



Requested Driveway Entrance Permits are an issue of ...

Risk Management

Driveway Entrance Permits



- Proponent requested two Driveway Entrance permits for construction of their proposed hydro-electric generating station at the Bala Falls
- These were approved, subject to conditions, by
 - Engineering & Public Works Committee, May 21, 2014
 - District Council, June 16, 2014

Transparent and Public Process Needed

- District Staff have delegated authority for routine Driveway Entrance permit applications:
 - This is not a routine decision
 - More complicated and much bigger risks than just the safety of the driveway entrances or rehabilitation of a bridge
- There is no established policy for this
 - Council, not Staff must approve Conditions
- Proposed project has been an issue for six years
 - We would all like to delegate it and move on
 - But this is a major issue of risk and public safety
 - Transparency and public input is required

Muskoka Road 169 Bridge over Bala north channel



- Bridge owned by the District Municipality of Muskoka
- Blasting and excavation inches from and between the two support piers
 - Hundreds of heavy construction equipment round-trips carrying blasted rock, driving between and below piers

Muskoka Road 169 Bridge over Bala north channel

- 50 km detour if bridge damaged
- Would impact:
 - All local commerce
 - Ambulance, police, fire
 - Tourism
- For months
- No public information on how this could be done safely
 - Just “assurances”



- Only a **Letter of Credit** would protect District
 - Ensures proponent would take all precautions

We don't know ...

- Proponent has not provided any information on
 - Addressing the 25% chance of flooding they would cause during their proposed construction
 - How they would ensure no damage to District's bridge over the north channel
 - If they are so confident their plans are safe then they should not object to providing a Letter of Credit
 - Relocating and working beside District's pressurized sewer main
- This is a key decision
 - It is not "just a driveway"
- Years to resolve the half-blasted and abandoned mess in Port Carling
- District must be protected before any work begins on-site

Risk to Bala north dam

- Construction proposed risks damaging the Bala north dam
 - This could drop the water level of Lake Muskoka by 10' and flood the Moon River
 - The 3,400 Lake Muskoka and 200 Moon River property owners include many good lawyers and people that can afford them
- The MNR's approval was expected to take 60 days
 - It has now been 9 months, MNR clearly has concerns
 - The District should be concerned as well

District Needs Protection

- MNR required a large report detailing the proposed construction sequence and risks
 - This consultant's report begins with three paragraphs of disclaimers, including:

Neither WSP nor SREL accepts any liability of any kind arising in any way out of the use ... of any information ... in this report ...

- District needs own protection for Muskoka Road 169 bridge

Liability

**Dam failure,
damage to bridge,
flood**

Proponent has no assets, no operations, no employees

Engineering consultant
WSP disclaimed all liability

MNR would say proponent-driven process or Act of God
(should have done greater winter drawdown in advance of 2013 spring freshet)

Insurance company would determine poor planning or Act of God

?? District allowed and facilitated construction ??
What protection would the District have

Only a **Letter of Credit** provides protection at least as good as a Performance Bond

- **Letter of Credit**

- Available “money in the bank”

More protection

- **Performance Bond**

- Not applicable in this situation, so two choices

Less protection

- **Insurance**

- Insurance company’s money (they want to keep it that way)
- Therefore many exclusions
 - Act of God, force majeure, poor planning, pre-existing condition ...

Risk Management

- This is an issue of risk management for the District
- The MNR has taken 9 months to review the reports and information from the proponent, and still has not approved the proposed work
 - Clearly there are unaddressed safety concerns
- The District's only protection is a Letter of Credit for at least the value of the District's bridge over the Bala north channel
 - Likely much more than \$2,000,000
 - Insurance would be inadequate
 - Claim could be denied
 - Providing a Letter of Credit should be proponent's problem, not District's