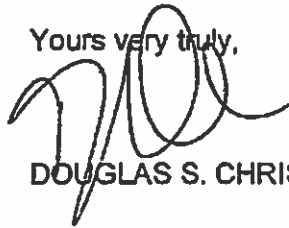
Prior to the implementation of the requirements of the *Electricity Act, 1998* the control and management of the OWLP was governed by the *Public Utilities Act*. Pursuant to Section 39 of that Act any commission established under the *Municipal Light and Heat Act* was deemed to be a commission established under Part III of the *Public Utilities Act*. Section 45 of Part III of the *Public Utilities Act* provided that the Council of a municipality may by by-law, passed with the assent of the municipal electors, repeal any by-law establishing a commission. However, in 1996 the *Public Utilities Act* was amended with the addition of Section 67 authorizing a municipality to pass a by-law to eliminate the requirement of obtaining the assent of the electors.

The City, in conjunction with the OWLP, established a "Transition Committee" which held numerous meetings in 1999 and 2000 to guide both the City and the OWLP through this transition period. It should be noted that I was a member of this Transition Committee which also included at least one commissioner from the OWLP.

In compliance with the *Public Utilities Act* the City of Orillia passed By-law No. 2000-145 on October 16, 2000 which dispensed with the assent of the electors before the City dissolved the OWLP. By By-law No. 2000-146 passed October 16, 2000 and effective November 1, 2000, the OWLP was dissolved and this By-law provided that "any By-laws heretofore passed by the City or any predecessor thereof establishing the Orillia Water, Light and Power Commission are hereby repealed". Enclosed are copies of By-laws 2000-145 and 2000-146.

In our opinion, By-law No. 557 has been repealed; the Orillia Water, Light and Power Commission was properly dissolved and all of its electricity assets were legally transferred to Orillia Power Distribution Corporation and Orillia Power Generation Corporation.

Yours very truly,



DOUGLAS S. CHRISTIE

DSC/adm

A BY-LAW PURSUANT TO SECTION 67(1) OF THE PUBLIC UTILITIES ACT (ONTARIO) TO DISPENSE WITH THE ASSENT OF ELECTORS PRIOR TO DISSOLUTION OF THE ORILLIA WATER, LIGHT AND POWER COMMISSION

WHEREAS the Orillia Water, Light and Power Commission (the "Commission") was established by special legislation and is deemed to be a commission established under Part III of the Public Utilities Act (Ontario);

AND WHEREAS The Corporation of the City of Orillia (the "City") proposes to transfer the assets and undertaking under the control and management of the Commission and owned by the City to corporations incorporated pursuant to Section 142 and Section 145 of the Electricity Act, 1998 (Ontario);

AND WHEREAS upon the completion of the said transfer the Commission is no longer required.

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE CITY OF ORILLIA HEREBY ENACTS AS FOLLOWS:

1. THAT any requirement to obtain the assent of the electors before the City exercises its power to dissolve the Commission is hereby dispensed with and eliminated.

BY-LAW read a first, second and third time and finally passed this 16th day of October, 2000.

Maggie Buchanan
ACTING HEAD OF COUNCIL

Paul S. Lee
CLERK

CERTIFIED TO BE A TRUE AND CORRECT COPY OF BY-LAW NUMBER 2000-148

Paul S. Lee
CITY CLERK

DATE October 17, 2000

A BY-LAW TO DISSOLVE THE ORILLIA WATER, LIGHT AND POWER COMMISSION

WHEREAS the Orillia Water, Light and Power Commission (the "Commission") was established by special legislation and is deemed to be a commission established under Part III of the Public Utilities Act (Ontario);

AND WHEREAS The Corporation of the City of Orillia (the "City") proposes to transfer the assets and undertaking under the control and management of the Commission and owned by the City to corporations incorporated pursuant to Section 142 and Section 145 of the Electricity Act, 1998 (Ontario);

AND WHEREAS upon the completion of the said transfer the Commission is no longer required.

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE CITY OF ORILLIA HEREBY ENACTS AS FOLLOWS:

1. THAT the City is authorized to accept a General Conveyance, Assignment and Bill of Sale from the Commission with respect to any assets which it owns, has registered title to, or uses to provide public utility services on behalf of the City.
2. THAT any By-laws heretofore passed by the City or any predecessor thereof establishing the Orillia Water, Light and Power Commission are hereby repealed.
3. THAT Chapter 524 of the City of Orillia Municipal Code is hereby repealed.
4. THAT the Commission is hereby dissolved and ceases to exist.
5. THAT this By-law shall take effect 12:00 a.m. November 1, 2000.

BY-LAW read a first, second and third time and finally passed this 16th day of October, 2000.

CERTIFIED TO BE A TRUE AND CORRECT COPY OF BY-LAW NUMBER 2000-146

[Signature]
CITY CLERK

[Signature]
ACTING HEAD OF COUNCIL

[Signature]
CITY CLERK

Letter to the Editor The Packet

Date: August 19, 2016

This letter is in response to the interview with Mayor Steve Clarke by Andrew Phillips and the Mayors comment that council followed process on the city councils sale to Hydro One.

My reply to this process is instilled in the democratic rights and freedoms that we as Canadians enjoy in a democracy.

In the early years 1898 to 2012 the generation and distribution of Orillia's hydro was managed by an appointed body reporting to council. There was a clear understanding to Orillia citizens as well as the industrial people who backed all of the borrowing debentures that electrical rates alone was to pay for all costs with no money flowing out of the general revenue of the town. The council in 1911 however started to dip into the maintenance and reserve funds of the hydro triggering key industrialists and men of vision and some citizens of Orillia to remove the electricity arm away from all council involvement and have an elected body to represent the citizens ownership of the utility. To accomplish this task a group of industrialists met with the Premier of Ontario and Adam Beck (Minister responsible for Hydro Electric Power Commission of Ontario) to arrive at a binding process to keep the hydro arm out of the hands of town council. The Premier, and I would expect cabinet, made a requirement that if this matter was put in the form of a referendum of the eligible electorate then the province would support it. The 1912 Orillia council enacted the wording of this separate binding bylaw (557).

Deputy Returning Officers and Pole Clerks were appointed in seven polling sub-divisions and on the fourth day of January 1913 the electorate voted on the referendum. The referendum was carried by a clear majority of 401 eligible voters.

This is August 2016 and close to 104 years have elapsed and the only process that Governments can take to eliminate or retract or amend a referendum of the people is for the electorate (eligible voters) to retract it in the same manner as it was enacted. The referendum is still binding. No legislation has the power to over-ride this process. The legislature can try or give the impression that their legislation can over-ride a referendum but only the Orillia electorate (citizens) have this power.

The legislature as a whole must recognize that the distinguishing feature of a democracy is that Government derives its authority from its citizens.

The word democracy comes from two Greek words – "demos" (the people) and "kratos" (authority or power).

Direct democracy is defined as Government in which the citizens vote on laws. I am not a lawyer however, it is my opinion that the Provincial Legislature on its own lacks the authority to discard a legal referendum of the citizens. During the period of 1913 to the present the city has endeavoured to sell the electrical asset and each time a vote of the electorate rejected it.

The city is in receipt of its own legal opinion that supports the legality of the aforementioned but nevertheless this council appears to ignore it.

I am somewhat out of touch with the current value of the distribution arm but certainly know the path and relative cost of a new generation component to again make Orillia totally self-sufficient in electrical energy so as to give the electrical consumers hydro at $\frac{1}{3}$ to $\frac{1}{2}$ of what we are now paying. However this could never be accomplished without the distribution arm.

My rough calculations of Orillia's distributions true value which includes inventory, trucks, special equipment, poles, conductors, transformers, ten sub-stations, and smart meters installed together with the existing installed transformers, poles, cross-arms, conductors and appropriate hardware distribution lines, buildings and property holdings is in the range of 54 million dollars. I do not know the exact mileage of owned right-away land 66 feet in width that is currently owned but in my days on the commission it was in the range of 90 miles which is not included in the 54 million estimate.

The selling of Orillia's hydro distribution arm must be a decision of the true owners, the citizens of Orillia to approve or reject or amend any sale or changes of ownership.

Frank Kehoe

