



COMMITTEE OF THE WHOLE AGENDA REPORT

TO: Mayor Don Furniss and Members of Council

MEETING DATE: March 12, 2015

SUBJECT: Bala Falls Working Committee Report 1

<u>RECOMMENDATION:</u>	That the attached Working Committee minutes from the February 26 th , March 3 rd and March 4 th meetings be received; That attached Resolution from the Working Committee be approved.	
<u>APPROVALS:</u>	Date	Signature
Submitted By: Clayton Harris, Interim CAO On Behalf on the Working Committee	March 9/16	<u>Original signed by C. Harris</u>

ORIGIN: At the December 16, 2014 Committee of the Whole, the Township received a number of requests from various individuals and organizations with respect the proposed Bala Falls Hydro Project. One of the requests was from SREL to establish a Working Committee. A Working Committee was subsequently created. It reports to the Committee of the Whole. This is the first report of the Working Committee.

BACKGROUND: During their delegation SREL indicated they wanted to finalize their engineering and design specifications in preparation for the issuance of construction tenders. To finalize these documents requires a determination as to whether or not it will include the use of any municipal lands. The more time sensitive aspect of this question is with respect to the widening of a portion of the west shoulder of Muskoka Road 169, next to the project site. The use of this parcel of land would require the support of the Township and the issuance of a Road Occupancy Permit from the District.

To put their requests into context the Working Committee requested SREL to provide a synopsis of the context for the project, the physical context as well as their approvals and timelines. For the purpose of this report SREL has provided the following summary:

Status of Approvals

“SREL is currently awaiting final approval of the Lakes and Rivers Act Approval (LRIA) from MNRF for the project. This approval is expected to be resolved in tandem with the Crown lease; however, if the lease isn’t ready at the time for some reason, we will be able to begin construction work under our current Land Use Permit with MNRF. We have been told unofficially by MNRF that there are no issues with the technical aspects of this project and we should be receiving the LRIA approval in short order after final review by the Crown attorneys. Their legal review is apparently taking significantly longer than expected given the high profile nature of this project. Upon receipt of the LRIA approval, SREL will be in a position to begin Phase 1 of construction that will consist of site preparation i.e. vegetation clearing, fencing, and exploratory excavation for further geotechnical investigation. All other federal, provincial and municipal permits have been received to commence construction.

Status of Design

Design of the temporary works (i.e. cofferdams and excavation), generating equipment and water passages is complete. The design of the building is ongoing and currently scheduled to be completed late April with building permit submission expected in May. Meanwhile, SREL will be issuing a tender call for general contractors in May while it awaits the issuance of the building permit.

Timing

In order to go to tender in May, SREL needs closure in April on what lands will be made available to them for construction. The bulk of construction is expected to commence in early summer. However, as noted above, Phase 1 - site preparation will start immediately upon receipt of the LRIA approval.

Lands

Based on feasibility studies conducted by the project’s engineers and input from experienced contractors, SREL is confident that there is sufficient space on the Crown lands it currently has to complete the project. Therefore, if there is no municipal land made available for use during construction, SREL will continue with its current plan and build the project using the Crown lands available to it. This will include the Project lands, Margaret Burgess Park, Divers Point and the Crown land between MR-169 and Purk’s Place. SREL can make no guarantees with respect to preserving vegetation or access on these lands.”

The Chair of the Working Committee, Mr. Mike Fitton illustrated the purpose of the committee using the following three (3) scenarios.

Scenario 1 – The project does not proceed. In this event the Working Committee would have no work to do.

Scenario 2 – SREL builds in accordance with the existing approvals using Crown lands. Council is not a consenting agency for those approvals. The Working Committee would have no work to do.

Scenario 3 – SREL builds the hydro plant. The Township meets with SREL to provide input, including the potential use of Township lands to mitigate the impact on the community. In this scenario there is plenty of work for the Working Committee to undertake.

The Working Committee met on three (3) occasions, February 26th, March 3rd and March 4th. The minutes are attached to this report. In addition the Working Committee approved a resolution with respect to the widening of a portion of the west shoulder of Muskoka Road 169, next to the project site. A copy of the resolution is attached.

FINANCIAL: No financial implications.

Bala Falls Working Committee Resolution March 4, 2015

Whereas the possibility exists that the majority of Council does not wish this project to proceed;

Whereas it is our understanding that part of the Working Committee's terms of reference is to look at alternatives if the project does proceed;

Whereas the Committee has had the assistance of District Public Works staff and the Township of Muskoka Lakes Interim Director of Public Works to weigh the effects of obstructing Muskoka Road 169 for a period of time against the widening of Muskoka Road 169;

Whereas widening is considered a better option given the circumstances;

Whereas there appear to be advantages to the community in retaining the widening after construction for purposes for which Council may wish input at a later date;

Whereas Swift River Energy Limited is prepared to fund the permitting, design and construction of the widening subject to District of Muskoka approval and that the widening may be permanent;

Whereas should the District of Muskoka direct the removal of the widening after construction , Swift River Energy Limited will assume the costs of this removal and rehabilitation of the underlying lands;

Whereas Swift River Energy Limited agreed that the design parameters shall be reviewed by this Committee for finalization;

Now Therefore Be it Resolved that we recommend to Council that they advise the District of Muskoka that the road widening is a better option than obstructing Muskoka Road 169 for a period of time, provided the review of the design parameters by the Working Committee takes place and the widening is at no cost to the Township.

Bala Falls Working Committee

Minutes of Meeting

February 26, 2015

The first meeting of the Bala Falls Working Committee was held on Thursday February 26, 2015 at 9:30 a.m. in the Board Room, Municipal Offices, Port Carling, Ontario.

Present:

Mike Fitton – Chair
Jean- Ann Baranik – Member of Council
Sandy Currie – Member of Council
Linda Barrick-Spearn – Member of Council
Karen McGhee – SREL
Frank Belerique – SREL
Clayton Harris – Interim CAO

Cheryl Hollows (recording secretary)

1. Call to Order

Clayton Harris called the meeting to order at 9:30 a.m.

2. Confirmation of the Chair

Mr. Harris introduced Mike Fitton to the Working Committee. Mr. Fitton indicated that he had been recommended by Mr. Harold Elston, the Township's solicitor. Mike stated that he had a law practice in Bracebridge for 38 years. During that time, he was the municipal solicitor for a number of municipalities, including the Township of Muskoka Lakes. He has presented to the Ontario Bar Association and the Law Society of Upper Canada on municipal and real estate matters. He currently chairs the Committee of Adjustment for Consents for the Town of Bracebridge. Mr. Fitton lives in Bracebridge and declared that his knowledge of the matter at hand was superficial and that he had no opinion either for or against the Hydro Project.

Mr. Fitton was confirmed as Chair of the Bala Falls Working Committee by consensus of the meeting group.

3. Adoption of the Agenda

The Chair called for the adoption of the Meeting agenda dated February 26, 2015 as amended to add correspondence from Aird and Berlis LLP.

Councillor Currie requested that he be permitted to make an audio recording of the meeting proceedings. He indicated that he wished to retain a copy of the recording and that he would supply a copy of same to Clayton Harris and the Committee Members if requested.

Upon motion duly made by Karen McGhee, seconded by Jean Ann Baranik, and carried, it was resolved that Bala Falls Working Committee Meeting proceedings would not be recorded unless the audio recording would be stored in the office of the Township of Muskoka Lakes only.

Councillor Currie voted in opposition to the motion.

Councillor Currie left the meeting at 10:04 a.m.

By consensus, the Committee confirmed the agenda as amended.

4. Introductions

Mr. Fitton asked each Committee Member to introduce themselves and to provide the meeting group with synopsis of the expertise and experience they would contribute to the Committee.

Councillor Currie returned to the meeting at 10:20 a.m.

5. Correspondence from Aird and Berlis

Correspondence from Aird and Berlis LLP was circulated to Committee Members on February 25 by the Interim CAO. Mr. Fitton noted that it was addressed to the Mayor and Council and as such did not fall within the mandate of the Bala Falls Working Committee. Clayton Harris reported that the letter was reviewed by the Township Solicitor who indicated that it was appropriate for the Working Committee to proceed to meet. He distributed an email received from Mr. Elston.

Councillor Currie raised concerns about the adjusted Council Meeting schedule and the possibility that could be available to present recommendations from this Working Committee to the March Committee of the Whole which could then be ratified the following day at the March Council Meeting. Mr. Fitton responded that that concern did not fall under the mandate or jurisdiction of this Working Committee.

6. Overview of the Working Committee Process

Mr. Fitton advised that this Working Committee was appointed by Council and that those appointed possess all rights associated with that appointment including the Chair and the Interim CAO. All members may execute their right to vote. Voting will be with a show of hands. The Ministry of Natural Resources and Forestry was appointed a seat on the Working Group. Due to shortage of staff resources, they have declined the appointment, however they will make themselves available to answer technical questions and attend as necessary.

The Working Committee agreed that minutes of the Committee meetings would be presented to Council prior to being made available to the public. The meeting group agreed that Councillor Jean Ann Baranik as Deputy Mayor would speak on behalf of the Committee to the press. Individuals would not be restricted from providing their individual opinion, but would not make comments regarding the views of other members of the Committee.

7. Review of the Working Committee Mandate

Councillor Currie requested that the January 20, 2015 (COW-4-20/01/15) and February 13, 2015 (C-27-13/02/2015) COW and Council resolutions regarding the Working Committee mandate be provided to the Committee. Upon the reading of the resolutions, Councillor Currie provided his opinion that the mandate was not clearly delineated and that the Working Committee did not have a clear mandate from Council.

Mr. Fitton requested that Council be asked to re-confirm the mandate that would clarify and resolve the matter. He indicated that if necessary, approvals such as this can be applied retro-actively.

8. Project Context, Presentation by SREL

Frank Belerique distributed a memo dated February 26, 2015 regarding the North Bala Small Hydro Project – Working Committee.

Karen McGhee gave a detailed description of the lands in the vicinity of the North Bala Small Hydro Project. Utilizing visual images, she noted those lands which are owned by the Crown and are included in the lease arrangement

SREL expects to have with the Province. She also detailed those lands owned by the Township of Muskoka Lakes and the Crown (that would not part of the lease agreement) that are of interest to SREL to use during construction of the Project. Councillor Currie asked if Crown lands behind the Bala United Church were included in the lease agreement. Ms. McGhee responded that they were not at this time. She indicated that a survey of the included lands was prepared for inclusion with the lease. She agreed to distribute same to the Working Committee.

9. Alternatives for Construction Staging

Ms. McGhee indicated that under the current conditions some staging for the construction of the Project would be at Margaret Burgess Park. Ms. McGhee was of the opinion that trees would have to be removed and that those remaining would likely suffer long-term damage to their root systems. Further, parking utilized by the community on surrounding road allowances would be compromised. It is anticipated that Margaret Burgess Park will be needed for 18 months.

Access to the Project is proposed to come from Margaret Burgess Park via a temporary bridge across and over the Falls. A coffer dam will be installed to dry out the river bed. The river bed will be deepened. Trucks and equipment will drive over the river bed to facilitate the extraction. Access will be from the Crown land between Purk's Place and Muskoka Road 169. It is expected that the coffer dam will be in place for approximately 9 months.

Installation of the turbine to the Project is expected to take two weeks. Under current conditions, one lane of Muskoka Road Highway 169 will need to be closed for that time. Other short-term road closures will also be required. Ms. McGhee indicated that these closures would not be necessary if the District of Muskoka would give permission for SREL to widen the road at the delivery site. Further, this road-widening could be a permanent installation that could be used for community parking etc. Access to the plant for maintenance would also be much less intrusive. The District Public Works department has indicated that such a road widening is possible should the Township of Muskoka Lakes be supportive. Councillor Currie asked if it would be possible for District Public Works staff to appear at the Working Group to provide professional expertise. Ms. McGhee agreed to make that request.

Councillor Currie asked if the river bed would be part of the lease agreement. Ms McGhee indicated that it was. Councillor Currie asked if SREL had Transport Canada permissions to put construction on the river bed. Ms. McGhee said they had that permission.

Ms. McGhee reported that lease included the lands known as Diver's Point. SREL will be required to operate the dam at the South Falls and the Diver's Point lands are needed for that purpose. These lands will likely also be used for temporary storage and to house temporary administrative facilities during construction. Councillor Currie indicated that the Bala United Church used this land as a location for "Sunrise Services"

Frank Belerique reported that the primary concern of the community communicated to SREL was the potential closing of and damage to Margaret Burgess Park. He indicated that SREL could negate the need for the MB Park by using the lands adjacent to the project site as well as the lands known as the Shield Parking Lot and Portage Landing Parking Lot for staging and construction. SREL had made previous proposals to the TML regarding this opportunity which to date have not been responded to. Mr. Bererique indicated the offer still stands and SREL would be open to discussion around matters other than money. Potential town improvements such as aesthetic design, integration of the plant with Heritage concepts and other wish list items could be contemplated.

Councillor Currie requested that the offer to lease Township land be confirmed.

Mr. Belerique reported that the Project had satisfied four sets of elevation requests, had been evaluated by all government levels and had all permits in place excepting the LIRA. Turbine contracts have been awarded. In May 2015, the construction tender will be issued and a building permit will be applied for. Therefore if changes to the design and construction staging are to be made, they need to be authorized very shortly.

Mr. Fitton asked that if the Committee makes no recommendations, could the project proceed, even if it was more awkward for people? Mr. Belerique answered affirmatively, indicating that sufficient lands will be included in the

lease to proceed. He indicated that SREL is passionate about maintaining Margaret Burgess Park and the trees and it is important to them that they make every effort to do so.

Councillor Currie indicated that he had a number of questions of SREL and that he would forward them to the recording secretary. Others had questions also. The responses of Ms. McGhee and/or Mr. Belerique follow each question.

Councillor Currie asked if communication been received from Wahta?

Nothing has been received from Wahta to date regarding this Committee.

Mr. Fitton asked what concerns Wahta identified and have they been resolved.

Concerns raised – fisheries that was dealt with and portaging which the courts ruled on, First Nations consultations confirmed by the Ministers.

Councillor Currie asked what SREL is asking of the TML.

Ms. McGhee referred to the February 26/15 letter.

Mr. Harris asked what the maximum length of time the construction project might take.

As a contractor has not been selected, a schedule has not been created. The construction project is expected to take 14-18 months. The maximum should not exceed two years. Remediation of lands will be dependent on weather/season.

Mr. Fitton advised SREL to keep Council briefed concerning schedules as they become known.

Councillor Currie asked if the lease of Township lands would include penalty clauses.

SREL indicated that was a reasonable request.

Councillor Currie asked in the event the road is widened, what would prevent the road from caving in while construction is underway?

The road widening will not occur unless design and implementation is approved by District engineers. The agreement to widen will contain restrictions that SREL would be required to work within

The road widening is a stand-alone request, not contingent on other requests.

Councillor Currie asked if SREL does not get road widening permission, but receives access to Parcel 1 from TML, will you have driveway access?

Yes

Councillor Currie asked if using the Parcel 1 property, will all trees will be removed? Will they be re-planted? Will there be a retaining wall on the downstream side of roadway? If so will it be permanent or can it be removed? People are skeptical about how the property will look after construction.

All options are negotiable

Mr. Fitton indicated that the District will approve lane restrictions/road closures on their roads and that it is beyond the mandate of this Committee to be involved in District matters.

Digital Recording of Meeting procedures

Mr. Harris reported that the TML does have to capacity to permit digital recording of the meetings. Respecting the will of the Working Committee earlier, the Township can keep these recordings in the custody and care of the Clerk. A process to release the recordings needs to be determined.

The consensus of the Working Committee was to store the recordings with the Township Lawyer and that the Working Committee would recommend rules for accessing the recordings.

10. Future Meetings

The Chair announced the next two meetings to be on Tuesday March 3 from 9:30 a.m. - 12:45 p.m. and Wednesday March 4 from 9:30 a.m. - 1 p.m. in the Board Room at the Township of Muskoka Lakes Office.

11. Adjournment

The meeting was adjourned at 1:03 p.m. by the Chair.

Bala Falls Working Committee

Minutes of Meeting

March 3, 2015

The second meeting of the Bala Falls Working Committee was held on Tuesday March 3, 2015 at 9:30 a.m. in the Board Room, Municipal Offices, Port Carling, Ontario.

Present:

Mike Fitton – Chair
Jean- Ann Baranik – Member of Council
Sandy Currie – Member of Council
Linda Barrick-Spear – Member of Council
Karen McGhee – SREL
Frank Belerique – SREL
Clayton Harris – Interim CAO

Cheryl Hollows (recording secretary)

1. Call to Order

Mike Fitton called the meeting to order at 9:34 a.m.

Mr. Fitton read four emails to the meeting. The first was from a community member to him expressing an opinion on the construction of the Hydro Plant at the North Bala Falls dated March 1, 2015. The second, dated March 1 was from Mr. Fitton to Councillor Currie asking Councillor Currie, in the event he knew the author of the first email to advise him/her that as he was appointed as an impartial chair he would not respond to such emails and would delete them as it is necessary to do so to maintain impartiality. The third email, dated March 2, 2015 was Councilor Currie's response to Mr. Fitton taking exception to the tone and implications in the second email and putting forth that TML citizens have a right to be heard by this Committee and that as Chair, Mr. Fitton should receive these communications and convey them to the Committee. To not do so would be a dereliction of the Chair's duties. In the fourth email , dated March 3, 2015, Mr. Fitton clarified his intent to Councillor Currie and restated that he would not communicate with anyone other than Committee members or Members of Council during the term of the Committee on Hydro Plant matter. He also asked that if Councillor Currie knows the community member, could he advise the individual that he his lack of response was not a matter of courtesy, but a matter of necessity.

It was noted that Councillors on the Working Committee could bring forward citizen input. Input that is specific to the mandate of the Committee would be most useful. Those articulating general dis-satisfaction with the project have already been heard by Council. Councillor Baranik noted that the will of Council is for this committee to provide advice to Council that will mitigate issues that have been identified. Councillor Currie was concerned that there was a lack of full understanding in the community about what may or may not happen with the Project and the Committee should be aware of this. Mr. Fitton commented that the mandate of this Committee was to report only to Council. It is Council's role to respond to the public.

Mr. Fitton has a view on the appropriate way to execute his duties and Councillor Currie has another. Mr. Fitton asked the Committee to vote on whether they wished him to remain Chair under these conditions. .

Upon motion duly made by Karen McGhee, seconded by Jean-Ann Baranik and carried, it was resolved that Mike Fitton be re-confirmed as Independent Chair of the Bala Falls Working Committee and agreed to his communication criteria as outlined in the email correspondence.

Councillor Currie opposed the motion and Mr. Fitton abstained.

Mr. Fitton set-out three possible scenarios with respect to the Hydro Project and the Committee's role relative to these scenarios.

Scenario 1.

The Project does not proceed. In that event, the Working Committee would have no work to do.

Scenario 2

SREL builds in accordance with existing approvals using Crown lands. Council is not a consenting agency for those approvals. The Working Committee would have no work to do.

Scenario 3

SREL proceeds with the Hydro Plant. The Township meets with SREL to provide input, including the potential use of Township Lands to mitigate the impact to the community. In this case there is plenty of work for the Working Committee to undertake.

Ms. McGhee commented when SREL appears in front of Council, they are given only 5 minutes to speak. It is not enough time to adequately convey their message, given the complexity of the information SREL wishes to impart. The creation of this Working Committee would overcome this restriction. The composition and mandate of this Working Committee was again questioned. Mr. Fitton confirmed that the Group was appointed by Council and we are unable to make changes and that the mandate is also under Council control.

Mr. Harris agreed to contact the Township Insurance Agency to ensure that Council members and staff are covered for legal indemnification while working on this Committee.

2. Adoption of the Agenda

The Working Committee adopted the Agenda by consensus.

3. Approval of Minutes of February 26, 2015

The amended minutes were approved by consensus.

4. Business Arising from the Minutes

- a. Audio recording of the meetings

Mr. Harris advised that he had communicated with the Township solicitor about the Committee requests from the last meeting regarding audio recording and storage. Mr. Elston indicated that his opinion and advice to the Committee that the best approach is to assume that the sound recordings would be considered a record, that would likely be produced upon a proper FOI request.

Upon motion duly made by Jean-Ann Baranik, seconded by Karen McGhee and carried, it was resolved that the Bala Falls Working Committee Meetings not be audio recorded.

Councillor Currie opposed the motion and Mr. Fitton abstained from the vote.

Councillor Currie noted that he had other matters arising from the November 26 minutes. They are

- a. Agenda alignment with mandate
- b. Correspondence from Aird and Berlis
- c. Working Committee mandate and process
- d. Alternatives to construction staging

- e. Appropriateness of discussing matters with the developer who is currently litigating the Township. Mr. Fitton ruled that to be out of order. The Mayor had indicated in their initial conversation that the litigation was not part of the Committee's mandate.
- f. Appropriateness of staff voting on this Working Committee. Mr. Fitton ruled this to be out of order. It was dealt with at the last Committee Meeting and vetted by legal counsel.

It was noted that there were aspects of the mandate document that have not been addressed by this Committee. The focus so far has been on construction staging. The Committee is also charged with design, safety/water levels and community improvement. The Chair concurred with this observation.

Councillor Currie requested that Council be asked to re-affirm the mandate of this Committee. He re-iterated that he would be bringing concerns from the community to this Working Committee. Mr. Fitton requested that these items of concern be sent in advance of the meeting to members so they can be prepared to address them.

At 11:00 a.m., Kevin Austin, District Director of Transportation & Engineering Services, Mark Misko, District Transportation Services Coordinator and Len Troup, TML Interim Director of Public Works joined the meeting.

Ms. McGhee explained that a proposal to widen Muskoka Road 169 adjacent to Portage Landing was in front of the District Public Works Committee in May of 2014 but was removed from the Agenda by the Committee as it did not have the support of the TML. SREL is requesting that the TML support the proposal, so that it can be placed back on the District Public Works Agenda.

SREL advised that no lengthy double lane road closures will be sought for the construction. However single lane closures, one for as long as two weeks, will be required. These would not be necessary if there was a road widening that would accommodate the trucks and equipment needed to off load equipment to the site. Should it be decided to make the widening permanent it could be used for parking, a scenic look out and for plant maintenance. SREL will pay for the permitting, design and construction. It would remain in the ownership of the District.

It was asked what the length of the widening would be. The response was approximately 45m., allowing a truck to park away from the plant entrance. Staff indicated that the widening could be built without utilizing the TML lands known as Portage Landing. If the concept for the widening is approved, it will be engineered to District specifications. As a District project, it would be up to the District to determine if a peer review is required.

Both Mr. Austin and Mr. Misko have seen the site on the ground. Both have reviewed the concept over the years. It is fairly tight at the end closest to the Plant entrance and it would not be a simple construction site. Trucks could drive straight into the widened area if coming from the north without the need for flagging. The previous District Commissioner of Public Works favoured the proposal in his staff report of May 21, 2014. Should it be a permanent widening, it would be an asset to the District Road system as the two bridges in Bala are high on the list of priorities for maintenance and the widening would be of use for that purpose. Also the entrance to the plant, which has District approval, would be aided.

Mr. Fitton asked the District Representatives if the use of a small triangle on TML lands would help resolve their concerns about the small area at the end closest to the plant entrance and they indicated that it would help.

It was agreed that former Commissioner White's staff report would be circulated to this Committee. It was asked what barriers would protect the public from going over the widening. At this point there are guard rails proposed. That is what there is now. Concrete jersey barriers could be put in place if requested. Construction fencing could also be used. The MTO, who is responsible for public safety will have specs on what is required and SREL acknowledged that all work would meet specifications.

The District agreed to share high season traffic data with those interested on the Committee. District staff were asked if the trucks involved in the river bed extraction exiting Bala Falls Road would significantly affect traffic on Muskoka Road 169. Mr. Troup did not expect them to be an impediment. Mr. Fitton indicated that designated supplier routes during construction could be incorporated into any arrangement with SREL.

Mr. Troup asked if a stairway from the widening to the Portage Landing lands could be contemplated so the public could access those lands. It was asked if the widening would promote speed through town and the District staff advised that it would not. Types of parking were discussed. Angle parking was not favoured as backing out poses a hazard.

The invited guests were thanked for their contribution to the Working Committee and left the meeting at 12:00 p.m..

Councillor Currie asked if steps could be placed from the road widening to Portage Landing to provide a portage opportunity during construction. Ms. McGhee was concerned about the safety aspects of portaging in that area during Project construction. She noted that Transport Canada was of the opinion that the portaging opportunity be moved to the other side at the Township docks. It was commented that Transport Canada does not regulate portaging.

Ms. McGhee indicated an urgency to the request to widen the shoulder of Muskoka Road 169 particularly as it is required to be processed through Committee and Council at the Township and the District

Timing and District meeting schedules were discussed should this working group proceed with a recommendation to COW. Councillor Baranik stressed that opportunities for public input be available. There is always an option to call a Special Council Meeting if necessary.

Permission for SREL to use the road widening during construction would be from the District who would issue a Road Occupancy Permit.

Mr. Fitton asked if this Committee could have input into the engineering process. Although not legally obligated to, SREL would entertain this.

It was asked if the road widening concept could be peer reviewed. The Township has a report from CC Tatham dated April 29, 2014 which comments on this proposal. As it is a District road, the District would determine if a peer review was required. The TML is only considering support.

The consensus of Committee was to review the District Staff report and the CC Tatham report to the TML for the next meeting.

Matters to be placed on the March 4 Committee Agenda were discussed.

The Chair adjourned the meeting at 12:43 p.m.

Bala Falls Working Committee

Minutes of Meeting

March 4, 2015

The third meeting of the Bala Falls Working Committee was held on Wednesday March 4, 2015 at 9:15 a.m. in the Board Room, Municipal Offices, Port Carling, Ontario.

Present:

Mike Fitton – Chair
Jean- Ann Baranik – Member of Council
Sandy Currie – Member of Council
Linda Barrick-Spearn – Member of Council
Karen McGhee – SREL
Frank Belerique – SREL
Clayton Harris – Interim CAO

Cheryl Hollows (recording secretary)

1. Call to Order

Mike Fitton called the meeting to order at 9:22 a.m.

2. Adoption of the Agenda

The Working Committee adopted the Agenda by consensus.

3. Terms of Reference

Mr. Fitton followed up on a point made at the last meeting, namely that we have not fully utilized the Committee's terms of reference to guide our discussions. At times, topics discussed have exceeded the terms of reference.

Upon motion duly made by Linda Barrick Spearn, seconded by Jean-Ann Baranik and carried unanimously , it was resolved that all comments/questions be directly related to those items contained in the terms of reference.

4. May 21, 2014 Staff Report to the District of Muskoka EPWC

Committee members had received a link to the May 21, 2014 District Staff report. It was noted that the Former Commissioner of Public Works, Tony White was supportive of the road widening. The report included everything related to the matter including comments from the community. There were no further questions.

5. April 29, 2014 CC Tatham letter to the TML Director of Public Works

It was noted that the report commented on a crosswalk. More information on this crosswalk would be helpful. Public safety around this has not been discussed. There is concern in the community about safety at the crosswalk location. The crosswalk has not been built. Entrance permits were issued by the District with knowledge of the crosswalk and it does not affect the road widening proposal.

Mr. Fitton stated any information about the crosswalk could be forwarded to interested Committee Members (SC,CH,JB,LBS) and that the crosswalk matter is beyond this Committee. It was a request of Council to the District and is a matter for those two groups.

The Committee noted that the report indicated that "expected traffic volumes at this access will be minimal at most."

Page 2 of the report contained a number of questions regarding the road widening. The responses were provided by SREL:

1. What loading/unloading operations are expected when a truck is parked in the shoulder area and how will these impact traffic operations? - Equipment will be unloaded to the project site, no anticipated impact on traffic operations
 2. Is this area wide enough to accommodate a crane and its stabilizer legs without impacting traffic operations? - The crane will be staged on project lands and will not impact traffic operations.
 3. Comment on need for tractor trailers to reverse into area which would require lane closures in both directions.- Former Commissioner White did an analysis and determined that the trucks could front in.
 4. West Bala Falls Road access – Not relevant as CPR overpass too low to permit usage.
 5. Special Provisions – protection of public traffic- Utilization of the widening will be specified in the entrance permit and occupancy permit issued from the District.
6. Shoulder Widening – Muskoka Road 169

Barriers will be installed on the MR169 side for the protection of crews using the widening and those using the road.

Flagging has been approved. Extended road closures will require District approval.

Mr. Fitton asked how the community was circulated information relating to this Project. There seems to be inaccurate information out there. It was noted that a Town Meeting had not been held since 2009. Information is presented at Council and COW Meetings but as SREL only has 5 minutes in which to present information, there isn't sufficient time to have a proper interchange of information. It was also noted that many property owners were not in Muskoka in the winter to attend such meetings.

At the last meeting it was suggested that the barriers around the project site would be jersey barriers with fencing. The road widening area has been drawn with guardrails as barriers. The road widening barriers will be engineered as the Bridge Code and Highway Act dictates. Another factor will be whether the widening is permanent or temporary. Should Portage Landing be leased to SREL, then the lands will be graded as a slope rather than an edge. SREL would be receptive to input from this Committee.

Mr. Fitton asked the Working Committee to consider whether a third option exists to permit the off - loading requirements of the Project. He reviewed the three scenarios he discussed at the March 3rd Working Committee Meeting. He asked the Working Committee to consider whether something better than the road widening exists.

Councillor Currie suggested closing Bala Falls Road on the Anglican Church side for construction staging. It would be easier to control. Financial arrangements could be made with affected businesses in the area. This option was considered but would not alleviate road closures as the crane could not reach from the site to the staging area, the Bala Falls Road businesses were not in favour of this when suggested in 2008, and there are litigation concerns. This option was not recommended by the Working Committee.

The Working Committee commenced constructing a resolution.

Councillor Currie will not support the resolution as he is concerned for personal liability and the potential for litigation. The lands below the road widening have been designated under the Heritage Act and further the Wahta have concerns expressed in two letters submitted to the Interim CAO on February 17 and March 2. The Committee may be knowingly making a decision that will lead to litigation.

Mr. Fitton made it clear that any litigation to the road widening would be directed at the District as they are the group that will decide on the outcome of the request. The Heritage aspects are not related to the widening but would be part of the discussion later in our process. At this time the matter is the road widening recommendation only.

The road widening matter is being discussed separately to meet District meeting timelines. It is proposed that the recommendation in the Working Committee resolution would be considered at the March 12 Committee of the Whole. The Working Committee agreed that opportunities for public input need to be accommodated. COW could recommend calling a Special Council Meeting or have the matter heard at the April Council Meeting.

The following motion was duly made by Councillor Baranik and seconded by Councillor Barrick-Spearn

Whereas the possibility exists that the majority of Council does not wish this project to proceed;

Whereas it is our understanding that part of the Working Committee's terms of reference is to look at alternatives if the project does proceed;

Whereas the Committee has had the assistance of District Public Works staff and the Township of Muskoka Lakes Interim Director of Public Works to weigh the effects of obstructing Muskoka Road 169 for a period of time against the widening of Muskoka Road 169;

Whereas widening is considered a better option given the circumstances;

Whereas there appear to be advantages to the community in retaining the widening after construction for purposes for which Council may wish input at a later date;

Whereas Swift River Energy Limited is prepared to fund the permitting, design and construction of the widening subject to District of Muskoka approval and that the widening may be permanent;

Whereas should the District of Muskoka direct the removal of the widening after construction, Swift River Energy Limited will assume the costs of this removal and rehabilitation of the underlying lands;

Whereas Swift River Energy Limited agreed that the design parameters shall be reviewed by this Committee for finalization;

Now Therefore Be it Resolved that we recommend to Council that they advise the District of Muskoka that the road widening is a better option than obstructing Muskoka Road 169 for a period of time, provided the review of the design parameters by the Working Committee takes place and the widening is at no cost to the Township

The following were in favour of the Resolution:

Jean-Ann Baranik

Linda Barrick-Spearn

Karen McGhee

Frank Belerique

Clayton Harris

The following opposed the resolution

Sandy Currie

The following abstained:

Mike Fitton

The motion carried.

It is not appropriate to hand out or disclose the contents of the motion, prior to it being received by the Committee of the Whole

It was noted that SREL would not be obligated to create the road widening, should they receive permission from the District.

It was reported that SREL made a presentation to the Bala United Church. According to a letter authored by church staff, SREL indicated that no trees on Margaret Burgess Park would be damaged and accesses at the exterior of the

church would not be compromised. Since then, concerns to the contrary has been raised. Ms. McGhee indicated that that this was not an accurate representation of the presentation to the church. Mr. Fitton ruled this discussion to be out of order.

Mr. Fitton noted that there is a battle going on over the Hydro Project and that misinformation is being communicated. The job of this Committee is to put forward recommendations that will mitigate concerns and make things better. He will insist on order and will not entertain discussions that are not relevant to the task at hand.

7. Business Arising from the Minutes

a. First Nations

The Final Report of the Working Group on Natural Resource Development was introduced to the Working Committee. The report was left with the recording secretary. The report recommends that First Nations be involved in resource development during all phases as they bring the added element of ensuring the protection of lands and waters. Mr. Fitton ruled this to be out of order as Council appointed this Committee and changes to the Committee composition and/or mandate are to come from Council

b. Agenda Aligning with Mandate

The mandate document does not marry up to the two motions voted on by Council and COW. The chair ruled this out of order. This is a matter for Council to debate.

Councillor Currie requested that the work of the Committee be stopped until Council can clarify.

By consensus, the Working Committee voted to continue the meeting. Councillor Currie did not support this and the Chair abstained.

c. Aird and Berlis Letter

This is a matter for Council to act on as it is addressed to them

d. Staff voting on this Committee

This was debated at the last meeting. The Township lawyer has no issue with staff voting on this Committee.

The coffer dam is to be engineered and installed in such a fashion that should a high water event occur, the coffer dam can be removed. Detail on how this would happen was requested. It will be engineered so that it can be removed if a high water event is anticipated and the water would flow through as it does now. The plant entrance would be shut off. The MNRF will be approving the mechanisms to ensure this occurs

Mr. Harris is requested to submit the approved Committee Minutes and any motions or resolutions passed by this Committee to the March 12 COW Meeting.

Mr. Harris will invite David Pink to the next Working Group Meeting to answer heritage related questions.

The next two meetings will be on March 26, 2015 at 2PM and March 31 at 9 AM.

The Chair adjourned the meeting at 1p.m.