

Attachemnts:

Memo to Commissioner regarding Crown Hydro Proposal Review

Memo to Superintendent regarding Crown Hydro Analysis

November 14, 2006

To: All Commissioners

From: Superintendent 

Subject: Crown Hydro Project Proposal Review – Mill Ruins Park

Recently we received a "new" proposal for leasing a portion of our land for a Hydro project. I asked our Director of Planning and Project Management to give me a very quick review of the terms and possible implications. That report is attached.

The Crown Hydro Project has been both confusing and complex. It has also been extremely time consuming for staff.

The Board needs to determine if we are going to proceed with reviewing this material. Please pay particular attention to the fifth paragraph on page two of Mr. Reitkerk's report. At present we have neither the staff time nor funds to properly undertake this assignment. In our view the developer should bear the majority of the costs associated with the proposal. It would be extremely important to engage a "third party" to determine if the assumptions being advanced are accurate.

For further discussion.



November 7, 2006

TO: Jon Gurban, Superintendent

PREPARED BY: Judd Rietkerk, Director
Planning and Project Management

SUBJECT: Crown Hydro Project Proposal Review
Mill Ruins Park

Project Scope and History:

As you may recall, the Park Board rejected a lease proposal from Crown Hydro in April, 2004. Although the Board's rejection was a final action on the proposed project, the developer has continued planning and design work on the project. On May 17, 2006, the Board granted a permit to the developer for additional soil investigation on a new location within the Central Riverfront Regional Park. On October 12, 2006, staff received the soil reports, plans for the new location of a hydro power facility, preliminary construction documents and a proposed lease to implement the project.

The project location has shifted to a site directly in front of the Fuji Ya property and just up stream from the MPRB's intake for the Mill Ruins Park water feature. A majority of the improvements would be located underground as proposed in the original project. Any proposed interruptive features would not be as readily accessible in the new location. Therefore, the option for interpretation is limited. The development will occupy a footprint of about 80' X 80'.

The major terms are summarized as follows:

Term of lease	Matches term of FERC License and extensions
Initial Payment	\$1,000,000
Lease Payments	\$ 50,000 annually plus 15% of gross revenues from power generated above 20,000,000 kWh

Analysis of the Proposal

Staff is concerned that the project may require reimbursement of past federal funding and may jeopardize federal funding currently under contract.

The project will require major reconstruction of the Park Board's Tail Race improvements currently in place and structural changes to the historic tunnels.

Staff has not received a pro forma that would show revenue and operating cost projects which would indicate the potential for the Park Board actually receiving its projected income. The pro forma would also indicate the potential for getting investors interested or finding mortgage financing.

The actions taken by the Board to lease the site to the developer will require a resolution similar to that of a land sale resolution and eventually requires District Court Approval.

In a letter dated March 11, 1996, citing Resolution NO. 94-163, the Board defined for the developer what it believed to be a minimum flow of water over St. Anthony Falls for aesthetic purposes as 2000 cfs. The developer is committing to providing a water flow plan that would maintain usual or expected levels over the falls during the summer months from June through October; Fridays, Saturdays, and Sundays dawn to dusk.

The developer is proposing a citizen participation process that would include citizen advisory committee to review and recommend policies to achieve goals, review economic and flow data and make changes as necessary, and to develop a formula to distribute available revenues to appropriate neighborhood associations and the Park Board.

Funding for staff analyzing and reviewing the necessary agreements, financial feasibility study, structural analysis and legal costs has not been identified or approved. It is staff opinion that those administrative expenses should be part of the cost of the development and borne by the developer. Staff estimates that those staff costs and associated consulting costs could be as high as \$250,000.

Comments on the Proposed Lease

- The lease is basically forever without any termination rights
- The rights can be sold or transferred without any Board approvals
- Lease starts with five year exclusive rights (No Rent Payments)
- The project can be abandon without recourse
- MPRB is responsible for taxes, fees, assessments or franchise tax on rents received
- No plan or expansion approval for the MPRB
- Tenant shall have reasonable right access over the balance of the property
- Landlord shall join in applications for all permits, variances, special uses and licenses deemed necessary
- At the end of the lease, Landlord get the premises back “as is where is and with all faults”

Attachment:

Development Proposal Letter dated October 12, 2006.