Debunking the Collus Myths

I was recently told a member of town council is publicly making two incorrect statements that seriously need to be debunked:

1. Collus is 100% owned by the town (not 50%), and
2. Collingwood only received $8 million for the sale of its share.

Yes, I realize that these are contradictory statements (why would someone pay you for something they never bought?), but a member of the public alleges they were told to him by a council member this week. That sort of foolishness cannot go unchallenged. So let's correct those mistakes, shall we?

Let's get into the wayback machine to go back to 2011; the year of a provincial election when all three parties were making promises to reduce the number of electrical distribution agencies (LDCs) in the province. As noted in the EB in January, 2012,

> *About 15 years ago, there were 320 local electrical distribution companies; today, there are about 80, and the town's consultant on the process, John Rockx of KPMG, has said on several occasions, the province has concerns about the continued success of many of those operations.*

(First, take a moment to read an article in the Canadian Business Journal about Collus, which tells you how well respected in the province our utility was in 2011, and what its stated goals were.)

Start with number one. You can read the application to the OEB for the sale here: written in March 2012 by Scott Stoll of the town's then legal firm, Aird & Berlis, which oversaw the whole process. Now some history...

In its first meeting of 2011, the Collus utility board decided to look at the LDC market and learn what opportunities there were for a utility like Collus. The energy industry was aware that the province and all political parties were interested in making significant changes to the LDCs (this continues to be a concern for utilities as this presentation shows; Collingwood was just ahead of the curve).

In February, 2011, the board hired consulting firm KPMG to explore the options (see Sept. 12, 2012, below for more on the timeline and parameters). The board was given three options (see below) and chose a partnership.

On May 30, 2011: The annual Collus business plan was presented to council and approved.

In June, 2011, council created a task force authorized to evaluate the KPMG report and the possibilities of a partnership with Collus, and report back to council with recommendations. That nine-person task force included the former CAO WIngrove; Mayor Cooper; Deputy Mayor Lloyd; John Herhalt of KPMG; Dean Muncaster, chair of the Collus board; the CEO and CFO of Collus, David McFadden, the current Collus/Powerstream board chair, and Doug Garbutt, former mayor and public utility board chair.

The task force identified five potential partners, but later eliminated one as too small. The task force issued RFPs to each of the four large utilities in October, 2011. All four responses were received by the Nov. 16 deadline. The names of the potential partners were not revealed to the public, although Hydro One was later identified in the media.

Nov. 17, 2011: At a special meeting of council, Collingwood council approved sending out a media release about a potential partnership, and approved Collus hosting a public information session to explain its search for a partner, and the results of KPMG's report, and get public input. This meeting was well covered in the media.

As the 2013 Collus Annual Report noted:

KPMG LLP was retained by Collus to provide a calculation of the fair market value of all the common shares of Collus Power Corp as at December 31, 2010 based on the available audited financial statements as well as other internal and market information.

Also that day, the Enterprise-Bulletin posted a story about the search for partners. Four candidates had come forward:

The board hired financial consultants KPMG to review what was happening in the industry, forecast what could happen, examine what the real value of COLLUS could be, and what options could be explored.
The options KPMG came back with included an all-out sale, a partial sale, status quo, and the option the board decided to pursue: a 'strategic partnership.'

The task force that had previously been approved by council in June had examined the options and decided on a course. It used a weighted selection process that ranked the long-term value of the partnership and its community relationship above the potential income (it later reported its findings back to council, see Dec. 2011, below):

A task force, made up of the mayor, deputy-mayor, Collingwood's CAO Kim Wingrove, a representative from KPMG, former mayor and ...(public utilities board chair) Doug Garbutt, Houghton, and COLLUS CFO Tim Fryer, will be reviewing those proposals. Houghton said the evaluation criteria is weighted 70% on what might make up the bidder's proposal.

That public information session held that November generated little interest or concern from the residents:

Only two people stood to ask questions after a detailed presentation by COLLUS president Ed Houghton, and consultant John Rockx of KPMG; Amaizeingly Green manager Daryll Dorchak asked that a strategic partnership with another company alleviate concerns of power interruptions, and local resident George Daniels said he needed to see the "raw numbers" of any potential deal.
Houghton said those numbers weren't available yet – the task force reviewing the bids have only reviewed the 'proposals', not the financial offers, as it's a two-envelop bid system – but would likely be ready for the public early in the new year.

On Nov. 24, the Collingwood Connection had a story that added:

The town is currently evaluating four proposals – all are from other distribution companies. Collus president and CEO Ed Houghton says he can't reveal the names of the groups who have put in bids.
Each group has submitted two envelopes. The first envelope has the financial proposal, which will account for 30 points on the rating system. The next envelope will be what they can bring to the table such as strategic resources, keeping current employees, supporting the community, competitive rates and values.
The Collus board will review the proposals on Dec. 2. Council will receive an in-camera update on Dec. 5 and a resolution will be put to council at either the Dec. 12 or 19 council meetings.

Of interest is the comment about the money and the response from Mayor Cooper:

There was no amount discussed, but any payment from Collus would be put into a reserve account and would not be used until the community had a chance to have input as to what the money should be used for.
"This represents one of the most exciting and positive opportunities for the residents of Collingwood," said Mayor Sandra Cooper. "During our first budget process, department heads were requested to maximize value for the residents of Collingwood while recognizing our very difficult current financial environment. A result of this directive was the strategic partnership initiative."
As part of the agreement, the town will receive about $14 million for the 50 per cent stake in Collus. The board of Collus Powerstream will feature three members from the Town of Collingwood, three members from Powerstream with two of the six selected as co-chairs.

In December, the Collus board ratified the decision of the task force.

On Dec. 5, 2011, council went in camera with representatives of Collus and the board, to hear a presentation from the task force about the received proposals, and approve the recommended selection of partner.

I declared a potential conflict of interest and was not in attendance at this meeting, so cannot comment further on what transpired there. However, I have since learned that the system used by the Town of Collingwood on all large projects is commonly referred to the "two envelope system." The first envelope is opened and evaluated by all the reviewers based on a pre-determined evaluation criteria. In this case this envelope considered strategic and specialized resources, supporting the interested of the community and customer, culture and synergistic fit, competitive rates and cost structure and support for local employment. This envelope was weighted at 70%. The second envelope was opened after the evaluation of the first envelope was complete and this represented the financial considerations and was weighted at 30%.

On January 23, 2012, the results of that decision were made public when council unanimously and in public approved the sale of 50% of the town's share (i.e. 50% of the utility) to Powerstream (I was able to vote at that point because I was no longer in a potential conflict situation).

As the 2013 Annual Report from Collus noted:

KPMG LLP was retained by Collus to provide a calculation of the fair market value of all the common shares of Collus Power Corp as at December 31, 2010 based on the available audited financial statements as well as other internal and market information.
The valuation was used as a basis to discuss and negotiate terms and conditions for the Town to sell 50% of the Collus common shares to PowerStream. In addition to the cash consideration to be paid by the acquirer of the 50% of common shares, what was unique regarding PowerStream's proposal was that PowerStream agreed to allow the Town to receive a dividend from Collus without the purchase price valuation to be impacted with the reduction in rate base post dividend. In all the other proposals received, any dividend re-capitalization paid to the Town would include in the purchase price valuation as a reduction in the rate base.

Also on Jan. 23, 2012, Powerstream itself blogged about the partnership and the process, noting:

Collingwood Council unanimously supported the strategic partnership proposal following a presentation by Ed Houghton, President and CEO of Collingwood Utility Services. Houghton provided background information on the electricity industry, outlined the steps taken by Collingwood's Strategic Partnership Task Force to investigate various ownership options and described the process used to select PowerStream as the strategic partner.
The selection of PowerStream followed a comprehensive request for proposal process in which four proponents submitted responses. PowerStream was chosen based on many important and planned considerations including the ability to provide strategic and specialized resources, competitive distribution rates and cost structure, customer experience and satisfaction, community involvement, support for employees and their careers as well as the correct cultural and synergistic fit.

In March, 2012, the town's legal firm, Aird & Berlis, which oversaw the process and contracts, sent a letter to the Ontario Energy Board about the sale (see above).

In April, 2012, the province's *Distribution Sector Review Panel* recommendedreducing 73 LDCs in Ontario into 8 to 12 regional distributors and that the remaining 6 to 10 regional distributors serving southern Ontario should have: at least 400,000 customers each. This put further pressure on LDCS to explore consolidation while it was still a "seller's market." (other panel recommendations about LDCS are explained here).

In July, 2012, the deal was officially approved by the Ontario Energy Board and in August, 2012, the name was changed to Collus/Powerstream. The OEB noted in its decision:

On March 9, 2012, the Corporation of the Town of Collingwood and Collingwood Utility Services Corporation (respectively referred to as "the Town", and "Holdco") filed an application with the Board under section 86 (2)(b) of the Act, seeking a Board order granting leave for the Town to sell, and for PowerStream Inc. ("PowerStream"), to purchase a 50% interest in Holdco (the "Proposed Transaction")...
Based on the evidence in this proceeding, the Board concludes that the Proposed Transaction is not likely to have an overall adverse effect in terms of the factors identified in the Board's objectives in section 1 of the Act. Accordingly, the Board finds that the Proposed Transaction reasonably meets the "no harm" test.

In Sept. 2012, the Electrical Distribution Association magazine carried an article on the partnership, which further explained the timeline and objectives:

Weighing the Options
The Town of Collingwood engaged KPMG in February 2011 to do a complete evaluation of the utility and examine possible options for its utility going forward, including:
Status Quo: ownership and operation of the utility under its current structure
Sale: full or partial sale. If the latter, retaining either a minority or majority share
Strategic Partnership: Securing financial and/or technical partners

And finally the audited financial statements for Powerstream itself, for 2012 notes:

PowerStream Inc. (the "Corporation") was amalgamated on January 1, 2009, under the Business Corporations Act (Ontario) and is owned by the Corporation of the City of Vaughan (the "City of Vaughan"), through its wholly owned subsidiary, Vaughan Holdings Inc.; the Corporation of the City of Markham (the "City of Markham"), through its wholly owned subsidiary, Markham Enterprises Corporation; and the Corporation of the City of Barrie (the "City of Barrie"), through its wholly owned subsidiary, Barrie Hydro Holdings Inc. The Corporation is jointly controlled by these three municipalities... Collingwood PowerStream Utility Services ("Collus") which 50% of the shares were purchased by the Corporation in 2012 distributes electricity in Collingwood, Thornbury, Stayner and Creemore.

So that's number one debunked: 50% of Collus was sold to Powerstream. Period. Anyone who doubts that has been misled in their understanding of the process.

(Meanwhile, the consolidation of LDCS was still on the provincial horizon in Dec. 2012, according to this story in the Sun, and continued into 2015).

Now for number two: the money. I wrote about this myself back in June, 2013; my comments were based on a report from the June 10 council meeting. That meeting reiterated staff report T2013-04 from Feb. 25, 2013, written by the town's treasurer, in which she stated:

On December 1, 2012 Council held a public meeting to discuss the use of the funds received from the sale of 50% of Town owned shares in COLLUS Power. At that time the final 'settle up' figures were not available. The CFO for COLLUS/PowerStream Corporation provided the following estimates:

- *Promissory Note $1,710,170*
- *Cash Dividend $11,598,389*
- *Funds held in Escrow $1,000,000*
- *Future Dividend $150,000*
- *Total $14,458,559*

The now-councillor Tim Fryer was Collus CFO at the time of the original report. In June, 2013, the Collingwood Connection reported:

The Town of Collingwood has about $12.1 million in the bank.
However, they haven't decided what to do with it.
Months after a public meeting was held on what should be done with the proceeds from the sale of Collus that was finalized last year, Council still needs to make a decision on what to do with the money...
The town currently has $12.1 million in cash and a promissory note worth another $1.7 million.

That is what was reported in public. The promissory note has since been called by the current council (Nov. 2015). In Sept. 2013, the EB reported:

The town realized more than $14 million from the deal to create a 50% partnership of the electrical distribution side of Collus with PowerStream, including $8 million in cash directly from PowerStream. The remaining portion is tied up in a $1.7 million promissory note held by the municipality, as well as approximately $4.6 million through recapitalization of Collus Power.

The Ontario energy Board published a scorecard for Collus Power that covers the years 2010-2014. Of interest is the note that (emphasis added),

The leverage ratio in 2012 and 2013 significantly increased over 2010 and 2011 as a result of the re-structuring of the debt and equity proportions when fifty percent of the shares of the company were sold on July 31, 2012. A recapitalization dividend was paid to the Town of Collingwood to remove their accumulated retained earnings before the shares were sold and the debt was increased to the OEB's expected structure.

This is also of interest from the scorecard (emphasis added):

Collus PowerStream achieved a ROE of 11.21% in 2014, which is within the 8.98% +/- 3% range allowed by the OEB (see above paragraph). This is indicative of a healthy financial organization. This trend is expected to continue into the foreseeable future. The return on equity greatly improved in 2013 to 8.40% from 2.26% in 2011. This was the result of the changes mentioned above in the leverage ratio discussion and a strong net income for the 2013 year. The 0.10% result for 2012 was an anomaly year with a *low net income, which was the result of the additional expenses incurred during the sale of 50% of the company's shares to PowerStream.*

And in the 2013 report to the Ontario Energy Board about its financial position, Collus noted (emphasis added)...

In accordance with the Share Purchase Agreement a Final Recapitalization dividend and an Additional Closing Dividend were required to be calculated and paid to the Town of Collingwood... As a result of the Recapitalization Dividend, financing was required. Collus PowerStream borrowed $6.3m from Infrastructure Ontario.

And it's reiterated in the auditor's report for 2012:

The 2012 recapitalization and closing dividend of $4,598,389 was excluded from the debt service coverage ratio calculation because it was extraordinary in nature and related to the sale of shares and corporate restructuring of debt and equity. The loan received from Infrastructure Ontario was for the purpose of this dividend.

And in the 2013 Annual Report from Collus, it states:

As part of the transaction with PowerStream, the Town of Collingwood received cash proceeds as consideration for 50% of the common shares of the company and a further cash injection of millions as a unique dividend recapitalization that only PowerStream included as part of their response to the RFP.

So the town has received its **full share: approximately $14 million**. The treasurer confirmed it. The auditor confirmed it. It's been confirmed through the Ontario Energy Board. Number two is thus debunked.

If this nonsense actually came from a member of council, he or she clearly has been misled. Perhaps deliberately so.

It was a good deal: well-crafted, legal, open, transparent, good for the town, overseen by the top consultants, lawyers and experts in the industry. It brought us a terrific community partner, who has lived up to every commitment and promise made during the process. It paid for new recreational facilities and much of the Hume Street revitalization. Council should be celebrating the partnership.