



TOWN OF COLLINGWOOD

JUDICIAL INQUIRY

Before:

Associate Chief Justice Frank Marrocco

Held at:

Collingwood Town Hall

Council Chambers

97 Hurontario Street

Collingwood, Ontario

October 16th, 2019

1 APPEARANCES

2

3 Kate McGrann) Inquiry Counsel

4 John Mather) Associate Inquiry

5) Counsel

6

7 (No Counsel)) For Paul Bonwick

8

9 George Marron) For Sandra Cooper

10

11 Frederick Chenoweth) For Edwin Houghton

12

13 William McDowell) For Town of Collingwood

14 Ryan Breedon)

15 Andrea Wheeler (np))

16

17 Bill Trudell (np)) For BLT Construction

18 Eric Neubauer)

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1 --- Upon commencing at 9:31 a.m.

2

3 THE HONOURABLE FRANK MARROCCO: Just -
4 - just before you start, Mr. Chenoweth -- Mr. Bonwick
5 --

6 MR. FREDERICK CHENOWETH: As I
7 understand it, Your Honour, just with respect to the
8 first matter you mentioned, I have a sense that Mr.
9 Bonwick was to go before me.

10 THE HONOURABLE FRANK MARROCCO: Yes.
11 That's fine.

12 MR. FREDERICK CHENOWETH: And I'm --

13 THE HONOURABLE FRANK MARROCCO: That's
14 what I was about to do.

15 MR. FREDERICK CHENOWETH: I'm content
16 with that. Sorry.

17 THE HONOURABLE FRANK MARROCCO: No,
18 no. No. Thank you for that. Go ahead, Mr. Bonwick.

19 MS. KATE MCGRANN: Just -- Your
20 Honour, before we get started with the evidence today,
21 two (2) preliminary issues to address with you.

22 First of all, we had previously
23 discussed the question of Mr. Milanovic's affidavit.
24 We have heard from everyone. Nobody wishes to cross-
25 examine Mr. Milanovic. His affidavit has been posted

1 publicly to the website.

2 And second of all, we have heard from
3 Mr. Bonwick that he is unavailable next Tuesday and
4 thought that that was a scheduling issue that you may
5 want to address at the outset today.

6 THE HONOURABLE FRANK MARROCCO: Well,
7 first of all, thank you everybody for agreeing on --
8 on the affidavit. That's one (1) less witness that we
9 have to hear from in person and that shortens the
10 proceedings a little bit, and that's -- thank you for
11 that.

12 Mr. Bonwick, you're not available --
13 you have an appointment next Tuesday, is it?

14 MR. PAUL BONWICK: Next Tuesday in
15 Toronto, Your Honour.

16 THE HONOURABLE FRANK MARROCCO: The
17 difficulty -- what I'm concerned about is you'll be in
18 -- you could very well be in the middle of your
19 testimony.

20 Is there -- is there any way of moving
21 the appointment?

22 MR. PAUL BONWICK: It's -- I can reach
23 out this afternoon. It's a meeting that's scheduled
24 with four (4) other participants, and so I would have
25 to try to recreate -- they gave several dates during

1 that week and I was sort of unsure, based on when I
2 might be called, how we balance that.

3 THE HONOURABLE FRANK MARROCCO: Could
4 -- could you make an enquiry and perhaps we could
5 discuss it a little -- a little later today?

6 MR. PAUL BONWICK: I'll --

7 THE HONOURABLE FRANK MARROCCO: I --
8 I'd like to avoid a situation where your evidence is
9 interrupted, the Inquiry stops.

10 MR. PAUL BONWICK: Agreed --

11 THE HONOURABLE FRANK MARROCCO: I'd
12 like to avoid that if I can for obvious reasons.

13 MR. PAUL BONWICK: We're on exactly
14 the same page. My only thought was that if that was
15 one day that maybe I wasn't going to -- I could have
16 reviewed the transcript, but to your point I'll follow
17 that direction and try to reschedule --

18 THE HONOURABLE FRANK MARROCCO: All
19 right.

20 MR. PAUL BONWICK: -- and provide
21 feedback at the end of the day.

22 THE HONOURABLE FRANK MARROCCO: Okay.
23 I'm quite happy to talk about this again at the end of
24 the day. That -- that would be fine.

25 So go ahead, Mr. Bonwick.

1

2 CROSS-EXAMINATION BY MR. PAUL BONWICK:

3 MR. PAUL BONWICK: Ms. Leonard, my
4 name is Paul Bonwick and I'm a participant at -- at
5 this hearing.

6 I just want to get a couple of points
7 on the record before we sort of move into a -- a more
8 detailed line of questioning.

9 Is it accurate to state that we've
10 known each other in a limited manner at least since
11 2006 when you took your position as Treasurer?

12 MS. MARJORY LEONARD: Yes.

13 MR. PAUL BONWICK: Thank you. Is it
14 also reasonable to state that over this past thirteen
15 (13) years that we've had a very limited engagement in
16 any matters related to the Town of Collingwood?

17 MS. MARJORY LEONARD: That's correct.

18 MR. PAUL BONWICK: During any of the
19 conversations that we might have had, and I don't
20 recall very many, if any, at any point did I raise
21 issues or concerns in your mind in terms of asking you
22 to do anything with the Town of Collingwood?

23 MS. MARJORY LEONARD: No, you did not.

24 MR. PAUL BONWICK: I'd like to sort of
25 -- and thank you for that. I'd like to move forward

1 in terms of your understanding of structure within
2 government and your role.

3 If I understand properly, you would
4 consider the Chief Administrative Officer your direct
5 superior, correct?

6 MS. MARJORY LEONARD: Yes.

7 MR. PAUL BONWICK: And I think this is
8 where it gets complicated for all of us, certainly
9 those providing testimony, as to try to take a
10 snapshot in time rather than confusing it with events
11 that have taken place after the fact, but rather look
12 back and -- and look at a specific period of time, and
13 the time I'd like to focus on is 2010-2014.

14 During that period of time, would you
15 have considered Mayor and Council your ultimate
16 superiors?

17 MS. MARJORY LEONARD: In -- in terms
18 of the governance structure, the CAO is actually the
19 only employee of the Council, and Council directs the
20 CAO, who then directs staff.

21 MR. PAUL BONWICK: So the senior-most
22 authority in the municipality would be the Mayor and
23 Council. Is that fair?

24 MS. MARJORY LEONARD: They would be
25 the policy setters and the people that would provide

1 direction to the CAO.

2 MR. PAUL BONWICK: If the CAO was
3 choosing to move forward with disciplinary action or
4 the potential for termination of a department head,
5 does that not require the support of Mayor and
6 Council?

7 MS. MARJORY LEONARD: Yes, it does.

8 MR. PAUL BONWICK: Thank you. And so
9 it wouldn't be overstating to suggest that the
10 ultimate authority when it comes to matters of policy
11 -- directing policy, is Mayor and Council?

12 MS. MARJORY LEONARD: Correct.

13 MR. PAUL BONWICK: It wouldn't be
14 over-stretching to state that irrespective of what the
15 CAO -- your capacity as Treasurer or Director of
16 Engineering or Planning -- irrespective of what your
17 recommendations or your reports might suggest or
18 recommend, Council maintains the autonomy, in fact the
19 responsibility, to make the final decision on any
20 particular direction?

21 MS. MARJORY LEONARD: That's correct.

22 MR. PAUL BONWICK: You'll recall the
23 time frame in which Ms. Wingrove was the CAO for the
24 Town of Collingwood?

25 MS. MARJORY LEONARD: Yes.

1 MR. PAUL BONWICK: Approximately -- I
2 could be mistaken on this, but approximately thirteen
3 (13) or -- no, it was more than that, wasn't it?

4 MS. MARJORY LEONARD: I believe she
5 started in September of 2009, and was here till April
6 of 2012.

7 MR. PAUL BONWICK: Thank you. You
8 have heard testimony, I believe, of the Deputy Mayor
9 and the Mayor, speak to the level of confidence they
10 had in your abilities, in your capacity to fulfil your
11 responsibilities as Treasurer?

12 MS. MARJORY LEONARD: Yes.

13 MR. PAUL BONWICK: And that appears to
14 be quite evident in terms of looking back at the
15 history.

16 Do you recall having issues --
17 significant issues with Ms. Wingrove in terms of
18 concerns -- her concerns over how you were doing your
19 job and her bringing those to the attention of Mayor,
20 Deputy Mayor, members of Council?

21 MS. MARJORY LEONARD: Yes.

22 MR. PAUL BONWICK: Do you recall the
23 Mayor and Deputy Mayor did not agree with Ms.
24 Wingrove's assessment? In fact quite the opposite,
25 voiced confidence in your abilities to do your job and

1 do your job well?

2 MS. MARJORY LEONARD: I don't know
3 that for a fact.

4 MR. PAUL BONWICK: The fact that
5 you're still here would demonstrate, I think -- would
6 it be fair to state that the Mayor, Deputy Mayor,
7 members of Council, during the term of 2010-2014 did
8 have confidence in your abilities to fulfil your
9 position?

10 MS. MARJORY LEONARD: Yes.

11 MR. PAUL BONWICK: I'd like to move
12 forward to when Mr. Houghton was recruited to take on
13 the role of Acting CAO in the face of Ms. Wingrove's
14 departure.

15 The Inquiry has been told through
16 testimony and evidence that one (1) of the conditions
17 that Mr. Houghton brought to the table was Council's
18 blessing to create an Executive Management Committee.

19 Are you aware of that?

20 MS. MARJORY LEONARD: Yes.

21 MR. PAUL BONWICK: I think we've
22 visited this on different occasions, but for my
23 benefit you'll recall that Mr. Houghton, prior to
24 agreeing to take on this temporary position, was also
25 the President and CEO of Collus, the President and CEO

1 of the Public Utilities Corporation, the Executive
2 Director of Public Works, and we've heard in Part 1 of
3 the Inquiry that he was either on boards or actively
4 involved in a variety of different what I'll call LDC
5 associations for lack of better description.

6 Is that your understanding?

7 MS. MARJORY LEONARD: Yes.

8 MR. PAUL BONWICK: And so move aside
9 Council's desire to bring Mr. Houghton in as an
10 interim CAO, and arguably spreading him much more thin
11 than he already was, did it makes sense to you, based
12 on all of those responsibilities, that Mr. Houghton
13 would, in fact, act as -- ask as a condition of taking
14 on this temporary position that he be allowed to
15 create this Executive Management Committee? That may
16 have been a long-worded question.

17 MS. MARJORY LEONARD: It made sense to
18 me that he would require assistance in doing -- in
19 fulfilling the CAO's duties, or looking after the day-
20 to-day operations, I guess is...

21 MR. PAUL BONWICK: Thank you. We've
22 heard testimony from Mr. McNalty, Ms. Almas, amongst
23 others, that upon Mr. Houghton taking over the role of
24 Acting CAO, that the environment within the office
25 became much more engaging, much more collegial in

1 terms of the working relationships between the -- what
2 I'll call long-standing staff, senior management
3 people.

4 Would you agree with that?

5 MS. MARJORY LEONARD: I -- I would
6 agree with that.

7 MR. PAUL BONWICK: In fact I recall --
8 I barely recall -- that during that period of time,
9 Mr. Houghton communicating that he couldn't be more
10 pleased in terms of how certain people have really
11 stepped up to the plate. He spoke about Ms. Almas and
12 he spoke specifically about you, and feeling that you
13 had really sort of, for lack of better description,
14 stepped up to the plate in terms of a role on the eas
15 -- EMC, that the court book shows that in his absence
16 at EMC meetings you would chair.

17 And so is it fair to say that you,
18 along with the other staff, stepped up to support Mr.
19 Houghton in terms of the Council decision that was
20 made?

21 MS. MARJORY LEONARD: Yes.

22 MR. PAUL BONWICK: You will recall
23 that we had Ms. Marta Proctor on the stand earlier.

24 Could you bring up transcript from
25 September 23rd, 2019, page 90-91. And I can read it

1 for you. Ms. Proctor stated that:

2 "There was a fear in the
3 organization that there would be
4 repercussions and that it's not how
5 we do things, is what I was told."

6 Is her direct quote.

7 Ms. Proctor stated this no less than
8 three (3) times during her testimony and indicated
9 that this was a common response when she raised
10 concerns.

11 Now, when Ms. McGrann queried Ms.
12 Proctor on who those conversations took place with,
13 she cited you specifically. She also referenced Ms.
14 Almas and possibly Mr. Houghton, but she seemed to
15 focus in on you.

16 Do you recall at any time when Ms.
17 Proctor would raise issues with regards to process,
18 direction, reports that your standard response would
19 be "this is how we do things in Collingwood"?

20 MS. MARJORY LEONARD: No, I do not
21 recall any of those.

22 MR. PAUL BONWICK: Could you comment
23 in terms of how you run your department? And I want
24 to make sure I've got the title properly, are you the
25 treasurer and director of finance, or is it director

1 of finance or is it treasurer?

2 MS. MARJORY LEONARD: I -- the title
3 is just treasurer.

4 MR. PAUL BONWICK: Treasurer. Okay,
5 thank you. So as the treasurer, you're obviously
6 responsible at the end of the day for the financial
7 matters related to the Town of Collingwood, without
8 trying to simplify it too much.

9 MS. MARJORY LEONARD: Yes.

10 MR. PAUL BONWICK: Would you suggest
11 that or would you confirm that you would run your
12 department in a manner consistent with other
13 municipalities, generally speaking, across the
14 province?

15 MS. MARJORY LEONARD: Generally
16 speaking, yes.

17 MR. PAUL BONWICK: So the term "we do
18 things differently here," simply carries no weight, in
19 your mind, by virtue of the fact that you do run your
20 department in a consistent manner, or a manner
21 consistent with other municipalities, fair?

22 MS. MARJORY LEONARD: That's correct.

23 MR. PAUL BONWICK: Okay. So Ms.
24 Proctor took the opportunity to identify, in her mind,
25 this concern that she brought forward about this is

1 how we do things in Collingwood, and without putting
2 words in Ms. Proctor's mouth, the sense was that it
3 wasn't as functional a relationship as it could be,
4 because she had a different idea about how things
5 should happen versus how you and others had a
6 different idea.

7 Would you confirm that you felt -- or
8 that her concerns were reasonable?

9 MS. MARJORY LEONARD: Could you repeat
10 that?

11 MR. PAUL BONWICK: I knew I got that
12 one...

13 Ms. Proctor, in her testimony I
14 believe, alluded to her opinion that she didn't have a
15 functional working relationship with you and others.

16 Would you agree with that?

17 MS. MARJORY LEONARD: No, I would not.
18 In respect to me, anyway. The only one (1) that could
19 answer on my behalf.

20 MR. PAUL BONWICK: That's fair. And
21 you would have had discussions, of course, with Ms.
22 Almas, Mr. Houghton or others. But at the end of the
23 day you could only comment in terms of what your
24 observations are and you didn't consider yourself to
25 have a dysfunctional relationship with Ms. Proctor?

1 MS. MARJORY LEONARD: That's correct.

2 MR. PAUL BONWICK: Thank you. I want
3 to go to a bit of history here in terms of the MURFs
4 and recreation facilities.

5 You, of course, remember Ms. Proctor's
6 predecessor, director of PRC was Mr. Peter Dunbar
7 before her, I believe, correct?

8 MS. MARJORY LEONARD: Yes.

9 MR. PAUL BONWICK: How would you
10 describe your working relationship with Mr. Dunbar?

11 And I would appreciate you being
12 fulsome and accurate.

13 MS. MARJORY LEONARD: I didn't agree
14 with a lot of the things he did. Confrontational
15 might be the best word to use.

16 MR. PAUL BONWICK: It's fair to say,
17 and I -- I don't want to put words in your mouth --
18 would it be fair to say that through those
19 confrontations you had some strongly held positions in
20 terms of how things should be done?

21 MS. MARJORY LEONARD: Yes.

22 MR. PAUL BONWICK: And would it be
23 fair to say that you would raise those issues and --
24 and stand by them, principled?

25 MS. MARJORY LEONARD: Yes.

1 MR. PAUL BONWICK: You're -- you'll
2 also be aware of the fact that Mr. Fryer was the
3 director of finance or treasurer, and I'm not quite
4 sure which one, but with Collus for many years,
5 correct?

6 MS. MARJORY LEONARD: Yes.

7 MR. PAUL BONWICK: Now, court
8 documents have shown emails and communications to some
9 degree between yourself and Mr. Fryer -- yourself, Mr.
10 Brown, and Mr. Fryer.

11 Would you comment on your level of
12 satisfaction as the treasurer for the principal
13 shareholder in terms of Mr. Fryer's ability to
14 communicate effectively with the municipality?

15 MS. MARJORY LEONARD: I -- I'm not
16 certain I understand that question.

17 MR. PAUL BONWICK: So Town of
18 Collingwood is the largest share -- is the only
19 shareholder at that time of Collus, correct?

20 MS. MARJORY LEONARD: Correct, yes.

21 MR. PAUL BONWICK: You're the
22 treasurer for the Town of Collingwood?

23 MS. MARJORY LEONARD: Yes.

24 MR. PAUL BONWICK: He's the treasurer
25 for Collus?

1 MS. MARJORY LEONARD: Yes.

2 MR. PAUL BONWICK: Could you please
3 enlighten us as to how you felt that line of
4 communication or that relationship worked in terms of
5 effectiveness and the municipality understanding what
6 was going on?

7 MS. MARJORY LEONARD: I don't believe
8 that when the financial statements, for instance, were
9 -- were presented that there may have been -- it was
10 usually -- excuse me -- it was usually Ed that was
11 doing the presentations and Tim would add in some
12 comments so -- that -- accounting comments that Ed
13 couldn't get or didn't understand fully.

14 I don't know, it's -- I don't know if
15 it was ever communicated to the Town that retained
16 earnings were being held within the corporation as
17 opposed to paying out dividends because of the
18 potential desire to expand the utilities and -- and
19 that type of thing.

20 MR. PAUL BONWICK: So this is pre-50
21 percent share. By -- am I to understand properly that
22 you were not always satisfied with the level of
23 recording or the effectiveness of the line of the
24 communications between yourself and Mr. Fryer?

25 MS. MARJORY LEONARD: Not all the

1 time, and I'm certain there were times he wasn't
2 satisfied with my communications to him either.

3 MR. PAUL BONWICK: So -- so that we're
4 -- there would have been challenges in -- in that
5 relationship?

6 MS. MARJORY LEONARD: Somewhat, yes,
7 I'd say.

8 MR. PAUL BONWICK: In dealing with Mr.
9 Fryer, and you would be looking for information, I
10 assume you would, on principle, continue to pursue
11 your requests in terms of asking for information when
12 you felt that it was needed in your capacity as
13 treasurer for the larger shareholder, or the only
14 shareholder?

15 MS. MARJORY LEONARD: In terms of
16 requesting information regard to the hydro companies,
17 I -- it was basically the information that I required
18 was prepared for by the auditors, the financial
19 statements.

20 We, at that point in time, still had to
21 consolidate the water department, which Mr. Fryer was
22 also the CFO of, into our own financial statements on
23 a -- on a 100 percent basis, whereas with -- with
24 Collus it would be one (1) or two (2) lines on the
25 financial statements that would be there.

1 And again, we still had to record the
2 full water consolidation on the FIR that we submit to
3 the Ministry.

4 MR. PAUL BONWICK: Okay, so if -- so
5 are you done?

6 MS. MARJORY LEONARD: Yes.

7 MR. PAUL BONWICK: So in terms of you
8 requesting information in Mr. Fryer's capacity as
9 treasurer of both, really, I'm going to work on the
10 premise that you would be insistent on getting the
11 information you required, especially as it related to
12 the consolidation on the water side.

13 MS. MARJORY LEONARD: That's correct.

14 MR. PAUL BONWICK: Insist on getting
15 clear and accurate information from him so that you
16 could do it in a manner that's in keeping with your
17 professional accreditations and your fiduciary
18 obligations to the municipality?

19 MS. MARJORY LEONARD: That's correct.
20 And -- and, again, in that particular instance, we
21 would rely a lot on the audited statements, to -- to
22 provide those. But they're details that we needed to
23 get to include in the notes to the financial
24 statements and those types of things for those
25 departments.

1 MR. PAUL BONWICK: And just to
2 conclude that line of questioning, you would insist
3 that, in fact, at some point, even though you had to,
4 it appears, follow up on several occasions by way of
5 the court book or emails, that you were going to get
6 the information you required?

7 MS. MARJORY LEONARD: Yes.

8 MR. PAUL BONWICK: Thank you. You're
9 aware that Mr. Fryer retired and I believe Ms.
10 Shuttleworth, if I'm pronouncing her name properly,
11 Ms. Shuttleworth assumed the role of treasurer for
12 Collus --

13 MS. MARJORY LEONARD: Yes.

14 MR. PAUL BONWICK: -- correct?

15 MS. MARJORY LEONARD: Yes.

16 MR. PAUL BONWICK: We've gone through
17 emails in the court book, and it appears that the
18 relationship between the treasury of the Town of
19 Collingwood -- the treasurer of the Town of
20 Collingwood and the treasurer of Collus had some bumpy
21 roads on it.

22 Is that fair?

23 MS. MARJORY LEONARD: Yes.

24 MR. PAUL BONWICK: Would it be
25 reasonable to suggest that you had challenges in

1 dealing with getting information you thought you
2 should rightly have from Ms. Shuttleworth?

3 MS. MARJORY LEONARD: Yes.

4 MR. PAUL BONWICK: At any time, would
5 you simply acquiesce and walk away or would you
6 continue to follow up on emails and more strongly
7 worded emails in terms of trying to get the
8 information you felt you were entitled to?

9 MS. MARJORY LEONARD: I would continue
10 to send emails, but at a certain point, I would just
11 walk away because most times, it'd be like asking a
12 brick wall.

13 MR. PAUL BONWICK: Is it not accurate
14 to suggest that, in fact, when that relationship
15 became dysfunctional, and I'm not pointing fingers at
16 either party, just the reality is it appears to have
17 become dysfunctional, that, in fact, you ended up
18 having to engage PowerStream directly in terms of the
19 bilateral relationship?

20 MS. MARJORY LEONARD: In essence, that
21 was the route that John Brown, the CAO at the time,
22 had taken, to deal directly with PowerStream --

23 MR. PAUL BONWICK: And -- and, again,
24 I'm not --

25 MS. MARJORY LEONARD: -- in -- in

1 terms of the --

2 MR. PAUL BONWICK: Yeah.

3 MS. MARJORY LEONARD: -- shared
4 services and those types of things.

5 MR. PAUL BONWICK: And, again, I'm not
6 judging either side. What I'm simply suggesting is
7 that, if the situation presented itself in such a
8 manner as it was not acceptable from the
9 municipality's perspective, whether it be Mr. Brown or
10 yourself, you're here, in fairness, you simply are not
11 going to acquiesce or say we're not going to do
12 anything more.

13 You'll continue to pursue it in the
14 best interests of what you believe to be the Town of
15 Collingwood, correct?

16 MS. MARJORY LEONARD: Yes. I would
17 say that's correct, yes.

18

19 (BRIEF PAUSE)

20

21 MR. PAUL BONWICK: I've tried to
22 review as many of the emails as possible in part 1 and
23 part 2, but I'm sure I've missed lots just because of
24 the volume of information.

25 But there appears to be a lot of

1 communication between yourself and Mr. Brown, the CAO,
2 which is entirely reasonable in terms of the working
3 relationship that we -- you would have.

4 Could you share your perspective on the
5 working relationship that you maintained with Mr.
6 Brown during his time as CAO?

7 MS. MARJORY LEONARD: In the
8 beginning, it was a little rocky, but we came to terms
9 and I took my direction from Mr. Brown. And in -- in
10 -- I believe in his tenure here, that he was the
11 driving force behind the financial policies that we
12 had in place and the strage -- well, he was the -- the
13 driving force for the strategic financial policies
14 that were here and the -- the decrease in -- in -- or
15 the emphasis on decreasing the debt.

16 MR. PAUL BONWICK: And thank you for
17 that. My question is more about the relationship that
18 you had with Mr. Brown.

19 Would you consider yourself to have a
20 very cooperative, professional working relationship
21 with Mr. Brown once you get over the first few weeks
22 of the bumpy road when he took office?

23 MS. MARJORY LEONARD: Generally, yes.

24

25

(BRIEF PAUSE)

1 MR. PAUL BONWICK: During the time
2 2014 to 2018 -- sorry, during the time 2010 to 2014,
3 could you describe your working relationship with
4 Mayor Cooper?

5 MS. MARJORY LEONARD: I believe it was
6 -- it was fine. I've -- it's kind of an unfair
7 question really because I've known Sandra since we
8 were five (5), so, I mean, the exterior relationship
9 and the interior relationship were -- were similar,
10 carried on.

11 MR. PAUL BONWICK: Thank you. During
12 the time 2014-2018, I believe Mr. Saunderson, Mr.
13 Brian Saunderson, ran and was successful in securing
14 the position of deputy mayor.

15 You're aware of that?

16 MS. MARJORY LEONARD: Yes.

17 MR. PAUL BONWICK: And could you please
18 describe your working relationship with Mr.
19 Saunderson?

20 MS. MARJORY LEONARD: It was -- I
21 didn't have a lot of direct contact with -- with the -
22 - with the deputy mayor. It was the same as with the
23 other members of Council.

24 MR. PAUL BONWICK: Okay. Based on the
25 limited involvement you had, was it a cooperative

1 working relationship, a professional working
2 relationship?

3 MS. MARJORY LEONARD: I believe so.

4 MR. PAUL BONWICK: Going forward to
5 2018 now, Mr. Saunderson, is now mayor. Could you
6 enlighten us on the relationship you maintain with him
7 today in terms of your professional capacity?

8 MS. MARJORY LEONARD: I believe it's
9 the same as -- as in prior years. Again, as -- as the
10 mayor, he's more closely involved with the -- the CAO
11 and the directions come that way.

12 If he asks questions, we respond. And
13 with the new CAO, one (1) of the requirements is that,
14 if a member of Council, mayor, or deputy mayor ask a
15 question of a staff member, that all members of
16 Council are copied on the answer.

17 MR. PAUL BONWICK: You enlightened us
18 on that yesterday in terms of a pretty substantive
19 change in the communication structure. You have been
20 involved since 2006.

21 It's fair to say, based on what you
22 stated yesterday, that individual councillors,
23 depending on any di -- given file, would regularly
24 email you and ask you for information and you would
25 email them back directly.

1 My understanding is that policy changed
2 in the last year or two (2) whereby it now goes to all
3 Council. Is that my understanding?

4 MS. MARJORY LEONARD: Yes.

5 MR. PAUL BONWICK: Thank you. I'm
6 struggling a little bit with the issue around
7 procurement. And so, not understanding it as well as
8 perhaps I should, it's your evidence, or your
9 testimony, I believe, that the procurement structure
10 in 2000 -- from 2006 to 2010 was much looser, that
11 department heads would be responsible for their own
12 procurement.

13 And did I understand that properly?

14 MS. MARJORY LEONARD: Yeah. Under the
15 bylaw 2006-042, the department heads and/or purchasing
16 manager would be responsible for the procurements
17 under their departments.

18 MR. PAUL BONWICK: But I reviewed your
19 job description. And I took the liberty of
20 referencing several other municipalities, Barrie,
21 Peterborough, Brockton, Parry Sound, tried to find
22 medium to like size or a little bit bigger
23 municipalities, and it seemed to be consistent across
24 the board.

25 And I have -- I'll put the -- copies of

1 these descriptions into the court book, but it appears
2 to be fairly consistent across the board in other
3 municipalities that in fact the treasurer is
4 ultimately responsible for procurement.

5 There can be procurement managers or
6 purchasing managers. There can be people or
7 department heads that are responsible for procurements
8 within their own departments.

9 But at the end of the day, the
10 treasurer, it appears, is ultimately responsible for
11 procurement in these municipalities and it appears
12 that your job description identifies the same.

13 MS. MARJORY LEONARD: Did you check to
14 see if the finance department or treasury department
15 was actually the reporting line for the procurement?

16 MR. PAUL BONWICK: What I did was I
17 opened up their website and went to the treasury or
18 the finance and simply looked at what the
19 responsibilities were, and it identified procurement.

20 In fact I -- one (1) standard phrase
21 was standard condition for municipalities was:

22 "...establish and maintain necessary
23 bylaws, operating procedures,
24 guidelines, standardized documents
25 for procurement of goods and

1 services, including calls for
2 tenders and RFPs, purchase
3 requisitions, spending limits,
4 cooperative joint purchasing."

5 That seemed to be a common theme.

6 MS. MARJORY LEONARD: And in this
7 municipality the purchasing function never report --
8 reported to the treasurer.

9 MR. PAUL BONWICK: But in fairness --

10 MS. MARJORY LEONARD: And in terms of
11 what the treasurer did do, the treasurer was
12 responsible for the introduction of the bylaw. I had
13 the guidelines for the real property acquisition and
14 the unsolicited proposals done, the bylaw itself
15 contained all of the or the -- the rules for the
16 tendering and RFP process and emergency purchasing,
17 sole-source purchasing. Those items were all included
18 in the bylaw.

19 And I believe I explained yesterday
20 that monitoring the procurement function when it
21 didn't report to me, the only way I could do that was
22 to monitor it after the fact, when I was signing the
23 cheques.

24 MR. PAUL BONWICK: So you brought
25 forward the purchasing bylaw that had the -- sort of

1 the criteria and rules that were supposed to be
2 followed, if I understood you correctly.

3 So if, for example, the director of
4 Public Works, Mr. Macdonald, he doesn't report to you
5 directly, does he?

6 MS. MARJORY LEONARD: No, he does not.

7 MR. PAUL BONWICK: So if Mr. Macdonald
8 re -- wanted to procure something, at -- it would
9 still end up having to flow through your office, would
10 it not?

11 MS. MARJORY LEONARD: It would flow
12 through my office at the time I signed the cheque.

13 Was -- the positions that we have now,
14 we now have an accountability officer and we do have a
15 full purchasing procurement person.

16 The accountability officer is just a
17 new 2019 position. The purchasing officer was in
18 place, I think she's maybe five years. All
19 procurements flowed through her.

20 At that point in time when we hired a
21 purchasing officer, procurement specialist, they did
22 report to me, but that started when we hired that
23 person, not prior to that.

24 Prior to that, the purchasing manager,
25 in accordance with the bylaw, held all of the -- they

1 owned the process of procurement.

2 MR. PAUL BONWICK: And I appreciate
3 that there's been changes made, but I need to -- I
4 need to focus on sort of the 2010-2014.

5 So does it surprise you when we have
6 colleagues of yours, like Mr. McNalty or Ms. Almas or
7 Mr. Houghton or elected officials like Mayor, Deputy
8 Mayor, does it surprise you that they are somehow
9 under the impression -- I just named five (5) of them,
10 that you're -- they're somehow under the impression
11 that you are responsible at the end of the highest
12 level for the procurement policies and how they're
13 delivered within the municipality?

14 MS. MARJORY LEONARD: In 2012? Yes.

15 MR. PAUL BONWICK: That surprises you
16 that they -- that consensus was there, that you were
17 responsible in 2012 for the procurement policies?

18 MS. MARJORY LEONARD: I -- I will also
19 point out that between April of 2010 and September of
20 2011 I wasn't here. So I don't know who was in charge
21 of purchasing then. My assumption would be that it
22 was the person named under the bylaw, the purchasing
23 manger or department head.

24 MR. PAUL BONWICK: Thank you.

25 In Mr. McNalty's testimony, which

1 appears to be consistent to some degree with Ms. Almas
2 specific to this matter, he suggested or stated that
3 in his experience, and I can bring up the transcript
4 if you take exception to it, but generalizing it, in
5 his experience the Executive Management Committee and
6 his limited participation in the Executive Management
7 Committee's ongoing works, he described or agreed that
8 it was very collegial in nature, that it was run by
9 consensus, but he threw up the caveat that that
10 doesn't mean that everybody always agreed.

11 And so he said -- alluded to the point
12 that there could be healthy debate, but at the end of
13 the day it seemed to be a very respectful, collegial
14 environment in terms of his experiences.

15 Could you confirm or deny that, please?

16 MS. MARJORY LEONARD: I believe it was
17 that way.

18 MR. PAUL BONWICK: Thank you. We've
19 heard testimony from the Mayor and the Deputy Mayor
20 that not only did they have confidence in your ability
21 to do your job and do your job effectively, but
22 perhaps even going a -- a step beyond that, that --
23 talking about Mr. Dunbar, you're not a person simply
24 to lie down in the face of some sort of adversarial
25 position or if you feel that you're right and that you

1 are acting in the best interests of the Municipality,
2 I think Mr. Lloyd used some interesting descriptions,
3 but at the end of the day you have a strong will.

4 Would you say your staff, the people
5 you work with, that the Mayor and the Deputy Mayor,
6 have a fair assessment in terms of your personality
7 and how you approach your job?

8 MS. MARJORY LEONARD: Yes.

9 MR. PAUL BONWICK: I listened with
10 interest about your background. If I understood it
11 properly, you have a Bachelor of Arts in
12 Administration from U of O, and you received a Masters
13 degree from U of T.

14 MS. MARJORY LEONARD: York.

15 MR. PAUL BONWICK: York, sorry, which
16 subsequently led you to secure professional chartered
17 accountants designation. Fair? Accurate?

18 MS. MARJORY LEONARD: I actually -- I
19 received, back in the day it was called a Registered
20 Industrial Accountant and I got that in 1980.

21 It changed to Certified Management
22 Accountant sometime in the '80s itself. And then when
23 the amalgamation of the accounting profession, we were
24 all grandfathered in. So I'm a CPA, CMA.

25 MR. PAUL BONWICK: CPA is?

1 MS. MARJORY LEONARD: Chartered
2 professional accountant.

3 MR. PAUL BONWICK: Chartered
4 professional accountant. Thank you.

5 And what was the other designation,
6 sorry?

7 MS. MARJORY LEONARD: CMA.

8 MR. PAUL BONWICK: CMA, which is a
9 certified management accountant?

10 MS. MARJORY LEONARD: Yes.

11 MR. PAUL BONWICK: Right. You had a
12 lengthy career in the private sector prior to coming
13 on board with the public sector, fair?

14 MS. MARJORY LEONARD: Yes.

15 MR. PAUL BONWICK: Would it be
16 entirely accurate to suggest that when you're dealing
17 with clients in the private sector, you would bring
18 forward recommendations in terms of correcting their
19 process so that they are following a process that, in
20 keeping with standards that you believe they need to
21 follow?

22 MS. MARJORY LEONARD: Correct.

23 MR. PAUL BONWICK: During that period,
24 would you find -- sorry, are you confused by the
25 question?

1 MS. MARJORY LEONARD: No. No.

2 MR. PAUL BONWICK: During that time in
3 the private sector when you would raise these issues
4 in terms of process with your clients, they would
5 have, I assume, a standard way of doing things that
6 you felt needed to change, and in turn would give them
7 recommendations on how to change them?

8 MS. MARJORY LEONARD: Yes.

9 MR. PAUL BONWICK: Would you -- would
10 it be fair to say that some of these private business
11 people would push back in terms of recommendations,
12 changing their policies, or procedures, how to do
13 things?

14 MS. MARJORY LEONARD: Yes.

15 MR. PAUL BONWICK: But under your
16 obligations as a CPA and CMA, it's in fact your
17 obligation to make them aware of this and to suggest
18 that these changes need to be made, otherwise you
19 wouldn't be doing your job very well, fair?

20 MS. MARJORY LEONARD: That's correct.
21 That's why the procedures all included management
22 letters to in particular the audit clients.

23 MR. PAUL BONWICK: I've spent some
24 time trying to research this a little bit and I -- I
25 looked at the CMA's code of conduct, the CPA code of

1 conduct, some of the points contained in it is there's
2 an outlook and the practice of the calling, which is
3 essentially objective.

4 There's an acceptance of responsibility
5 to subordinate personal interest to those of the
6 public good. There's a specialized code of ethical
7 conduct laid down and enforced by the body designed
8 principally for the protection of the public.

9 And so what I get out of -- out of
10 these various descriptions in the CMA and CPA is that
11 you -- you're almost duty-bound to make your clients
12 aware that they need to make changes in order to
13 conform to process or law or tax law, whatever the
14 case might be. Fair?

15 MS. MARJORY LEONARD: It depends on
16 what type of a client it is, or what type of an
17 organization I'm working in.

18 If I'm on the inside those -- a lot of
19 those things that you've -- you've read may, in fact,
20 apply to public practice.

21 Inside you would have the opportunity
22 to make the changes to ensure that your employer is
23 operating in accordance with the correct policies and
24 procedures and generally accepted accounting
25 principles.

1 MR. PAUL BONWICK: Thank you.

2 Obviously the issues with regards to
3 public good integrity, those things are common in
4 either arena. But I appreciate the fact that you're
5 suggesting that there's almost an additional onus when
6 you're inside in terms of you actually have to
7 facilitate those changes as opposed to recommend the
8 facilitation of those changes.

9 Is that fair?

10 MS. MARJORY LEONARD: Yes.

11 MR. PAUL BONWICK: Thank you.

12 And I -- I'm going back to my opening
13 remarks, I'm trying to take a slice of time from 2010
14 for discussion purposes to 2014, really in fairness
15 from 2010 to 2012.

16 You've had the benefit of watching the
17 live stream, of going through the court documents, of
18 working with the municipalities lawyer and accessing
19 information and reviewing, in great detail,
20 information pertaining to that period of time.

21 But specific to that period of time, is
22 it reasonable to suggest that you really didn't have
23 any significant concerns based on this sort of
24 collegial open discussion environment that had been
25 created that these concerns have come up in years

1 after the fact versus during that period of time?

2 MS. MARJORY LEONARD: I wouldn't
3 necessarily say that. I was concerned at the time
4 that the aspect of an RFP for either one (1) of these
5 buildings were eliminated from the process going
6 through.

7 As I said yesterday, when we went for
8 the meeting on the 24th of August and Mr. Houghton was
9 explaining his rationale for going the route that they
10 did, which again is in the bylaws the department head
11 and the purchasing manager can design and follow the
12 process, I was feeling that I was the only one (1)
13 that would have any opposition to it. And as he
14 continued to speak I became more -- I guess the word
15 would be comfortable, with what he was saying.

16 MR. PAUL BONWICK: And that's
17 consistent with what you've told us and what Mr.
18 McNalty has told us, that the committee, the EMC, it
19 wasn't an arm raising exercise, while it was
20 respectful and collegial, I think you even suggested
21 yesterday that you could come in with one fairly
22 strongly held position.

23 However, if more information and new
24 information was provided, you were open-minded enough
25 to -- to change that position.

1 MS. MARJORY LEONARD: That's correct.

2 MR. PAUL BONWICK: So, going back to
3 that period of time, it appears, if I take a snapshot
4 in 2010-2013, that at the end of the processes, the
5 reports, the structuring, that you were satisfied that
6 everything was in keeping with the rules and
7 procedures of the municipality.

8 Is that not an accurate statement?

9 MS. MARJORY LEONARD: Could you repeat
10 that?

11 MR. PAUL BONWICK: Sure. Perhaps too
12 long-worded questions. So, as these various processes
13 evolved, whether they be report writing, EMC meetings
14 and discussions about gathering information, whatever
15 they might be, as they evolved and got to a point
16 where the information was provided to Council, it's to
17 say that you were satisfied that they were all done in
18 accordance with the rules and procedures of the
19 municipality?

20 MS. MARJORY LEONARD: I would say that
21 I was brought around to that idea. I still would have
22 provided Council with -- had I been in control of that
23 staff report, I still would have provided Council with
24 a significant amount -- more information than was
25 provided there.

1 MR. PAUL BONWICK: And we'll get to
2 that in just a moment. But I'm asking a question
3 that, when the information came to Council, were you
4 satisfied that the rules and procedures had been
5 followed?

6 MS. MARJORY LEONARD: As I said in the
7 meeting with the EMC, Mr. Houghton explained the
8 rationale for it, you're right, I was open-minded
9 enough to accept that.

10 MR. PAUL BONWICK: Okay. So, you were
11 satisfied. The -- the question -- I'm -- I'm not
12 trying to -- to --

13 MS. MARJORY LEONARD: I -- I accepted
14 the -- the information that was received.

15 MR. PAUL BONWICK: And you were
16 obviously satisfied with it, or by virtue of your
17 responsibilities as treasurer and CPA and CMA, you
18 would have arguably done something?

19 MS. MARJORY LEONARD: Yes, I guess I
20 would say that perhaps I was satisfied with it.

21

22 (BRIEF PAUSE)

23

24 MR. PAUL BONWICK: We've reviewed
25 transcripts from Council meetings. We've heard an

1 abundance of testimony from various witnesses that
2 speak to, I'll shorten it, a very longstanding desire
3 within the community for Council to provide water and
4 ice, it's the term that's being used here, but a new
5 arena and a year-round aquatics facility.

6 Are you aware of that?

7 MS. MARJORY LEONARD: Yes.

8 MR. PAUL BONWICK: And I can bring up
9 the transcript if you'd like me to. I suspect you've
10 gone through these documents in as much detail as I.
11 But in the transcript on or about July the 16th, no
12 less than six (6) of the Councillors spoke in clear
13 and strong terms about getting -- or moving forward
14 with an arena and an aquatics facility.

15 Are you aware of that?

16 MS. MARJORY LEONARD: I don't really
17 have a clear recollection of that Council meeting.
18 And I actually have not read all of the transcripts or
19 listened to all of the streaming of the testimony,
20 just...

21 MR. PAUL BONWICK: Could we bring up
22 the transcript -- I apologize, I do not have the
23 actual number -- the transcript from July the -- I
24 think it was July the 16th, but I'm not positive. It
25 was comments from deputy mayor, Councillor West,

1 Councillor Edwards.

2 MR. GEORGE MARRON: I ca -- I can
3 assist with that. It's -- it's CJI10011234.

4 MR. PAUL BONWICK: Thank you, Mr.
5 Marron. Scroll down, please. I think it was page 5,
6 but -- if memory serves me properly. No, I don't --
7 keep going down.

8

9 (BRIEF PAUSE)

10

11 MR. PAUL BONWICK: The transcript that
12 I was referring to was one (1) of members of Council.
13 Could you continue to scroll down, please? This may
14 be it. It doesn't... Just hold it.

15 THE HONOURABLE FRANK MARROCCO:
16 Chadwick?

17 MR. PAUL BONWICK: No, this is not it.

18 THE HONOURABLE FRANK MARROCCO:
19 Different transcript? Different transcript?

20 MR. PAUL BONWICK: Yes.

21 THE HONOURABLE FRANK MARROCCO: Well,
22 what I'm --

23 MR. PAUL BONWICK: We can --

24 THE HONOURABLE FRANK MARROCCO: What
25 I'm going to do, Mr. Bonwick, is I was going to take a

1 break anyway, so I'll take ten (1) minutes now and you
2 can find the transcript.

3 MR. PAUL BONWICK: Thank you, Your
4 Honour.

5

6 --- Upon recessing at 10:25 a.m.

7 --- Upon resuming at 10:37 a.m.

8

9 CONTINUED BY MR. PAUL BONWICK:

10 MR. PAUL BONWICK: Call up document
11 CJI. It appears to be 1 -- 10011234.

12 THE HONOURABLE FRANK MARROCCO: That
13 was the same document as before.

14 MR. PAUL BONWICK: Thank you. Yeah,
15 it's -- there was a condensed version, Your Honour,
16 that had just the councillors. This a forty-three
17 (43) page report -- could -- or minutes. Could you --

18 THE HONOURABLE FRANK MARROCCO: Which
19 one -- which one do you want?

20 MR. PAUL BONWICK: Page --

21 THE HONOURABLE FRANK MARROCCO:
22 Because I think they can search by the person.

23 MR. PAUL BONWICK: I've got it here
24 now.

25 THE HONOURABLE FRANK MARROCCO: Oh.

1 MR. PAUL BONWICK: So, I can just take
2 them to the point in the page. Can you go to page
3 number 23, please?

4

5 CONTINUED BY MR. PAUL BONWICK:

6 MR. PAUL BONWICK: So, this is a
7 transcript, Ms. Leonard, of the meeting that took
8 place on July the 16th, 2012, with Council.

9

10 (BRIEF PAUSE)

11

12 MR. PAUL BONWICK: Could you go down
13 to the bottom of 23, please? This first excerpt is
14 from Deputy Mayor Lloyd.

15 "As chair of finance, I would really
16 like to work with the staff and our
17 CAO to come up with an alternative.
18 I would like to see a report back
19 for our next Council meeting, which
20 is July 30. Again..."

21 And can you go down to the:

22 "...look at covering the Centennial
23 pool and a new ice park -- a new ice
24 pad at Central Park."

25 Could you go to page 29, please? This

1 is Dale West. Could you go down a little bit, please?
2 Sorry, slowly. Keep going. It, once again,
3 references -- and, Ms. Leonard, I apologize, there was
4 a more condensed version, so I'm picking out of the
5 forty-three (43) pages. But you'll see Councillor
6 Cunningham speak about:

7 "-- and enclose the pool and it's a
8 done deal."

9 What they're effectively saying in this
10 one is:

11 "We can't afford a \$35 million
12 facility. We can meet our needs
13 very quickly with this type of unit
14 that Mr. Lloyd is talking about, and
15 we can do it practically
16 immediately."

17 This is consistent with five (5) -- six
18 (6) councillors that have spoke about urgency, spoke
19 about moving forward, spoke about moving forward in a
20 timely fashion, and setting aside the consideration
21 for the \$35 million plus option.

22 And I appreciate you don't recall that
23 meeting, but I think it's important to reference it
24 for you in terms of where I'm going.

25 You have mentioned in both testimony

1 and evidence, I believe, that you were aware that
2 Council, the 2010 election, was run in part on fiscal
3 constraint on taking a much more fiscally conservative
4 approach towards managing the budget of the community,
5 correct?

6 MS. MARJORY LEONARD: Correct.

7 MR. PAUL BONWICK: And you'll be aware
8 of the fact, and I could be mistaken on the year, but
9 in approximately 2001, again, I could be wrong, that
10 Councillor -- Councillor, sorry -- Council directed
11 then PRC Director Peter Dunbar and a steering
12 committee to locate a multi-use recreational facility
13 out at Fisher Field.

14 You're aware of that?

15 MS. MARJORY LEONARD: Yes.

16 MR. PAUL BONWICK: And you'll be aware
17 that, by all estimates, it's -- approximately \$24
18 million was the cost of that facility?

19 MS. MARJORY LEONARD: Yes.

20 MR. PAUL BONWICK: You'll be aware of
21 the fact that Council of the day had -- or the -- an
22 application for funding had been approved and funds
23 committed from the Provincial and Federal Governments?

24 MS. MARJORY LEONARD: Yes.

25 MR. PAUL BONWICK: And you'll be aware

1 of the fact that in the eleventh hour, for lack of a
2 better description, due to strong lobby efforts
3 related to not centralizing the services and locating
4 it out at Fisher Field and concern over operational
5 costs, that Council changed its position and did not
6 move forward with it.

7 You're aware of that?

8 MS. MARJORY LEONARD: I recall that
9 they did not move forward with it. I don't recall the
10 reasons at the -- the time.

11 MR. PAUL BONWICK: And I think, to
12 your point, that's the most important consideration,
13 is they didn't move forward with it.

14 We've heard testimony from Ms. Almas
15 and Ms. Proctor specific to works done, proposals
16 brought forward to Council at Council's direction from
17 then PRC Director Dunbar related to refurbishing the
18 contact centre; it was in disrepair. I think it was
19 condemned at the end of the day.

20 But once again, irrespective of the
21 recommendations brought forward by then PRC Director
22 Dunbar, Council chose not to invest the money in
23 refurbishing the contact centre, better known -- it's
24 better known as the contact centre, but it was a
25 community recreation facility of some nature.

1 MS. MARJORY LEONARD: Yes.

2 MR. PAUL BONWICK: You're aware of
3 that? And you're aware that, again, Mr. Dunbar, at
4 one point, had exhausted or had moved forward with a
5 plan to refurbish the Centennial pool, that the
6 Centennial pool -- they actually looked at putting a
7 stainless steel liner in it, I think, at one (1)
8 point.

9 But the point being is that he brought
10 forward recommendations to Council during his tenure
11 in terms of refurbishing or creating something more
12 significant there. And, again, Council chose not to
13 move on co -- Mr. Dunbar's request?

14 MS. MARJORY LEONARD: If I recall
15 correctly, the plan there was for a wellness centre
16 with a therapeutic pool which was talked about
17 yesterday where the indoor and the outdoor pool would
18 share some of the amenities in -- in the pumps and --
19 and that type of thing.

20 And I believe that that project was
21 shelved based on the fact that the cost for servicing
22 came back extremely high. If I'm not -- if I remember
23 correctly, the initial proposal that Mr. Dunbar had
24 was approximately a \$4 million cost that would have
25 been debentured again against the Council's platforms

1 that they ran on.

2 And when the cost estimates came back
3 from the engineers, it was 6 million, so it was
4 shelved to be discussed at the next budget, and it
5 wasn't brought back.

6 MR. PAUL BONWICK: And -- and thank
7 you for -- for that background. But I think to your
8 previous point, moving aside the rationale, Council
9 chose not to move in that direction.

10 And so, we know that Council -- we know
11 that there's been a longstanding twenty (20) year plus
12 desire within the community to have a second ice
13 surface. We know that there's a second ice surface
14 and an aquatics facility, enhanced aquatics facility.

15 And we know that on several occasions,
16 we've almost got to the finish line and Council has
17 changed its mind in terms of going the extra step.
18 And the extra step, of course, is finance -- financing
19 it, correct?

20 MS. MARJORY LEONARD: Yes.

21 MR. PAUL BONWICK: And then you'll be
22 aware that in 2009, another steering committee was
23 assembled. The -- the steering committee was tasked
24 with assessing the -- the recreational needs within
25 the community and coming back with a report in terms

1 of how Council could address those recreational needs?

2 MS. MARJORY LEONARD: Are you

3 referring to --

4 MR. PAUL BONWICK: Steering committee.

5 MS. MARJORY LEONARD: Was it a

6 steering committee or dif --

7 MR. PAUL BONWICK: It's been

8 referenced in all of my information --

9 MS. MARJORY LEONARD: Okay.

10 MR. PAUL BONWICK: -- as a steering

11 committee.

12 MS. MARJORY LEONARD: I do believe

13 that there was a PRC master plan. I think the

14 consultant's name was Morgenstern.

15 MR. PAUL BONWICK: This is one (1)

16 specific to Central Park. WGD was involved in --

17 MS. MARJORY LEONARD: Oh, that's the --

18 MR. PAUL BONWICK: -- putting together

19 a sixty-nine (69) page report that was delivered to

20 Council during the summer -- or sorry, during the

21 spring of 2012?

22 MS. MARJORY LEONARD: Yes. Okay.

23 MR. PAUL BONWICK: And you'll be aware

24 of the fact that that recommendation -- that report

25 recommended a \$35 million integrated multi-use

1 recreational facility at Centra Park?

2 MS. MARJORY LEONARD: Yes.

3 MR. PAUL BONWICK: This is during the
4 same term of Council that they ran on financial --
5 good financial stewardship?

6 MS. MARJORY LEONARD: Yes.

7 MR. PAUL BONWICK: So, to -- can you
8 not appreciate -- or can you appreciate that some of
9 these Councillors have served for twenty (20) plus
10 years? They've witnessed Councils time and time again
11 not delivering.

12 They've witnessed \$24 million rec
13 centres not moving forward in the eleventh hour.
14 They've witnessed hard work on behalf of volunteers
15 that have gone through this exhaustive report in terms
16 of recommending a \$35 million plus multi-use
17 recreational facility that they know they can't
18 afford.

19 Can you not appreciate that they might
20 want to deliver the water and ice and do so in a
21 timely fashion?

22 MS. MARJORY LEONARD: I believe that
23 they could -- or they wanted to deliver the water and
24 the ice. But, again, in a timely fashion doesn't
25 necessarily mean that you missed the steps in the

1 process.

2 MR. PAUL BONWICK: Right. But in your
3 earlier testimony you confirmed that, at that time,
4 you were comfortable that all the rules and procedures
5 were followed. And so, you've also confirmed it's
6 your understanding, and I think everybody in the room
7 understands this, it has the ability to impact
8 councillors, but the end responsibility, the buck
9 stops with Council?

10 They got to stand up, raise their hand
11 and say, yes, we're going to do this?

12 MS. MARJORY LEONARD: Correct.

13 MR. PAUL BONWICK: And so, you can
14 appreciate when they are in -- inundated with all of
15 this information, that they would -- everything we've
16 discussed, that they would want to move forward in a
17 very timely fashion in delivering water and ice, fair?

18 MS. MARJORY LEONARD: Fair.

19 MR. PAUL BONWICK: And through the
20 transcripts, they've stated that quite clearly to
21 staff. And I appreciate it's seven and a half (7 1/2)
22 years ago, or whatever the time frame was.

23 You don't recall it, but you've seen
24 the transcript. They've said, we want it, and we want
25 it now. So, those members of the executive management

1 team or senior management that did hear that couldn't
2 be confused about where Council was on this.

3 Would that be a reasonable takeaway?

4 MS. MARJORY LEONARD: Yes.

5

6 (BRIEF PAUSE)

7

8 MR. PAUL BONWICK: I'd like to go back
9 in time, pre-decision of Council to approve the arena
10 and the ice surface.

11 And so that would take us to Part 1 of
12 the Inquiry. Part 1 of the Inquiry was dealing, as
13 you know, with the 50 percent share of sales of
14 Collus.

15 I'm assuming working with
16 Municipalities lawyers you've had the opportunity to
17 review much of the evidence and track much of it
18 through either live stream or review of transcripts?

19 MS. MARJORY LEONARD: Somewhat, yes.

20 MR. PAUL BONWICK: So we've had, in
21 Part 1, we had board members of Collus, Board Chair,
22 senior staff, consultants, elected officials,
23 representatives of PowerStream. Their -- their
24 testimony was consistent and clear, having gone
25 through it.

1 And the testimony consistently supports
2 three (3) motivations that go back to 2009-ish, three
3 (3) motivations that ended up with a 50 percent
4 offering of share -- of shares to the LDC sector.

5 The first was that the changes in how
6 LDCs were run were becoming far more complicated, far
7 more complex, and challenging for smaller LDCs to meet
8 those standards.

9 The second consideration, as identified
10 by testimony, was a very clear message from various
11 points within the provincial government, and I'll
12 include Ontario Energy Board and things of that
13 nature, that the Province of Ontario and the LDC
14 sectors within the Province of Ontario should be
15 looking for opportunities for consolidation.

16 And the last one (1), which I think
17 sort of fell out of that direction, but it was clearly
18 emphasized, was the ability to grow Collus as a
19 regional LDC throughout Simcoe County.

20 And so are you aware of the fact that
21 those things were brought up time and time again?

22 MS. MARJORY LEONARD: I -- I do
23 remember hearing them.

24 MR. PAUL BONWICK: And so when we
25 reviewed some of the documentation through Part 1 and

1 into Part 2, there are assertions that, in fact, the
2 50 percent sale of Collus was predicated on getting
3 money in order to buy water and ice.

4 You're aware of that?

5 MS. MARJORY LEONARD: I believe so.

6 MR. PAUL BONWICK: Was it ever your
7 assertion that the share sale of Collus took place
8 specifically to fund recreational facilities?

9 MS. MARJORY LEONARD: No, it was never
10 my assumption for that. And I was never asked my
11 opinion either.

12 MR. PAUL BONWICK: Thank you.

13 MS. MARJORY LEONARD: My opinion would
14 have been don't sell half, sell 49, 51, 100 percent,
15 but nobody in their right mind sells half. Sorry.

16 MR. PAUL BONWICK: And I --

17 THE HONOURABLE FRANK MARROCCO: I do
18 not wish to revisit Part 1, Mr. Bonwick.

19 MR. PAUL BONWICK: Nor I. I'm not
20 going to --

21 THE HONOURABLE FRANK MARROCCO: I
22 didn't cut you off as soon as you mentioned the words
23 Part 1, but --

24 MR. PAUL BONWICK: I'm not going --
25 that --

1 MR. WILLIAM MCDOWELL: Commissioner,
2 you want to make a note of the last answer though.

3 MR. PAUL BONWICK: The -- certainly
4 Mr. McFadden and Mr. Muncaster might disagree, but I
5 think we'll sort of --

6 THE HONOURABLE FRANK MARROCCO: I do
7 not want to revisit that debate, if you don't mind.

8

9 CONTINUED BY MR. PAUL BONWICK:

10 MR. PAUL BONWICK: Ms. Leonard, there
11 was some discussion about traditional bricks and
12 mortar versus the membrane technology that Sprung
13 brought to the table and the municipality ended up
14 going with.

15 In terms of the work that WGD did, are
16 you familiar with them?

17 MS. MARJORY LEONARD: I --

18 MR. PAUL BONWICK: Were you aware that
19 they were working with the Central Park Steering --

20 MS. MARJORY LEONARD: Steering
21 Committee and carried on to help Mr. McNalty get his
22 estimates.

23 MR. PAUL BONWICK: Right. And so if I
24 could call up transcript -- it was the transcript from
25 the representative from WGD. WDG?

1 THE HONOURABLE FRANK MARROCCO: It was
2 Mr. Dabrus, I think.

3 MR. PAUL BONWICK: Dabrus? Thank you.

4

5 CONTINUED BY MR. PAUL BONWICK:

6 MR. PAUL BONWICK: You were asked a
7 question yesterday, did you think that WDG -- GD,
8 sorry, would be involved, if I understood the question
9 properly and I'd like you to clarify it for me -- did
10 you think that WGD would be involved in the eventual
11 build out of the \$35 million solution if, in fact,
12 Council had gone in that direction?

13 Do you recall? Or did I miss your --

14 MS. MARJORY LEONARD: I would have
15 thought that -- I -- actually, I don't recall that
16 question from yesterday.

17 MR. PAUL BONWICK: Okay, I thought
18 that was put to you, and again it could have been --

19 THE HONOURABLE FRANK MARROCCO:
20 Whether -- whether the question was put or not, you
21 can still ask your question, Mr. Bonwick.

22 MR. PAUL BONWICK: Thank you.

23

24 CONTINUED BY MR. PAUL BONWICK:

25 MR. PAUL BONWICK: So would you --

1 would it be your opinion that WGD -- WGD would have
2 been interested in playing in taking on a significant
3 role, had Council moved forward with the \$35 million
4 solution?

5 MS. MARJORY LEONARD: I -- in
6 particular, I don't know what the terms of their
7 initial contract or -- or assignment was at that time.
8 And had they gone on with the \$35 million facility,
9 they would have done an RFP, I would assume to hire
10 the consultants, the architects, engineers, whatever.

11 MR. PAUL BONWICK: And -- and
12 absolutely right, that was an option for them.

13 But the witness for the -- the partner
14 for WGD confirmed that had Council adopted that at
15 that time and gone to an RFP, if that had been their
16 choice, that his firm most definitely would have
17 wanted to bid on being a part of that, and he
18 identified that the fees would be much smaller than
19 the \$4.4 million that's budgeted for architectural
20 design and project management, but most certainly that
21 they would have wanted to play a role in that.

22 Would you agree that having done the
23 work, the preliminary work with the committee, would
24 certainly give them a competitive advantage over
25 others that had no understanding of -- based on beyond

1 reading their report, of what was going to be
2 required?

3 MS. MARJORY LEONARD: I would agree.

4 MR. PAUL BONWICK: And so you'll be
5 aware that if Council chose the direction that they
6 ultimately did, and that was the arena and aquatics
7 facility, there was no role for WGD to play, because
8 it was purchased as a turnkey operation. Is that
9 fair?

10 MS. MARJORY LEONARD: Fair.

11 MR. PAUL BONWICK: You'll be aware of
12 their criticism of the -- or are you aware of the
13 criticism that WGD provided related to the process and
14 suggesting it wasn't competitive in nature, which
15 again I'll set aside that word, but the fact that they
16 were -- they raised concerns about the process and the
17 validity of the information that Mr. McNalty brought
18 forward. Are you aware of that?

19 MS. MARJORY LEONARD: I believe I
20 heard that part in Mr. Dabrus' testimony.

21 MR. PAUL BONWICK: And so part of that
22 concern was predicated on his earlier position that
23 Mr. McNalty had included approximately nine hundred
24 and fifty thousand dollars (\$950,000) for the
25 mezzanine and that his earlier testimony suggested

1 that, for the bricks and mortar, that it would be
2 somewhere in the neighbourhood of eighty dollars (\$80)
3 a square foot to build that.

4 Subsequently you mentioned you heard
5 his testimony, he came back and suggested that it was
6 more likely two hundred (200) or perhaps one hundred
7 and eighty dollars (\$180) a square foot and that he
8 may have misspoke in his criticism.

9 Do you recall that?

10 MS. MARJORY LEONARD: No, I don't. I
11 only got bits and pieces of it.

12 MR. PAUL BONWICK: Needless to say,
13 Mr. McNalty's numbers were verified once he did the
14 one hundred and eighty (180) to two hundred dollars
15 (\$200) a square foot.

16 The consideration related to the bricks
17 and mortar, you've mentioned that that sort of got
18 pushed aside.

19 Would you agree that the prospect of
20 going to a bricks and mortar solution and general
21 contracting that solution would likely involve
22 substantially more time than going with a turnkey
23 operation where, quite literally, you're not even
24 buying the Zamboni or the -- the sign inside?

25 MS. MARJORY LEONARD: In terms -- what

1 -- what are you referring to in terms of time; the
2 length to build it?

3 MR. PAUL BONWICK: Would you agree
4 there would be a much more expeditious process for
5 Council to pick Sprung versus going down the road of a
6 standard bricks and mortar?

7 MS. MARJORY LEONARD: We did assign a
8 project manager to -- to oversee these two (2)
9 projects, and as well we did have a -- a project
10 manager, the same man, for the library that was
11 designed by WGD.

12 So I'm not sure I -- I'm getting the
13 gist of what you -- you're asking.

14 MR. PAUL BONWICK: I tried to keep the
15 question fairly straight-forward, and you may not be
16 able to answer this if you don't have the background.

17 Was it your opinion that Council was
18 able to deliver an arena and aquatics facility in a
19 much more expeditious manner by choosing Sprung versus
20 going down the path of a traditional bricks and mortar
21 process?

22 MS. MARJORY LEONARD: I -- I don't
23 really have the engineering or background in order to
24 -- to provide a -- a fulsome answer to that one.

25 MR. PAUL BONWICK: I'm just about

1 done, Your Honour.

2 THE HONOURABLE FRANK MARROCCO: Okay.

3

4 CONTINUED BY MR. PAUL BONWICK:

5 MR. PAUL BONWICK: I've seen some
6 correspondence from you to -- if -- if I could bring
7 up document number TOC0230897. Scroll down just so
8 Ms. Leonard can reflect on this.

9 Do you recall sending this email, Ms.
10 Leonard, to Ms. Pearson?

11 MS. MARJORY LEONARD: Yes.

12 MR. PAUL BONWICK: Could you scroll
13 down a little bit further, please. One (1) of the
14 lines there, recoups 98.05 percent of HST. Scroll
15 down a little further. Stop there.

16 "We have sufficient funds on hand
17 either through the use of Collus
18 funds or through internal borrowing
19 from other reserves to fund these
20 projects."

21 Do you recall stating that?

22 MS. MARJORY LEONARD: I do.

23 MR. PAUL BONWICK: Thank you.

24 If I could go to 20 -- sorry,

25 TOC0203551.

1 (BRIEF PAUSE)

2

3 MR. PAUL BONWICK: Scroll down,
4 please. I'm looking at the AM (phonetic) schedule
5 where it's 20 year money at 3.55 percent.

6 I think it was towards the bottom of
7 the page. Continue down.

8 MS. KATE MCGRANN: It's on page 10.

9 MR. PAUL BONWICK: 10.

10

11 CONTINUED BY MR. PAUL BONWICK:

12 MR. PAUL BONWICK: There was some
13 discussion yesterday and the judge asked some
14 questions about the \$500,000 or \$600,000 difference
15 and it being a notional amount in the grand scheme of
16 things, if I understood the conversation or question
17 answer back and forth.

18 Can you tell me what is the annual
19 budget of the Town of Collingwood, less Board of
20 Education and county payments, roughly?

21 MS. MARJORY LEONARD: This year's
22 budget? I believe that between the capital and the
23 operating that it was approaching the \$90 million
24 mark.

25 MR. PAUL BONWICK: What's your revenue

1 stream from taxes?

2 MS. MARJORY LEONARD: We raised -- we
3 budgeted to raise \$30,974, I believe, somewhere along
4 like that.

5 THE HONOURABLE FRANK MARROCCO: Thirty
6 thousand (30,000)?

7 MS. MARJORY LEONARD: Thirty-two -- 32
8 million.

9 MR. PAUL BONWICK: Thirty (30)
10 million.

11 MS. MARJORY LEONARD: Thirty-two (32)
12 million. Sorry.

13 THE HONOURABLE FRANK MARROCCO: I must
14 have missed it.

15 MR. PAUL BONWICK: You've got a
16 deficit on your hands --

17 THE HONOURABLE FRANK MARROCCO: A
18 small -- a smaller operation than I thought you had.

19 MS. MARJORY LEONARD: No, sorry. Be
20 about 32.9 million, I believe it was.

21

22 CONTINUED BY MR. PAUL BONWICK:

23 MR. PAUL BONWICK: Right. And I know
24 an accountant is not going to like this, but I'm going
25 to average it off and say \$30 million is the annual

1 revenue for the Town of Collingwood.

2 So by virtue of the fact being \$30
3 million tax revenue, if -- by my math, if you were to
4 have to -- \$500,000 equals somewhere around 1.5
5 percent?

6 MS. MARJORY LEONARD: Roughly.

7 MR. PAUL BONWICK: Roughly. And so to
8 give some scale to that, \$500,000 is a significant sum
9 of money in terms of how it can impact the budget in
10 any given year.

11 Is that a reasonable statement?

12 MS. MARJORY LEONARD: Yes.

13 MR. PAUL BONWICK: Thank you. There
14 was some discussion yesterday about the ability to
15 long-term finance the recreational facilities had they
16 chose to go to a \$35 million plus solution, and I
17 think you referred to 40-year money potentially.

18 MS. MARJORY LEONARD: That's correct,
19 yes.

20 MR. PAUL BONWICK: Do you recall the
21 interest rate you used when you were discussing it
22 yesterday?

23 MS. MARJORY LEONARD: I believe if you
24 go down a little lower on here, you'll see that --

25 MR. PAUL BONWICK: This has it --

1 MS. MARJORY LEONARD: Oh --

2 MR. PAUL BONWICK: This has interest
3 rates --

4 MS. MARJORY LEONARD: -- rates --

5 MR. PAUL BONWICK: -- on -- for what
6 we did or what was done.

7 I'm asking if you recall the interest
8 rate you quoted His Honour when you were answering the
9 question.

10 MS. MARJORY LEONARD: I believe I -- I
11 said somewhere between 2.3 and 3 percent.

12 MR. PAUL BONWICK: Right. So if we
13 could scroll down a little bit. Stop there.

14 I see 20-year money on eight and a half
15 million dollars (8 1/2) is 3.5 percent?

16 MS. MARJORY LEONARD: Yes.

17 MR. PAUL BONWICK: And so it would be
18 safe -- very safe to say that 40-year money would be
19 somewhat higher than the 3.5 percent following that
20 trend.

21 MS. MARJORY LEONARD: That's correct.

22 MR. PAUL BONWICK: Right. And so the
23 reason I bring this to your attention is, if you're
24 talking about financing 20 or \$25 million or \$35
25 million over a 40-year period, the interest alone

1 would be staggering.

2 Is that a fair statement?

3 MS. MARJORY LEONARD: That would be
4 correct, yes.

5 MR. PAUL BONWICK: Thank you. Were
6 you present or were you watching when Mr. Barrows
7 (sic) provided testimony on behalf of BLT?

8 Did you see his testimony?

9 MS. MARJORY LEONARD: No parts -- only
10 parts.

11 MR. PAUL BONWICK: Okay. In -- in Mr.
12 Barrow's submission, or in his testimony, Mr. Barrows
13 (sic) stated that BLT and Green Leaf had come to terms
14 on a contract, that the contract was specific to the
15 Town of Collingwood, and it was predicated on taking
16 this model across Ontario.

17 Were you aware of that?

18 MS. MARJORY LEONARD: I -- I believe I
19 read it somewhere. I don't believe I heard it.

20 MR. PAUL BONWICK: Okay. And so
21 you'll -- are you aware of the fact that in the
22 discussions that took place between Green Leaf and BLT
23 there was a fee proposed, and Mr. Barrows (sic)
24 confirmed that he took no exception to the fee and
25 agreed to it?

1 Are you aware of that?

2 MS. MARJORY LEONARD: I believe I read
3 that in the Foundation Document or --

4 MR. PAUL BONWICK: Thank you.

5 MS. MARJORY LEONARD: -- somewhere
6 along those lines.

7 MR. PAUL BONWICK: And so then you
8 would be aware that both in the contract between BLT
9 and Green Leaf that it clearly states that the
10 proceeds need to come from, and only from, BLT.

11 MS. MARJORY LEONARD: I -- I don't
12 have specific memory of that part, no.

13 MR. PAUL BONWICK: Okay. Are you
14 familiar with the fact that Mr. Barrows (sic) gave
15 evidence -- testimony that, in fact, what they had
16 done was taken their average margin for a construction
17 project, which was somewhere between 15 and 20 percent
18 on a -- sort of a standard go-forward approach.

19 MS. MARJORY LEONARD: I believe I -- I
20 did hear that part, just snippets of the --

21 MR. PAUL BONWICK: Okay.

22 MS. MARJORY LEONARD: -- testimony.

23 MR. PAUL BONWICK: And I'm -- I'm
24 heading in a particular direction.

25 And so would you be aware that Mr.

1 Barrows (sic) gave evidence that, in fact, the fee
2 that was agreed to with Green Leaf was actually taken
3 out of their standard profit margin, that there was no
4 cost increase to the project, and in fact, he thought
5 that they were somewhere in around 14 1/2, 15 percent
6 -- in there somewhere, in terms of their margin?

7 MS. MARJORY LEONARD: Yes, I do recall
8 hearing that.

9 MR. PAUL BONWICK: So if there's a
10 private -- if there's a contract between two (2)
11 private companies, if the company that's paying out
12 the funds does not seem to have any issue with it, if
13 they've confirmed that the end user is not paying any
14 additional funds as a result of their agreement --
15 their sidebar agreement, whether it's \$650,000 or
16 whether it's \$65,000, why would you have cause to
17 reflect on doing things differently because you heard
18 what Green Leaf had made?

19 MS. MARJORY LEONARD: Could you repeat
20 that?

21 MR. PAUL BONWICK: Yeah. You
22 referenced that you were stunned when you read that
23 Green Leaf had been paid 600 and -- \$670,000
24 approximately in regards to the work it had done with
25 BLT. You have recognized that there was a broader

1 strategy afoot but it was specific to Collingwood.

2 In cross-examination, you said that
3 would have caused you significant concern at the time
4 had you have known what the fee was.

5 And so my question to you is: If the
6 contractor is telling you it didn't cost you any more
7 money, the agreement is made between two (2) private
8 entities, I don't understand why you would take
9 exception to a side contract that really does not
10 affect the coffers of the Town of Collingwood.

11 MS. MARJORY LEONARD: I would take
12 exception to it because there was no room then for the
13 Town to have negotiated further down or further with
14 BLT in any way, shape, or form, and it's also my
15 understanding that that negotiation never did take
16 place, but there could have been an opportunity to
17 negotiate prices with BLT.

18 MR. PAUL BONWICK: And I think you're
19 --

20 MS. MARJORY LEONARD: We'd be --

21 MR. PAUL BONWICK: -- looking at two
22 (2) sep --

23 MS. MARJORY LEONARD: -- squeezing
24 his margins even further.

25 MR. PAUL BONWICK: But I think you

1 also suggested in your testimony yesterday that first
2 in derives benefits, in your experience. And so not
3 only the benefit of having the supplier be very --

4 MS. MARJORY LEONARD: I didn't say it
5 was in my experience. I said it was in a course I had
6 taken.

7 MR. PAUL BONWICK: Okay. You put it
8 in a report, or in an email. And so you stated that,
9 based on your understanding, that there are benefits
10 from being first in the door, and those benefits would
11 include the supplier being much more attentative (sic)
12 to your -- or sensitive to your needs.

13 MS. MARJORY LEONARD: And a cheaper
14 price, I also believe.

15 MR. PAUL BONWICK: And a cheaper
16 price, you believe.

17 And so there was nothing -- with the
18 understanding that BLT was looking -- BLT and Sprung
19 were looking at taking this product across the
20 province.

21 It didn't stop the Town of Collingwood
22 from negotiating. They simply -- they got a fixed
23 price for a turnkey operation and they accepted that
24 price by way of what the evidence shows.

25 MS. MARJORY LEONARD: That's what

1 happened, yes.

2 MR. PAUL BONWICK: Right. And so --

3 MS. MARJORY LEONARD: But I have no
4 idea why there was no further negotiation.

5 MR. PAUL BONWICK: And again, as the
6 Treasurer, I can't -- in your capacity as the
7 Treasurer, I can't comment either on it. No idea --
8 other than when you get a bid from a \$2.7 million fire
9 truck, do you typically reach out to the fire truck
10 provider and say we want to go with your fire truck,
11 would you take 2.5 million?

12 MS. MARJORY LEONARD: We would say, we
13 would like to award you the fire truck but now it's
14 time to negotiate.

15 MR. PAUL BONWICK: And so when you're
16 purchasing capital items, when they've submitted a
17 price and you've chosen them, you still typically
18 negotiate beyond that price?

19 MS. MARJORY LEONARD: It's in the RFPs
20 that -- and in the new bylaw that, yes, you can you
21 negotiate further.

22 MR. PAUL BONWICK: You can --

23 MS. MARJORY LEONARD: And I believe
24 that we --

25 MR. PAUL BONWICK: -- I'm asking you

1 about standard operating procedure. I've dealt with--

2 THE HONOURABLE FRANK MARROCCO: Just a
3 second till the concert's over.

4 MR. WILLIAM MCDOWELL: I have no idea
5 what's going on here.

6

7 (BRIEF PAUSE)

8

9 THE HONOURABLE FRANK MARROCCO: I -- I
10 don't know, is the Elvis Festival back on? All right.
11 Go ahead, Mr. Bonwick.

12

13 CONTINUED BY MR. PAUL BONWICK:

14 MR. PAUL BONWICK: Having worked with
15 lots of different municipalities over the past number
16 of years, my experience has been once you've put in
17 your price and the contract has been awarded, it's not
18 often that they're negotiating the price.

19 They may negotiate add-ons or changes,
20 but is it your experience, through procurement, that
21 when the community -- when the municipality awards a
22 contract they negotiate after, in fact, they've
23 approved the selected service provider?

24 MS. MARJORY LEONARD: Specifically, in
25 relation to fire trucks, we do that. We've just done

1 it on the new one (1) and it's been handled by the
2 purchasing officer and the accountability officer and
3 the fire chief.

4 MR. PAUL BONWICK: Across the board,
5 sorry, and you're -- I know I keep coming back to
6 this, I'm talking about pre-2014.

7 Are you aware that when fixed prices
8 came in, that the municipality would typically
9 negotiate beyond that point?

10 MS. MARJORY LEONARD: No. I'm not
11 aware of it, no.

12 MR. PAUL BONWICK: Thank you.

13 That ends my questions, Your Honour.
14 Thank you very much for accommodating me.

15 THE HONOURABLE FRANK MARROCCO: Thank
16 you.

17 Ready when you are, Mr. Chenoweth.

18

19 CROSS-EXAMINATION BY MR. FREDERICK CHENOWETH:

20 MR. FREDERICK CHENOWETH: Thank you,
21 Your Honour.

22 Ms. Leonard, my name is Chenoweth, Fred
23 Chenoweth, and I act on behalf of Mr. Houghton.

24 I was interested in your views with
25 respect to your procurement obligation as we

1 approached August 27th Council meeting, and I was
2 interested in the -- in the thoughts of -- of others
3 with respect to your procurement obligation.

4 And in that respect, I turned up the
5 transcript of September 12th of the examination of
6 Sara Almas. And in that transcript, at page 167, she
7 says, and we can look at that, that's fine. And I'm
8 looking at line 16.

9 "There's a number of municipal
10 bylaws and generally a municipal
11 bylaw, for example, the procedural
12 bylaw is administered, interpreted
13 by the clerk. And the sign bylaw is
14 administered and interpreted by the
15 CBO and it specifically actually
16 within these bylaws this -- this
17 bylaw, [and I think she's talking
18 now about the procurement bylaw]
19 does not have specific provisions
20 that speak to exactly who is the
21 administrator of the purchasing
22 bylaw. But the treasurer's
23 department was responsible for the
24 purchasing bylaw."

25 It's obvious that --

1 THE HONOURABLE FRANK MARROCCO:

2 Treasury Department.

3

4 CONTINUED BY MR. FREDERICK CHENOWETH:

5 MR. FREDERICK CHENOWETH: Purchasing
6 function, yes, was responsible. The Treasury
7 Department was responsible for the purchasing
8 function.

9 I take it it's obvious that Ms. Almas
10 felt that -- that the operation of the purchasing
11 bylaw and procurement was the responsibility of the
12 Treasury Department and I take it you, as treasurer.

13 Is that fair? That was her view?

14 MS. MARJORY LEONARD: That was her
15 view, yes.

16 MR. FREDERICK CHENOWETH: And I -- and
17 I take it from what you have told us, that that was
18 not -- that was not in keeping with what your view of
19 your responsibilities were because of the appointment
20 of Mr. McNalty to be in charge of -- of -- of certain
21 purchasing matters?

22 MS. MARJORY LEONARD: That was part of
23 it, but that bylaw also indicated that in the absence
24 of a purchasing manager it was the department head's
25 abil -- or position to -- to do that.

1 And as well as I also said yesterday,
2 the purchasing manager, i.e., the purchasing function
3 never reported to the treasurer.

4 MR. FREDERICK CHENOWETH: In any
5 event, in spite of your disagreement, it's clear that
6 Ms. Almas, who was the clerk at the time, took the
7 view that -- that the treasurer and the Treasury
8 Department were responsible for procurement, correct?

9 MS. MARJORY LEONARD: That's what it
10 says in her transcript.

11 MR. FREDERICK CHENOWETH: All right.

12 And looking for a moment, if we could,
13 at Mr. McNalty's transcript of September 24th, and we
14 go to a question at -- this is paragraph 175, line 8,
15 and I'm just looking at the testimony of Mr. McNalty
16 in that respect.

17 The purchasing bylaw fell under the
18 Treasury Department. And so the treasurer had an
19 interest in ensuring that the bylaw was being
20 followed. Clearly, that's what Mr. McNalty said on
21 that occasion?

22 MS. MARJORY LEONARD: That's what he
23 appears to have said.

24 MR. FREDERICK CHENOWETH: And he, like
25 Ms. Almas, was of the view that the purchasing

1 function, the procurement function, fell under the
2 Treasury Department?

3 MS. MARJORY LEONARD: And again, as I
4 say, he's the purchasing manager under the bylaw. The
5 process belonged to the purchasing manager or the
6 department head.

7 MR. FREDERICK CHENOWETH: So you would
8 disagree with his view?

9 MS. MARJORY LEONARD: I would agree
10 with the part that said I had an interest. And again,
11 as I stated yesterday, in terms of monitoring
12 something or someone who did not report to me, it was
13 virtually impossible.

14 And the only time I could do that was
15 when I signed the cheques.

16 MR. FREDERICK CHENOWETH: All right.

17 So if there was an opportunity before
18 signing the cheques for you to be proactive, obviously
19 you would take that?

20 MS. MARJORY LEONARD: Yes.

21 MR. FREDERICK CHENOWETH: If -- if
22 there was some concern about -- about procurement in
23 some fashion, and you had the opportunity to make
24 comment or --

25 MS. MARJORY LEONARD: Again, as I

1 stated yesterday --

2 MR. FREDERICK CHENOWETH: -- raise
3 issues, if I might just finish my question.

4 THE HONOURABLE FRANK MARROCCO: I -- I
5 noticed this before. In order to get the transcript
6 right, each person has to let the other one (1) finish
7 before they answer.

8 Don't -- don't feel inhibited in terms
9 of your answering, but just let the conversation play
10 itself out that way. And Mr. Chenoweth, I'd ask you
11 to do the same thing.

12 MR. FREDERICK CHENOWETH: Thank you,
13 Your Honour, I'll make every effort to do so.

14

15 CONTINUED BY MR. FREDERICK CHENOWETH:

16 MR. FREDERICK CHENOWETH: So your --
17 your concern was that -- and -- and let's just, before
18 we go to that, let's look at your job
19 responsibilities, and I would ask that we turn up
20 TOC0600352. If we go to page 2, paragraph 9 of that
21 document. And just before we go down, let's see what
22 the document is, just so we've got that clear.

23 And I take it this is, again, we've had
24 this document up before and you explained to Inquiry
25 counsel that this is your job description that you had

1 while you were the treasurer?

2 MS. MARJORY LEONARD: Yes.

3 MR. FREDERICK CHENOWETH: And this job
4 description was in force and effect in 2012?

5 MS. MARJORY LEONARD: Yes.

6 MR. FREDERICK CHENOWETH: Thank you.
7 Could we go down to page 2, paragraph 9. And again,
8 we -- you went over this with -- with Inquiry counsel,
9 your obligation appeared to be overseeing the
10 development and administration of the corporate
11 purchasing function, including recommending a
12 purchasing procedures and tendering procedures,
13 evaluation and revision of -- of same, as appropriate,
14 and monitoring the implementation and administration
15 of the purchasing policies.

16 I -- I take it as a result of -- of
17 this direction in your job description, you had an
18 obligation to monitor the implementation and
19 administration of the purchasing bylaws and policies,
20 correct?

21 MS. MARJORY LEONARD: According to the
22 job description. But as I also said to you, when the
23 function or the person that's doing the function does
24 not report to me, it's very difficult to monitor
25 something.

1 MR. FREDERICK CHENOWETH: And that's
2 why you said that -- that monitoring was difficult,
3 because often it only got to you when you were writing
4 a cheque.

5 MS. MARJORY LEONARD: That's correct.

6 MR. FREDERICK CHENOWETH: And that
7 robbed you of the opportunity to be proactive with
8 respect to your monitoring the bylaw obligations,
9 correct?

10 MS. MARJORY LEONARD: That's correct.

11 MR. FREDERICK CHENOWETH: So if there
12 was a -- an opportunity to be proactive, prior to them
13 writing the cheque, not only would you, but in fact
14 you had an obligation to monitor and step in if you
15 thought something with procurement was off-side,
16 correct?

17 MS. MARJORY LEONARD: That's correct.

18 And as I stated yesterday, I was
19 invited to one (1) discussion with regard to
20 purchasing and the procurement bylaw that was there,
21 and I supplied the gentlemen around the table with my
22 opinion, but I was never asked back to another one.

23 MR. FREDERICK CHENOWETH: And again, I
24 take it that's -- that's an example of what you've
25 described as your assertive personality when it came

1 to fulfilling your obligations as treasurer and in
2 monitoring this bylaw, correct?

3 MS. MARJORY LEONARD: That's correct.

4 MR. FREDERICK CHENOWETH: Thank you.
5 So that when you were described as -- as being -- by
6 Mr. Lloyd, by Rick Lloyd, as being a person that --
7 that would tell you where you stood if she didn't
8 agree with you, that's an example of how Mr. Lloyd's
9 comment is accurate, correct?

10 MS. MARJORY LEONARD: That would be
11 correct.

12 MR. FREDERICK CHENOWETH: Thank you.
13 In any event, with respect to this obligation to
14 monitor, and this particular situation as it developed
15 on the -- in late August of -- of 2012, it wasn't as
16 if your views on the purchasing and procurement issues
17 that were arising, leading to the 27th, that didn't
18 simply develop with -- with a cheque being presented
19 to you, I take it.

20 There were opportunities, if you had a
21 concern, to express those -- those matters, those
22 concerns, prior to the -- the 27th of August. Am I
23 correct?

24 MS. MARJORY LEONARD: That's why all
25 the versions of my staff report contained a provision

1 for an RFP.

2 And as we saw earlier, it also said in
3 my staff report if Council chooses to proceed, and
4 those items were stricken from the record.

5 MR. FREDERICK CHENOWETH: If that --
6 if that was changed and if you had not been convinced
7 or persuaded or satisfied that matters were moving
8 satisfactorily, you did not have that satisfaction,
9 you would have -- you would have spoken up, correct?

10 MS. MARJORY LEONARD: Yes, I would
11 have spoken up. And how -- however, before the final
12 version of the staff report, I had still envisioned
13 that they would go out with an RFP for fabric
14 buildings and an RFP for these other buildings.

15 MR. FREDERICK CHENOWETH: I
16 understand. But given those changes that occurred on
17 the 23rd and 24th of August, if you weren't persuaded
18 or satisfied, as you indicated during your cross-
19 examination by Mr. Bonwick, if you weren't persuaded
20 or satisfied, you would have -- you would have spoken
21 up?

22 MS. MARJORY LEONARD: Yes.

23 MR. FREDERICK CHENOWETH: Correct?

24 MS. MARJORY LEONARD: Yes.

25 MR. FREDERICK CHENOWETH: In fact, you

1 had an obligation, pursuant to your monitoring
2 obligation set out in paragraph 9 that we've just
3 reviewed, you had an obligation to speak up if you
4 weren't satisfied and of the view that things were
5 moving forward properly, correct?

6 MS. MARJORY LEONARD: Correct. But I
7 also don't -- I can't recall if I did speak up at that
8 meeting. I'm normally very outspoken.

9 MR. FREDERICK CHENOWETH: Yes.

10 MS. MARJORY LEONARD: As a matter of
11 fact, very outspoken and I just don't recall if I
12 spoke up at that time or not.

13 MR. FREDERICK CHENOWETH: All right.
14 There is -- you spoke with consensus and just -- just
15 before I get to that, I -- I take it that when Marta
16 Proctor regrettably had a vacation planned for
17 approximately three (3) weeks in August, that others
18 had to pitch in.

19 MS. MARJORY LEONARD: That's correct.

20 MR. FREDERICK CHENOWETH: And you were
21 one (1) of the others that pitched in?

22 MS. MARJORY LEONARD: Correct.

23 MR. FREDERICK CHENOWETH: And I take
24 it it would have been your anticipation that -- that
25 Marta Proctor, who was department head with respect to

1 Parks, Recreation and Culture, would probably have
2 been writing that report.

3 MS. MARJORY LEONARD: Correct.

4 MR. FREDERICK CHENOWETH: All right.
5 And because Marta Proctor wasn't around, you pitched
6 in and helped with the writing of that report?

7 MS. MARJORY LEONARD: Correct.

8 MR. FREDERICK CHENOWETH: Thank you.
9 And is it fair to say that, as a result of Marta
10 Proctor not being available, that the EMC, in fact,
11 became much more involved in the process that unfolded
12 in terms of -- of getting the information and
13 concluding the staff report that which eventually went
14 forward on August 27th?

15 MS. MARJORY LEONARD: I believe the
16 CAO became more involved in getting the information
17 than the -- the rest of us. I continually tried to
18 get the information from Dave and the CAO at the time.

19 MR. FREDERICK CHENOWETH: Very good.
20 And I notice that the -- the reports are circulated to
21 members of the EMC -- I'm -- the various iterations of
22 the staff report.

23 I'm just suggesting to you that -- that
24 the EMC, as a result of Marta Proctor's absence,
25 became more involved in that process?

1 MS. MARJORY LEONARD: All of our staff
2 reports are reviewed by department heads and the
3 department head meeting. And there --

4 MR. FREDERICK CHENOWETH: Yes.

5 MS. MARJORY LEONARD: -- could be
6 several iterations of that particular staff report
7 that would go back and forth to department heads.

8 So, in terms of writing that staff
9 report, the members of the EMC may or may not have had
10 more involvement in writing it had Marta been there.

11 MR. FREDERICK CHENOWETH: Very good.
12 Thank you. But in any event, without Marta there,
13 they clearly had some involvement in that they were
14 copied on the -- the various iterations of the report,
15 et cetera?

16 MS. MARJORY LEONARD: Yes.

17 MR. FREDERICK CHENOWETH: Thank you.
18 And there was -- as we've heard from a number of
19 witnesses, there was a practice that the EMC was
20 governed by consensus. I think you've --

21 MS. MARJORY LEONARD: Correct.

22 MR. FREDERICK CHENOWETH: --
23 established that? All right. And Ms. Almas, in her
24 materials, speaks to the consensus that she saw
25 developing at -- on the morning of the 24th of August

1 at the 8:30 meeting that -- that was had on that
2 occasion.

3 And, first of all, do you recall who
4 was at that 8:30 meeting on that morning? I take it
5 Ms. Almas was there, and she speaks of it in her
6 testimony?

7 MS. MARJORY LEONARD: I believe it was
8 Ed, myself, Sara, Larry, and Dave McNalty.

9 MR. FREDERICK CHENOWETH: All right.
10 So that all the members of the EMC were there,
11 correct?

12 MS. MARJORY LEONARD: Yes.

13 MR. FREDERICK CHENOWETH: All right.
14 And just looking for a moment at the testimony of Ms.
15 Almas on September 12th, 2019, page 192.

16

17 (BRIEF PAUSE)

18

19 MR. FREDERICK CHENOWETH: And paragra
20 -- or line 16, if we could, please.

21

22 (BRIEF PAUSE)

23

24 MR. FREDERICK CHENOWETH: And I see
25 here I asked a question of Ms. Almas:

1 "Thank you. And at the meeting --
2 and, again, we're speaking of the
3 August 24th at 8:30 -- you spoke of
4 -- of there being a consensus."

5 And it's the practice of the EMC, in
6 any event, to move forward with consensus, correct?

7 MS. MARJORY LEONARD: Correct.

8 MR. FREDERICK CHENOWETH: And then I
9 go on with that.

10 "I think you indicated that I take
11 it the consensus would have involved
12 Ms. Leonard, Dave McNalty, Ed,
13 Irwin, all of whom were members of
14 the -- of the EMC?"

15 And Ms. Almas says, "Yes." And so, the
16 -- the point I'm really simply making is that there
17 was a discussion of a number of matters. Well, in --
18 in fact, quite specifically, there was a discussion
19 about -- about the state of the staff report on the
20 morning of August 24th at 8:30.

21 And according to Ms. Almas, there was a
22 consensus as to how that would move forward. Would
23 you agree with that?

24 MS. MARJORY LEONARD: I would agree
25 with that. And as I did state yesterday as well at

1 that meeting, it was Ed was explaining the rationale
2 for why he had chosen that process and those steps for
3 the staff report.

4 MR. FREDERICK CHENOWETH: All right.
5 And whatever Mr. Houghton said in that respect, you
6 indicated that you had an open mind and you were
7 satisfied with what he said and were of the view that
8 -- that there was nothing inappropriate about moving
9 forward?

10 MS. MARJORY LEONARD: His discussions
11 and rationale did persuade me that we could move
12 forward.

13 MR. FREDERICK CHENOWETH: And so, you
14 would agree with Ms. Almas that there was a consensus
15 on the morning of August 24th in the 8:30 meeting?

16 MS. MARJORY LEONARD: Yes.

17 MR. FREDERICK CHENOWETH: Thank you.

18

19 (BRIEF PAUSE)

20

21 MR. FREDERICK CHENOWETH: And Mr.
22 McNalty was a little more detailed in his discussions
23 of this matter. And if we could go to the transcript
24 of Mr. McNalty's testimony of September 30th, to page
25 18 of that transcript.

1 (BRIEF PAUSE)

2

3 MR. FREDERICK CHENOWETH: And at line
4 22 of that transcript:

5 "And that's what is described here
6 as subject line procurement section.

7 And this appears to be something
8 that Marjory Leonard drafted at
9 10:46 on the morning of August 24th,
10 presumably after that meeting that
11 took place at 8:30 in the morning.

12 Is that fair?

13 I think that meeting was schedule to
14 go at 8:30 until ten o'clock, or
15 something of that nature.

16 I believe that's correct.

17 All right. So, she obviously
18 drafted it after the meeting --
19 after the meeting?

20 I believe so."

21 Is the answer. And then going further:

22 "I bring you to this, Ms. Mc -- Mr.
23 McNalty. There's no -- no magic in
24 it. I'm just suggesting to you that
25 it's likely that procurement section

1 of the report was discussed in the
2 meeting at 8:30 on the morning of
3 August 24th and that she drafted
4 something up -- that's you -- Ms.
5 Leonard drafted something up in
6 keeping with the discussions that
7 you had on that morning. Is that
8 fair?"

9 In other words, he's suggesting that
10 there was a discussion on the morning of the 24th in
11 the 8:30 meeting. There was a discussion about the
12 procurement section that would go into the staff
13 report.

14 Is that -- is that accurate, in your
15 view?

16 MS. MARJORY LEONARD: I believe that
17 there was a discussion, most definitely, of the
18 procurement section, and I was directed to write it.

19 MR. FREDERICK CHENOWETH: All right.
20 And in keeping with Almas -- Ms. Almas's suggestion
21 that there was a consensus reached on the morning of
22 the 24th, is it fair to say that there was a consensus
23 with respect to what the procurement section would say
24 by the conclusion of that meeting on the 24th?

25 MS. MARJORY LEONARD: I would agree

1 with that, yes.

2 MR. FREDERICK CHENOWETH: Thank you.

3 So that when you drafted what is set out in paragraph
4 413 of the Foundation Document, and we'll look clearly
5 at that...

6

7 (BRIEF PAUSE)

8

9 MR. FREDERICK CHENOWETH: Just go --
10 go through that, if you would.

11

12 (BRIEF PAUSE)

13

14 MR. FREDERICK CHENOWETH: Okay?

15 MS. MARJORY LEONARD: Yep.

16 MR. FREDERICK CHENOWETH: Thank you.

17 So, when you drafted that verbiage at 10:46 on the
18 morning of the 24th after that meeting, you drafted it
19 in -- in keeping with what you recalled the consensus
20 was at that meeting at 8:30 on that morning, correct?

21 MS. MARJORY LEONARD: That's correct.

22 And it would also be in keeping with the directions
23 that I had received in the phone call the evening
24 before from Mr. Houghton.

25 MR. FREDERICK CHENOWETH: Thank you.

1 But -- thank you. And Mr. McNalty goes on to say that
2 -- and I'm -- I'm just -- I'm just interested here --
3 you're drafting the procurement sections of -- of the
4 staff report.

5 And I'm interested in -- in the
6 assertion by Ms. Almas and Mr. McNalty which you
7 disagree with, that the treasurer's department was in
8 charge of procurement and -- and monitoring
9 purchasing.

10 Do you think that you were tasked with
11 writing the procurement sections because there was a
12 general sense that -- that you had an understanding of
13 the procurement bylaws -- is that -- and were in
14 charge of monitoring those bylaws?

15 MS. MARJORY LEONARD: I would suggest
16 it more along the lines that nobody else volunteered.

17 MR. FREDERICK CHENOWETH: Okay. I
18 notice that Mr. -- Ms. Almas drafted the
19 recommendations?

20 MS. MARJORY LEONARD: Yes.

21 MR. FREDERICK CHENOWETH: Would that
22 be because she was the clerk of the Town and that was
23 a particular expertise and understanding that she had
24 in drafting those kinds of things?

25 MS. MARJORY LEONARD: That would be

1 correct.

2 MR. FREDERICK CHENOWETH: And -- and
3 you'll see that Mr. McNalty goes on to say that --
4 that there was a discussion on that morning with
5 respect to -- to numbers and that he was the numbers
6 guy and -- and brought calculations with him on that
7 morning.

8 Do I take it that Mr. McNalty was
9 charged with the numbers because he was -- been the
10 guy working through those numbers as the iterations of
11 the staff report progressed?

12 MS. MARJORY LEONARD: Mr. McNalty was
13 charged with finding the background information and
14 determining the cost estimates; that's why he would
15 bring those numbers.

16 MR. FREDERICK CHENOWETH: And you
17 wouldn't agree with the assertion that you were tasked
18 with writing the procurement section because there was
19 a general understanding amongst staff that you had an
20 expertise in that particular area? You wouldn't agree
21 with that?

22 MS. MARJORY LEONARD: No, I would not.

23 MR. FREDERICK CHENOWETH: Okay. Thank
24 you.

25

1 (BRIEF PAUSE)

2

3 MR. FREDERICK CHENOWETH: Mr. McNalty
4 goes on to say -- and I'm looking now at line 13 on
5 page 22 of his transcript.

6

7 (BRIEF PAUSE)

8

9 MR. FREDERICK CHENOWETH: And he
10 confirms at line 13:

11 "All right. Just as with Mr. --
12 just as with Marjory's statement
13 above, or Marjory's 1046 input --
14 that's your paragraph 413 -- that
15 confirms to me that there would have
16 been discussion on the morning of
17 the 24th with respect to the
18 recommendation language."

19 Do you recall that -- and -- and the
20 answer's "Yes." And do you recall that there would
21 have been a discussion about the recommendation
22 language that Ms. Almas eventually drafted at the
23 meeting of August 24th at 8:30?

24 MS. MARJORY LEONARD: Yes, I believe
25 there was.

1 MR. FREDERICK CHENOWETH: Thank you.

2 And again I take it, as with the procurement
3 discussion, there was a consensus reached with respect
4 to the recommendation language that would be used?

5 MS. MARJORY LEONARD: Again I would
6 agree with that, yes.

7 MR. FREDERICK CHENOWETH: Thank you.
8 And again, I'm looking now at page 23 of Mr. McNalty's
9 transcript, and I'm looking at line 16. And again,
10 this deals with the numbers and the discussion that
11 most likely took place on the 24th at 8:30, line 16.

12 "Thank you. And there would have
13 been a third discussion that
14 morning."

15 And he goes on to suggest -- and I'm
16 going to suggest, that you dealt with the numbers to
17 go in the report, and the numbers go in your staff
18 report in the morning at 8:30.

19 And in this respect, I'm going to
20 suggest that we've got Marjory in charge of
21 procurement, we've got Sara Almas doing the role as
22 the Clerk, and it appears that you are the numbers
23 guy.

24 So again, similarly, because of the
25 reasons that you've described, there would have been a

1 discussion about the numbers that Mr. McNalty had come
2 up with on the morning of August 24th at 8:30,
3 correct?

4 MS. MARJORY LEONARD: If I call --
5 recall correctly, there were only about eight (8)
6 numbers in the whole report.

7 MR. FREDERICK CHENOWETH: Good. All
8 right.

9 MS. MARJORY LEONARD: So it wouldn't
10 have been difficult to come up with them because they
11 were directly off the contract numbers that we
12 received.

13 MR. FREDERICK CHENOWETH: Difficult to
14 come up with or not, the numbers that eventually were
15 put in the report were discussed at the staff meeting
16 on August 24th at 8:30, correct?

17 MS. MARJORY LEONARD: It appears so.

18 MR. FREDERICK CHENOWETH: Thank you.
19 And again as with the other two (2) areas, i.e.,
20 procurement and recommendations, there was a consensus
21 reached with respect to those numbers, correct?

22 MS. MARJORY LEONARD: Yes.

23 MR. FREDERICK CHENOWETH: Thank you.
24 And I note that Mr. Houghton in a later document sent
25 out at 12:05 -- sends the document that he drew up

1 after the meeting on the 24th -- at 12:05 he drew up a
2 document and sent it out to you. And I'm missing the
3 -- the number for that -- see if I can come up with
4 it.

5 I'm looking for a number for Mr.
6 Houghton's email of about 12:05 on the morning of the
7 24th.

8

9 (BRIEF PAUSE)

10

11 MS. KATE MCGRANN: So that's
12 TOC204146.

13 MR. FREDERICK CHENOWETH: Thank you.

14 MS. KATE MCGRANN: And the attachment.
15 Are you looking for the email or the attachment?

16 MR. FREDERICK CHENOWETH: I'm looking
17 for the email.

18

19 CONTINUED BY MR. FREDERICK CHENOWETH:

20 MR. FREDERICK CHENOWETH: So it looks
21 like from the email that Mr. Houghton seems to have
22 gone back and included in the staff report the matters
23 that were consensus at the meeting at -- at 8:30 on
24 the morning of the 24th, and he seems to have sent
25 that amended document off to those involved on that

1 morning, to Sara Almas, Marjory Leonard, yourself that
2 is, Larry Irwin, and Dave McNalty -- all those people
3 that were at the meeting.

4 He seems to have sent out the document
5 that seems to have been amended with the consensus
6 that was reached on the 24th. Is that -- is that
7 accurate?

8 MS. MARJORY LEONARD: It appears so.

9 MR. FREDERICK CHENOWETH: Thank you.
10 And there's an opportunity in that email, I suggest:

11 "Please take a look and adopt (sic)
12 if needed."

13 THE HONOURABLE FRANK MARROCCO:

14 "Adapt," I think it is.

15 MR. FREDERICK CHENOWETH: I'm sorry.
16 I apologize, Your Honour.

17

18 CONTINUED BY MR. FREDERICK CHENOWETH:

19 MR. FREDERICK CHENOWETH:

20 "And adapt if needed."

21 So I take it that as each one (1) of
22 you, Almas, Leonard, Irwin, and McNalty, received this
23 document, if there was something that wasn't in
24 keeping with the consensus that was reached at the
25 meeting at 8:30 in the morning of the 24th -- you've

1 got my cell number. If you need me -- you had the
2 opportunity to speak up there and -- and say that this
3 didn't match the consensus or that didn't match the
4 consensus or -- or whatever, correct?

5 MS. MARJORY LEONARD: Yes.

6 MR. FREDERICK CHENOWETH: Thank you.
7 And if there was something that was terribly amiss
8 about -- about the document that was drafted on or
9 about 12:05 that day, you could again make comment,
10 correct?

11 MS. MARJORY LEONARD: Yes.

12 MR. FREDERICK CHENOWETH: Thank you.
13 We're going to move to another topic and it's
14 chronologically a little further down the line, but if
15 we could look at paragraphs 549 and 550 of the
16 Foundation Document, I'd appreciate that.

17

18 (BRIEF PAUSE)

19

20 MR. FREDERICK CHENOWETH: So it looks
21 like on August 30th, 2012, Mr. Houghton sent you and
22 Deputy Mayor Lloyd an email, and he -- in that email
23 he says:

24 "I just got the agreement and a 25
25 percent up-front draw, amounting to

1 \$3 million."

2 I think you gave testimony that you had
3 had an opportunity on or about August 30th to look at
4 the contract and to look at the appendix to the
5 contract, which was the payment schedule. Is that
6 correct?

7 MS. MARJORY LEONARD: It would have
8 been later in the day that I would have looked at the
9 contract.

10 MR. FREDERICK CHENOWETH: All right.

11 MS. MARJORY LEONARD: And -- and as
12 well it was sent to our lawyer for review.

13 MR. FREDERICK CHENOWETH: Very good.
14 But you would have had the contract, I take it, and
15 payment schedule at or about 10:30 on that day?

16 MS. MARJORY LEONARD: I don't recall
17 if I received it -- I don't recall if this email had a
18 -- an attachment with it. I did receive the direction
19 from the CAO to have the cheque ready.

20 MR. FREDERICK CHENOWETH: All right.
21 But you were aware that -- that there was a twenty --
22 as a result of this email in any event, if nothing
23 else, you were aware that there was a 25 percent up-
24 front draw that was required?

25 MS. MARJORY LEONARD: That's correct.

1 At least from the email, I --

2 MR. FREDERICK CHENOWETH: Very good.

3 And you were aware that the cheque was going to be in
4 excess of \$3 million?

5 MS. MARJORY LEONARD: Yes.

6 MR. FREDERICK CHENOWETH: And -- and
7 you're the Treasurer, and if there was anything
8 inappropriate about a 25 percent up-front payment or
9 the \$3 million, I take it your obligation was to --
10 was to chime in or make some comment?

11 MS. MARJORY LEONARD: Yes.

12 MR. FREDERICK CHENOWETH: Thank you.
13 And just looking down further, at 11:56, just about an
14 hour and a half later on that day, Mayor Sandra Cooper
15 emails Treasurer Marjory Leonard, writing:

16 "The Deputy Mayor is stopping by my
17 office to review the Sprung
18 agreement. Can you provide them to
19 me, please?"

20 So I take it that the Mayor was
21 confident that -- at 11:56, a few minutes before
22 12:00, that you could make available to her, for her
23 meeting with the Deputy Mayor, a copy of the contract
24 which contained the payment schedule, correct?

25 MS. MARJORY LEONARD: Yes.

1 MR. FREDERICK CHENOWETH: And it seems
2 like you had the document by 11:56 on that day.

3 MS. MARJORY LEONARD: It -- it would
4 appear so, yes.

5 MR. FREDERICK CHENOWETH: Right.

6 MS. MARJORY LEONARD: It came in the
7 first email.

8 MR. FREDERICK CHENOWETH: And -- and I
9 think, again, you indicated that you had an
10 opportunity and you did review the payment schedule?

11 MS. MARJORY LEONARD: At some point,
12 yes.

13 MR. FREDERICK CHENOWETH: Thank you.
14 And -- well, there was a -- a \$3 million cheque about
15 to be written. You were the Treasurer, and you had --
16 you've just acknowledged a responsibility to monitor
17 the payments that were made.

18 I take it, consistent with the
19 authority, you reviewed at the very least the payment
20 schedule that morning to ensure that the 25,000 -- or
21 25 percent up-front payment of over \$3 million was
22 appropriate.

23 MS. MARJORY LEONARD: I believe I did
24 because I -- I do recall checking in the agreement
25 itself the dollar amounts that were used to calculate

1 the total of the -- the contract.

2 MR. FREDERICK CHENOWETH: Right.

3 MS. MARJORY LEONARD: So --

4 MR. FREDERICK CHENOWETH: And if
5 you're looking at the contract in that respect, I -- I
6 take it, it would not have fallen outside of your
7 purview to look at the payment schedule that was
8 attached to that contract as Appendix A.

9 MS. MARJORY LEONARD: That's correct.

10 MR. FREDERICK CHENOWETH: Okay. And
11 correct me if I'm wrong here, but I had a sense that -
12 - that you'd had some experience with payment
13 schedules through your work as the Treasurer of the
14 Town of Collingwood.

15 MS. MARJORY LEONARD: Pardon?

16 MR. FREDERICK CHENOWETH: I take it
17 that, and correct me if I'm wrong -- that as a
18 function of your job as Treasurer of the Town of
19 Collingwood, you had had some experience reviewing
20 payment schedules in various contracts for the Town.

21 MS. MARJORY LEONARD: Normally when I
22 would get a request for a payment, it would come from
23 the project manager or the engineer that was managing
24 the project with a draw amount on it.

25 MR. FREDERICK CHENOWETH: All right.

1 Did you -- did you or did you not have some experience
2 with payment schedules? Again you can correct me if
3 I'm wrong. Did you have such experience as the
4 Treasurer of the Town of Collingwood?

5 MS. MARJORY LEONARD: In terms of
6 contracts, I -- I can't answer that now. I don't
7 recall. I don't --

8 MR. FREDERICK CHENOWETH: You don't
9 recall?

10 MS. MARJORY LEONARD: No, I don't
11 recall if I looked at them before then.

12 MR. FREDERICK CHENOWETH: Thank you.

13 MS. MARJORY LEONARD: Because I was
14 normally not the person that signed the contracts.

15 MR. FREDERICK CHENOWETH: In any
16 event, in your review of the -- the payment schedule
17 on that morning, I take it there was nothing about the
18 payment schedule that alarmed you or troubled you or
19 caused you to raise any alerts, correct?

20 MS. MARJORY LEONARD: That's right. I
21 did think the 25 percent was a little high, but I was
22 also under the impression that BLT would have to
23 purchase directly from Sprung a lot of the materials
24 to get started, so I could understand the first draw
25 being a little higher.

1 MR. FREDERICK CHENOWETH: Thank you.

2 There appears to have been a meeting between the
3 Deputy Mayor and the Mayor at approximately twelve
4 o'clock noon on August 30th, and it seems like you
5 brought over a copy of the contract to the Mayor's
6 office so she could review it at that time, correct?

7 MS. MARJORY LEONARD: It appears that
8 way, yes.

9 MR. FREDERICK CHENOWETH: And as the
10 Treasurer, did you stay around when the Mayor and the
11 Deputy Mayor discussed the contract and the payment
12 schedule on that morning?

13 MS. MARJORY LEONARD: I don't recall.

14 MR. FREDERICK CHENOWETH: You don't
15 recall. So you can't say whether you continued to
16 attend that meeting or not.

17 MS. MARJORY LEONARD: That's right. I
18 just don't recall.

19 MR. FREDERICK CHENOWETH: Thank you.
20 Moving on, I was concerned with, or interested in, the
21 state of the Town's financing and what motivators that
22 may have created for Councillors.

23 And in that respect, I was -- had
24 occasion to look at the evidence of Rick Lloyd given
25 on October 8th, and in this respect I'm looking at

1 page 145 of the transcript and -- and page 146 as
2 well. And I'm looking at line 6, page 146.

3 And Mr. Marron asks Mr. Lloyd:

4 "So the indication is that the Town
5 of Collingwood had a current
6 debenture debt [and again we're
7 talking about 2012] that was about
8 \$48 million.

9 You had been aware that the Town of
10 Collingwood, I take it, Council was elected in 2010 to
11 reduce the Collingwood debt. You would have known of
12 that?

13 MS. MARJORY LEONARD: Yes.

14 MR. FREDERICK CHENOWETH: All right.

15 And just to assist the Commission, is
16 it fair that -- that the debt at that time was
17 approximately \$48 million?

18 MS. MARJORY LEONARD: I believe it was
19 about that number, yes.

20 MR. FREDERICK CHENOWETH: Thank you.

21 And again, to look at another document
22 that had been reviewed, could we pull up TOC0207141.
23 Going down a little further. Down a little further.
24 That's good. Go back up so we can see who originated
25 this -- this email.

1 This is an email from Rick Lloyd to Dan
2 Barill, and I'm just interested in numbers that are
3 cited in the bottom half of this email, if you -- if
4 you have a chance to take that up a little further so
5 we can look at the numbers. Thank you, that's good.

6 It seems that Mr. Lloyd in this
7 document, first of all, he cites the \$48 million
8 debenture debt that existed at that time, and then he
9 talks about projects that the Town would face in the
10 next ten (10) years.

11 And he concludes that there was a
12 series of projects that could well have totalled in
13 excess of \$151 million that the Town would be required
14 to consider over the next ten (10) year period.

15 Is that reasonably accurate?

16 MS. MARJORY LEONARD: Reasonably, yes.

17 MR. FREDERICK CHENOWETH: Thank you.

18 And he goes on to say that that \$48 million debt and
19 the \$151 million of projects that the Town faced was
20 meant -- was one (1) of the reasons that he can't
21 support the \$30 to \$35 million recreational facility,
22 correct?

23 MS. MARJORY LEONARD: It's -- it's
24 what the email says, yes.

25 MR. FREDERICK CHENOWETH: Thank you.

1 But in any event, the point is his numbers were
2 accurate?

3 MS. MARJORY LEONARD: Rea --
4 reasonably accurate at that point in time.

5 MR. FREDERICK CHENOWETH: Yes, thank
6 you.

7 MS. MARJORY LEONARD: In the end, the
8 Wastewater Treatment Plant upgrade is \$65 million we
9 will have approximately \$30 million in reserve, the
10 water treatment plan upgrade is being financed in a
11 different manner, our portion will be probably 10 --
12 10 million.

13 We've got mountain road upgrade there,
14 we've -- again, we're probably -- we've applied for a
15 federal grant to carry that out.

16 At this point in time, we are paying --
17 we were paying, even in 2012 to '13, \$3 million a year
18 off on the principle and there's the rest of these,
19 the fire hall debenture was only 3.3 million, Highway
20 26 West paving, we didn't have to debenture, because
21 those were plans that didn't -- we got grant money
22 for.

23 MR. FREDERICK CHENOWETH: All right.
24 Suffice it to say, as things stood in 2012, the Town's
25 financial future would appear to have its challenges?

1 MS. MARJORY LEONARD: That's correct.

2 MR. FREDERICK CHENOWETH: Thank you.

3 And you mentioned that you had a -- an opportunity to
4 get some grants with respect to the mountain road
5 upgrade?

6 MS. MARJORY LEONARD: We're in the --
7 we've applied for it. We've applied for a grant, so
8 there's a potential that we will get it -- we've had
9 some very good luck getting the -- the grants for some
10 of the projects that we've done since 2012.

11 MR. FREDERICK CHENOWETH: I'm -- and
12 in particular, you would get -- you would have luck or
13 a reasonable degree of luck with respect to projects
14 relating to roads?

15 MS. MARJORY LEONARD: To -- to roads,
16 yes.

17 MR. FREDERICK CHENOWETH: All right.
18 And as matters stood in 2012, can you tell me, was
19 there a -- was there available money out there for --
20 from the province or whatever for recreational
21 projects? What was the chance of getting a grant for
22 those?

23 MS. MARJORY LEONARD: I -- I believe
24 that the CAO had done a scan of the environment and
25 there weren't any grants for recreational facilities

1 at that time.

2 MR. FREDERICK CHENOWETH: All right.

3 And there was a prospect of grants for road
4 construction, such as Hume Street, et cetera?

5 MS. MARJORY LEONARD: Roads, sewers,
6 and water.

7 MR. FREDERICK CHENOWETH: So when --
8 when it comes to allotting the money from the Collus
9 sale, the 50 percent of their shares, i.e., \$8
10 million, was it one (1) of the considerations of -- of
11 Council that we should consider allotting those funds
12 to recreation rather than fully to roads because the
13 chance of getting grants for recreation was low and
14 there was some prospect of getting grants for
15 recreations for road such as Hume Street, was that one
16 (1) of the considerations?

17 MS. MARJORY LEONARD: I indicated
18 yesterday that when we put out the survey that staff
19 had developed some talking points or conversational
20 points to start the public engagement process, we did
21 mention that in there.

22 I don't know if it was one (1) of
23 Council's considerations. There were several other
24 considerations and one (1) of them, of course, was to
25 pay down the debenture debt, which at that point in

1 time we would have had more in -- in -- well, first
2 off, we would have been the first municipality in
3 Ontario to ever prepay an Infrastructure Ontario debt
4 and the interest rate penalty would have been -- made
5 the amount higher than the amount of Collus funds that
6 we had.

7 MR. FREDERICK CHENOWETH: All right.
8 So that was one (1) of the reasons why you didn't
9 choose to pay down the debt with the Collus funds, I
10 take it?

11 MS. MARJORY LEONARD: It was entirely
12 up to Council. They could have chosen to do it.

13 They were -- at this point in time we
14 had -- we had two (2) large -- well, we still have
15 large debentures and one (1) is at 5.58 percent, and I
16 believe that's the one (1) that has -- east end force
17 main, the purchase of the annex building next door and
18 the Black Ash Creek channelization.

19 We have a 2008 debenture for 5.5 -- I
20 can't remember if it's a 7 or 8, that one (1) covered
21 the South Servicing portion.

22 Then we went to individual debentures
23 for individual projects. So there could have been the
24 opportunity to pay off some of those debentures, I
25 believe the one for -- for instance for 1st Street I

1 think it was about 1.7 million, we could have paid it
2 down.

3 MR. FREDERICK CHENOWETH: But given
4 the penalties that might be incurred when you paid
5 down some of these debentures, I take it you didn't
6 have quarrel with the Town's view -- with Council's
7 view, that the money should be used for -- for
8 recreational purposes and not for paying down the
9 debt?

10 MS. MARJORY LEONARD: I didn't
11 actually have an opinion on it.

12 MR. FREDERICK CHENOWETH: Very good,
13 thank you.

14 If we might pull up TOC0189770. And
15 this is an email that you appear to have sent to Ed
16 Houghton and Larry Irwin and Sara Almas and Dave
17 McNalty on the 24th of August at -- I'm sorry, the
18 24th of July, 2012, is that correct?

19 MS. MARJORY LEONARD: It appears so.

20 MR. FREDERICK CHENOWETH: Thank you.
21 And you indicate:

22 "I just talked to Dave and asked him
23 to continue with WGD on the
24 following items"

25 So you, at that time, were giving some

1 direction to Dave McNalty with respect to what his
2 interaction should be with WGD?

3 MS. MARJORY LEONARD: Apparently.

4 MR. FREDERICK CHENOWETH: And this is
5 the first of the -- of any emails I've seen in which
6 you are giving directions about WGD. Was it your
7 observation that prior to this time, prior to July
8 24th, that Mr. McNalty and Ms. Proctor were dealing
9 with WGD?

10 MS. MARJORY LEONARD: Yes, I believe
11 that -- that's true. But I also believe that when I
12 prepared this email we did have the direction that the
13 ball diamonds were to be saved, the lawn bowling was
14 to be retained at -- at the park, that WGD, when they
15 had looked at their -- the grand plan for the Central
16 Park, had looked at putting the -- removing the ball
17 diamonds and all the other things that were in the
18 park.

19 So Council had decided they wanted to
20 save them, so I talked to Marta and she suggested
21 which ball diamond we would remove, because there were
22 three (3) ball diamonds there, so the placement of
23 that arena in that park was important to retain the
24 rest of the amenities.

25 MR. FREDERICK CHENOWETH: And it, in

1 fact, saved two (2) ball diamonds, correct?

2 MS. MARJORY LEONARD: We do have the
3 two (2) ball diamonds, yes.

4 MR. FREDERICK CHENOWETH: Thank you.
5 And avoided a significant expense with respect to
6 relocating those ball diamonds?

7 MS. MARJORY LEONARD: At that point we
8 didn't have any -- any land to reconstruct them on, so
9 the answer to that question is yes. And it also saved
10 the lawn bowling club, which again we had -- we had
11 looked at -- at -- I believe Mr. Dunbar had looked at
12 moving it to Heritage Park, but again the servicing
13 was a -- a problem there.

14 MR. FREDERICK CHENOWETH: When you say
15 "the servicing," are you talking about the
16 infrastructure so that there might be sewage and
17 toilets and things of that available?

18 MS. MARJORY LEONARD: To the best of
19 my knowledge, that park has about 18 inches of soil on
20 the vast majority of the area up there, so that would
21 have been -- would have been a concern.

22 MR. FREDERICK CHENOWETH: Thank you.
23 We've gone a little far afield from my question, but
24 my question simply was: Did you understand that prior
25 to your July 24th email to Mr. McNalty that it had --

1 it may have been Marta Proctor and Dave McNalty that
2 had been interacting with WGD?

3 MS. MARJORY LEONARD: Yes.

4 MR. FREDERICK CHENOWETH: Thank you.

5 If we might move on to a further document, which is
6 TOC0190878. This appears to be a -- a -- an
7 acceptance by you to attend a meeting of the 27th of
8 July, on this occasion. Is that correct?

9 MS. MARJORY LEONARD: Yes.

10 MR. FREDERICK CHENOWETH: It's a
11 meeting with Sprung?

12 MS. MARJORY LEONARD: Yes.

13 MR. FREDERICK CHENOWETH: All right.
14 And can you tell me who was at that meeting?

15 MS. MARJORY LEONARD: I was.

16 MR. FREDERICK CHENOWETH: All right,
17 can you assist any further?

18 MS. MARJORY LEONARD: Umm.

19 MR. FREDERICK CHENOWETH: Was Ms.
20 Almas at the meeting, do you recall?

21 MS. MARJORY LEONARD: I don't believe
22 she was. I think it was myself, Ed, --

23 MR. FREDERICK CHENOWETH: Mr. McNalty?

24 MS. MARJORY LEONARD: Larry. I don't
25 recall if Dave was there or not. And I -- I'm pretty

1 sure it was Tom Lloyd from -- from Sprung.

2 MR. FREDERICK CHENOWETH: And do you
3 remember BLT individuals being there? Was Dave Barrow
4 there?

5 MS. MARJORY LEONARD: I think Dave --

6 MR. FREDERICK CHENOWETH: -- do you
7 know?

8 MS. MARJORY LEONARD: I thi -- I
9 believe Dave Barrow was there.

10 MR. FREDERICK CHENOWETH: And do you
11 recall this as being an opportunity -- or a time at
12 which you and others were introduced to BLT?

13 MS. MARJORY LEONARD: Yes.

14 MR. FREDERICK CHENOWETH: And I take
15 it you understood as a result of what you heard at
16 that meeting that BLT was the company that put up
17 Sprung buildings and you didn't understand there to be
18 an alternative, correct?

19 MS. MARJORY LEONARD: That's correct.

20 MR. FREDERICK CHENOWETH: And Mr.
21 Houghton was at the same meeting?

22 MS. MARJORY LEONARD: That's correct.

23 MR. FREDERICK CHENOWETH: So, if he
24 was listening to the same things you were, I take it
25 it's reasonable that he may have come to the same

1 conclusion, i.e., there was no alternative but BLT, as
2 a result of his attendance at the meeting on July
3 27th?

4 MS. MARJORY LEONARD: It's possible.

5 MR. FREDERICK CHENOWETH: Thank you.

6

7 (BRIEF PAUSE)

8

9 MR. FREDERICK CHENOWETH: And would
10 you remember that there was a discussion about the
11 Sprung guard, the anti-vandalism mechanism of Sprung,
12 at that meeting on July 27th?

13 MS. MARJORY LEONARD: Yes, there was a
14 discussion about -- about the Sprung Shield. And I
15 came away from that meeting thinking that we were
16 having the Sprung Shield.

17 MR. FREDERICK CHENOWETH: And you
18 indicated that in your evidence in-chief. Do you
19 remember, and I think you indicated that you did
20 remember, that there was a discussion about the nature
21 of vandalism in the Town of Collingwood?

22 MS. MARJORY LEONARD: That's -- yes,
23 that's correct.

24 MR. FREDERICK CHENOWETH: Thank you.
25 And do you remember that -- that the general sense of

1 things in that meeting was that vandalism in
2 Collingwood was low?

3 MS. MARJORY LEONARD: Yes, I do. But
4 I can also tell you that I lived across from the YMCA
5 for forty-five (45) years. And when they built the
6 YMCA, vandalism at Exhibition Park, or Central Park,
7 did step up a lot.

8 And we have -- there were some housing
9 units at the corner of High and 2nd, that that area of
10 Town did have high vandalism, as well.

11 MR. FREDERICK CHENOWETH: All right.
12 You're talking about the -- the -- sorry, the Central
13 Park location or the Heritage Park location?

14 MS. MARJORY LEONARD: Oh, both. I
15 lived across from Central Park.

16 MR. FREDERICK CHENOWETH: Right.

17 MS. MARJORY LEONARD: And -- oh,
18 sorry. I lived across from Central Park. And, as I
19 say, the vandalism on that street was very -- and --
20 and in the park was very, very limited until the YMCA
21 was built. And then it -- it really took a turn
22 upwards.

23 MR. FREDERICK CHENOWETH: Did you --

24 MS. MARJORY LEONARD: And with the
25 housing units at 2nd and High, which is at Heritage

1 Park, the area there had higher rates of vandalism.

2 MR. FREDERICK CHENOWETH: Did you
3 recall your experience living across from Central
4 Park? Did you -- did you raise that in that meeting
5 of July 27th?

6 MS. MARJORY LEONARD: I can't recall.

7 MR. FREDERICK CHENOWETH: Did you
8 raise what you've described in Heritage Park --

9 MS. MARJORY LEONARD: That one (1) for
10 sure I do re --

11 MR. FREDERICK CHENOWETH: -- at that
12 meeting of July 27th?

13 MS. MARJORY LEONARD: I do recall
14 mentioning that one (1).

15 MR. FREDERICK CHENOWETH: All right.
16 And you would recall that there was some discussions
17 about -- and, again, I think discussed by Sprung or
18 BLT, that, if you had a property or were -- were
19 building this in Downtown Detroit, you might wish to
20 consider the Sprung guard.

21 Do you remember that being discussed?

22 MS. MARJORY LEONARD: I -- I don't
23 recall what -- what Sprung had said at that -- that's
24 -- you've -- you've got my memory of the meeting, and
25 that's basically it.

1 MR. FREDERICK CHENOWETH: And you
2 don't recall that there was some discussion by Sprung
3 about the substantial price tag that would occasion
4 purchasing the Sprung guard?

5 MS. MARJORY LEONARD: No, I don't
6 recall that.

7 MR. FREDERICK CHENOWETH: And...

8

9 (BRIEF PAUSE)

10

11 MR. FREDERICK CHENOWETH: You don't
12 recall any discussion about the -- Sprung's thought,
13 that it was a very limited number of their purchasers
14 that actually bought the Sprung guard? Would you
15 recall that discussion?

16 MS. MARJORY LEONARD: No.

17 MR. FREDERICK CHENOWETH: Thank you.
18 All right.

19

20 (BRIEF PAUSE)

21

22 MR. FREDERICK CHENOWETH: If we could
23 turn to another document. It's TOC0194509.

24

25 (BRIEF PAUSE)

1 MR. FREDERICK CHENOWETH: It appears
2 that this is a document on August 1st at which you
3 accepted a meeting invitation to meet with Sprung on
4 August 3rd.

5 Is that correct?

6 MS. MARJORY LEONARD: It appears so,
7 yes.

8 MR. FREDERICK CHENOWETH: Does that
9 assist your memory with respect to your testimony
10 yesterday as to whether or not you were at that August
11 3rd meeting?

12 MS. MARJORY LEONARD: I apparently was
13 at the August 3rd meeting. I don't recall much. I --
14 I don't recall the meeting itself.

15 MR. FREDERICK CHENOWETH: All right.
16 It -- it appears that -- that you, in any event, had
17 good access to Sprung. Is that -- is that fair? You
18 had been at a meeting on July 27th and had an
19 opportunity to -- to ask any questions or interact
20 with Sprung and BLT with respect to any issues that
21 might have arisen in your mind with respect to the
22 nature and quality of their buildings?

23 MS. MARJORY LEONARD: I can't even
24 remember what was discussed at these -- this meeting
25 or -- or the -- the 27th. The access that I had and

1 whoever else was at the meeting -- whoever else on
2 staff was -- were -- were at those meetings had the
3 same amount of access that I did.

4 MR. FREDERICK CHENOWETH: I'm not
5 saying you had any unique acc -- access. I'm simply
6 saying that you had the opportunity to -- to be in
7 touch with Sprung on an adequate number of occasions
8 to make your assessments?

9

10 (BRIEF PAUSE)

11

12 MS. MARJORY LEONARD: Perhaps.

13 MR. FREDERICK CHENOWETH: Very good.
14 I'd like to pull up a further document. It's
15 TOC0199345.

16 THE HONOURABLE FRANK MARROCCO: I
17 think I might -- I think you're going on to another
18 document. I think --

19 MR. FREDERICK CHENOWETH: I am, Your
20 Honour, yes.

21 THE HONOURABLE FRANK MARROCCO: I
22 think we'll take a -- take a five (5) minute, ten (10)
23 minute break.

24 MR. FREDERICK CHENOWETH: Thank you
25 very much.

1 --- Upon recessing at 12:22 p.m.

2 --- Upon resuming at 12:30 p.m.

3

4 CONTINUED BY MR. FREDERICK CHENOWETH:

5 MR. FREDERICK CHENOWETH: Could we
6 pull up document number TOC0199345?

7

8 (BRIEF PAUSE)

9

10 MR. FREDERICK CHENOWETH: I'll try and
11 get through a number of these documents as quickly as
12 we can. This appears to be an email that is sent to
13 you by Marta Proctor on the 14th of August.

14 And she says in the email:

15 "Will this time work for you? And
16 where would you prefer to meet?"

17 The 17th of August if I misspoke. So,
18 the meeting's for the 17th of August is the
19 suggestion. The email is on the 14th of August.

20 I take it you got this email?

21 MS. MARJORY LEONARD: I probably did.
22 I don't recall, but...

23 MR. FREDERICK CHENOWETH: Thank you.

24 And it appears to be suggesting a meeting between Sara
25 Almas, yourself, and Marta Proctor for the 17th of

1 August at 1:00 to 2:00 p.m., correct?

2 MS. MARJORY LEONARD: Correct.

3 MR. FREDERICK CHENOWETH: All right.

4 And I note that you turned out the first draft of your
5 report on August 18th, the date after this meeting?

6 MS. MARJORY LEONARD: Okay.

7 MR. FREDERICK CHENOWETH: Well, do you
8 have any doubt about that?

9 MS. MARJORY LEONARD: I -- I know I
10 put out a draft. I don't recall specifically what --

11 MR. FREDERICK CHENOWETH: All right.

12 MS. MARJORY LEONARD: -- date I put
13 out the first draft.

14 MR. FREDERICK CHENOWETH: Well, then
15 let's just quickly look at TOC0201377.

16

17 (BRIEF PAUSE)

18

19 MR. FREDERICK CHENOWETH: And this is
20 Saturday the 18th some time after the Friday meeting
21 with the three (3) ladies. And you say in this, "This
22 is my first attempt at the report."

23 And this is your email sending out the
24 -- the first draft of the report to the EMC and to
25 Dave McNalty, correct?

1 MS. MARJORY LEONARD: Correct.

2 MR. FREDERICK CHENOWETH: All right.

3 So, it appears that that obv -- was obviously sent out
4 the day after you had this meeting with Marta Proctor
5 and Sara Almas?

6 MS. MARJORY LEONARD: Correct.

7 MR. FREDERICK CHENOWETH: All right.

8 And can you tell me, was there some discussion at this
9 meeting on the 17th about who would draft -- given
10 Marta's pending absence, who would draft the -- the
11 first of the staff report drafts, who would write
12 that?

13 MS. MARJORY LEONARD: Mr. Houghton had
14 already directed me to write it.

15 MR. FREDERICK CHENOWETH: Would you
16 try and answer my question, which was: Do you recall
17 whether there was any discussion at this meeting on
18 the 17th with respect to who would draft the first
19 copy of the staff report?

20 MS. MARJORY LEONARD: I don't recall.

21 MR. FREDERICK CHENOWETH: Do you
22 recall the meeting at all?

23 MS. MARJORY LEONARD: No.

24 MR. FREDERICK CHENOWETH: All right.

25 So, you don't know what the nature of the discussions

1 were that were had between yourself and Proctor and
2 Almas on the 17th?

3 MS. MARJORY LEONARD: No.

4 MR. FREDERICK CHENOWETH: Thank you.

5

6 (BRIEF PAUSE)

7

8 MR. FREDERICK CHENOWETH: Just very
9 quickly, looking at TOC020255 -- well, first of all,
10 before we do that, looking again at -- at the last
11 email we looked at, which was TOC0201377, this is when
12 you sent out the -- the first draft of the staff
13 report.

14 And you seem to have sent it to -- to
15 the EMC and Dave McNalty. And I take it you were
16 anticipating that, if there was going to be any
17 thoughts or comments that those individuals would
18 have, that they would -- they would make those
19 comments known to you?

20 MS. MARJORY LEONARD: Yes. And it --
21 it was also sent to Marta Proctor, as well.

22 MR. FREDERICK CHENOWETH: Very good,
23 yes. So that Marta Proctor would have a chance to
24 comment should she wish to do so?

25 MS. MARJORY LEONARD: Correct.

1 MR. FREDERICK CHENOWETH: And it was
2 your anticipation that -- that you might well have
3 some comments from the EMC and others with respect to
4 the first draft, correct?

5 MS. MARJORY LEONARD: Correct.

6 MR. FREDERICK CHENOWETH: And fair to
7 say that you also kept Dave McNalty in the loop with
8 respect to the various drafts of your report?

9 MS. MARJORY LEONARD: Correct.

10 MR. FREDERICK CHENOWETH: And you
11 would have expected him to make any comments that he
12 felt were appropriate with respect to the drafting of
13 that report?

14 MS. MARJORY LEONARD: Yes.

15 MR. FREDERICK CHENOWETH: I suggest to
16 you that it was an iterative process and that there
17 was an opportunity for others to make comments. And
18 it appears that from time to time black lining was
19 used in the various iterations of the report to
20 indicate contributions by others.

21 Is that fair?

22 MS. MARJORY LEONARD: Fair.

23 MR. FREDERICK CHENOWETH: Thank you.

24

25 (BRIEF PAUSE)

1 MR. FREDERICK CHENOWETH: You spoke
2 yesterday about the estimates that the Town received
3 about 4:04 on July 16th. In that respect, could we
4 look at TOC0202588?

5

6 (BRIEF PAUSE)

7

8 MR. FREDERICK CHENOWETH: And I note
9 that this is an email from Dave McNalty. And he says:
10 "Just before noon, Ed asked me for
11 the Sprung estimates from July."

12 So, I take it at least by the 21st of
13 August of 2012, at least as a result of this email,
14 you would have been aware that there was some Sprung
15 estimates that were produced in July?

16 MS. MARJORY LEONARD: I don't believe
17 I was aware of them.

18 MR. FREDERICK CHENOWETH: Okay. This
19 email would have made you aware of them, correct?

20 MS. MARJORY LEONARD: Yes.

21 MR. FREDERICK CHENOWETH: Thank you.
22 And I take it you didn't use those -- those estimates
23 for some reason. I take it, it's because you would
24 have felt them to be preliminary.

25 Is that fair?

1 MS. MARJORY LEONARD: I don't recall
2 seeing them.

3 MR. FREDERICK CHENOWETH: All right.
4 Did you inquire with Mr. McNalty after this email to
5 obtain a copy of those -- of those estimates that you
6 said that you didn't have available to you?

7 MS. MARJORY LEONARD: I -- I don't
8 recall.

9 MR. FREDERICK CHENOWETH: Thank you.

10

11 (BRIEF PAUSE)

12

13 MR. FREDERICK CHENOWETH: Could we
14 pull up document number TOC0203337?

15

16 (BRIEF PAUSE)

17

18 MR. FREDERICK CHENOWETH: Just going
19 to the bottom of tho -- of those documents, we see
20 that Dave Barrow sends to Ed Houghton what he
21 describes as the final numbers for both the pool and
22 the building.

23 And you weren't party to that email,
24 but you were to the next one. If we could go up one
25 (1), if we could, please. And it looks like Ed sent

1 those numbers to you on the 22nd?

2 MS. MARJORY LEONARD: I believe so,
3 yes.

4 MR. FREDERICK CHENOWETH: And you sent
5 them on to Dave McNalty again at 3:49 on that evening?

6 MS. MARJORY LEONARD: Yes.

7 MR. FREDERICK CHENOWETH: So, you
8 would have had the numbers for both the pool and the
9 new rink at that juncture, correct?

10 MS. MARJORY LEONARD: Yes.

11 MR. FREDERICK CHENOWETH: Thank you.

12 And...

13

14 (BRIEF PAUSE)

15

16 MR. FREDERICK CHENOWETH: I note in
17 another document, TOC0203550...

18

19 (BRIEF PAUSE)

20

21 MR. FREDERICK CHENOWETH: This is an
22 email of yours on the 23rd of August at approximately
23 noon hour.

24

25 (BRIEF PAUSE)

1 MR. FREDERICK CHENOWETH: You appear
2 to have sent that particular draft of that particular
3 day on to Houghton and Irwin and Almas and Dave
4 McNalty. And you ask them, "Could we discuss this
5 document after lunch," correct?

6 MS. MARJORY LEONARD: That's correct,
7 yes.

8 MR. FREDERICK CHENOWETH: All right.
9 So, it's fair to say this -- this process of preparing
10 this documents was a bit of a group effort?

11 MS. MARJORY LEONARD: A bit, yes.

12 MR. FREDERICK CHENOWETH: Thank you.
13 And you looked to others for a contribution to the
14 iterative document as it unfolded?

15 MS. MARJORY LEONARD: Yes.

16

17 (BRIEF PAUSE)

18

19 MR. FREDERICK CHENOWETH: Just one (1)
20 other document. This is TOC0203769.

21

22 (BRIEF PAUSE)

23

24 MR. FREDERICK CHENOWETH: And this
25 appears to be an invitation that was sent out by

1 Schollenberg (sic) to again the EMC and Dave McNalty,
2 and it's for the 8:30 meeting that we've had some
3 conversations about this morning.

4 I was interested. It says, "Meeting
5 requested by Marjory Leonard"?

6 MS. MARJORY LEONARD: I bel -- I
7 believe that's because there was no discussion in the
8 afternoon of August the 23rd, and we needed to talk
9 about the staff report.

10 MR. FREDERICK CHENOWETH: You needed
11 to talk about the staff report and you needed to
12 conclude the staff report, correct?

13 MS. MARJORY LEONARD: Correct.

14 MR. FREDERICK CHENOWETH: All right.
15 So, it was you that called the meeting for the morning
16 of the 24th?

17 MS. MARJORY LEONARD: Yes. And, as
18 well, I was -- at that point in time, I believe I was
19 the only one that was in town hall. And Megan
20 Schollenberg (sic) was the CAO -- assistant to the
21 mayor and CAO at the time.

22 MR. FREDERICK CHENOWETH: Very good.

23

24 (BRIEF PAUSE)

25

1 MR. FREDERICK CHENOWETH: So, again,
2 the meeting was for the purpose of -- of discussing
3 the staff report and its various elements with your
4 confreres on the EMC and Dave McNalty and others,
5 correct?

6 MS. MARJORY LEONARD: Correct.

7 MR. FREDERICK CHENOWETH: Thank you.

8

9 (BRIEF PAUSE)

10

11 MR. FREDERICK CHENOWETH: If we could
12 look at document TOC0205359.

13

14 (BRIEF PAUSE)

15

16 MR. FREDERICK CHENOWETH: This appears
17 to be an email of the 27th of August sent to Sara
18 Almas and you and Irwin and Marta Proctor with respect
19 to what was going to take place on the evening of the
20 27th.

21 And, again, it looks like Mr. Houghton
22 is saying:

23 "Please look at the presentation and
24 let me know if you see anything
25 wrong or any inaccuracies."

1 So that you had an opportunity to
2 comment on the presentation that was made by Mr.
3 Houghton to the Town on the 27th?

4 MS. MARJORY LEONARD: Yes.

5 MR. FREDERICK CHENOWETH: Thank you.
6 And he seems to specifically direct you. Could you
7 look specifically at the financial portion near the
8 end, including the procurement part, as you will be
9 giving this part.

10 So I take it that as a result of that,
11 you looked at the financial provisions that were set
12 out in the report and the procurement aspects of
13 matters that were set out in that presentation?

14 MS. MARJORY LEONARD: I would say I
15 did look at those. I actually don't recall much about
16 the August 27th Council meeting either, in terms of
17 what -- what happened, what was said, where things
18 went. But I would have looked at the financial
19 portion and made any comments or changes to it that I
20 would have thought necessary.

21 MR. FREDERICK CHENOWETH: Do you
22 remember that you would have, at the August 27th
23 meeting, had spoken to issues such as how this project
24 might be financed?

25 MS. MARJORY LEONARD: I would believe

1 that that would have been part of the financial
2 portion of the presentation, but as I've just stated,
3 I don't -- I don't really recall in detail everything
4 that happened at that Council meeting or for that
5 matter at a lot of Council meetings.

6 MR. FREDERICK CHENOWETH: Well, it --
7 it seems clear from the transcript, and we could look
8 at page 33 of the August 27th transcript. I don't
9 know that I know --

10 MS. KATE MCGRANN: What document is
11 it? CJI11233.

12 MR. FREDERICK CHENOWETH: Thank you.
13 And there's -- there's little purpose in going through
14 it. It -- it is what it is.

15 THE HONOURABLE FRANK MARROCCO: And --
16 and Ms. Leonard has indicated she has very little
17 recollection of the meeting, so I agree with you,
18 there's very little point in going through it.

19 And the transcript is there.

20 MR. FREDERICK CHENOWETH: The
21 transcript is --

22 THE HONOURABLE FRANK MARROCCO: No one
23 has suggested that the transcript is inaccurate and
24 the witness has no -- little or no recollection of
25 these meetings, of the Council meetings, according to

1 what Ms. Leonard just said.

2

3 CONTINUED BY MR. FREDERICK CHENOWETH:

4 MR. FREDERICK CHENOWETH: It would
5 appear to be the case that you addressed a number of
6 issues at that meeting.

7 You spoke to Council about how the
8 project would be financed. Is that fair?

9 THE HONOURABLE FRANK MARROCCO: The
10 witness -- Ms. Leonard indicated she has very little
11 recollection of the meeting. We have a transcript of
12 the meeting.

13 I -- I do not want questions put to her
14 about what took place at the meeting in circumstances
15 where she says she has very little recollection of the
16 meeting.

17 MR. FREDERICK CHENOWETH: Very good,
18 Your Honour.

19

20 (BRIEF PAUSE)

21

22 CONTINUED BY MR. FREDERICK CHENOWETH:

23 MR. FREDERICK CHENOWETH: Mr. Bonwick
24 took you through the -- some of the comments of -- or
25 referred you to some of the comments that were made by

1 councillors at the August 16th Council meeting.

2 Is it fair to say that -- I'm sorry, if
3 I said August, I meant July.

4 Is it fair to say that you would have
5 been aware of the enthusiasm of the councillors for
6 the fabric roof approaches as a result of your
7 attendance at that meeting on July 16th?

8 MS. MARJORY LEONARD: Again, I don't
9 recall a lot of the details of the -- the meetings.
10 We're -- we're talking seven (7) years ago.

11 MR. FREDERICK CHENOWETH: Would you
12 remember that Mr. Rick Lloyd had a particular
13 enthusiasm for this process?

14 MS. MARJORY LEONARD: That I would
15 remember.

16 MR. FREDERICK CHENOWETH: Thank you.
17 And he -- thank you. He indicates that in his own
18 testimony --

19 THE HONOURABLE FRANK MARROCCO: He's
20 already testified to that, right?

21 MR. FREDERICK CHENOWETH: He has, and
22 I'm asking this witness about her thoughts on his
23 testimony in this respect and where it leads us.

24

25 CONTINUED BY MR. FREDERICK CHENOWETH:

1 MR. FREDERICK CHENOWETH: So in any
2 event, as I understand it, Mr. Lloyd testified that he
3 aggressively pushed this project forward. Is that
4 fair?

5 MS. MARJORY LEONARD: He was the one
6 (1) that -- that created the motions, so -- or brought
7 the motions forward, so I would say yes.

8 MR. FREDERICK CHENOWETH: And he was
9 enthusiastic about the project, you'd remember that?

10 MS. MARJORY LEONARD: Yes.

11 MR. FREDERICK CHENOWETH: Right.
12 And is it fair to say that staff members would have
13 been affected by that sense of enthusiasm that -- that
14 sense of aggression that Mr. Lloyd and others put
15 forward with respect to that project?

16 MS. MARJORY LEONARD: I don't think I
17 can answer that question. I don't really know what
18 you're trying to --

19 MR. FREDERICK CHENOWETH: Well, I
20 guess I'm just -- I guess I'm really just asking you,
21 did you feel a sense of pressure as a result of the
22 aggressive manner that Mr. Lloyd was pushing this
23 matter forward and the enthusiasm of other
24 councillors, did that put you under some pressure?

25 MS. MARJORY LEONARD: The pressure

1 actually came with the CAO and -- and the tight
2 timeline.

3 MR. FREDERICK CHENOWETH: All right.
4 And did you -- did you think that the CAO was, in
5 fact, under some pressure as a result of the -- what
6 I'll describe as enthusiasm with the councillors and
7 the aggressive approach of Rick Lloyd?

8 MS. MARJORY LEONARD: Probably, yes.

9 MR. FREDERICK CHENOWETH: Thank you.

10

11 (BRIEF PAUSE)

12

13 MR. FREDERICK CHENOWETH: One (1)
14 moment if you would please, Your Honour.

15

16 (BRIEF PAUSE)

17

18 MR. FREDERICK CHENOWETH: You
19 mentioned that you, in your research, unearthed two (2)
20 competitors to Sprung.

21 MS. MARJORY LEONARD: I unearthed two
22 (2) manufacturers of fabric buildings, other than
23 Sprung.

24 MR. FREDERICK CHENOWETH: Right.
25 So you're not telling me that you felt they were

1 competitors to Sprung because you didn't --

2 MS. MARJORY LEONARD: The reason I
3 felt --

4 MR. FREDERICK CHENOWETH: -- you
5 didn't look into their characteristics in any detail?

6 MS. MARJORY LEONARD: I didn't look
7 into their characteristics in any detail, I just
8 needed to know that there was somebody else out there
9 that could produce a fabric building. In order to
10 determine that, an RFP would be the right process to
11 follow.

12 MR. FREDERICK CHENOWETH: I take it
13 from what you're telling me, you didn't look into them
14 enough to decide whether they were direct competitors
15 to Sprung or not.

16 MS. MARJORY LEONARD: As I -- as I
17 just said, I looked at them, I did look at -- I
18 believe it was Norseman that did have some items out
19 there on their website, but I just needed to know that
20 somebody else could do the same thing.

21 MR. FREDERICK CHENOWETH: Do the same
22 thing as Sprung?

23 MS. MARJORY LEONARD: To provide a --
24 a cover --

25 MR. FREDERICK CHENOWETH: Fabric

1 building?

2 MS. MARJORY LEONARD: A fabric

3 building, yes.

4 MR. FREDERICK CHENOWETH: So that's
5 all you knew about the two (2) competitors that you
6 mentioned?

7 MS. MARJORY LEONARD: Well, other than
8 --

9 MR. FREDERICK CHENOWETH: They could
10 provide a fabric building.

11 MS. MARJORY LEONARD: Right. I did my
12 internet research, I did it for a specific purpose and
13 that was to determine that there were other people out
14 there that could manufacture fabric structures to
15 cover things, whether they were pools or arenas or
16 piles of salt or sand. Somebody else out there could
17 do that.

18 MR. FREDERICK CHENOWETH: Okay. But
19 whether they could do it like Sprung, you didn't
20 ascertain, correct?

21 MS. MARJORY LEONARD: Correct.

22

23 (BRIEF PAUSE)

24

25 MR. FREDERICK CHENOWETH: Those are my

1 questions of this witness, Your Honour, thank you.

2 THE HONOURABLE FRANK MARROCCO: Thank
3 you, Mr. Chenoweth. Mr. Marron...?

4 MR. GEORGE MARRON: I'm just
5 wondering, Your Honour, it's 5 to 1:00, could I have
6 the opportunity of reviewing what has gone on this
7 morning? There were a number of areas that I'd
8 prepared to tentatively examine Ms. Leonard on and I'd
9 like an opportunity to review that and make --
10 obviously it's going to shorten what I'm going to do.

11 THE HONOURABLE FRANK MARROCCO: We'll
12 take an hour for -- for lunch.

13 MR. GEORGE MARRON: Thank you for
14 that.

15

16 --- Upon recessing at 12:57 p.m.

17 --- Upon resuming at 2:00 p.m.

18

19 MR. GEORGE MARRON: Well, thank you,
20 Your Honour. I used the luncheon break to get
21 opportunity, and I have no questions on the cognizin
22 (sic) of the ruling that you made earlier with Mr.
23 Chenoweth, referencing the August 27, 2012 Council
24 meeting and any questions to be put to the witness,
25 and that was basically the area I wanted to consider

1 carefully. Thank you for the indulgence.

2 THE HONOURABLE FRANK MARROCCO: Thank
3 you, Mr. Marron. Mr. Neubauer...?

4 MR. ERIC NEUBAUER: Nothing, Your
5 Honour.

6 THE HONOURABLE FRANK MARROCCO: Mr.
7 Breedon...?

8

9 EXAMINATION BY MR. RYAN BREEDON:

10 MR. RYAN BREEDON: I just have a
11 couple of questions arising from some of the evidence
12 you gave yesterday.

13 Ms. McGrann asked you if you had
14 thought that there would have been an advantage to
15 tendering, and you testified that even sitting here
16 today you don't know if there would have been an
17 advantage to tendering.

18 And I take it you mean by that that you
19 don't know whether there would have been a better
20 price if -- if the matter had gone out to tender?
21 got it to tender?

22 MS. MARJORY LEONARD: That's -- that's
23 correct.

24 MR. RYAN BREEDON: Okay. But because
25 we don't know how many people would have responded and

1 what -- what the tenders -- what the bids would have
2 been.

3 MS. MARJORY LEONARD: Exactly.

4 MR. RYAN BREEDON: Right. The whole
5 point though of the tender process is to get the best
6 possible price, correct?

7 MS. MARJORY LEONARD: In -- in terms
8 of a tender, it is based on -- on price. An RFP can
9 be based both on -- on -- on price and on other
10 criteria that you have in there, but in -- in normal
11 events, our bylaw would require a -- the lowest amount
12 would be awarded.

13 MR. RYAN BREEDON: Right. And -- and
14 that's why the bylaw requires a tender for purchases
15 over a certain amount --

16 MS. MARJORY LEONARD: That's correct.

17 MR. RYAN BREEDON: -- in -- in order
18 to get the best possible price.

19 MS. MARJORY LEONARD: The best
20 possible price, yes.

21 MR. RYAN BREEDON: Just -- just one
22 (1) more question and then I'll be done, Ms. Leonard.

23 The -- you testified over the last
24 couple of days to having felt uncomfortable with a
25 number of aspects of this transaction, and I just

1 wonder, sitting here today and looking back on all of
2 this, would you do anything differently?

3 MS. MARJORY LEONARD: Yes, I would. I
4 would have voiced more opposition. It may not have
5 gotten me any further or anywhere, but I would most
6 definitely have voiced more opposition and had refused
7 to -- or had withdrawn from the process of writing
8 that staff report, and most likely had stepped down
9 from the Executive Management Committee.

10 MR. RYAN BREEDON: Thank you very
11 much. Those are my questions.

12 THE HONOURABLE FRANK MARROCCO: Any
13 re-examination?

14 MS. KATE MCGRANN: No further
15 questions.

16 THE HONOURABLE FRANK MARROCCO: Ms.
17 Leonard, thank you very much for your evidence.

18 MS. MARJORY LEONARD: Okay. Thank
19 you.

20

21 (WITNESS STANDS DOWN)

22

23 MR. FREDERICK CHENOWETH: Your Honour,
24 I spoke to Mr. Houghton moments ago. He was parking
25 his car and coming into the room.

1 THE HONOURABLE FRANK MARROCCO: we'll
2 -- we'll break for a few minutes. Let us know when
3 he's ready to go.

4 MR. FREDERICK CHENOWETH: I will, sir.
5 Thank you.

6
7 --- Upon recessing at 2:04 p.m.
8 --- Upon resuming at 2:10 p.m.

9
10 ED HOUGHTON, Sworn

11
12 THE HONOURABLE FRANK MARROCCO: Go
13 ahead, Mr. Chenoweth. Ready when you are.

14
15 EXAMINATION-IN-CHIEF BY MR. FREDERICK CHENOWETH:

16 MR. FREDERICK CHENOWETH: Good
17 afternoon, Mr. Houghton.

18 MR. ED HOUGHTON: Good afternoon.

19 MR. FREDERICK CHENOWETH: Tell me,
20 immediately prior to your appointment as CAO of the
21 Town of Collingwood, can you tell me what your
22 obligations in the Town were?

23 MR. ED HOUGHTON: Yes. I was
24 President and CEO of Collus Power, soon to be Collus
25 PowerStream; I was the President and CEO of

1 Collingwood Public Utilities, which is the water and
2 the water treatment; and I was Executive Director of
3 Engineering and Public Works, which is pretty much
4 everything else, water, wastewater, storm water,
5 roads, buses, airport, railway.

6 MR. FREDERICK CHENOWETH: Anything
7 that moved, I think you described --

8 MR. ED HOUGHTON: Anything that moved.

9 MR. FREDERICK CHENOWETH: All right.
10 And can you tell me what your workload was with those
11 three (3) obligations within the Town structure?

12 MR. ED HOUGHTON: Those were basically
13 three (3) full-time jobs. They were --

14 MR. FRED CHENOWETH: Each one (1) of
15 them?

16 MR. ED HOUGHTON: Each one (1) of
17 them. I mean, maybe less for Public Utilities, but
18 certainly from a Public Works' perspective and from
19 Collus, those were very, very, very busy -- busy jobs.

20 MR. FREDERICK CHENOWETH: Now, I get
21 the impression that in 2012 you were approached by
22 members of the Town Council, i.e., the Mayor, and the
23 Deputy Mayor, with respect to the prospect of taking
24 on the task of CAO.

25 MR. ED HOUGHTON: That's correct.

1 MR. FREDERICK CHENOWETH: All right.

2 And is it -- is it fair to say that you initially
3 declined the offer?

4 MR. ED HOUGHTON: Yes.

5 MR. FREDERICK CHENOWETH: Can you tell
6 why?

7 MR. ED HOUGHTON: I never wanted to be
8 the -- the Chief Administrative Officer. I enjoyed
9 serving the Town of Collingwood and the Public
10 Utilities and -- and Collus.

11 I had opportunities previous to that
12 when other CAOs moved on, and I chose to -- to do what
13 I was doing, and I was excited about the opportunity
14 with Collus PowerStream.

15 I knew that that the -- the months
16 leading up till -- to the launch, which ended up being
17 in -- maybe about the third week of August -- was
18 going to be extremely busy. We had a lot of things to
19 do, things to consider, and I really didn't think that
20 this was something that -- that I needed at this point
21 in time in my life.

22 MR. FREDERICK CHENOWETH: You were
23 approached more than once to take on the position?

24 MR. ED HOUGHTON: I believe it was at
25 least three (3) times.

1 MR. FREDERICK CHENOWETH: All right.

2 And did you eventually acquiesce?

3 MR. ED HOUGHTON: I -- I did. I
4 thought about it. I thought that what I could
5 probably do was -- because they were telling me it was
6 just for a short period of time and the last call
7 basically said we're -- we -- we -- we are going to be
8 terminating Ms. Wingrove and we need somebody for a
9 short period of time. They told me two (2) months. I
10 felt in my mind it would be three (3).

11 MR. FREDERICK CHENOWETH: And did you
12 take it on straight out or was there some conditions
13 or what was the state of affairs?

14 MR. ED HOUGHTON: No. I -- the first
15 thing I said was that I don't know what the issue is
16 with Ms. Wingrove, I don't want to be blamed, so that
17 needs to be made perfectly clear to all. I -- I
18 wanted it to be acting or interim. I cho -- I thought
19 the word "acting" was a -- meant a little bit more in
20 the sense that I was only acting until they found
21 somebody.

22 I had said that I didn't want to be
23 remunerated because at that point in time it was my
24 way of saying thank you to the community for -- you
25 know, basically I worked here my entire career.

1 And -- and the fourth thing was --
2 wasn't really on that call, it was after -- after,
3 which I said, I can't do this on my own. What I need
4 to do is put together an Executive Management Team
5 that can assist, because I don't want anything falling
6 off the table, even though I was told that this was
7 going to be a very quiet period. There was no burning
8 issues at that point in time.

9 MR. FREDERICK CHENOWETH: After having
10 assumed this role on, I think, April 12th, I believe
11 it is, 2012, can you tell me what your workload came
12 to be after April 12th, 2012?

13 MR. ED HOUGHTON: I mean, everybody
14 says they work 24/7 but truly it was seven (7) days a
15 week, twenty (20) hours a day.

16 MR. FREDERICK CHENOWETH: Thank you.
17 And the EMC, we'll -- we'll -- we'll -- tell me what
18 the thought was with respect to the development of ENC
19 -- of the EMC.

20 MR. ED HOUGHTON: One (1) of the
21 original conversations I had with Mayor Cooper and the
22 Deputy Mayor -- former Deputy Mayor, was that why --
23 why wouldn't you just have Ms. Almas take this over as
24 Clerk if it's for a short period of time.

25 They felt that at that point maybe she

1 wasn't ready, but if -- if I was able to be there for
2 a short period of time, that she could probably prove
3 and step up to become the -- the Chief Administrative
4 Officer, and that was certainly my hope.

5 MR. FREDERICK CHENOWETH: What was the
6 purpose of the EMC?

7 MR. ED HOUGHTON: Sorry. I didn't
8 answer your question very well, did I?

9 The -- the Executive Management
10 Committee was to -- to assist, to make sure that
11 nothing fell off the table, to make sure that somebody
12 like Sara, who understands the municipal business
13 inside this -- this building, because I didn't reside
14 inside this building, would be able to assist.

15 I felt that the Treasurer needed to be
16 there because of all of the attributes that she
17 brings; and I thought that Mr. Irwin, even though he
18 is a Collus employee, he had worked more than thirteen
19 (13) years or twelve (12) years as a municipal
20 employee seconded the same way I was basically to --
21 for the IT, so that he could ensure that he knew what
22 was -- I was doing here and that nothing would fall
23 off the table with Public Works or Public Utilities.

24 MR. FREDERICK CHENOWETH: And was
25 Irwin's position as a result of the shared service

1 agreement between the Town and Collus?

2 MR. ED HOUGHTON: Yes. And that was
3 the reason I was here as well, both as Executive
4 Director of Public Works and Engineering, I was a
5 shared service.

6 Mr. Irwin was a shared service, Ms.
7 Shuttleworth, and prior to that Mr. -- Mr. Fryer, were
8 all shared services, even -- even Ms. Hogg, in the
9 sense of human resources for the Public Utilities.
10 And then when I came over as Acting CAO, I was another
11 shared service as a part of the dividend or whatever
12 you want to say as -- to -- to the Town of
13 Collingwood.

14 MR. FREDERICK CHENOWETH: All right.
15 I take it that's what Rick Lloyd described in his
16 testimony as a dividend the Town got from Collus or
17 Collus PowerStream. Is that correct?

18 MR. ED HOUGHTON: That's correct.

19 MR. FREDERICK CHENOWETH: All right.

20 MR. ED HOUGHTON: And it was the hope
21 that by the time we closed the end of July or, you
22 know, August, we -- I would be back full time working
23 at 43 Stewart Road.

24 MR. FREDERICK CHENOWETH: I note
25 there's an in camera meeting that takes place November

1 5th, 2012, at which you made certain requests of the
2 Town Council.

3 Can you describe those requests that
4 you made at that meeting?

5 MR. ED HOUGHTON: I was getting
6 extremely tired by that time. That was many, many
7 months extra. I -- I'd asked -- this was not the
8 first time, I had done it on more than one (1)
9 occasion, said you need to launch a search for a new
10 Chief Administrative Officer. I can't continue to do
11 this. I was afraid that I wouldn't be able to (a)
12 physically be able to do it. Mentally or emotionally
13 -- it was -- it was -- it was a lot of work.

14 MR. FREDERICK CHENOWETH: All right.
15 You say that you asked on more than one (1) occasion.

16 Did you put this issue of searching for
17 a new CAO before Council on more than one (1)
18 occasion?

19 MR. ED HOUGHTON: Yes, I did.

20 MR. FREDERICK CHENOWETH: All right.
21 And did you, on any occasions, speak to either the
22 Mayor or the Deputy Mayor or others with respect to
23 your wish to move on to other things in your life?

24 MR. ED HOUGHTON: Yeah, absolutely I
25 did. I spoke specifically to -- to the Deputy Mayor

1 on more than one (1) occasion and spoke to Mayor
2 Cooper, but all of Council heard me.

3 And I would say I'm not -- I'm not
4 leaving you today, I'm not -- I'm going to leave you
5 in a lurch, but you -- you have to understand that I -
6 - I do have other obligations and responsibilities.

7 MR. FREDERICK CHENOWETH: Yes. You
8 mentioned the -- the EMC. I take it, it had meetings?

9 MR. ED HOUGHTON: Yes, we did.

10 MR. FREDERICK CHENOWETH: The evidence
11 that's before the Commission seems to suggest that, at
12 least initially, it didn't take minutes and laterally
13 it did?

14 MR. ED HOUGHTON: I -- I actually
15 heard that. I don't remember taking minutes for it.
16 I mean, none of it was formalized because I was really
17 only supposed to be here two (2) to three (3) months.

18 So, it was really to ensure that
19 nothing fell off the table. And -- and, basically, we
20 got together as a group to make decisions. And -- and
21 the intent of the -- of -- of the executive management
22 team was to make those decisions, to be able to have
23 those discussions.

24 There was no management by edict. I
25 mean, I've never done that in my life anyway. And

1 that was, in fact, what Mayor Cooper and the deputy
2 mayor had said originally, was to help bring teamwork.

3 MR. FREDERICK CHENOWETH: Some of the
4 speakers have suggested that there was -- some of the
5 witnesses have suggested that there was an opportunity
6 to -- to speak up at EMC meetings.

7 Is that -- is that fair?

8 MR. ED HOUGHTON: Well, that -- that
9 was the intent again because I was literally flying in
10 and flying out, and I don't mean physically, but
11 meaning my -- my office was at 43 Stewart Road.

12 In fact, I gave my -- the office
13 furniture to Ms. Almas that was in the CAO's office at
14 that point in time because I really didn't reside
15 here. I -- I had meetings here. I came here, you
16 know, for certain things. I came here for Council,
17 but I was -- I was in and out all the time.

18 MR. FREDERICK CHENOWETH: All right.
19 Thank you. And tell me, how did the EMC run? Was
20 there votes? Was it consensus? Can you assist with
21 how it -- it made the decisions that you've described?

22 MR. ED HOUGHTON: Obviously, I've been
23 watching everything. And I don't ever recall where we
24 didn't have a discussion about something that
25 everybody felt comfortable with, and it was -- it was

1 always at consensus.

2 MR. FREDERICK CHENOWETH: All right.

3 And consensus, I take it, means that each person in
4 your group had to be onboard. Is that what that
5 means?

6 MR. ED HOUGHTON: I mean, all -- I
7 mean, all three (3) of them are very strong
8 characters.

9 MR. FREDERICK CHENOWETH: All right.

10 MR. ED HOUGHTON: And -- and as a
11 result of that, that's what was -- made it a great
12 concept of being able to -- you know, and they were
13 all very good at what they did.

14 MR. FREDERICK CHENOWETH: Thank you.
15 Can you, if you would, please, tell me something about
16 what you recall of the election that brought the 2010-
17 2014 Council to their positions? What would they --
18 what was their -- what was your sense of the mandate
19 that that Council had?

20 MR. ED HOUGHTON: Well, certainly, the
21 -- the platform was that they wanted to reduce
22 spending. They wanted to reduce the amount of
23 consultants that they used. They want to reduce the
24 amount of legal fees and things like that.

25 They -- and -- and just so you know, I

1 got along extremely well with previous mayors. But
2 they -- they felt -- this incoming Council felt that
3 the previous Councils had -- their spending had run
4 amuck and they wanted to reduce all of that.

5 Some were concerned about debt. I -- I
6 had a different opinion on what that debt was, but --
7 but they -- there was a concern about that, so they --
8 they were very, very strong on -- and that was their
9 platform, reduce debt, reduce taxes, reduce spending,
10 reduce consultants and legal fees.

11 MR. FREDERICK CHENOWETH: Thank you.
12 Can you describe your relationship with Mayor Cooper
13 following her induction?

14 MR. ED HOUGHTON: Well, right from the
15 very beginning, at the inauguration, her father, Jack
16 Bonwick, was there. And I went over and spoke to him
17 and shook his hand. He was in a wheelchair. And he -
18 - he grabbed my hand and said, Just please help
19 Sandra. And I said, Absolutely.

20 I've known Mayor Cooper for years.
21 She's a very good person. She only had the right
22 intents -- intentions. She -- she -- unlike some
23 people who run with a -- with an ax to grind, I don't
24 think Mayor Cooper has ever had an ax to grind in her
25 life.

1 MR. FREDERICK CHENOWETH: In your
2 relationship with her?

3 MR. ED HOUGHTON: I -- I spent -- I --
4 as -- as I talked about in part 1, I spoke to Mayor
5 Cooper virtually every day, and -- and more when I was
6 the acting CAO because I would -- I was in this
7 building more often because I was here at least once a
8 day or twice a day, three (3) times a day.

9 MR. FREDERICK CHENOWETH: Just very
10 quickly give us a sense of the -- of what you would
11 have occasion to speak to the Mayor about every day.
12 I mean, you had a lot of jobs, but is -- is that the
13 simple answer or...?

14 MR. ED HOUGHTON: Yeah. I mean, Her
15 Worship was on the Public Utilities Board. She was on
16 the -- the Collus Board. Obviously, she looked after
17 this building and all of the things I did at -- at
18 public works, but, I mean, everything from, you know,
19 what -- what is she hearing, what am I hearing, what's
20 going on, what are the burning points, how is the EMC
21 doing, how are -- how are -- how is Sara, how is
22 Marjory, everything, and then how are you.

23 MR. FREDERICK CHENOWETH: Thank you.
24 And did you have occasion -- what was the nature of
25 your relationship with Deputy Mayor Lloyd following

1 the inauguration?

2 MR. ED HOUGHTON: Again, I'd known
3 Deputy Mayor Lloyd virtually all my life, as well. He
4 -- because he was chair of public works for a number
5 of years, our interactions were often.

6 He -- he likes to -- to be involved.
7 And -- and in -- in defence of him, he knows of what
8 he speaks when it comes to construction and those
9 kinds of things. He was -- he was an invaluable
10 resources from a public works' perspective.

11 He also liked to talk about what was
12 going on in the community, things that he would hear
13 because he was at the flower shop. I'm -- I'm a
14 person that -- I don't really care about rumours or
15 anything like that, that's not what my life is about,
16 but Rick had a lot of conversations.

17 MR. FREDERICK CHENOWETH: All right.
18 And what was the nature of the kinds of things that --
19 with what frequency would you be in contact with Mr.
20 Lloyd after becoming CAO and on what issues?

21 MR. ED HOUGHTON: I -- I spoke to him
22 at least once or twice a day on the telephone. And,
23 again, it was -- and even before I was the chief
24 administrative officer, or acting, I was on the phone
25 with him a lot. He was in my office.

1 He -- he would stop by my office often
2 over on 43 Stewart Road finding out what was going on,
3 I saw a truck over at the -- the coffee shop or I --
4 you know, what are we doing over here, why do we have
5 -- you know, we've got the issues here, the -- the
6 development here needs to put out a rumble strip so we
7 can keep the dust down, we should be watering that,
8 you know, all of those kinds of things.

9 MR. FREDERICK CHENOWETH: Thank you.

10 MR. ED HOUGHTON: He was -- he was a
11 hands-on gentleman.

12 MR. FREDERICK CHENOWETH: Thank you.
13 And did you have contact with the then councillors,
14 Edwards, Kevin Lloyd, Chadwick, Hull, West,
15 Cunningham, Gardhouse?

16 MR. ED HOUGHTON: The -- the only one
17 (1) of all of those I don't really know ver -- I
18 didn't know very well was Councillor Hull, and so we
19 didn't have as many interactions.

20 Councillor Gardhouse, he was kind of my
21 boss when I was fifteen (15), sixteen (16), to
22 eighteen (18) years old at Dominion store. He bullied
23 me then, and he bullied me when I was here. I've know
24 -- I've -- I've known him since I was a kid, as well.

25 Mike Edwards worked with my father.

1 Kevin Lloyd I didn't really know until he really got
2 into politics. I find him a quality guy. Ian
3 Chadwick I didn't really know until I started becoming
4 part of the -- the public works because he was on --
5 he was the editor of the newspaper; smart guy.

6 MR. FREDERICK CHENOWETH: That's --
7 that's fine. Tell me, with respect to councillors,
8 what was the nature and frequency of contact you had
9 with councillors.

10 MR. ED HOUGHTON: I mean, when I look
11 at Kevin Lloyd and -- and Councillor Chadwick, I -- I
12 spoke to them relatively often. I think certainly
13 less with Councillor Hull and Councillor Gardhouse.

14 Edwards and -- and West maybe again
15 less often than -- than Councillor Lloyd and Chadwick.

16 MR. FREDERICK CHENOWETH: Thank you.
17 Moving on to the question of contact with Sprung, I
18 understand that Pat Mills had occasion to come to the
19 town hall on or about April 13th, 2012, which I guess
20 is really one (1) day after your appointment to CAO?

21 MR. ED HOUGHTON: That's correct.

22 MR. FREDERICK CHENOWETH: And how did
23 that come about, do you know?

24 MR. ED HOUGHTON: My understanding
25 from the discussions with Mr. Mills afterwards, he

1 came in to -- to visit with Ms. Wingrove, Shelley
2 Fuhre, who was the -- the -- her -- the mayor's
3 secretary at the time told him that -- that she was
4 not there, that I was appointing acting and that I was
5 busy but, you know, she would let me know, which --
6 which she did. And -- and then he contacted me a
7 couple days later.

8 MR. FREDERICK CHENOWETH: All right.
9 And was that on June 13th?

10 MR. ED HOUGHTON: That's --

11 MR. FREDERICK CHENOWETH: Let -- let's
12 go to -- let's go to a particular email, and maybe
13 that'll assist you. Can we look at EHH23?

14

15 (BRIEF PAUSE)

16

17 MR. FREDERICK CHENOWETH: Go down a
18 little further a few, please. There's the email from
19 Pat Mills. And did you receive this email from Pat
20 Mills on the 13th of June?

21 MR. ED HOUGHTON: I -- I did. I -- I
22 actually had the opportunity to receive an email from
23 him earlier than this.

24 MR. FREDERICK CHENOWETH: All right.

25 MR. ED HOUGHTON: And, in fact, I met

1 with him where he explained the attributes of the
2 Sprung structures to me.

3 MR. FREDERICK CHENOWETH: All right.
4 And I'm sorry, I've -- I've gone as far as June. I
5 wanted to take you to -- to an email that is EHH19.
6 Could we look at that, please?

7

8 (BRIEF PAUSE)

9

10 MR. FREDERICK CHENOWETH: This is Pat
11 Mills' email of April 16th shortly after he visited
12 the town hall on April 13th. He appears to be
13 offering you a congratulations on your recent
14 appointment.

15 And what else is he doing in this email
16 as you understood it?

17 MR. ED HOUGHTON: Basically, he was
18 just introducing to me -- to -- to Sprung, and then
19 asking if I had some time to -- to meet with him.

20 MR. FREDERICK CHENOWETH: As a result
21 of that request for time by Mr. Mills, what happened?

22 MR. ED HOUGHTON: I actually I did
23 meet with him. And I think the reason I met with him,
24 because I wasn't aware that there was really even that
25 much going on from a recreation facility. I wasn't --

1 I hadn't really paid too much attention because I was
2 focussed on the Collus PowerStream transaction.

3 But I had been invited to a meeting
4 with Ameresco, and so that sort of gave me some
5 insight that there was -- there was some activities
6 going on regarding recreation facilities.

7 MR. FREDERICK CHENOWETH: You were
8 pretty new on the job, so you may not have been fully
9 up to speed with respect to recreational facility
10 issues that existed at that time?

11 MR. ED HOUGHTON: Certainly, I knew
12 all the history. But I don't have children, so I -- I
13 didn't -- you know, I don't have -- don't have any
14 reason to be at the pool or the -- reason to be at the
15 arena or those kinds of things.

16 MR. FREDERICK CHENOWETH: Right. And
17 where did you meet with -- with Mr. Mills?

18 MR. ED HOUGHTON: I met with -- we
19 tried to have a meeting here. And I was trying to
20 have -- invite Ms. Proctor to come with me because,
21 again, she had more background than I did, and she
22 wasn't available.

23 So, we eventually -- because, again, I
24 was involved with what was going on with Collus
25 PowerStream, and -- and, again, I was on a provincial

1 board at that point in time, so I was in Toronto quite
2 often.

3 So, he was kind enough to offer that,
4 if we could -- if it made sense, could we take a half
5 our or so or whatever it was in Toronto, and that's
6 what we did.

7 MR. FREDERICK CHENOWETH: Did you
8 invite Ms. Proctor to -- to a meeting you were trying
9 to arrange with Mills?

10 MR. ED HOUGHTON: Originally, yes, I
11 did.

12 MR. FREDERICK CHENOWETH: All right.
13 And was she able to attend that meeting?

14 MR. ED HOUGHTON: She was unable to
15 attend the day that it was suggested, yes.

16 MR. FREDERICK CHENOWETH: Now, Mills
17 was a salesman that you knew a little bit about --
18 little about his product and little about his
19 relationship, if any, with the Town.

20 Why would you choose to meet with a
21 salesman?

22 MR. ED HOUGHTON: Well, I think
23 because of the Ameresco meeting. And I was attempting
24 to -- to fulfill my -- my due diligence in the sense
25 of finding out what was -- what was going on.

1 He seemed to understand a lot more
2 about what was -- what had been happening in
3 Collingwood from the Central Park steering committee
4 report than I did. I hadn't read it, looked at it.

5 MR. FREDERICK CHENOWETH: All right.
6 Could we again look at document EHH23, please?

7

8 (BRIEF PAUSE)

9

10 MR. FREDERICK CHENOWETH: This is an
11 email that you sent to Patrick Mills on the 13th day
12 of June. You indicate:

13 "I've been asked by a member of
14 Council to get a rough estimate for
15 the installation of two (2) fabric
16 buildings. Can we discuss this?"

17 Why would you have made that request to
18 him on the 13th of June?

19 MR. ED HOUGHTON: Well, this is
20 actually following -- on June the 11th we had a
21 strategic planning session with Council. When I had
22 had my original discussion with Mr. Mills way back in
23 April or early May, whenever -- whenever that was, I
24 had -- I had said to him that, you know, if -- if --
25 if we hear -- if I hear anything -- again I don't know

1 very much about this at this point in time -- if I
2 hear anything, we'll certainly let you know.

3 So when -- when we decided we were
4 going to do the June 11th strategic planning session
5 for this -- for the recreation facilities, I had asked
6 Pam Hogg, my EA, to -- to flip him a note saying we
7 are going to be having this. If you wanted to find
8 out more about it, you know, make contact sometime
9 afterwards. So the bottom of this email will probably
10 be the email that Mr. Mills sent me. And the day
11 before this --

12 MR. FREDERICK CHENOWETH: I.e., the
13 day before June 13th?

14 MR. ED HOUGHTON: Yes. On June the
15 12th, the Deputy Mayor had sent me an email, asking me
16 to get an estimate for two (2) fabric buildings, one
17 (1) to cover the pool and one (1) to cover the outdoor
18 ice rink.

19 MR. FREDERICK CHENOWETH: So do I take
20 it that your request to Mr. Mills on the 13th for
21 estimates on two (2) buildings arose as a result of
22 the email to you of Rick Lloyd on June 12th?

23 MR. ED HOUGHTON: Yeah. I -- I just
24 took the opportunity when -- when all of a sudden I
25 got the email I thought, oh, and I just responded --

1 said -- saying that this is what I've been asked.

2 MR. FREDERICK CHENOWETH: Very good.

3 There was a -- a telephone conference with certain

4 Sprung representatives on June 21st, 2012.

5 Can you tell me how that arose?

6 MR. ED HOUGHTON: Yes. I had the
7 discussion again with the Mr. Mills. He responded to
8 the email that we just saw, and he had said that they
9 would be happy to provide us with some estimates and
10 but what they'd need to know was a little bit more
11 information, i.e., you know, what is -- what is the
12 building doing, what is -- what are the components
13 within the building, those kinds of things.

14 MR. FREDERICK CHENOWETH: In order --
15 in order to give you the estimates that -- that you'd
16 requested --

17 MR. ED HOUGHTON: That's correct.

18 MR. FREDERICK CHENOWETH: -- and the
19 Mayor -- and the Deputy Mayor requested of you?

20 MR. ED HOUGHTON: That's correct. So
21 I -- he suggested that we have a meeting to talk about
22 getting that information.

23 MR. FREDERICK CHENOWETH: Right. And
24 did that end up being a telephone meeting on June
25 21st?

1 MR. ED HOUGHTON: That's correct.

2 MR. FREDERICK CHENOWETH: And can you
3 tell me who was on that meeting -- that phone meeting?

4 MR. ED HOUGHTON: From -- from Sprung,
5 it was Tom Lloyd and David MacNeil. I don't believe
6 that Mr. Mills was on the call, but -- actually, no, I
7 do -- I do think he was, and the Deputy Mayor Lloyd
8 and myself.

9 MR. FREDERICK CHENOWETH: All right.
10 And what was the nature of the discussions had at that
11 time?

12 MR. ED HOUGHTON: Well, again, why I
13 had -- why I asked the Deputy Mayor to be involved,
14 because it was his request and I wanted to make sure
15 that I was fulfilling what he was asking me, and so we
16 had a discussion about getting a price to cover the
17 existing Centennial Pool and to get a price to cover
18 the existing outdoor ice rink.

19 There was a bit of a discussion about,
20 you know, the potential for a -- a new ice pad, and it
21 was actually at that point in time that we -- they --
22 they told us that -- on the Wednesday previous to
23 this, that they were having -- they had already had
24 discussions with Dennis Seymour and Dave McNalty.

25 MR. FREDERICK CHENOWETH: You know, do

1 you -- do you happen to recall how those discussions
2 of what I take to be June 19th with Seymour and -- and
3 McNalty had occurred or had come about?

4 MR. ED HOUGHTON: I had no idea how
5 that came about at the time, but obviously, you know,
6 looking at all of the documentation within the -- the
7 Foundation Document, I see that Ms. Proctor had -- had
8 sent the June 14th email that the Deputy Mayor had
9 sent to all of Council and -- and senior staff, that
10 she had flipped that to Dennis Seymour and to Darin
11 Potts, asking them to -- to look at getting a price --
12 a budget price for both, and then I would just assume
13 that Dennis probably asked David to attend with him.

14 MR. FREDERICK CHENOWETH: All right.
15 So the Collingwood people on the telephone call, which
16 included yourself and Deputy Mayor Lloyd, you learned
17 of this -- this earlier -- June 19th interaction that
18 Sprung had had with Seymour -- and the other
19 gentleman's name keeps escaping me.

20 MR. ED HOUGHTON: Darin Potts.

21 MR. FREDERICK CHENOWETH: That's right
22 -- Mr. Potts, on June 19th.

23 Did that lead to any comments by the
24 Mayor to you following that June 21st phone
25 conference?

1 MR. ED HOUGHTON: Yeah. The Deputy
2 Mayor, yeah -- the Deputy Mayor, he -- when we got off
3 the phone, he basically said, you know, we need to --
4 we need to contain this if we're going to be -- you
5 know, we -- we're going to -- going to be having
6 discussion, we need to make sure that we have a point
7 of contact -- and a point of contact, that did not
8 mean that I was the only one that would ever be able
9 to speak to Sprung.

10 It just meant that -- that anybody that
11 would be speaking would just sort of do that through
12 my office, through this -- the Acting CAO's office, or
13 any materials that would be going through the Acting
14 CA -- CA -- CAO's office, only just to help facilitate
15 that.

16 He had told me that -- that in -- that
17 early date, which at that point in time I didn't -- I
18 hadn't done anything about that.

19 MR. FREDERICK CHENOWETH: So you're
20 speaking about the early -- the early date being
21 following the June 21st telephone conference?

22 MR. ED HOUGHTON: That's correct. It
23 -- it didn't mean that much to me at that point in
24 time.

25 MR. FREDERICK CHENOWETH: All right.

1 And that was the first time you'd heard that from the
2 Deputy Mayor?

3 MR. ED HOUGHTON: Yeah. I think only
4 because it became a -- a surprise to him that -- that
5 others were -- were -- were already speaking to
6 Sprung, and -- and the Deputy Mayor was very excited
7 about this opportunity.

8 MR. FREDERICK CHENOWETH: All right.
9 Now, there was another Sprung meeting on July 11th,
10 2012. And are you familiar with -- with that meeting?

11 MR. ED HOUGHTON: Yes, I am.

12 MR. FREDERICK CHENOWETH: All right.
13 And just to move this along, am I to understand that
14 the Mayor, the Deputy Mayor, Mr. McNalty, Mr. Seymour,
15 and Mr. Houghton were attendees at that meeting?

16 MR. ED HOUGHTON: That's correct.

17 MR. FREDERICK CHENOWETH: Was -- was
18 there others in attendance as well, do you know, or do
19 you recall?

20 MR. ED HOUGHTON: I believe that was
21 from Collingwood's side, and obviously there was
22 folks from Sprung.

23 MR. FREDERICK CHENOWETH: All right.
24 So we've got the Mayor meeting with Sprung on July
25 11th, 2012, along with members of staff.

1 Can you tell me how this meeting arose?

2 MR. ED HOUGHTON: Again, we were --
3 were in sort of the -- still in the investigation
4 stage of this. Obviously the Deputy Mayor had had the
5 opportunity to see this in -- at FCM in Saskatoon,
6 which he -- he distributed that stuff on the June
7 11th. Mayor Cooper had not --

8 MR. FREDERICK CHENOWETH: He
9 distributed that stuff?

10 MR. ED HOUGHTON: Sorry.

11 MR. FREDERICK CHENOWETH: Tell -- just
12 -- just -- and we may come -- come across it again,
13 but what did he distribute at the June 11th?

14 MR. ED HOUGHTON: When -- when the
15 Deputy Mayor attended the FCM conference in Saskatoon,
16 he had -- he gathered up some brochures from the
17 Sprung booth and he brought those to the June 11th
18 strategic planning session and they were being
19 circulated around the room.

20 MR. FREDERICK CHENOWETH: All right.
21 Now, you were telling me how the June -- or July 11th
22 -- July 11th meeting involving the Mayor arose.

23 MR. ED HOUGHTON: Yes. So Mayor
24 Cooper had not had an opportunity to see this. She'd
25 heard about it. Obviously, there'd been discussions

1 at this point in time, quite a few discussions back
2 and forth with Council members, about this kind of
3 technology. There -- we were going to be having this
4 meeting again.

5 We were still in the -- sort of the
6 investigation stage of it, and, you know, it's part of
7 their due diligence to -- to be able to do that.

8 It makes -- I mean, it's logical to me
9 that Council members should be doing that,
10 irrespective of -- of -- you know, sometimes other
11 people are saying something different, but Council
12 members aren't supposed to just come to a Council
13 meeting, read six (6) pages, and make a decision on
14 something that's worth 10 or \$12 million. That's not
15 logical.

16 What they do is they do their own due
17 diligence. I would expect that most of them had gone
18 through and -- and looked at the Sprung website,
19 they'd gone through and looked at other different
20 things, and Mayor Cooper was just, I believe,
21 exercising her due diligence to look at -- at this
22 technology as well.

23 MR. FREDERICK CHENOWETH: Thank you.
24 And you were at this meeting?

25 MR. ED HOUGHTON: That's correct.

1 MR. FREDERICK CHENOWETH: And do you
2 remember the -- the nature of the conversations that
3 took place at that meeting?

4 MR. ED HOUGHTON: I do.

5 MR. FREDERICK CHENOWETH: Could you
6 describe to me, please?

7 MR. ED HOUGHTON: Basically again the
8 Sprung folks went through their technology. They
9 talked about, you know, their -- their -- their -- the
10 way they -- they have two (2) membranes, they have a
11 significant amount of insulation. I think they --
12 they have them in different levels, but we were
13 talking about the nine (9) inches of insulation to get
14 it to an R-30.

15 They talked about, you know, their --
16 they have twelve thousand (12,000) buildings in
17 ninety-five (95) countries or something like that.
18 They talked about a number of different things, and --
19 and that they were -- they were trying to put together
20 some budget numbers at that point in time so that we
21 knew that it was either -- you know, it was going to
22 be 3 million or 30 million, because certainly it was
23 in -- you know, technology that I was not familiar
24 with, and I don't think anybody else was.

25 MR. FREDERICK CHENOWETH: All right.

1 Did you see anything inappropriate about that meeting?

2 MR. ED HOUGHTON: Absolutely not.

3 MR. FREDERICK CHENOWETH: And I take
4 it's for the reasons you've described, i.e.,
5 Councillors should have some understanding of what
6 they're eventually going to vote on?

7 MR. ED HOUGHTON: That's my -- my
8 belief.

9 MR. FREDERICK CHENOWETH: Thank you.
10 Now, I understand that on July -- on or about July
11 16th, 2012, at about 4:04 in the afternoon, Sprung
12 sent the Deputy Mayor some budget numbers for some
13 construction.

14 MR. ED HOUGHTON: That's correct.

15 MR. FREDERICK CHENOWETH: And -- and I
16 think there's -- there's three (3) documents that --
17 that deal with that. I don't think it's necessary to
18 pull those up as there's a familiarity by this
19 juncture amongst those involved in the Commission with
20 respect to what they say. And if -- if the
21 Commissioner at any time wants me to pull up some of
22 these things, please feel free to direct me to do so.
23 I'm simply trying to move this matter along.

24 And the Commission seems to have heard
25 that those budget numbers that were forwarded out by

1 Sprung at or about 4:04 on that day did not find their
2 way in front of the -- the Council on the evening of
3 July 16th at the Council meeting.

4 MR. ED HOUGHTON: Yeah. I believe
5 that's probably the case, yes.

6 MR. FREDERICK CHENOWETH: All right.
7 And did -- do you have any sense as to whether or not
8 you had those numbers available to you at the Council
9 meeting of July 16th?

10 MR. ED HOUGHTON: Well, I was -- I was
11 certainly copied on the link to the -- to those. I
12 typically -- on the day of a Council meeting, I'm in -
13 - in this building about 3:00, 3:30, so I would have
14 packed up my -- my -- my gear over at 43 Stewart Road
15 and -- and it would -- my -- my computer would still
16 be in -- in my computer bag, and I would be talking to
17 Mayor Cooper about what was going on. I'd be talking
18 to -- to Ms. Almas about resolutions that are going to
19 be going forward.

20 This was obviously a busy -- busy
21 Council day, and I -- I'd sit over in the far corner
22 and I -- I probably didn't see it. I would expect
23 that Mayor Cooper probably didn't see it, and I would
24 expect the Deputy Mayor doesn't know how to open the
25 link.

1 MR. FREDERICK CHENOWETH: All right.

2 MR. ED HOUGHTON: And I don't mean to
3 be derog -- I don't -- that's not supposed to be
4 derogatory. He's not computer literate.

5 MR. FREDERICK CHENOWETH: All right.
6 Good. And tell me -- I understand that there was a
7 further meeting with Sprung on or about July 27th,
8 2012. Is that the case?

9 MR. ED HOUGHTON: Yes. That was the -
10 - the -- the meeting where they introduced BLT to us.

11 MR. FREDERICK CHENOWETH: All right.
12 And I -- I take it from Sprung there was Tom Lloyd and
13 Dave MacNeil?

14 MR. ED HOUGHTON: That's correct.

15 MR. FREDERICK CHENOWETH: All right.
16 And who was there from BLT?

17 MR. ED HOUGHTON: I believe they were
18 Dave Barrow and Mark Watts. I think both were there.
19 I was kind of hoping when I saw him on -- on the TV
20 that I would recognize him, but I didn't.

21 I know that from our perspective there
22 was Larry and myself, Marjory, Dave McNalty, I believe
23 Dennis Seymour. I know Sara couldn't make it.

24 MR. FREDERICK CHENOWETH: Was Rick
25 Lloyd there, to the best of your knowledge?

1 MR. ED HOUGHTON: I -- I don't recall
2 him being there and I don't actually -- I know he
3 wasn't there on August 3rd, but I'm not sure about
4 this one, honestly.

5 MR. FREDERICK CHENOWETH: Very good.
6 Thank you.

7 And I'm interested in -- in the
8 discussions that took place at that meeting. Can you,
9 in a general sense, tell the Commissioner what the
10 nature of those discussions were that took place on
11 June -- or July 27th?

12 MR. ED HOUGHTON: Yeah, it was a
13 fulsome discussion, I was talking about needing to
14 know all of the -- the specifications of what was
15 would like to see within the -- within the arena and
16 the pool area.

17 It was providing them with any
18 information that we had from a site perspective. We -
19 - we talked again about the -- well, they told us
20 about their relationship with BLT, which was, in my
21 view was -- these are -- this was the installer of the
22 Sprung facilities. We -- we talked about the infamous
23 Sprung Shield.

24 Yeah, we talked -- it was -- it was a
25 fulsome discussion, it was over at the Collus

1 PowerStream building.

2 MR. FREDERICK CHENOWETH: All right.

3 You say that you were introduced to BLT?

4 MR. ED HOUGHTON: Yes.

5 MR. FREDERICK CHENOWETH: And who did
6 you understand BLT to be?

7 MR. ED HOUGHTON: I thought BLT was a
8 -- the partner of Sprung and that they were the
9 erectors of the Sprung facilities.

10 MR. FREDERICK CHENOWETH: Marjory
11 Leonard, in her testimony, said that she left that
12 meeting on that day with the -- with the belief that
13 this wasn't a matter of choice, but that BLT would be
14 the contractor who put up a Sprung product, should you
15 choose a Sprung product.

16 MR. ED HOUGHTON: That -- that was
17 exactly the feeling that I had.

18 MR. FREDERICK CHENOWETH: So your --
19 your feeling was the same as the feelings of Marjory
20 Leonard?

21 MR. ED HOUGHTON: And they talked
22 about the difficulty of --

23 MR. FREDERICK CHENOWETH: But your
24 feelings were the same as the feelings of Marjory
25 Leonard?

1 MR. ED HOUGHTON: Yes.

2 MR. FREDERICK CHENOWETH: Thank you.

3 All right. And was there any discussions with respect
4 to the Sprung guard?

5 MR. ED HOUGHTON: The Sprung Shield?
6 Yes, there was.

7 MR. FREDERICK CHENOWETH: Yes. And
8 can you tell me the nature of the discussions had at
9 that time about the Sprung Shield?

10 MR. ED HOUGHTON: It was a very brief
11 conversation. They talked about the fact that they
12 have a -- they have this option, which is called a
13 Sprung Shield, which is like an 8 foot aluminum piece
14 that goes around the entire perimeter of the building.

15 They talked about the fact that only 5
16 percent of the 12,000 buildings that they've ever
17 built had it, that it was somewhere between 250, 350,
18 \$400,000 to install or something like that. It was
19 something expensive.

20 We talked about the fact that -- that
21 you know, it wasn't in a -- you know, Collingwood is
22 not typically a high vandalism area. We talked about
23 the fact that -- I mean, I think it was somebody from
24 BLT said look, you can just go right to the door and
25 smash the door if they wanted to get in and -- and the

1 conversation did not go very long. We said okay,
2 pass, carry on, what's the next topic?

3 MR. FREDERICK CHENOWETH: What was the
4 reaction of -- of Town people in the room to the
5 discussion with respect to the Sprung Shield?

6 MR. ED HOUGHTON: We all felt that it
7 was a low vandalism area, or Collingwood is low
8 vandalism. Actually, they said something like I mean
9 it's not like you're downtown Detroit. They used
10 that. And Detroit is cleaning themselves up, but
11 that's what they did say.

12 MR. FREDERICK CHENOWETH: Who said
13 that? I'm sorry.

14 MR. ED HOUGHTON: The Sprung folks.

15 MR. FREDERICK CHENOWETH: Thank you.

16 MR. ED HOUGHTON: And -- and so we --
17 we just said okay, you know, it doesn't sound like
18 something we need to spend three or \$400,000 on. Next
19 topic.

20 MR. FREDERICK CHENOWETH: And did you
21 feel it was a -- a consensus amongst the Town people
22 that were at that meeting with respect to not
23 proceeding with the Sprung Shield?

24 MR. ED HOUGHTON: Yes.

25 MR. FREDERICK CHENOWETH: Thank you.

1 MR. ED HOUGHTON: And I -- I need to
2 correct something too, because I know that the Deputy
3 Mayor was now there, because I remember having that
4 conversation, so he had to be there on the 27th.

5 MR. FREDERICK CHENOWETH: Sorry, who
6 did you say was there?

7 MR. ED HOUGHTON: Deputy Mayor.

8 MR. FREDERICK CHENOWETH: The Deputy
9 Mayor. Thank you.

10 Was there ever any discussion at that
11 meeting with respect to -- or at any other meeting, do
12 you ever recall any discussions with respect to the
13 prospect of the Town being the purchaser of the Sprung
14 structure?

15 MR. ED HOUGHTON: On the August 3rd
16 meeting, we were talking about, okay, how do we -- you
17 know, we want to be able to do this and, you know, if
18 we're going to be going down this path what is the
19 least expensive way. We were talking about those and
20 then -- and then Tom Lloyd had said something about
21 well you can go direct and purchase it direct, but
22 there are risks with doing that.

23 Okay, what are you talking about which
24 is completely a different direction. You know, so
25 we're -- we're being told that -- that BLT is their

1 erector and -- and then he's sort of saying well, you
2 can buy it direct but then -- then you would have --
3 you could have BLT install it, but because BLT's, you
4 know, obviously not taking care and control of this,
5 you are, you're purchasing it, you -- you take risk of
6 the -- once it's shipped and once it's on-site it's
7 your responsibility, it's your own responsibility til
8 you -- til it is erected. If there's an issue and,
9 you know, it was like you can do this but it's
10 probably going to cost you more money or there's going
11 to be significant risks.

12 Again, it was a very short
13 conversation, but it was a confusing conversation
14 because again, our -- our belief was -- and I think
15 that's why we always refer to this as Sprung BLT, we -
16 - we didn't differentiate between Sprung BLT.

17 MR. FREDERICK CHENOWETH: All right,
18 okay. And it was confusing in that respect because
19 they seem to be talking about buying something
20 directly from Sprung when you thought they were
21 partners in the transaction.

22 MR. ED HOUGHTON: And -- and at the
23 same time then sort of saying but it's going to -- it
24 could cost you more in the long run.

25 But the biggest fear that we -- that we

1 had was that -- or I had anyway, was that we were
2 going to go down a path and we were going to tell
3 Council it's an x-amount of money and it -- it turns
4 out to be something more, or greater.

5 MR. FREDERICK CHENOWETH: Had you had
6 any experience with a situation in which the -- a
7 purchase was made and -- and, in fact, any experience
8 with a purchase made by the Town in which they chose
9 to -- to buy directly from a supplier?

10 MR. ED HOUGHTON: Yes. We actually --
11 when we were building the water filtration plant, back
12 in 1999, we sole-sourced the Zenon technology, which
13 is a hollow fiber membrane technology.

14 So basically what we did was we bought
15 -- we bought the brains and the heart of the facility
16 and then had to design around that and -- and there --
17 it was difficult. We had to actually put it together,
18 a dispute resolution process, because we were
19 answering a suspected cryptosporidium issue at the
20 time and -- and if a days delay meant that -- days
21 delay meant that we were still not answering the needs
22 of the community.

23 So yes, we -- I've done it in the past,
24 yes, and it was a difficult situation.

25 MR. FREDERICK CHENOWETH: Didn't work

1 out well?

2 MR. ED HOUGHTON: It eventually worked
3 out, but it was stressful.

4 MR. FREDERICK CHENOWETH: Other than
5 being stressful, do you know if it cost you more money
6 in the long run?

7 MR. ED HOUGHTON: We -- I mean,
8 obviously when you're doing that there's workarounds,
9 and a workaround costs more money.

10 MR. FREDERICK CHENOWETH: Thank you.

11 MR. ED HOUGHTON: But the -- but the
12 technology took months longer to get.

13 MR. FREDERICK CHENOWETH: All right.

14 Moving on to -- to Ameresco, you
15 mentioned Ameresco at earlier times. Am I to
16 understand that there was a meeting with Ameresco on
17 or about April 17th, 2012?

18 MR. ED HOUGHTON: That's correct.

19 MR. FREDERICK CHENOWETH: And I -- can
20 you tell me who was in attendance at that meeting?

21 MR. ED HOUGHTON: We had the cast of
22 thousands from the Town of Collingwood, I think --

23 MR. FREDERICK CHENOWETH: Well, just
24 tell the Commission who Ameresco was, and -- and why
25 you would have occasion to consider meeting with

1 Ameresco.

2 MR. ED HOUGHTON: My understanding of
3 Ameresco at the time was Ameresco is a company that
4 was involved with private -- public/private
5 partnerships, putting together energy efficient type
6 technology.

7 In fact, I just saw something recently
8 in the news about them. And -- and they had partnered
9 with Greenland, Mark Palmer and his group, and they
10 were putting together another -- yet another proposal
11 for a Central Park redevelopment.

12 And to answer your question about --
13 they -- they reached out to the Town of Collingwood
14 and asked for an audience with a group of us.

15 MR. FREDERICK CHENOWETH: All right.
16 And, again, you were in the midst of telling me who --
17 who attended this meeting when I interrupted you?

18 MR. ED HOUGHTON: Yes. There was the
19 -- the mayor, the deputy mayor, myself, Marjory,
20 Marta.

21 MR. FREDERICK CHENOWETH: Councillors?

22 MR. ED HOUGHTON: The mayor and the
23 deputy mayor. Oh, I believe maybe -- maybe Councillor
24 Hull was there.

25 MR. FREDERICK CHENOWETH: Okay. And

1 any former mayors in attendance at this meeting?

2 MR. ED HOUGHTON: Yeah, former Mayor
3 Terry Geddes was at that meeting, yes.

4 MR. FREDERICK CHENOWETH: And I get
5 the impression there was more than one (1) meeting
6 with Ameresco?

7 MR. ED HOUGHTON: Yes. I -- I was
8 only -- I only attended one (1), but there were
9 several meetings. They're in the -- in the court book
10 that shows that there were several meetings.

11 MR. FREDERICK CHENOWETH: And was
12 Terry Geddes a frequent attender at those meetings?

13 MR. ED HOUGHTON: He was virtually at
14 all of them, save and accept for, I think, one (1)
15 call that took place with former CAO Wingrove.

16 MR. FREDERICK CHENOWETH: All right.
17 And can you give me your understanding that you
18 developed, particularly, I suppose, in the meeting of
19 April 17th and maybe through other information you
20 received over this period of time?

21 What did you understand that Mr.
22 Geddes's role was with respect to Ameresco?

23 MR. ED HOUGHTON: Well, at the time, I
24 didn't under -- I didn't know what -- what it was,
25 but, I mean, obviously, he's -- he's affiliated in

1 some way -- some way, shape, or form with Greenland
2 and, as -- as a result of that, some way with
3 Ameresco.

4 MR. WILLIAM MCDOWELL: Sorry, was or
5 is?

6

7 CONTINUED BY MR. FREDERICK CHENOWETH:

8 MR. FREDERICK CHENOWETH: Well, you
9 tell me, was then or is affiliated with Greenland?

10 MR. ED HOUGHTON: I had no clue then.
11 I only read it now. And it appeared like then he was
12 affiliated with Greenland and Ameresco somehow.

13 MR. FREDERICK CHENOWETH: Thank you.

14 MR. WILLIAM MCDOWELL: Sorry, I didn't
15 hear the answer. I apologize.

16 MR. ED HOUGHTON: No, no, no, that's
17 fine.

18

19 CONTINUED BY MR. FREDERICK CHENOWETH:

20 MR. FREDERICK CHENOWETH: And I
21 understand that others connected with Council had --
22 by the way, was this some sort of an introductory
23 meeting had on the 17th, or what was the thrust of
24 that meeting?

25 MR. ED HOUGHTON: Yeah, it was

1 certainly an introductor -- introductory meeting for
2 me, not for others. I think others had been -- had --
3 had an audience on more than one (1) occasion.

4 They were basically talking about the
5 fact that, you know, they -- they had some interest --
6 interesting concepts, interesting ideas. They were
7 going to, you know, try to do this with some really
8 innovative energy products.

9 And -- and they -- they were -- were
10 proposing to bring money to the table to be able to --
11 to build this and -- and felt it was interesting. I
12 think where I probably turned away from it was at the
13 -- the presentation where the question was asked about
14 the percentage and the gentleman said that you could
15 probably borrow the money a lot cheaper from
16 Infrastructure Ontario and we'd be 2 or 3 percent
17 higher.

18 So, at that point in time, I -- I just
19 shut my brain down.

20 MR. FREDERICK CHENOWETH: All right.
21 And do you have any sense as to whether others met
22 additional times with Ameresco, in particular, the
23 mayor? Do you have any sense of that?

24 MR. ED HOUGHTON: I know -- I know --
25 again, just read -- reading the court documents, I

1 believe she met with them twice.

2 MR. FREDERICK CHENOWETH: All right.

3 And do you have any sense -- or did you have any
4 concerns at the time that -- that there was anything
5 improper about -- about the mayor and/or others and/or
6 you meeting with former Mayor Geddes and -- and the
7 Ameresco Greenland team?

8 MR. ED HOUGHTON: Certainly, not from
9 my perspective. I -- again, I felt that they had
10 something that they wanted to introduce to the Town of
11 Collingwood and it was an investigative thing and...

12 MR. FREDERICK CHENOWETH: All right.
13 Thank you.

14

15 (BRIEF PAUSE)

16

17 MR. FREDERICK CHENOWETH: And did
18 mayor -- I'm sorry, did former CAO Wingrove, to the
19 best of your knowledge, meet with Ameresco?

20 MR. ED HOUGHTON: Yes. There was --
21 it appeared like there was a conference call with
22 them.

23 MR. FREDERICK CHENOWETH: Now, did you
24 have occasion to review the steering committee report
25 when you got involved as CAO of the Town?

1 MR. ED HOUGHTON: Yes. I hadn't even
2 really paid too much attention when it was being done
3 in March. But once -- again, once Ameresco, and then
4 once you're sort of now seeing that there's -- there's
5 this movement afoot for recreation facilities in early
6 May, there's a lot of -- a lot of chatter between
7 Council members. I -- I got a copy of it and read it,
8 yes.

9 MR. FREDERICK CHENOWETH: All right.
10 And do -- do you have any -- did you develop any
11 thoughts with respect to the -- to the steering
12 committee's report on your having reviewed it?

13 MR. ED HOUGHTON: Yeah. I mean, I --
14 I have some -- I had some significant concerns with
15 the report when I read it. But what we were doing --
16 we -- we were always very, very polite, very -- we --
17 we did not criticize it in any way, shape, or form in
18 any of our presentations.

19 MR. FREDERICK CHENOWETH: And what
20 were your particular concerns that -- that you had
21 when you read the document and the proposal?

22 MR. ED HOUGHTON: Well, it --
23 irrespective of the -- the significant cost of it was
24 the fact that they were going to lose all three (3)
25 ball diamonds. They were going to lose the outdoor

1 ice rink.

2 They felt that, because of shading of
3 the building, that they were going to lose the -- the
4 lawn bowling. And -- and, as a result of that, they
5 would have to be relocated.

6 In the document, it talks about
7 relocating three (3) call diamonds at four hundred
8 thousand dollars (\$400,000) a piece. And then I think
9 they also said about building -- rebuilding the -- the
10 outdoor ice rink for six hundred and fifty-thousand
11 dollars (\$650,000), which is less than what -- what we
12 paid four (4) years before that, but we didn't have
13 the property, so.

14 And what they were talking about was
15 potentially having children ride their bicycles down
16 the highway to Nottawa to a ball diamond, but -- which
17 didn't make a lot of sense.

18 We actually were looking at is there an
19 opportunity somewhere locally. The only place that we
20 could think of was a piece of property owned by Larry
21 Dunn. I contacted Mr. Dunn and said, you know, here -
22 - here's the -- the -- things in the steering
23 committee report, if we had to relocate these -- these
24 facilities and -- and what -- you know, what would the
25 land cost.

1 And he -- he just said, pick a number,
2 5 or 10 million. And that was -- that was the whole
3 conversation. So, there -- there wasn't somewhere
4 that we could -- we could do that. And then we'd also
5 have to look at infrastructure.

6 I think even as -- you know, we talked
7 about things at Heritage Park. We didn't have all the
8 infrastructure there, but... So, there -- it was --
9 it was not just the \$35 million, it was the
10 significant relocation cost and where would you put
11 those.

12 So, we were trying to create a hub, but
13 we were losing the hub at the same time.

14 MR. FREDERICK CHENOWETH: Got it.
15 Could we look for the mo -- at the moment at document
16 EHH14?

17

18 (BRIEF PAUSE)

19

20 MR. FREDERICK CHENOWETH: Now, this is
21 an email that you wrote on August 24th, 2012. And you
22 obviously sent it along to Sara Almas, Larry Irwin,
23 Marjory Leonard.

24 You sent it to the EMC, correct?

25 MR. ED HOUGHTON: That's correct.

1 MR. FREDERICK CHENOWETH: Thank you.

2 I said, "Marjory Leonard." Yes, she is a recipient of
3 this. Thank you.

4 And why did you send this report on
5 August 24th, 2012, or send this email?

6 MR. ED HOUGHTON: This -- this is --
7 this is Friday night, and I'm still working. And I --
8 I was preparing for Monday night. And I wa -- I
9 wanted to make sure that I had -- I had a clear and un
10 -- understanding of the Central Park Re-development
11 Report.

12 So, I was reviewing that. And I
13 started looking at the numbers. And I -- I saw this -
14 - you know, significant numbers for the permit fees
15 and design fees, those kinds of things, contract,
16 administration, relocation of the ball diamonds, et
17 cetera, et cetera.

18 And -- and I thought it's -- like, this
19 is -- oh, this is a big number, eleven million nine
20 hundred thousand (11,900,000), basically. And we were
21 looking at potentially eleven six (11,600,000). I
22 just thought it was --

23 MR. FREDERICK CHENOWETH: Eleven six
24 (11,600,000) for what?

25 MR. ED HOUGHTON: For the -- the pool

1 and the -- and the ice pad.

2 MR. FREDERICK CHENOWETH: Yes.

3 MR. ED HOUGHTON: So, really all
4 you've got is a shovel in the ground, nothing else,
5 and you've spent three hundred thousand dollars
6 (\$300,000) more than -- we have two (2) facilities.

7 MR. FREDERICK CHENOWETH: Got it. And
8 those were thoughts that came to you when you were
9 again reviewing the steering committee report in
10 preparation for August 27th. Is that --

11 MR. ED HOUGHTON: That's correct.
12 That's correct.

13 MR. FREDERICK CHENOWETH: All right.
14 I understand that Councillor Gardhouse had similar
15 thoughts in a email of June 12th. And I'd turn to
16 that if I could. It's TOC0170540.

17

18 (BRIEF PAUSE)

19

20 MR. FREDERICK CHENOWETH: Tell me
21 about this email.

22 MR. ED HOUGHTON: Well, I'm -- I'm not
23 copied on this, but this is one (1) of the -- one (1)
24 of the times when Councillor Gardhouse did contact me.
25 I'm not sure whether it was by telephone or whether it

1 was just before a Council meeting.

2 And he -- he basically said the same
3 thing, recognizing that I had new eyes, I wasn't
4 involved with the Central Park thing. And he -- he
5 was, again, going on about the fact that we're going
6 to be spending all of this money and, as he said in
7 this one, wi -- without an ice cube.

8 MR. FREDERICK CHENOWETH: Twelve
9 million without an ice cube?

10 MR. ED HOUGHTON: And -- and again,
11 I'm -- I'm assuming he's talking about just -- just
12 the -- just the -- the ice pad. You know...

13 MR. FREDERICK CHENOWETH: And not the
14 pool?

15 MR. ED HOUGHTON: And not -- not a
16 pool that the Town of Collingwood would own.

17 MR. FREDERICK CHENOWETH: Was that
18 typical of -- of the attitude of councillors to the
19 instruction of -- councillors of 2010-2014.

20 Was that typical for their attitude
21 towards the \$35 million MURF in or about June of 2012?

22 MR. ED HOUGHTON: It actually started
23 before that. Again, I -- I'm sort of mid-April
24 starting -- being told everything is -- you know,
25 there's nothing really going on.

1 In early May, there's a lot of chatter
2 about the 35 million. There's -- there's -- there
3 seemed to be a significant disconnect between the Town
4 of Collingwood and the YMCA, which, again, I didn't
5 have any history to that, but there was a significant
6 disconnect.

7 The -- people -- they felt that they
8 were being duped by -- by the 'Y' folks and -- and,
9 again, I'm hearing quite a bit about this.

10 MR. FREDERICK CHENOWETH: And there
11 appears to be a number of emails leading up to the
12 June 11th strategic planning meeting. You mentioned
13 comments in emails in early May. I'd like you to turn
14 to the document TOC0154798.

15

16 (BRIEF PAUSE)

17

18 MR. FREDERICK CHENOWETH: And if we
19 could bring that up a little bit so we could see Kevin
20 Lloyd's email. This is an email that appears to be
21 sent to a number of individuals. And let me just see
22 who those individuals are by going back up again if
23 you could, please.

24 So, this is -- this is sent by Kevin
25 Lloyd to a series of souls on or about May 8th. Did

1 you -- I -- I'm noticing that you don't appear to be
2 on this email.

3 Did you come to know about this email?

4 MR. ED HOUGHTON: Yes. He -- he
5 forwards it to me after the fact because he had forgot
6 to copy me on it.

7 MR. FREDERICK CHENOWETH: Thank you.
8 So, you got this email?

9 MR. ED HOUGHTON: I did, yes.

10 MR. FREDERICK CHENOWETH: Thank you.
11 And what sense of things did you take from Councillor
12 Lloyd's email?

13 MR. ED HOUGHTON: Well, there seemed
14 to be a whole bunch of issues. There was, I guess
15 part of the Central Park Steering Committee was
16 potentially looking at re-purposing the Eddie Bush
17 into something other than an arena, potentially sell
18 it -- sell other -- they were going to be doing this
19 market sounding, which I really didn't ever -- never
20 had a real handle on what the market sounding was all
21 about. It never came to fruition while I was around.

22 But they were looking at other
23 publically owned entities that potentially could
24 either make it private or public private.

25 There was, again, significant issues

1 with the 'Y', significant issues with the cost.

2 The -- the Council had already been,
3 you know, they were fed up with -- with consulting and
4 they felt that they were going to be spending \$44,000
5 again on hiring another consultant and -- these were -
6 - this was all the -- the noise that was occurring at
7 this point in time.

8 MR. FREDERICK CHENOWETH: And I -- I
9 see Councillor West -- and, Your Honour, it's not my
10 intention to go through each and every one (1) of
11 these emails, but I want to get a flavour of it if I
12 could, please, and put it to the witness and then
13 we'll move along.

14 I -- I see that Councillor West
15 responded to the email of Councillor Kevin Lloyd and
16 he did so in document TOC0154975. Just pull up that
17 document, please. Okay, thank you.

18 And what did you understand the input
19 of Councillor Lloyd was with respect to the comments
20 of Kevin Lloyd?

21 MR. ED HOUGHTON: Councillor West?

22 MR. FREDERICK CHENOWETH: Councillor
23 West with respect to the comments of Kevin Lloyd?

24 MR. ED HOUGHTON: Well, and I had
25 spoken to Councillor West about this. Dale -- Dale is

1 a very passionate guy and it's interesting, he was
2 actually part of -- you know, he's -- he's one (1) of
3 the Council representatives on Parks, Recreation and
4 Culture and -- and he -- he was very quickly starting
5 to fall away from the -- the report as well, which is
6 -- was a stretch. And he was a very passionate hockey
7 guy, refereed hockey, did all those kind of things,
8 and he also was a baseball umpire, so he wanted to
9 keep the ball diamonds where they were.

10 So it -- again, this is just the
11 flavour, the mood of the time was -- was changing
12 significantly from March.

13 MR. FREDERICK CHENOWETH: All right.

14 And these were matters leading up to
15 the June 11th Council meeting, or these were -- these
16 were expressions or moods expressed by the councillors
17 leading up to that strategic planning meeting?

18 MR. ED HOUGHTON: Yes, and these would
19 be the discussions that I would have on a regular
20 basis with Mayor Cooper. She'd be letting me know she
21 had got another email, yet another email that I might
22 not have been copied on and -- and -- and you know,
23 she's -- her concern is growing as well.

24 MR. FREDERICK CHENOWETH: All right.
25 And I'm seeing emails between Councillor Gardhouse,

1 Councillor Chadwick, again Kevin Lloyd and -- and
2 others.

3 And did they express the same mood and
4 are they to the same effect as we approached the June
5 11th strategic planning meeting?

6 MR. ED HOUGHTON: Yeah, again, some --
7 some of the discussions again were -- were getting
8 very animated against the YMCA. I didn't always
9 understand what Councillor Gardhouse was saying, but I
10 think -- I think that's what he was saying. Sometimes
11 I didn't always understand his emails.

12 MR. FREDERICK CHENOWETH: Okay, all
13 right. And I am interested in the -- in the nascence
14 of the June 11th strategic planning meeting, and in
15 that respect might we look at document TOC0156981.

16 MR. ED HOUGHTON: I'm not sure I
17 understand what nascence is.

18 MR. FREDERICK CHENOWETH: It is the
19 commencement of or the well spring for, I believe.

20 MR. WILLIAM MCDOWELL: It's the
21 genesis of.

22 MR. FREDERICK CHENOWETH: "Genesis" is
23 another word.

24

25 CONTINUED BY MR. FREDERICK CHENOWETH

1 MR. FREDERICK CHENOWETH: And could we
2 go down a little further, please, I'm looking for the
3 email of the Mayor. Here we are, from Sandra Cooper,
4 Sunday, May 13th. She's working on a Sunday. And how
5 does this relate to the idea of -- of in fact having a
6 strategic planning meeting on June 11th?

7 MR. ED HOUGHTON: Well, again Her
8 Worship has been -- being copied on a number of these
9 emails and I guess she had been hearing ---

10 MR. FREDERICK CHENOWETH: You mean the
11 emails that we've talked about leading to June 11th?

12 MR. ED HOUGHTON: Yes. The emails
13 leading to June 11th, the emails that I -- I didn't --
14 I wasn't copied on but some that she was copied on.
15 And she was hearing that there was going to be --
16 people were making comments about a deferred motion of
17 Central Park.

18 And -- and she -- she said I would like
19 a workshop of Council, which I thought was a -- quite
20 frankly a -- a good idea because you could see that
21 Council was starting to really fracture and there were
22 -- they were foundering on -- you know, trying to
23 figure out where they were going to be going and so
24 that bringing them together in a respectful way, I
25 thought, was a -- was a good idea.

1 MR. FREDERICK CHENOWETH: So you had
2 occasion to -- to email the councillors, et cetera,
3 and did so in an email being document number
4 TOC0169628, if we could pull up that document, please?

5

6 (BRIEF PAUSE)

7

8 MR. FREDERICK CHENOWETH: Go down a
9 little further. Thank you very much.

10 And what were you telling department
11 heads and councillors in this email of June 7th, 2012?

12 MR. ED HOUGHTON: The -- the EMC had
13 got together as well and we had a discussion about how
14 we would see this, and when I say the EMC, we also
15 included Ms. Proctor at this point in time.

16 And what we had thought we could do is
17 we could have -- I would introduce it, I would
18 facilitate it, I'd -- I've facilitated dozens of
19 different meetings, companies, industries and things
20 and -- in the past, and -- and that I would facilitate
21 it, I would -- I would state the goals and objectives
22 of the -- of the workshop at the very beginning.

23 We would then hand it over to -- to Ms.
24 Proctor, who would go through the Central Park
25 Steering Committee report, the highlights of that.

1 She would remind Council of resolutions that had been
2 passed in the past.

3 And -- and that any resolutions that
4 might have been in abeyance, sort of sitting --
5 sitting there as well --

6 MR. FREDERICK CHENOWETH: These are
7 resolutions with respect to --

8 MR. ED HOUGHTON: Central Park.

9 MR. FREDERICK CHENOWETH: And the MURF
10 project?

11 MR. ED HOUGHTON: That's correct, yes.

12 MR. FREDERICK CHENOWETH: Okay.

13 MR. ED HOUGHTON: And then -- and then
14 we would also allow Ms. Leonard to -- to be able to
15 provide some financial information and what we -- and
16 then we would give Council five (5) minutes. We felt
17 that five (5) minutes was appropriate.

18 MR. FREDERICK CHENOWETH: Council or
19 councillors?

20 MR. ED HOUGHTON: Councillors,
21 individual councillors, yes.

22 And we would allow individual
23 councillors five (5) minutes to -- to tell everybody
24 what their thoughts were and -- and that was -- that
25 was the intent of the meeting.

1 MR. FREDERICK CHENOWETH: And do I
2 understand that Marta Proctor prepared or there were
3 slides at the meeting? There were slides at this June
4 11th --

5 MR. ED HOUGHTON: Yes.

6 MR. FREDERICK CHENOWETH: -- strategic
7 partnership meeting? Or strategic planning meeting?

8 MR. ED HOUGHTON: That's correct.

9 MR. FREDERICK CHENOWETH: Thank you.
10 And who were those slides prepared by?

11 MR. ED HOUGHTON: The -- the slides
12 were primarily all done by Marta. I think there was
13 input from some others as well. Obviously I wasn't at
14 this point in time very much engaged, but the -- this
15 was Marta's project at this point in time.

16 MR. FREDERICK CHENOWETH: You say you
17 weren't much engaged and it was Marta's project. Help
18 us understand that, if you could, please.

19 MR. ED HOUGHTON: Sorry, I guess I'm
20 just saying I'm -- I'm sort of a new guy on the block,
21 not -- without a lot of history of what -- what was
22 going on. So my -- my advice would be minimal at this
23 point in time.

24 MR. FREDERICK CHENOWETH: What was
25 Marta Proctor's role and why would she say -- why

1 would you say it's --

2 MR. ED HOUGHTON: She's -- she's the
3 director of Parks, Recreation and Culture.

4 MR. FREDERICK CHENOWETH: Right.

5 MR. ED HOUGHTON: And so the -- this
6 is Parks and Rec facilities, typically she would have
7 had the lead on this.

8 MR. FREDERICK CHENOWETH: Thank you.
9 And you mentioned that Marjory Leonard had occasion to
10 -- to make a presentation at this June 11th meeting.

11 What was the nature of the presentation
12 made by Marjory Leonard?

13 MR. ED HOUGHTON: She -- she talked
14 about the -- the ability to finance what we have from
15 a -- in reserves DCs, she talked about debenture
16 costs, I believe.

17 MR. FREDERICK CHENOWETH: Thank you.
18 Do you recall her speaking about debenture costs?

19 MR. ED HOUGHTON: Yes, I believe so,
20 yes. It's in my -- it's also in my -- the -- my email
21 here that she would cover debenture costs.

22 MR. FREDERICK CHENOWETH: And -- and
23 what I'm interested in, and again, we seen to have two
24 (2) things to look at in this respect and I hope not
25 to go to either of them.

1 But we have some minutes that were
2 taken at that meeting?

3 MR. ED HOUGHTON: Yes.

4 MR. FREDERICK CHENOWETH: And we have
5 a -- a summary of the flip charts that were developed
6 through the course of the meeting?

7 MR. ED HOUGHTON: That's correct.
8 What we -- we did was we had two (2) different staff
9 members that were sort of writing down highlights of
10 what Council members were saying and their sort of
11 wishes and desires for the -- for recreation
12 structures.

13 MR. FREDERICK CHENOWETH: Just as a
14 matter of some interest, and I don't think we need to
15 go to it, the flip chart is TOC0173022, that's its
16 document number.

17 In any event, I'm anxious to understand
18 the mood that was demonstrated by the councillors on
19 June 11th with respect to how they wished to proceed
20 from there.

21 MR. ED HOUGHTON: Certainly there was
22 some common themes within -- within the -- the
23 discussion, common theme was \$35 million was too --
24 too expensive, that there was a significant need for
25 ice and water.

1 That -- that there were -- the majority
2 of them were saying they weren't sure that they wanted
3 to be spending anything on the market sounding. They
4 -- I think -- I think Councillor Hull would be making
5 the only -- the only different sort of a differing
6 opinion on all of that.

7 But I think for the -- for the majority
8 they were -- they were moving significantly away from
9 the MURF.

10 MR. FREDERICK CHENOWETH: Can you tell
11 me whether or not -- was or was there not any sense of
12 urgency expressed at that meeting?

13 MR. ED HOUGHTON: It's -- it's
14 starting to build a crescendo, where they -- they all
15 -- no, I can't say all.

16 The majority felt that there was an --
17 a significant need and they'd like to answer that need
18 as quick as possible.

19 MR. FREDERICK CHENOWETH: Thank you.
20 Your Honour, we're moving -- I'm moving on to a
21 different topic.

22 THE HONOURABLE FRANK MARROCCO: You
23 want to take a short break?

24 MR. FREDERICK CHENOWETH: I appreciate
25 that, thank you.

1 THE HONOURABLE FRANK MARROCCO: We
2 have to leave by 4:00 today, just so you know.

3 MR. FREDERICK CHENOWETH: Thank you.

4

5 --- Upon recessing at 3:28 p.m.

6 --- Upon resuming at 3:39 p.m.

7

8 CONTINUED BY MR. FREDERICK CHENOWETH:

9 MR. FREDERICK CHENOWETH: Could we
10 pull up document number TOC0547027?

11

12 (BRIEF PAUSE)

13

14 MR. FREDERICK CHENOWETH: Go down
15 further a few, please. I'm looking for the email from
16 Rick Lloyd. There -- there it is. This appears to --
17 to -- this email chain appears to start with an email
18 from Rick Lloyd dated June the 12th at 3:26 p.m.; it's
19 directed to you.

20 And what did you understand that --
21 that Mr. Lloyd on June 12th, the day after the June
22 11th strategic planning meeting, was asking you to do?

23 MR. ED HOUGHTON: Well, his request is
24 pretty clear. He -- he'd like for me to get a price
25 for a fabric cover of the Centennial pool at Heritage

1 Park, and also to get a cost for a fabric building to
2 enclose the outdoor ice pad at Central Park.

3 MR. FREDERICK CHENOWETH: So, he uses
4 the phrase 'fabric building' with respect to both
5 structures, does he?

6 MR. ED HOUGHTON: That's correct.

7 MR. FREDERICK CHENOWETH: Thank you.
8 Can we look at the email one (1) up from there,
9 please? And I take it later on that day you send Rick
10 Lloyd's email to -- to Sara Almas.

11 "Here we go -- you say -- cover the
12 Centennial pool and we forget about
13 the 'Y'. Why is nothing ever easy?"

14 What do you -- you're obviously sending
15 off this email to -- to Sara Almas. What's the
16 purpose of the rest of the verbiage in the email?

17 MR. ED HOUGHTON: I sent it to Sara
18 because the deputy -- deputy mayor had asked that
19 question. My -- my comments there are based on
20 intuition that there's -- there's something going to
21 be -- there's something now in play and we're going to
22 be moving forward again.

23 What we didn't talk about it June 11th
24 was the fact that the Sprung information was being
25 handed out at the meeting.

1 MR. FREDERICK CHENOWETH: All right.
2 And tell me whether I'm -- I'm correct on this or not.
3 Would it be fair that what's in play is possible
4 alternatives with respect to the \$35 million MURF?

5 MR. ED HOUGHTON: Alternatives, as --
6 and, as well, moving away from any kind of
7 relationship with the 'Y' for a pool.

8 MR. FREDERICK CHENOWETH: Very good.
9 And can we move up and see Sara's reply if we could,
10 please? And Sara Almas, who is maybe more thoughtful
11 on these matters than -- than a brand new CAO, has
12 some advice for you on that occasion. And that's at
13 5:19 on the same day.

14 What's the advice?

15 MR. ED HOUGHTON: Well, basically,
16 she's saying that the deputy mayor should be asking
17 all of Council for this. I was accustomed to this at
18 Public Works.

19 MR. FREDERICK CHENOWETH: Oh, okay.

20 MR. ED HOUGHTON: This -- this
21 happened all the time with me at Public Works, but
22 again, it -- it was -- it was specific to something
23 that I had more experience in, so I knew --

24 MR. FREDERICK CHENOWETH: All right.

25 MR. ED HOUGHTON: -- how to handle it

1 a little bit -- little bit better.

2 MR. FREDERICK CHENOWETH: Okay. Well,
3 what -- what happened at Public Works? I mean, what -
4 - what are -- what are you telling us?

5 MR. ED HOUGHTON: Well, again -- and -
6 - and this is not -- this is not just this gentleman.
7 It -- it was systemic for years in Public Works. The
8 -- the Council member who happened to be the
9 representative for -- for Public Works was
10 significantly involved with -- with the ongoing on --
11 of the work at Public Works.

12 I think -- I think even the deputy
13 mayor --

14 MR. FREDERICK CHENOWETH: Give us some
15 examples.

16 MR. ED HOUGHTON: Well, Reeve Nip
17 Spooner spent every day --

18 MR. FREDERICK CHENOWETH: I rented his
19 chalet for a number of years.

20 MR. ED HOUGHTON: Oh.

21 MR. FREDERICK CHENOWETH: It wasn't a
22 chalet, actually, it was --

23 MR. WILLIAM MCDOWELL: We'll hear some
24 evidence about this.

25

1 CONTINUED BY MR. FREDERICK CHENOWETH:

2 MR. FREDERICK CHENOWETH: So I know of
3 him. Proceed.

4 MR. ED HOUGHTON: Reeve Nip Spooner
5 was a wonderful gentleman --

6 THE HONOURABLE FRANK MARROCCO: I'm
7 not -- I'm not sure that that's important.

8 MR. ED HOUGHTON: -- spent -- spent
9 every --

10 MR. FREDERICK CHENOWETH: I -- I'm
11 sure it isn't important, Your Honour.

12 MR. ED HOUGHTON: -- spent every day
13 in the truck with Marjory's Uncle Don (phonetic), Don
14 Leonard, every day. They would spend three (3) and
15 four (4) hours every day working on Public Works.

16 It was -- it was systemic. It was the
17 way that it happened.

18 MR. WILLIAM MCDOWELL: If I could just
19 interject. Is Reeve his position or his first name
20 or...?

21 MR. ED HOUGHTON: Oh, Reeve is -- is a
22 -- like, a councillor.

23 MR. WILLIAM MCDOWELL: Councillor.

24 MR. ED HOUGHTON: Before we had deputy
25 mayor, we had Reeve, deputy Reeve, those things.

1 MR. WILLIAM MCDOWELL: Thanks.

2

3 CONTINUED BY MR. FREDERICK CHENOWETH:

4 MR. FREDERICK CHENOWETH: Thanks for
5 that clarification. I often wondered what that was.
6 In any event, you got this letter from -- or email
7 from Rick Lloyd on June 12th. You got some advice
8 from Sara Almas with respect to it.

9 And what did you do?

10 MR. ED HOUGHTON: I'd like to say that
11 I took her advice and told Rick to -- to send it to
12 everybody. I don't recall if I did that though, but
13 it happened.

14 MR. FREDERICK CHENOWETH: All right.
15 And so, I take it shortly thereafter and on or about
16 June 14th, there was another letter by Rick Lloyd of a
17 similar nature, but it was -- he copied all
18 councillors on that email?

19 MR. ED HOUGHTON: That's correct.

20 MR. FREDERICK CHENOWETH: And that is
21 document number TOC0172221. Could we pull that up
22 briefly?

23

24 (BRIEF PAUSE)

25

1 MR. FREDERICK CHENOWETH: So, this is
2 the -- the redirected email by Rick Lloyd, is it?

3 MR. ED HOUGHTON: Yes.

4 MR. FREDERICK CHENOWETH: Thank you.
5 And what is he requesting of Mr. Houghton on this
6 occasion?

7 MR. ED HOUGHTON: Thi -- this request
8 is more specific now; the same kind of intent. He
9 wanted a price for a building that would enclose the
10 Centennial pool.

11 He talks about the fact that the
12 structure he's interested in is produced by Sprung.
13 He talks about, you know, the representatives. He
14 said he would also like to have a price to cover the
15 outdoor pool.

16 He talks about the fact that Sprung has
17 done this, I guess, based on the information he got in
18 Saskatoon and -- and that they're -- they're well
19 insulated and have a very, very robust warranty.

20 MR. FREDERICK CHENOWETH: So, he's
21 asking you to get prices for both the pool and arena
22 structures and is specifically requesting Sprung
23 prices.

24 MR. ED HOUGHTON: It's --

25 MR. FREDERICK CHENOWETH: Is that

1 correct?

2 MR. ED HOUGHTON: It is very
3 prescriptive.

4 MR. FREDERICK CHENOWETH: Thank you.
5 And -- and it appears -- and I'm not sure whether
6 you're copied on this, but we'll soon know. I see
7 that there's a reaction by, at least found in the
8 Foundation Document, in any event, by Marta Proctor.
9 And that's document number TOC0172248.

10

11 (BRIEF PAUSE)

12

13 MR. FREDERICK CHENOWETH: And I see
14 that this email chain is again -- starts with a Rick
15 Lloyd email of June 14th. And you're not copied on
16 Marta's email, but how did you learn of it? Did you
17 simply learn of it in the FD2, or how did you learn
18 about it?

19 MR. ED HOUGHTON: I believe I -- I
20 heard about it -- or read about it in the FD2. And I
21 think she says she saw this one (1) coming because,
22 even though she di -- didn't recall Ms. -- the deputy
23 mayor handing out the brochures at the June 11th, he
24 was.

25 So, I think that's maybe where she got

1 that insight.

2 MR. FREDERICK CHENOWETH: All right.
3 Thank you. And I take it, in any event, you learned
4 about the results of her requests to Dennis Seymour
5 and Darin Potts during the telephone conversation of
6 June 21 that you earlier described.

7 I think that was a telephone
8 conversation between the dec -- deputy mayor,
9 yourself, and individuals from Sprung, correct?

10 MR. ED HOUGHTON: That's what I
11 understand, yes.

12 MR. FREDERICK CHENOWETH: All right.

13 MR. ED HOUGHTON: That's correct.

14 MR. FREDERICK CHENOWETH: All right.

15 And -- and again, and I think this is common ground, I
16 take it that the email of Marta Proctor led to a
17 meeting that Seymour and Potts had with Sprung people
18 on June 19th --

19 MR. ED HOUGHTON: Yes.

20 MR. FREDERICK CHENOWETH: -- and led
21 to the first of directions from Rick Lloyd to you with
22 respect to you being the pivot on contacts with
23 Sprung?

24 MR. ED HOUGHTON: That's correct.

25 MR. FREDERICK CHENOWETH: Thank you.

1 (BRIEF PAUSE)

2

3 MR. FREDERICK CHENOWETH: And I just
4 note that there's another email of Ju -- July 15th at
5 9:03, "The deputy mayor emails Chadwick and states,"
6 et cetera. The document is -- is TOC0184616. Could
7 you pull that up, please?

8

9 (BRIEF PAUSE)

10

11 MR. FREDERICK CHENOWETH: Again, you
12 don't appear to co -- on this email. And did you,
13 what, learn of it from looking at the FD2, or how did
14 you come across this email?

15 MR. ED HOUGHTON: Specifically, I
16 learned about it here in the -- in the documents. But
17 I -- I had had conversation with Mayor Cooper about
18 the two-thirds (2/3).

19 I wasn't -- again, I wasn't too
20 familiar with what they were talking about, but we had
21 a conversation about that, yes.

22 MR. FREDERICK CHENOWETH: All right.
23 Actually, I want to go down a little further until we
24 see the email -- and I'm sorry for not directing you
25 to this earlier -- the email from the deputy mayor to

1 Councillor Chadwick. Further down, likely. Further
2 down. That's it?

3 THE COURT OPERATOR: Yeah.

4 MR. FREDERICK CHENOWETH: Okay. Thank
5 you.

6

7 CONTINUED BY MR. FREDERICK CHENOWETH:

8 MR. FREDERICK CHENOWETH: In any
9 event, it looks like this email chain is started by
10 Chadwick when he writes Rick Lloyd and Kevin Lloyd.
11 And...

12

13 (BRIEF PAUSE)

14

15 MR. FREDERICK CHENOWETH: And look at
16 the next email up with that, if you would, please.
17 And if you would, Witness, read that email, as well.

18 MR. ED HOUGHTON: Yes.

19 MR. FREDERICK CHENOWETH: Go up one,
20 further.

21 THE COURT OPERATOR: This is the
22 entire --

23 THE HONOURABLE FRANK MARROCCO: No, I
24 -- I think that's all there is, is the two (2) of
25 them.

1 MR. FREDERICK CHENOWETH: Appears to
2 be the case. Thank you.

3

4 CONTINUED BY MR. FREDERICK CHENOWETH:

5 MR. FREDERICK CHENOWETH: And although
6 you weren't copied on this email, is -- is this -- is
7 this indicative of -- of anything that was going on in
8 or about July 15th approaching the July 16th meeting,
9 in your view?

10 MR. ED HOUGHTON: Yes. Even though I
11 wasn't copied on this, the -- both the deputy mayor
12 spoke to me about exactly this, saying, you know,
13 maybe we're not -- maybe we shouldn't be covering the
14 outdoor rink, leave it as an outdoor and look at
15 Sprung building a new ice pad.

16 And, as well, Councillor Lloyd said the
17 same thing to me, as well.

18 MR. FREDERICK CHENOWETH: Thank you.
19 Does this -- does this tell you anything about the
20 mood that existed amongst Council as you approached
21 the July 16th meeting of Council?

22 MR. ED HOUGHTON: Yeah, to sort of
23 coin a phrase or something, the bus is starting to get
24 loaded and it's starting to move.

25 MR. FREDERICK CHENOWETH: Thank you.

1 And -- and in that respect, about -- about the bus
2 moving, could we look at a further document, which is
3 TOC0185355?

4

5 (BRIEF PAUSE)

6

7 MR. FREDERICK CHENOWETH: And I'm
8 looking for the email from Mayor Cooper to -- to
9 Deputy Mayor Lloyd.

10

11 (BRIEF PAUSE)

12

13 MR. FREDERICK CHENOWETH: Thank you.
14 I think that's it. And again, you're not copied on
15 this, but -- and I'm assume -- I'm going to assume
16 that you saw it in the FD2.

17 But is -- is this -- is this at all
18 consistent with the mood that existed on or about
19 July 16th, and if it's not, tell me so?

20 MR. ED HOUGHTON: No, no. That's
21 exactly right, and -- and as I mentioned, Mayor Cooper
22 had mentioned that -- for us -- for Council to defeat
23 the Central Park they needed two-thirds (2/3s), and I
24 -- she didn't tell me that she'd spoke to -- to the
25 Deputy Mayor or emailed the Deputy Mayor, but that's

1 what she -- she's asking, if -- if they have two-
2 thirds (2/3s).

3 MR. FREDERICK CHENOWETH: So you --
4 you knew her mood in that respect from the discussions
5 you'd had with some frequency with her?

6 MR. ED HOUGHTON: She -- she was also
7 a believer that they wanted to be able to give the
8 people what they deserve, which is an ice pad and
9 water, but believed that 35 million was too much.

10 MR. FREDERICK CHENOWETH: Well, the
11 Mayor at that point was talking about scrapping the
12 Central Park MURF. Is that the case?

13 MR. ED HOUGHTON: Yes. Some -- some
14 were trying to do it respectfully and some were just
15 trying to scrap it, period.

16 MR. FREDERICK CHENOWETH: Good. And
17 we have a response from Mr. Lloyd -- one up.

18

19 (BRIEF PAUSE)

20

21 MR. FREDERICK CHENOWETH: And he says;
22 "If you want to scrap -- if you want
23 it scrapped, then I think we can
24 make that happen. Let me know."

25 I take it that was his mood around the

1 time, was it?

2 MR. ED HOUGHTON: It certainly was.

3 MR. FREDERICK CHENOWETH: Very good.

4 Your Honour, I'm about to move to other matters and
5 it's, I believe, four minutes to 4:00.

6 THE HONOURABLE FRANK MARROCCO: All
7 right. So what I propose to do tomorrow is -- Mr.
8 Chenoweth wants to call Mr. Scott, and he's coming up
9 from Toronto, so we'll -- I want to start tomorrow at
10 9:00, hear Mr. Houghton for an hour -- gives Mr. Scott
11 till ten o'clock to get here.

12 Then we'll stop your evidence and deal
13 with Mr. Scott, because tomorrow is a day that he's
14 available and I would like to keep the Inquiry moving
15 rather than see it stop and these matters hang around
16 even longer.

17 So then we'll let you know when he's
18 finished and then we'll stand down until you're able
19 to get here.

20 That's what I propose to do. Does that
21 make sense from everybody's point of view?

22 MR. FREDERICK CHENOWETH: Quite
23 content, Your Honour.

24 THE HONOURABLE FRANK MARROCCO: Okay.

25 MR. ED HOUGHTON: I'll be on the

1 ready.

2 THE HONOURABLE FRANK MARROCCO:

3 Adjourned until tomorrow morning.

4

5 (WITNESS RETIRES)

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7 --- Upon adjourning at 3:57 p.m.

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11 Certified Correct,

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16 Wendy Woodworth, Ms.

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