

## **Cinergy. The mysterious ten million dollar plan for city rinks.**

Dear rink users,

As many of you know, Parks and Recreation staff and rink users collaborate very closely to run Dufferin Rink. This co-operative arrangement was worked out by trial-and-error during more than a decade, and it's not fully recognized by the upper management staff at City Hall. However it's recognized by skaters, who have voted with their feet by coming to Dufferin Rink in large numbers. And it's recognized by those City staff people who look after the rink and Dufferin Grove Park directly. Rink users do practical things to help the rink run well, and the city staff who know the rink take note of that.

In February 2005 some strangers came to the rink with clipboards. They wore badges that said "**Cinergy**," and they said they were checking how well the city rinks work. They said they didn't know much beyond their checklist, and so couldn't answer our questions.

A Google web search turned up the information that Cinergy is a giant American company established in 1993 and specializing in "energy retrofits." A search of Toronto's municipal web site brought up the name "**Vestar**," a subsidiary of Cinergy, in City Council minutes. It appeared that our city government had hired Vestar/Cinergy to do a \$10 million retrofit project involving all the city rinks and arenas. In 2000, City Council voted for an environmental plan (EP), meant to reduce community-wide carbon monoxide emissions by 20% by 2005 (from 1990 levels), and also to reduce energy use by 15% in all its departments. So the Parks and Recreation rinks and arenas are meant to be part of this plan.

We found the "request for proposal" number and we read that the City of Toronto is taking out a \$10.2 million loan to pay Vestar/Cinergy for this arena/ rink energy-efficiency. The company told city staff that the arenas and rinks would be so much more efficient after the project is done, that the money saved city-wide on energy and water operating costs will allow the City to pay back the \$10 million loan completely in only eight years.

That sounds almost too good to be true. But the City's planners are so sure the plan will work, that they've arranged for Parks and Recreation to pay back the loan using more than \$1 million of its operating funds every year for eight years until all the money is paid back.

Operating funds are what pays the staff to run the rinks, among other things. **So anything that reduces the funds to pay rink staff rings lots of alarms** – even if there is a golden promise of lots of money to be saved by and by. What if it's pie in the sky? Then the rink season will be shortened because of lack of money to pay staff. That wouldn't be the first time. But this could be even worse than in other years, and for eight years at least.

The City has tried to shrink the rink season lots of times before. The worst year was 2001, when City Council voted to open the outdoor rinks for only ten weeks. They wanted to take the money they saved on rink wages to hire three new parking ticket officers. (Parking ticket income is a golden goose for Toronto.) But we said – what's the good of having all these wonderful outdoor artificial ice rinks in this northern country, and keeping them locked except for ten weeks a year?

That year we had to work very hard with phone calls and e-mails, to persuade city councillors that ten weeks was too short. We carried the day. But this time – if Parks and Recreation will have to use up a million dollars or more every year from its

operating funds to pay off that big loan, and let's say the money saved on hydro and water *doesn't* cover the loan payments after all – opening the rinks as soon as skating weather arrives could be even more difficult.

A lot is riding on the math that went into the Vestar/Cinergy energy retrofit project.

### **The math.**

The city department in charge of rink buildings is “**Facilities and Real Estate.**” In spring I called their facilities supervisor, who oversees all building-related work at our park. He said he had heard that something was up but didn't know details. As far as he knew, the project was being managed through the **Policy and Development Division.**

We've had unhappy experiences trying to get information from that division before, so to save time we sent an information request to the City of Toronto **Corporate Access office.** They must comply with the freedom of information laws, which means that they actually have a deadline for answering a question (30 days, give or take a month), whereas if you approach the departments directly, there seems to be no deadline. They're usually too occupied with meetings to answer questions from outsiders like us – especially if we want details, rather than just a reassuring pat on the head.

On **May 11 2005** we submitted **Access Request 05-1379.** We asked to see **Request for Proposal (RFP) #9119-03-7275,** the document referred to in the City Council minutes, which Cinergy/Vestar filled out to get the contract. We also asked for a city council report entitled “A framework for establishing an Energy Retrofit Program and Financing Strategy.” (That report was already in the public domain, but the City's web site doesn't work very well, and we heard about it but couldn't find it ourselves.) Since the council minutes had referred to low-cost loans from the “Green Municipal Investment Fund,” we also asked for a copy of the loan agreement. And finally, “any final or interim document from Vestar/Cinergy giving recommendations for City Arenas and Artificial Ice Rink energy savings.” This was the one we really wanted to see – would their advice make any sense? Would their suggestions plausibly get near the energy-savings targets the city needed to meet -- \$10 million plus?

On **June 9 2005,** the City sent us the city council report, and said we could also get a copy of the RFP if we sent them \$16.60 for photocopying charges. As for the loan agreement, they couldn't show it to us: “no record exists, as the agreement has not been completed.”

That was worrisome. In the council minutes, we'd read that the green Municipalities loan had already been approved, in 2003. This was the kind of contradictory record-keeping we were afraid of.

As for the content of the Vestar/Cinergy recommendations, the City said the company had to be consulted, because disclosure of these details might be unwelcome to them. A decision would be issued on July 9.

We sent in our cheque for the RFP (request for proposal) photocopies. But the RFP turned out to be mostly blank – lacking almost all the details that a company might need to put in a bid, and certainly telling us nothing about Vestar/Cinergy's proposals. Missing information included 1. the list of sites to receive upgrades; 2. the list of measures to be taken; 3. the pay rates for senior staff working on the project; 4. the base utility data that would be used to measure the project's success.

The city council report was more informative. It said that the Energy Retrofit Project would be managed as part of the Parks and Recreation Capital Program. The whole project would cost \$10.2 million, with \$1.2 million going to Vestar/Cinergy in 2004, \$5.9 million in 2005, and \$3.1 million in 2006. \$2.5 million of the loan to pay Vestar/Cinergy would come from a low-interest Federation of Canadian Municipalities loans, the rest from regular debt. Vestar/Cinergy had agreed to insure the City to cover any shortfall in the predicted cost savings to the City, for a premium of \$667,000 plus PST. So that's the most the City could lose on the deal. That should have been reassurance, for our worry that the rink season would be reduced for many years, on the grounds of a shortfall in energy savings. But there was a problem.

### **Funny money**

The city council report gave a baseline number against which to measure energy savings (or any shortfall): "In 2001, the total water and energy consumption for the City's 100 arenas was 106,180.4 Mwh with a total cost of \$7.09 million."

I asked every city staff I knew what those numbers might be based on. Nobody knew. Then I got a chart, sent anonymously, showing the City records for its 2003 electricity bills for rinks. The chart is very odd. Both the price of electricity and the kilowatt hours to run the various rinks are highly inconsistent. For example, two rinks were put down for similar amounts of electricity use, but one rink was charged \$102,003, the other \$45,983. One double rink was listed as using a quarter of the power of a single pad rink. There is no rhyme or reason in the chart, and in some cases the energy uses listed were far too high, perhaps because the power bill included buildings unrelated to the rink. If a chart like this one was used to arrive at the energy use numbers cited in the city council report, the baseline would be meaningless. There would be no basis for comparing the "after" to the "before."

A very bad sign. On the other hand, it was heartening that the council report showed some attempts to be cautious. It recommended that the Vestar/Cinergy contract require the company to "conduct feasibility studies and provide detailed concept reports for each measure for the City's approval. The concept report will outline, in detail, the costs, savings, operating costs and maintenance requirements for each measure. Prior to moving to the engineering and implementation stage, the City must approve a concept report for each site."

Brave talk. But who will get to read those details? Not us. On **July 11 2005**, the City's Corporate Access office informed me that we will not be allowed to see any interim recommendations or reports from Vestar/Cinergy. "**Access denied**" – on the grounds that making such material public "could reasonably be expected to prejudice the competitive position" of the company.

The company will presumably have to show their recommendations directly to some city staff at some point. But to who? The city council report said that Vestar/Cinergy would collaborate with the lead city staff to "develop a communication program for...Parks and Recreation staff in order to create awareness" of the retrofit program. But any City staff whom I asked about the project – including the electrical supervisor, including the rink supervisors and the rink manager – seems as much in the dark as we are.

So a few of us began all over again. On **August 17 2005** we sent in a new request to the City's Corporate Access office, for the *completed* RFP, with the contract details agreed on by Vestar/Cinergy – in case they hadn't realized we wanted the RFP with *information* when they sent us the empty form the first time. That's another \$5 and another 30 days. On the same day we sent a \$25 cheque to the

**Ontario Information and Privacy Commissioner**, appealing the City's "access denied" decision about letting us read Vestar/ Cinergy's first round of recommendations. **That appeal can take many months.**

Then we looked for more city council minutes and reports, to see if we had missed things in there.

We had. **Clause No.11 of Report No.4 of the Policy and Finance Committee** was adopted by City Council without amendment at its meetings on May 18-20, 2004. Included in the report was this: "Vestar Ltd. will be responsible for all design, engineering, construction, project management **and monitoring and verification of savings.**"

So at the conclusion of the mysterious recommendations and alterations, which the public is not allowed to know in any detail, Vestar/Cinergy itself will collect all the numbers and judge whether its work is a success. If the city's baseline data are artificially inflated by the numerous flaws in the city's current energy use chart, and if Vestar/Cinergy insists the energy savings are there, who's to argue? But *if* the Parks and Recreation operating budget turns out to be unaccountably short for eight years, there's one way to make the energy savings really come true: reduce the rink season drastically. Presto. Less power use, just like they said, and more staffing money freed up to pay back the big debt.

The completed agreement between the City of Toronto and Vestar/Cinergy (now renamed CINERGY Solutions) came in the mail in September. **It had much more detail.**

*See: correspondence with the City to get to the bottom of this puzzle: is this a better project than it appears to be?*