



“When You Talk - We Listen!”



TOWN OF COLLINGWOOD

JUDICIAL INQUIRY

Before:

Associate Chief Justice Frank Marrocco

Held at:

Collingwood Town Hall

Council Chambers

97 Hurontario Street

Collingwood, Ontario

September 24th, 2019

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APPEARANCES

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1 --- Upon commencing at 9:15 a.m.

2

3 MARTA PROCTOR, Previously Sworn

4

5 THE HONOURABLE FRANK MARROCCO: I -- I
6 can understand why you all might need to confer, and
7 that's fine. In the future, though, I think what I'll
8 do is I'll come in at nine o'clock, because we were
9 ready to go at 9:00, and then I'll stand down to give
10 you an opportunity to confer with each other.

11 I -- I don't like to leave the
12 impression that we somehow schedule the things to
13 start at 9:00 and weren't ready to proceed. Carry on.
14 I guess, Mr. Chenoweth, you were cross-examining.

15

16 (BRIEF PAUSE)

17

18 MR. FREDERICK CHENOWETH: Not on, and
19 it's a useful thing to have on. I agree with you.

20 I was just complemented on my use of
21 the mic yesterday, so I -- I -- it must have gone to
22 my head.

23 THE HONOURABLE FRANK MARROCCO: Well,
24 two (2) days in a row is always, you know, a lot.

25 MR. FREDERICK CHENOWETH: We'll --

1 we'll try and pick it up.

2

3 CONTINUED CROSS-EXAMINATION BY MR. FREDERICK

4 CHENOWETH:

5 MR. FREDERICK CHENOWETH: We --
6 yesterday, Ms. Proctor, we were talking about
7 paragraph 193. And I don't think we need to turn it
8 up at this point, but we were talking about a
9 newspaper article in which the Mayor had commented
10 that she thought that the \$35 million price tag for
11 the multi-use facility was extensive, and maybe too
12 much. And she thought some other ideas would come up.
13 And we'll talk about the development of other ideas in
14 the Council.

15 And could we turn for moment to -- to
16 an exchange that appears to have arisen as a result of
17 that article, which is paragraph 194 of the Foundation
18 Document.

19

20 (BRIEF PAUSE)

21

22 MR. FREDERICK CHENOWETH: And I see
23 that on July 12th, sometime after the article, Brian
24 Saunders (sic) emails Marta Proctor, and Claire
25 Tucker-Reid, writing that he'd read the Mayor's

1 comments in the news article on Central Park, and he
2 believes that they would not be able to convince
3 Council to change direction.

4 He goes on to say:

5 "Best outcome is to keep the shovels
6 out of the ground until the next
7 election."

8 And Ms. Tucker-Reid writes back:

9 "I still think that we should use
10 the PT -- the PPT."

11 What does she mean by the PPT?

12 MS. MARTA PROCTOR: I'm sorry, I --
13 I'm not sure what she meant by that.

14 MR. FREDERICK CHENOWETH: I'm -- I'm
15 not either, but in any event:

16 "We should use the PPT but add our
17 own comments. We also need to be
18 ready to -- ready for the media
19 afterwards. The Enterprise Bulletin
20 has a poll question this week about
21 Central Park. We need to stack the
22 results in our camp's favour."

23 And I take it you would have received
24 the reply of Claire Tucker-Reid to the comments of
25 Brian Saunders (sic).

1 THE HONOURABLE FRANK MARROCCO: Well,
2 just before you go on, what you are reading there,
3 those were Ms. Tucker-Reid's comments, right?

4 MR. FREDERICK CHENOWETH: That's
5 correct.

6 THE HONOURABLE FRANK MARROCCO: Right.
7 Not -- not Mr. Saunderson's --

8 MR. FREDERICK CHENOWETH: No.

9 THE HONOURABLE FRANK MARROCCO: --
10 comments?

11 MR. FREDERICK CHENOWETH: I did
12 indicate Ms. Tucker-Reid replied.

13 MR. PAUL BONWICK: Just for the
14 benefit -- could you bring up the email? Is that
15 possible? I'm trying to follow who's speaking as
16 well.

17 THE HONOURABLE FRANK MARROCCO: Well,
18 I -- I don't want to -- I don't want to interrupt Mr.
19 Chenoweth's line of cross-examination any more than I
20 already have, but I'm quite happy to bring it up when
21 you're questioning, Mr. Bonwick, if you want to go
22 over it.

23 Sorry, Mr. Chenoweth, for the
24 interruption.

25 MR. FREDERICK CHENOWETH: Yeah. Thank

1 you very much.

2

3 CONTINUED BY MR. FREDERICK CHENOWETH:

4 MR. FREDERICK CHENOWETH: I'm -- there
5 seems to be kind of a -- a camp mentality developing
6 here.

7 Clearly the steering committee people
8 are anxious to -- to be successful with their proposal
9 with respect to the MURF, and they seem to be talking
10 about ways in which they can -- they can improve the
11 prospects of their agenda being successful. There
12 appears to be a bit of a campaign developing in that
13 respect, from what I read out of this email.

14 Is that fair?

15 MS. MARTA PROCTOR: I think it's fair
16 to interpret that.

17 MR. FREDERICK CHENOWETH: Thank you.
18 Appreciate that.

19 And they seem to be talking about
20 things like the best outcome is to keep the shovels
21 out of the ground until the next election.

22 I -- I take it what Brian Saunderson
23 seems to be talking about there is, let's try and hold
24 this thing up until -- until we can get the next
25 election done and hopefully we can win, and there's a

1 -- an increased prospect that the multi-use proposal
2 can -- can -- can prevail.

3 Is that what appears to be his
4 approach?

5 MS. MARTA PROCTOR: Other than this
6 email, that's the only time I heard that, so -- but
7 that could be interpreted that way.

8 MR. FREDERICK CHENOWETH: Thank you.
9 And Tucker-Reid seems to be talking about -- about
10 stuffing a poll question that's in the Enterprise
11 Bulletin in order to get some -- some good press from
12 the Enterprise Bulletin on that issue.

13 Is that fair?

14 MS. MARTA PROCTOR: It's fair to
15 interpret that.

16 MR. FREDERICK CHENOWETH: All right.
17 I -- I was wondering why Marta Proctor, one of the
18 staff at the Town, would be party to -- to this kind
19 of discussion.

20 MS. MARTA PROCTOR: I don't believe I
21 was party to the discussion. I was copied on the
22 emails.

23 As indicated yesterday, I was the staff
24 liaison with the Central Park Steering Committee and
25 these are the two (2) Co-Chairs speaking, and

1 typically they did copy me on most of their
2 communication and correspondence.

3 MR. FREDERICK CHENOWETH: All right.
4 Well, did they regard you as an ally in -- in -- in
5 this process of developing and attempting to be
6 successful with their camp's view of the world?

7 MS. MARTA PROCTOR: I can't speak to
8 how they regarded me. I can speak to how I regarded
9 myself.

10 Would you like to hear that answer?

11 MR. FREDERICK CHENOWETH: Sure.

12 MS. MARTA PROCTOR: I was true to a
13 process, and whether that was the process of the
14 Central Park Steering Committee while it was under the
15 direction of Council for me to maintain that or
16 facilitate that committee.

17 Later, when there were other options
18 being explored based on Council's input, I was true to
19 exploring those options, so I did not have a -- I'm
20 sorry, I'm not sure which word you used, campaign or
21 camp. I was true to a process, regardless what that
22 process was.

23 MR. FREDERICK CHENOWETH: Would you --
24 would you have been offended by -- by being included
25 in the discussion that's taking place in these emails?

1 I'm not suggesting there was other discussions, but
2 the discussions in this email, would you -- would you
3 been offended by that?

4 MS. MARTA PROCTOR: I would not use
5 the word "offended," but I was concerned, and as I
6 previously said, it was a difficult time and I was
7 trying to maneuver my way and establish processing
8 systems to best reflect what I believe is good
9 governance and good administration.

10 MR. FREDERICK CHENOWETH: You didn't
11 feel obliged to respond to this email from Brian
12 Saunders and say why are you copying me on this, or --
13 or, you know, I -- I -- I really don't want to be
14 involved in -- in this kind of -- really what's little
15 more than politicking?

16 MS. MARTA PROCTOR: To be honest, I
17 didn't reply to any email that I was copied on that I
18 was concerned about, but I did discuss my concerns
19 internally and how we manage them in a proactive and
20 positive way.

21 MR. FREDERICK CHENOWETH: Ms. Proctor,
22 you were involved in the June 11th strategic planning
23 session that took place at City Hall on that
24 particular date, correct?

25 MS. MARTA PROCTOR: Correct.

1 MR. FREDERICK CHENOWETH: And that was
2 a gathering that Council had on that occasion?

3 MS. MARTA PROCTOR: Correct.

4 MR. FREDERICK CHENOWETH: And you
5 developed a set of slides with respect to that
6 meeting, and they're at paragraph 140. Could we bring
7 them up just for the moment, if we could, please?

8

9 (BRIEF PAUSE)

10

11 MR. FREDERICK CHENOWETH: And let's go
12 to the paragraph itself, if we could. Thank you.

13

14 (BRIEF PAUSE)

15

16 MR. FREDERICK CHENOWETH: And you had
17 circulated a revised set of slide presentations for
18 the strategic planning session to -- to the EMC and to
19 others.

20 MS. MARTA PROCTOR: That's correct.

21 MR. FREDERICK CHENOWETH: So you had a
22 significant role in the -- and -- and you spoke at
23 that -- at that meeting as well as I recall.

24 MS. MARTA PROCTOR: That's correct.

25 MR. FREDERICK CHENOWETH: I think Mr.

1 Houghton gave a bit of a presentation as to the status
2 of matters to that date and -- and you outlined the
3 goals of the session, et cetera, from your slide
4 presentation.

5 MS. MARTA PROCTOR: At this point I
6 can't remember which slides I spoke to and which Mr.
7 Houghton, but I know it was a collaborative
8 presentation and we worked together with the Executive
9 Management Committee as well as other staff, such as
10 Dave McNalty, Robert Voigt, and Mandy, helped pull it
11 all together.

12 MR. FREDERICK CHENOWETH: Fair to say
13 you had a significant role in planning for and
14 executing the June 11th strategic planning session
15 that occurred at that time?

16 MS. MARTA PROCTOR: That is correct.

17 MR. FREDERICK CHENOWETH: Thank you.
18 And again we spoke yesterday about the -- I'm going to
19 use the word groundswell, maybe there's better words,
20 but we spoke about the fact that there'd been some
21 comment in May from -- from Kevin Lloyd, Councillor
22 Kevin Lloyd, there'd -- at this -- at this point.
23 There had been possibly some comments from -- from
24 Councillor Lloyd, Deputy Mayor Lloyd, and there'd been
25 some comments from the Mayor.

1 Do I take it that the -- the -- really
2 the -- the purpose of the June 11th strateg --
3 strategic planning meeting was an opportunity to
4 respond to the groundswell of -- I -- I don't know
5 whether I'd call it concern at this point, but the
6 ground swell of -- of -- well, I will use the word
7 "concern", of concern with respect to the -- to the
8 multi -- the MURF facility at this point?

9 MS. MARTA PROCTOR: That is correct.

10 MR. FREDERICK CHENOWETH: All right,
11 thank you.

12 So it really was an opportunity to --
13 to give councillors a bit of a voice to discuss their
14 response to the report of the Steering Committee to
15 that juncture, because it had been -- there had been
16 comments and thoughts up to that point and you wanted
17 to give the Council and the members of Council an
18 opportunity to make public comment with respect to
19 same?

20 MS. MARTA PROCTOR: That is correct.

21 MR. FREDERICK CHENOWETH: All right.

22 And in fact, as I understand it, each
23 member was given five minutes to make their comments
24 as to really their response to the multi-use facility
25 plan?

1 MS. MARTA PROCTOR: I cannot recall
2 that the conversation was specific to a response to
3 the multi-purpose plan of the Steering Committee, but
4 it was -- I believe it was definitely to talk about
5 options that they prefer. That was one of them, but
6 clearly there were others named in the presentation.

7 MR. FREDERICK CHENOWETH: So it was an
8 opportunity to talk about options?

9 MS. MARTA PROCTOR: That is correct.

10 MR. FREDERICK CHENOWETH: That seems
11 to be the buzzword that develops in the parlance at
12 that point.

13 MS. MARTA PROCTOR: That is correct.

14 MR. FREDERICK CHENOWETH: Very good.
15 Thank you.

16 And we have the minutes from that
17 meeting that were taken and we'll go to those in a
18 second. But I note a further document, which is
19 TOC0172486. Could we bring that document up, please?

20 I'm just trying to get a sense of the
21 mood of the councillors at this point, Ms. Proctor,
22 because I think it's informative.

23 So that what we seem to have in front
24 of us are June 11th, 2012 notes from the Council
25 Strategic Planning Session for the Central Park

1 Project.

2 As I understand it, these may have been
3 the notes that were taken from a -- a white board that
4 was being written on during the course of -- of that
5 June 11th session. Is that correct?

6 MS. MARTA PROCTOR: I can't recall how
7 the notes were taken, but I do know notes were taken.

8 MR. FREDERICK CHENOWETH: All right.

9 And this appears to be some record of
10 the notes that were taken at that time?

11 MS. MARTA PROCTOR: That seems
12 correct.

13 MR. FREDERICK CHENOWETH: Thank you.

14 I'm looking at the comments of
15 Councillor Lloyd, who I take to be Kevin Lloyd, not
16 Rick Lloyd. Is that correct?

17 MS. MARTA PROCTOR: That's correct.

18 MR. FREDERICK CHENOWETH: All right.

19 And he seems to make the comment
20 "situation vision, location, priority, ice and water",
21 he's stating a priority there?

22 MS. MARTA PROCTOR: I'm sorry. There,
23 thank you. Situation.

24 MR. FREDERICK CHENOWETH: Again, we're
25 talking about the comment summary of Councillor Lloyd

1 or what I take to be Kevin Lloyd. And he says in the
2 third line down, "priority, ice and water".

3 Would it appear to be the case that he
4 was expressing the view that he felt ice and water
5 being some more ice and -- and a proper pool facility
6 in the Town were a priority for the Town?

7 MS. MARTA PROCTOR: It appears that he
8 prioritized ice and water.

9 MR. FREDERICK CHENOWETH: Thank you.

10 And under his -- his stage one (1)
11 comment, he's got "objective", ice and water again
12 expressing their priority. And "strategy,
13 refurbishing Eddie Bush and covering the outdoor
14 rink".

15 Those are the kinds of priorities that
16 Kevin Lloyd appeared to be expressing at the June 11th
17 meeting?

18 MS. MARTA PROCTOR: That is correct.

19 MR. FREDERICK CHENOWETH: Thank you.

20 We go down to Councillor West and I'm
21 noting in the fourth line of his comments, he says
22 "stay focussed on ice and water".

23 Does that appear to be the thinking of
24 Councillor West on or about June 11th?

25 MS. MARTA PROCTOR: That is correct.

1 MR. FREDERICK CHENOWETH: All right.

2 And then there's the Deputy Mayor, who
3 we've heard a fair amount about through the course of
4 phase 2. His comment is "remember the Town has other
5 big projects, fire hall, Hume Street, water treatment
6 facilities, deports the project but it should be
7 phased".

8 Does he appear to be saying that we've
9 got a lot of other priorities in the Town and we
10 should bite off this multi-use facility in smaller
11 bites and phase it in?

12 MS. MARTA PROCTOR: It clearly says he
13 -- it should be phased.

14 MR. FREDERICK CHENOWETH: Okay. And
15 he makes a comment on market sounding, it seems.
16 "Market sounding leads to more reports, another
17 study", it's pretty clear that he's not interested in
18 another study, that he's interested in action. Is
19 that fair?

20 MS. MARTA PROCTOR: That's fair.

21 MR. FREDERICK CHENOWETH: All right.

22 And he wants to keep the existing
23 arena, that's Eddie Bush, he wants to make that part
24 of the ongoing facilities available through the Town?

25 MS. MARTA PROCTOR: It looks that way.

1 MR. FREDERICK CHENOWETH: Thank you.

2 Going down to Councillor Edwards, he
3 seems to say, and I'm looking at his -- his third last
4 line, "need to move forward, get on with it, we need
5 ice time".

6 He's expressing a -- a view I think
7 which is consistent with other councillors we're
8 hearing with. We need to move forward and get on with
9 it, there's an urgency about ice time?

10 MS. MARTA PROCTOR: That's correct,
11 that's what he's saying, correct.

12 MR. FREDERICK CHENOWETH: All right,
13 thank you.

14 He -- he says "one project too big", a
15 little difficult to figure out exactly what he's
16 saying with those words. But he's -- he may be saying
17 that the -- the taking the full multi-use facility
18 project as one project is too big.

19 Would that appear to be a fair
20 assertion of what he's saying in his comments on June
21 11th?

22 MS. MARTA PROCTOR: I would agree.

23 MR. FREDERICK CHENOWETH: All right.

24 And then we've got Councillor
25 Cunningham,

1 "35 million is a concern, we should
2 put a roof on the outdoor rink and
3 maintain the existing arena."

4 He seems to be expressing concern about
5 the MURF project being too much money and he has some
6 smaller plans for the community. Fair?

7 MS. MARTA PROCTOR: Yes, that's a --
8 that would be fair.

9 MR. FREDERICK CHENOWETH: All right.
10 And we'll get through this as quickly as we can.

11 Councillor Chadwick makes a comment on
12 the -- on this matter and he seems to be saying in the
13 top line "agree with staged idea, give us the fastest
14 start".

15 So he seems to be expressing a concern
16 that we should -- we should stage the multi-use
17 project and we should get on with -- with a fast start
18 of certain parts of the project, correct?

19 MS. MARTA PROCTOR: That's correct.

20 MR. FREDERICK CHENOWETH: Thank you.

21 He says 35 is too much, he's concerned
22 about the impact on the taxpayers, "phase it with the
23 arena first."

24 So he seems to be looking for an arena
25 first, as a first stage, and he's telling us that the

1 full 35 million is too much?

2 MS. MARTA PROCTOR: That's correct.

3 MR. FREDERICK CHENOWETH: And
4 Councillor Gardhouse does not agree, and I'm looking
5 at the second last line of Councillor Gardhouse's
6 comments.

7 "Does not agree with spending money
8 to do all the work at the present
9 time, like dollars for relocating
10 ball diamonds."

11 I'm assuming the word "diamonds" comes
12 after that. So he appears not to agree with spending
13 \$35 million dollars to do all the work at this time.
14 Is that fair?

15 MS. MARTA PROCTOR: That's fair.

16 MR. FREDERICK CHENOWETH: I'm -- I'm
17 seeing a bit of a developing consensus coming out of
18 the meeting of June 11th, which was for the purpose of
19 giving councillors an opportunity to express their
20 views with respect to how they might proceed on the
21 recreational project.

22 Would you think it's fair to say that,
23 well really, all of the councillors here are
24 expressing concern about spending \$35 million at this
25 time?

1 MS. MARTA PROCTOR: That is correct.

2 MR. FREDERICK CHENOWETH: They appear
3 to want some -- some quick results?

4 MS. MARTA PROCTOR: The -- I would --
5 there was clear interest in phasing the work, is what
6 I've interpreted.

7 MR. FREDERICK CHENOWETH: I'm hearing
8 phases like we've got to get on with it, we don't need
9 any more studies, we've got to move forward.

10 Is there a mood in the Council as of
11 June 11th to get on with this project in a timely way?

12 Is that fair?

13 MS. MARTA PROCTOR: When you read the
14 notes that you did, I could see how that would be
15 interpreted.

16 When I left, I felt that we needed to
17 explore other options and present a more palatable
18 solution that included phasing. That was my
19 interpretation.

20 MR. FREDERICK CHENOWETH: All right.

21 So you didn't take from it that there
22 was a developing sense of urgency among the
23 councillors to get on with the recreational projects,
24 particularly with respect to ice and water? You
25 didn't take that from this?

1 MS. MARTA PROCTOR: I took from the
2 meeting that there were some councillors that really
3 wanted to move forward with a solution for additional
4 ice, and that phasing a project is something they were
5 likely more interested in rather than the full MURF
6 because we did not have the money and there were no
7 viable funding solutions that were sitting waiting for
8 us.

9 MR. FREDERICK CHENOWETH: So you
10 didn't get any sense of urgency arising during that
11 meeting of June 11th?

12 MS. MARTA PROCTOR: From Council as a
13 whole, no, I did not. From some councillors, I know
14 they were very vocal about wanting other ice.

15 I did feel that addressing our
16 recreation needs has been a long-outstanding item and
17 they wanted to resolve this issue.

18 MR. FREDERICK CHENOWETH: All right.
19 And we'll just look for a moment at -- at the minutes
20 at paragraph 143 of the Foundation Document. If we
21 could pull those up, please?

22

23 (BRIEF PAUSE)

24

25 MR. FREDERICK CHENOWETH: And again,

1 at the bottom of that paragraph I'm noticing that
2 whoever did the minutes, and it must have been an
3 interesting set of minutes to take, because you've got
4 a whole series of comments, but in any event, the
5 person who wrote the minutes indicates "priority are
6 ice pad and aquatic infrastructure".

7 That appears to be one (1) of the
8 conclusions that the minute-taker took out of this
9 piece?

10 MS. MARTA PROCTOR: That's correct.

11 MR. FREDERICK CHENOWETH: All right.

12 And I notice that there's -- if we
13 could move down a little bit, please.

14 And I notice this minute-taker appears
15 to have -- appears to have taken down:

16 "35 million is too much, 35 million
17 is needed to provide needed
18 services."

19 So basically picked up on -- on the
20 concern about these dollars and cents.

21 MS. MARTA PROCTOR: If I could see the
22 whole list, that would be helpful.

23 Okay. To answer your question, that it
24 -- that is stated there.

25 MR. FREDERICK CHENOWETH: All right.

1 And I see the phrase "need to be
2 responsible with finances." I take it another
3 expression of a number of things that are going on
4 with the Town and concerns about spending 35 million
5 bucks at this point?

6 MS. MARTA PROCTOR: That is correct.

7 MR. FREDERICK CHENOWETH: All right.
8 And I notice the second last item, "Cover the outdoor
9 ice surface." There was some -- obviously, some talk
10 about doing that during the course of the meeting?

11 MS. MARTA PROCTOR: That is correct.

12 MR. FREDERICK CHENOWETH: And were
13 they talking about using fabric buildings at that
14 point. Or I take it they were talking about
15 alternatives to -- to bricks and mortar at that point.
16 Is that correct?

17 MS. MARTA PROCTOR: I don't recall any
18 type of construction being discussed. I know, over
19 time, there were several concepts discussed about
20 covering the outdoor ice surface. I believe it more -
21 - was more of a general discussion about that being an
22 option.

23 MR. FREDERICK CHENOWETH: All right.
24 You -- there was some more general discussions about
25 that being an option, using fabric roofs?

1 MS. MARTA PROCTOR: I can't say if it
2 was using fabric or not.

3 MR. FREDERICK CHENOWETH: Okay. Thank
4 you. You had made the comment that -- that you were
5 hoping to get clarify out of the June 11th meeting.
6 You were looking for some clarity as a staff person.
7 You were getting mixed sig -- signals here and you
8 wanted to re -- to resolve some clarity.

9 I take it that you said that clarity
10 was not achieved. You told my friend, Inquiry
11 counsel, that clarity was not a re -- not achieved in
12 the June 11th meeting.

13 Was the June 11th meeting designed to
14 get clarity or was it simply designed to give
15 councillors an opportunity to speak their mind with
16 respect to approaches to the recreational problem?

17 MS. MARTA PROCTOR: To the best of my
18 recollection, thi -- this meeting that we're looking
19 at the notes was to assist in providing clarity by
20 compiling all the information and the discussions that
21 were occurring outside of the counsel table at one (1)
22 place and to assist with providing clarity, as far as
23 I can recall at this time.

24 MR. FREDERICK CHENOWETH: Very good.
25 So, we were trying to take the -- the comments that

1 were circulating, get them down on paper and see where
2 that took us?

3 MS. MARTA PROCTOR: That's correct.

4 MR. FREDERICK CHENOWETH: Thank you.

5 And that appears to be reflected again in paragraph
6 143, again in the minutes. Acting CAO Ed Houghton
7 provided a brief summary and discussion on next steps.

8 "Staff will prepare options based on
9 the discussion for consideration at
10 a future council meeting."

11 So, that -- that was the course of this
12 thing. They were going to try and synthesize what
13 came out of the June 11th meeting and put it into some
14 sort of an options plan or direction that could be
15 discussed at -- at a later meeting?

16 MS. MARTA PROCTOR: That is how we
17 decided to conclude and that is what we did.

18 MR. FREDERICK CHENOWETH: Good. And
19 you were involved in those next steps described by Mr.
20 Houghton?

21 MS. MARTA PROCTOR: That's correct.

22 MR. FREDERICK CHENOWETH: In fact, you
23 put together the -- the options which included option
24 A and option B for the meeting of -- of June -- of
25 July 16th?

1 MS. MARTA PROCTOR: That's correct.

2 MR. FREDERICK CHENOWETH: All right.

3 And so, you had a significant role in taking this
4 discussion forward and in attempting to obtain some
5 clarity by using the June 11th meeting and by dis --
6 further discussions of options on July 16th. Fair to
7 say?

8 MS. MARTA PROCTOR: That is correct.

9 MR. FREDERICK CHENOWETH: And that
10 would have pleased you to some extent, I take it,
11 because you were concerned about clarity?

12 MS. MARTA PROCTOR: That is correct.

13 MR. FREDERICK CHENOWETH: All right.

14

15 (BRIEF PAUSE)

16

17 MR. FREDERICK CHENOWETH: Now, you've
18 told us on earlier occasions that -- that you felt
19 that the email sent by...

20

21 (BRIEF PAUSE)

22

23 MR. FREDERICK CHENOWETH:

24 ...councillor Rick Lloyd on the 14th of Ju -- of July
25 was an inappropriate email in that he was -- he was --

1 as a councillor, he shouldn't be involved in the
2 instructions to staff, et cetera?

3 MS. MARTA PROCTOR: I spoke to a lot
4 of matters yesterday. I can't recall the specific
5 email at this point, so perhaps if I could see the
6 email, I could comment better.

7 THE HONOURABLE FRANK MARROCCO: Can
8 you put the email on the screen? Do you happen to
9 know the number, Mr. Chenoweth?

10 MR. FREDERICK CHENOWETH: You know,
11 I'm not sure that I do. Let me see if I can come up
12 with it. It may be TOC0183198. I think I might be
13 able to get it.

14

15 (BRIEF PAUSE)

16

17 THE HONOURABLE FRANK MARROCCO: Just -
18 - this looks like an email from Proctor.

19 MR. FREDERICK CHENOWETH: That's
20 right.

21 THE HONOURABLE FRANK MARROCCO: We're
22 looking for --

23 MR. FREDERICK CHENOWETH: We could --
24 we could look at -- we could look at email TOC0172251.
25 I think that may assist. If we can see the June 14th

1 email of Rick Lloyd in that respect on that document.

2 THE HONOURABLE FRANK MARROCCO: Do we
3 have that email number, the -- the --

4 MR. FREDERICK CHENOWETH: There we go.
5 That appear --

6 THE HONOURABLE FRANK MARROCCO: That
7 is --

8 MR. FREDERICK CHENOWETH: That appears
9 to be it, yes.

10

11 CONTINUED BY MR. FREDERICK CHENOWETH:

12 MR. FREDERICK CHENOWETH: In any
13 event, there's the email we're talking about. It's
14 the June 14th email from Rick Lloyd. And he's -- he's
15 copying yourself and the EMC with respect to the
16 Centennial pool and the outdoor rink.

17 And he's saying:

18 "I want to get some prices to put a
19 Sprung building over the Centennial
20 pool and some prices to put a Sprung
21 structure over the outdoor rink."

22 You felt that was inappropriate?

23 MS. MARTA PROCTOR: Yes. It prede --
24 it was pre-circulated before we had clear direction
25 from all of council on which options we were going to

1 explore.

2 MR. FREDERICK CHENOWETH: I -- I take
3 it it's your view that -- that councillors shouldn't
4 be involved in the -- in the preparation of staff
5 planning documents and other documents that are going
6 to go before council?

7 MS. MARTA PROCTOR: That is correct.

8 MR. FREDERICK CHENOWETH: All right.
9 Could I turn your attention for the moment to
10 TOC0183198?

11

12 (BRIEF PAUSE)

13

14 MR. FREDERICK CHENOWETH: Could you
15 read that document, if you would, please? There we
16 go. There it is. And that appears to --

17 MS. MARTA PROCTOR: To read the --

18 MR. FREDERICK CHENOWETH: -- again be
19 a July 12th --

20 THE HONOURABLE FRANK MARROCCO: Just
21 read it to yourself.

22 MR. FREDERICK CHENOWETH: -- email.

23 MS. KATE MCGRANN: This is an email
24 chain that involve several emails, so I'd suggest that
25 we start at the bottom.

1 MS. MARTA PROCTOR: Perfect. Thank
2 you.

3 MR. FREDERICK CHENOWETH: I think
4 that's where we should start.

5 MS. MARTA PROCTOR: Thank you.

6 MR. FREDERICK CHENOWETH: Absolutely.
7 Can we go down to the bottom email, please? Thank
8 you.

9

10 (BRIEF PAUSE)

11

12 MR. FREDERICK CHENOWETH: Just can we
13 go up a little bit so we can see who it's from?

14

15 (BRIEF PAUSE)

16

17 MS. MARTA PROCTOR: Okay. And --

18 MR. FREDERICK CHENOWETH: That's
19 better. We know it's from Marta Procter now. Thank
20 you.

21

22 CONTINUED BY MR. FREDERICK CHENOWETH:

23 MR. FREDERICK CHENOWETH: So, this is
24 an email that you sent on July 11th --

25 MS. MARTA PROCTOR: Yeah.

1 MR. FREDERICK CHENOWETH: -- at 1:00
2 p.m. Could you read the email, please?

3 MS. MARTA PROCTOR: I've read that
4 one. If I could go up a little bit.

5 MR. FREDERICK CHENOWETH: Allow the
6 witness to see more of the email chain.

7

8 (BRIEF PAUSE)

9

10 MS. MARTA PROCTOR: Oh, okay. If you
11 could go up, please.

12

13 (BRIEF PAUSE)

14

15 MR. FREDERICK CHENOWETH: No, I think
16 -- I think --

17 MS. MARTA PROCTOR: Up to the top of
18 the email.

19 MR. FREDERICK CHENOWETH: We're
20 looking to -- to read the rest of the email chain.
21 Thank you.

22 MS. MARTA PROCTOR: Okay.

23

24 (BRIEF PAUSE)

25

1 MS. MARTA PROCTOR: Okay. If you
2 could go up.

3 MR. FREDERICK CHENOWETH: That's --
4 thank you.

5

6 (BRIEF PAUSE)

7

8 MS. MARTA PROCTOR: Okay. And your
9 question?

10 MR. FREDERICK CHENOWETH: Go to the
11 bottom, please, again.

12

13 CONTINUED BY MR. FREDERICK CHENOWETH:

14 MR. FREDERICK CHENOWETH: But just --
15 just before we leave that, it's -- it's kind of clear
16 that, first of all, you've included Dale West and
17 Keith Hull, who I understand to be councillors, in
18 this email?

19 MS. MARTA PROCTOR: That's correct.

20 MR. FREDERICK CHENOWETH: Right. And
21 -- and you're discussing with these individuals a
22 possible staff recommendation that may be made as to
23 whether we're talk -- we're talking about direction A
24 or direction B?

25 MS. MARTA PROCTOR: That's correct.

1 MR. FREDERICK CHENOWETH: All right.
2 So, you're -- you're including those councillors in a
3 discussion as to what a potential staff recommendation
4 might be?

5 MS. MARTA PROCTOR: That is correct.

6 MR. FREDERICK CHENOWETH: Right. And
7 if we could go down to the bottom email, if we could,
8 please.

9 "Attached are two (2) Central Park
10 documents to be included in Monday's
11 council agenda package."

12 What are the two (2) Central Park
13 documents? Is one (1) of those the -- the options
14 plan --

15 MS. MARTA PROCTOR: I can't --

16 MR. FREDERICK CHENOWETH: -- with the
17 'A' and 'B' in it --

18 MS. MARTA PROCTOR: Oh, sorry. You
19 can finish your sentence.

20 MR. FREDERICK CHENOWETH: I -- I -- is
21 --

22 MS. MARTA PROCTOR: Okay.

23 MR. FREDERICK CHENOWETH: Is one (1)
24 of them the options plan?

25 MS. MARTA PROCTOR: I can't --

1 MR. FREDERICK CHENOWETH: I -- I don't
2 know if it is --

3 MS. MARTA PROCTOR: I can't recall
4 completely, but I would believe they would be.

5 MR. FREDERICK CHENOWETH: Thank you.
6 All right. So, you're -- you're passing by Dale West
7 and Keith Hull the option plan that includes option A
8 and option B before it's concluded by staff and
9 presented to council.

10 In other words, you're involving them
11 in the development of that document, is that fair to
12 say, which is a staff document?

13 MS. MARTA PROCTOR: I think it's fair
14 to say they were involved in reviewing the document.
15 But even from my email trail, their input was
16 considered but not necessarily taken. And there was
17 valid reason why we included those two (2)
18 councillors.

19 MR. FREDERICK CHENOWETH: All right.
20 And -- and the -- the reason, I take it, is because
21 they're the -- the -- the PRC councillors?

22 MS. MARTA PROCTOR: That's correct.
23 There were two (2) councillors assigned to LEED parks,
24 recreation, and culture initiatives.

25 MR. FREDERICK CHENOWETH: Right.

1 MS. MARTA PROCTOR: And it was
2 suggested that we involve them in reviewing. However,
3 some of their input, I can see from the email,
4 Councillor West and I did not agree on.

5 So, as administration, I recommended we
6 for -- move forward with options. However, we did
7 share that with them and let them have an opportunity
8 to understand and have input on what was being
9 presented.

10 MR. FREDERICK CHENOWETH: So, it's --
11 it -- it appears that it's not always the case that
12 councillors' involvements in -- in staff matters, the
13 development of staff recommendations, the development
14 of -- of staff documents, that's not absolutely
15 verboten, it -- it takes place from time to time, and
16 -- and you were having it take place in discussing
17 your documents and your recommendations that were
18 going to be made at the July 16th meeting.

19 Is that correct?

20 MS. MARTA PROCTOR: I would say that
21 it was practice where there were councillors assigned
22 to specific committees or jurisdictional areas to
23 share information before it came forward to council as
24 a whole.

25 MR. FREDERICK CHENOWETH: Thank you.

1 That's helpful.

2

3 (BRIEF PAUSE)

4

5 MR. FREDERICK CHENOWETH: So, this --
6 this business of being in touch with councillors with
7 respect to recommendations, et cetera, was not -- not
8 completely off the charts, as far as you were
9 concerned?

10 MS. MARTA PROCTOR: Not if they had
11 assigned duties in that area.

12

13 (BRIEF PAUSE)

14

15 MR. FREDERICK CHENOWETH: I'm
16 interested in reviewing your comments made yesterday
17 with respect to a discussion that you -- that you had
18 with Mr. Houghton on or about August 25th, I think you
19 indicated, in which you said that he was pressing you
20 on certain matters.

21 You recall that you indicated that he
22 was pressing you with respect to signing off on the
23 report that was going to Council for June 27th -- or,
24 I'm sorry, August 27th.

25 MS. MARTA PROCTOR: I'm sorry. Could

1 you repeat the question?

2 MR. FREDERICK CHENOWETH: I think you
3 indicated that you were -- he was pressing you to sign
4 off on the report that went to Council on August 27th,
5 the staff report.

6 MS. MARTA PROCTOR: I know I had
7 questions about the staff report, and I didn't feel it
8 was as comprehensive or had all the information that I
9 felt was necessary. And he did ask me to sign off,
10 and I indicated that I'm not comfortable to sign off
11 because I don't feel it had all the information on the
12 new options that we were to look for, as far as I can
13 recall, and that's what -- where we had a conflicting
14 conversation.

15 MR. FREDERICK CHENOWETH: And you told
16 us that yesterday. So he was asking you to sign off
17 on the report. Is that your memory of what he was --

18 MS. MARTA PROCTOR: Yes.

19 MR. FREDERICK CHENOWETH: -- asking you
20 to do? All right. That's -- that's -- that's
21 confusing for me. I'm looking at a copy of the
22 report, and we could draw up CJI0006146. Could we
23 bring that up, please, and in particular, I'm looking
24 at page 72 of the report.

25 First of all, I note -- just before we

1 leave that -- that penultimate page, the first page,
2 the page that was just pulled up there, the title page
3 that says staff report and dates it. Go up to the top
4 of that, please. I note that it's -- it's submitted
5 by the Executive Management Committee. That appears
6 to be who it's submitted by.

7 MS. MARTA PROCTOR: I believe the
8 question was if it could be submitted under my name.

9 MR. FREDERICK CHENOWETH: I'm -- I'm
10 looking for -- I'm looking at the last page of the
11 report, which is page -- what appears to be the
12 penultimate page with the contributors on it, on page
13 72.

14 THE HONOURABLE FRANK MARROCCO: It
15 seems to say to me that there's only twelve (12) pages
16 there. I don't know if I'm --

17 MS. KATE MCGRANN: There are pages
18 marked on the document itself. It was part of a
19 larger agenda, and so we are looking at the seventh
20 page of this individual document. I think if you
21 scroll down to see the bottom of the page, it's marked
22 page 72 of 94.

23 THE HONOURABLE FRANK MARROCCO: Thank
24 you.

25

1 CONTINUED BY MR. FREDERICK CHENOWETH:

2 MR. FREDERICK CHENOWETH: In any
3 event, I'm -- I'm concerned about your telling us that
4 Mr. Houghton was asking you to sign off on the report.
5 There appears to be no signatures at all on the
6 report.

7 MS. MARTA PROCTOR: The -- as far as I
8 can recall, the conversation was who -- who -- about
9 who authored and signed off. Our sign-off was not in
10 signatures; it was in our name and function. As you
11 can see, this one (1) was signed off by the Executive
12 Management Committee, and all their names listed.

13 That would have been standard protocol
14 for how most of our reports were submitted. We agreed
15 that I would be named in reviewing and giving input on
16 the report, and that's what occurred in the end.

17 MR. FREDERICK CHENOWETH: So your
18 suggestion that he was asking you to sign off on the
19 report is inaccurate because you don't follow the
20 practice of signing off on reports. There's
21 contributors that are listed on the reports. Is that
22 correct?

23 MS. MARTA PROCTOR: No, that's not
24 correct in terms of what I'm saying. Our practice of
25 signing off on a report was having our name and title

1 placed under "respectfully submitted," and that's
2 where I didn't want my name.

3 MR. FREDERICK CHENOWETH: Is -- is it
4 not the case that -- that you had some vacation days
5 through the course of some of these significant
6 periods of time after you received direction from
7 Council on June 16th?

8 MS. MARTA PROCTOR: It is correct that
9 I had some vacation commitments which I made, which I
10 named right at that time and, therefore, was concerned
11 about the tight turnaround time.

12 MR. FREDERICK CHENOWETH: Right. And
13 you would have clarified your vacation days right
14 after the July 16th meeting, i.e., on or about July
15 17th?

16 MS. MARTA PROCTOR: I believe I stated
17 it at the meeting, but I can't say that firmly.

18 MR. FREDERICK CHENOWETH: All right.
19 Could we look for a moment at the transcript
20 for the July 16th meeting?

21

22 (BRIEF PAUSE)

23

24 THE HONOURABLE FRANK MARROCCO: Do you
25 have the number?

1 MR. FREDERICK CHENOWETH: I don't know
2 that I have a number, Your Honour. I think it comes
3 as a separate document, the July 16th transcript.

4 MS. KATE MCGRANN: The doc ID is
5 CJI11234.

6 MR. FREDERICK CHENOWETH: CJI... Give
7 me that again.

8 MS. KATE MCGRANN: 1 --

9 MR. FREDERICK CHENOWETH: 1.

10 MS. KATE MCGRANN: -- 1234.

11 MR. FREDERICK CHENOWETH: Thank you
12 very much.

13

14 (BRIEF PAUSE)

15

16 CONTINUED BY MR. FREDERICK CHENOWETH

17 MR. FREDERICK CHENOWETH: And could we
18 look at paragraph 39 of that transcript, if we could.
19 Page 39, I believe, yes. And are these, I take it,
20 the comments that you made to Council at that time --
21 and you can read those.

22

23 (BRIEF PAUSE)

24

25 MS. MARTA PROCTOR: I guess those are

1 the comments I made that day.

2 MR. FREDERICK CHENOWETH: Right, and -
3 - and -- and I don't think they include anything to
4 advise Council that you were going to be away what
5 turned out to be some three (3) weeks out of the five
6 (5) weeks and three (3) days until August 27th. Is
7 that fair? They don't -- you --

8 MS. MARTA PROCTOR: I --

9 MR. FREDERICK CHENOWETH: -- you
10 didn't tell Council that you were going to be away for
11 three (3) weeks.

12 MS. MARTA PROCTOR: I can't confirm
13 that I was away three (3) weeks right at this time,
14 and I -- I guess I didn't -- I know I said somewhere
15 that I also have vacation time, and I was told, Don't
16 worry. We'll handle it. But I know I outlined that I
17 had concerns about the time lines and especially if
18 we're doing it in-house.

19 MR. FREDERICK CHENOWETH: All right.
20 Well, we seem to have another of -- a number of issues
21 we're getting at here for the moment, but I notice if
22 we could turn -- you're not sure you're away three (3)
23 weeks? We -- we can't concl -- we can't conclude
24 that?

25 MS. MARTA PROCTOR: I -- I don't

1 recall the exact dates I was off and whether they were
2 -- I -- I know I would have had more than three (3)
3 weeks vacation, but I don't think I'd take them all in
4 a row.

5 MR. FREDERICK CHENOWETH: All right.

6 Could we turn if we could, please then,
7 let's just see if we can get some clarity with respect
8 to that, and that document is TOC0190573.

9

10 (BRIEF PAUSE)

11

12 MR. FREDERICK CHENOWETH: This appears
13 to be one of your emails written on July 25th. And it
14 says:

15 "I'm currently away from the office,
16 returning to work on Tuesday, August
17 7th."

18 The 6th, I think, was the long weekend
19 Monday in August.

20 MS. MARTA PROCTOR: M-hm.

21 MR. FREDERICK CHENOWETH: Does this
22 help you with your memory as to when you were away at
23 least up to August 7th.

24 I suggest that you would have been away
25 from Monday, August 21 right through until August 7th,

1 a period of two (2) weeks?

2 MS. MARTA PROCTOR: Well, Monday ---

3 THE HONOURABLE FRANK MARROCCO: Sorry,
4 did you say -- I'm -- just a moment.

5 Did you say August 21?

6 MR. FREDERICK CHENOWETH: It would
7 have been July 21, Your Honour. Thank you.

8 MS. MARTA PROCTOR: I can't -- I -- it
9 looks -- I'm definitely off until August 7th, but I
10 have no way of recalling that it was since Monday,
11 August 21st at this time.

12 THE HONOURABLE FRANK MARROCCO: Sorry,
13 you said August 21st?

14 MS. MARTA PROCTOR: Oh, sorry, I'm
15 following suit. July 21st.

16

17 CONTINUED BY MR. FREDERICK CHENOWETH:

18 MR. FREDERICK CHENOWETH: All right.

19 MS. MARTA PROCTOR: But it could have
20 been.

21 MR. FREDERICK CHENOWETH: Could --
22 could have been?

23 MS. MARTA PROCTOR: Yes.

24 MR. FREDERICK CHENOWETH: All right.

25 So that would have been your two (2)

1 weeks holidays that you were entitled to?

2 MS. MARTA PROCTOR: I believe I -- at
3 this point I was entitled to more than two (2) weeks,
4 but I was taking two (2) weeks.

5 MR. FREDERICK CHENOWETH: Right.

6 MS. MARTA PROCTOR: Yes.

7 MR. FREDERICK CHENOWETH: And so if
8 you took two weeks, that would be August 21st -- I'm
9 sorry, I'm doing it again.

10 That would have been July 21st to
11 August 7th, correct?

12 MS. MARTA PROCTOR: That's correct.

13 MR. FREDERICK CHENOWETH: All right.

14 So that's a two (2) week period. And
15 if we could look again at a further document,
16 TOC0202597.

17

18 (BRIEF PAUSE)

19

20 MR. FREDERICK CHENOWETH: So you would
21 have been away, again, could you -- this is a -- this
22 is again an email of yours, sent on the 21st of
23 August.

24 And just take an opportunity to review
25 that if you would.

1 So you would have been off, it seems,
2 at least from the 21st to Friday the 24th as well. Is
3 that correct?

4 MS. MARTA PROCTOR: I'm very sorry, I
5 don't have a calendar, so the dates --

6 MS. ANDREA WHEELER: The 21st was a
7 Tuesday in 2012, if that assists.

8

9 CONTINUED BY MR. FREDERICK CHENOWETH:

10 MR. FREDERICK CHENOWETH: That's
11 correct.

12 So you would have been off from the
13 21st, which is a Tuesday, to the Friday?

14 MS. MARTA PROCTOR: If I was writing
15 it on the Tuesday I was likely off from the Wednesday
16 to the Friday.

17 And then it looks like I'm indicating
18 that I will be back for two (2) days and then off for
19 three (3) more days.

20 MR. FREDERICK CHENOWETH: All right.

21 So that's the remainder of the period
22 of time that you're away in August?

23 MS. MARTA PROCTOR: That's correct.

24 MR. FREDERICK CHENOWETH: Very good

25 And fair to say that these absences

1 during August, first of all from the -- from the 21st
2 of July -- I'm sorry, your absences in July and
3 August, from the 21st of July to August 7th, and your
4 absences on very possibly the 22nd, 23rd, and 24th of
5 -- of August were significant times for staff,
6 including the EMC, as you were attempting to meet a
7 very tight timeline to get the staff report prepared
8 for the 27th.

9 And you were concerned about the time
10 they were giving you, because you expressed that
11 concern to Council on the 16th, you didn't tell them
12 that you were going to be on vacation, but you
13 expressed a concern about timelines.

14 So you're off at a -- at a pretty
15 critical time in the development of that staff report,
16 is that fair?

17 MS. MARTA PROCTOR: That is fair.

18 MR. FREDERICK CHENOWETH: Thank you.

19 And I know that you indicated that --
20 that you made an attempt to stay in touch, people had
21 your email address and -- and things of that nature
22 and you indicated that you got some documents, but
23 little -- little doubt that not being in the office
24 for, well, at least two and a half (2 1/2) weeks
25 through the course of that critical period of time

1 would take you out of the loop a little bit in terms
2 of the development of that -- of that critical report
3 for August 27th.

4 MS. MARTA PROCTOR: That's correct.

5 MR. FREDERICK CHENOWETH: Thank you.

6 And I'm looking at a comment or an
7 email done by the mayor that was completed on the 26th
8 of August. Could we turn to document number
9 TOC0204989, please?

10 If you could just read -- it looks like
11 she's responding to an email from -- from Keith Hull.
12 If we could go down to, first of all, the email from
13 Keith Hull, just so we can see the context of the --
14 of the email exchange.

15 I think we're going the wrong way.

16 There we go.

17 MS. MARTA PROCTOR: Could we start
18 right at the bottom of the email trail so I have
19 context, please?

20 MR. FREDERICK CHENOWETH: Certainly.

21

22 (BRIEF PAUSE)

23

24 MR. FREDERICK CHENOWETH: You tell me
25 when we can move up.

1 MS. MARTA PROCTOR: If you could just
2 go down a little bit more. Thank you.

3 I just wanted to see if I was on that
4 email trail, sorry.

5 MR. FREDERICK CHENOWETH: Thank you.

6 MS. MARTA PROCTOR: Okay. No.

7 MR. FREDERICK CHENOWETH: Can we go up
8 a little further to the email from Keith Hull?

9 MS. MARTA PROCTOR: Yes, I'm just
10 going to read this.

11 MR. FREDERICK CHENOWETH: Sure, no
12 problem.

13 MS. MARTA PROCTOR: Thank you.

14 MR. FREDERICK CHENOWETH: So Keith
15 Hull writes to the Mayor, Sandra Cooper, and others:

16 "Looking forward to tomorrow
17 evening's meeting. A quick
18 question, who is making the
19 presentations, et cetera."

20 And the answer comes from the Mayor,
21 can we go up to that email if we could, please?

22 "Hello, Councillor Hull", et cetera, you can read that
23 to yourself.

24 MS. MARTA PROCTOR: I've read it,
25 thank you.

1 MR. FREDERICK CHENOWETH: All right.

2 So that he -- he -- it's pretty clear
3 that you're not making the presentation on the 27th,
4 correct?

5 MS. MARTA PROCTOR: Correct.

6 MR. FREDERICK CHENOWETH: And it says
7 you've been away, obviously?

8 MS. MARTA PROCTOR: That's correct.

9 MR. FREDERICK CHENOWETH: So Marjory
10 Leonard, who is a member of the EMC, will present the
11 cost -- costing and procurement issues at that time
12 and not you?

13 MS. MARTA PROCTOR: That's what it
14 says.

15 MR. FREDERICK CHENOWETH: Thank you.

16 This -- this would normally, I take it,
17 have been the kind of -- of think you were involved in
18 June 11th, you were involved in June 16th, you
19 prepared the options plan for June 16th.

20 I take it as -- as staff in charge of
21 parks and recreation, director of parks and
22 recreation, you would have normally been pretty
23 involved in the presentation that would have been made
24 on August 27th?

25 MS. MARTA PROCTOR: That is correct.

1 MR. FREDERICK CHENOWETH: You would
2 have likely been one of the speakers, as you were on
3 June 11th and June 16th, because it's a parks and rec
4 matter?

5 MS. MARTA PROCTOR: That is correct.

6 MR. FREDERICK CHENOWETH: All right.

7 But you weren't involved because you'd
8 been on vacation and -- is that fair?

9 MS. MARTA PROCTOR: That would have
10 been one of the reasons.

11 MR. FREDERICK CHENOWETH: Thank you.

12 And the mayor says at the end of this:

13 "Marta has been on vacation for two
14 and a half weeks during the past
15 four weeks, hence the executive
16 management team being closely
17 involved. Marta has provided some
18 input and staff report also."

19 Is that -- is that an accurate
20 statement from the Mayor?

21 MS. MARTA PROCTOR: Marta has provided
22 some input to the staff report also, that's correct.
23 Yes.

24 MR. FREDERICK CHENOWETH: Yes.

25 I'm more interested in the first part

1 of that statement:

2 "Marta has been off for two and a
3 half weeks of the past four weeks,
4 hence the executive management team
5 being closely involved."

6 So in -- in your absence it's pretty
7 clear, and you told us of that earlier, that the
8 executive management team, over many of the
9 responsibilities might otherwise have been yours
10 during that critical period of time?

11 MS. MARTA PROCTOR: That is correct.

12 MR. FREDERICK CHENOWETH: All right.

13 And so it comes as no surprise that
14 when you'd been away for some two and a half (2 1/2)
15 weeks, and the executive management team had been
16 closely involved, that the August 27th report comes
17 from the executive management team, because they'd
18 been the people intricately involved in the
19 preparation of the report. Is that fair?

20 MS. MARTA PROCTOR: That's correct.

21 MR. FREDERICK CHENOWETH: Thank you.

22 So that we don't have to sign the
23 report, you've indicated that's not your usual
24 practice with respect to staff reports and so there
25 would have been no suggestion that -- that someone

1 needed you to sign the report of August 27th, because
2 you don't sign reports?

3 MS. MARTA PROCTOR: The word "sign
4 off" is different than signing the report. And I
5 believe I was asked to be named as one (1) of the
6 authors of the report.

7 I can't recall specifically what
8 language was used where. That is what the discussion
9 was about.

10 MR. FREDERICK CHENOWETH: All right.

11 So -- so it wasn't about you signing
12 off because there is no sign off?

13 MS. MARTA PROCTOR: Correct.

14 MR. FREDERICK CHENOWETH: All right.

15 It's unlikely to have been about the
16 fact that the staff report comes from the Executive
17 Management Committee, because you acknowledge that the
18 Executive Management Committee, because of your
19 absence from work for two and a half (2 1/2) weeks
20 during this critical period of time, had done most of
21 the work and it makes sense that the report was from
22 the Executive Management Committee?

23 MS. MARTA PROCTOR: I agree, but I was
24 asked to be on -- named with them on -- by Mr.
25 Houghton, I was asked to be named as one (1) of the

1 authors of the report.

2 MR. FREDERICK CHENOWETH: Well, you --
3 you were named. They simply seem to have named the
4 Executive Management Committee that you say quite
5 reasonably submitted the report and they named that
6 Executive Management Committee, which doesn't seem
7 unusual to me given the fact that it's a report from
8 the Executive Management Committee because of your
9 absence, correct?

10 MS. MARTA PROCTOR: That is correct.

11 MR. FREDERICK CHENOWETH: Thank you.
12 And they name you as a contributor?

13 MS. MARTA PROCTOR: That is correct.

14 MR. FREDERICK CHENOWETH: All right.
15 And you've indicated that you were properly named as a
16 contributor. So, what -- what possibly could there
17 been -- been a disagreement between you and Mr.
18 Houghton over in the conversation that you suggest
19 took place?

20 MS. MARTA PROCTOR: I'll restate that
21 I was asked to be named as one (1) of the authors, not
22 one (1) of the ones with input, and that is what I
23 asked to have, that -- that I was a contributor, not
24 one (1) of the authors.

25 MR. FREDERICK CHENOWETH: Oh. So,

1 what -- what was -- what was the approach here,
2 Executive Management Committee and Marta Proctor? Is
3 that what -- what the suggested arrangement was?

4 MS. MARTA PROCTOR: I'm not sure what
5 Mr. Houghton wanted to do when he named that, but --

6 MR. FREDERICK CHENOWETH: But you're -
7 - you're not -- you're not sure?

8 MS. MARTA PROCTOR: (NO AUDIBLE
9 RESPONSE).

10 MR. FREDERICK CHENOWETH: Okay.

11 THE HONOURABLE FRANK MARROCCO: Just -
12 - just a minute. You were going to complete -- you
13 said you weren't sure. What -- what was the rest of
14 your answer?

15 MS. MARTA PROCTOR: I was not sure how
16 he would have liked to have shown that; would he have
17 just put my name and the executive committee as
18 contributors or whether he would have had my name
19 listed with the executive management committee.

20 I wasn't physically there and I didn't
21 see it, it was a phone conversation.

22

23 CONTINUED BY MR. FREDERICK CHENOWETH:

24 MR. FREDERICK CHENOWETH: All right.

25 But there's -- there's no doubt that the way the

1 report turned out, being from the Executive Management
2 Committee, naming the members of the Executive
3 Management Committee and naming you as a contributor,
4 there was nothing amiss about that?

5 MS. MARTA PROCTOR: No, I would agree.

6 MR. FREDERICK CHENOWETH: All right.

7

8 (BRIEF PAUSE)

9

10 MR. FREDERICK CHENOWETH: And you
11 acknowledge, I think, in your evidence in-chief that
12 when it became clear that you were going to be away,
13 that Mr. Houghton spoke to you and said that they
14 would attempt to pick up the work in your absence.

15 You had a discussion with Mr. Houghton
16 in that respect?

17 MS. MARTA PROCTOR: That was the
18 conclusion of the discussion. I believe we talked
19 about seeing if we could extend the time line to get
20 the -- to get our work done more reasonably.

21 But that was the conclusion, that the
22 executive management committee would assume some of
23 the work to get it done within the deadline.

24 MR. FREDERICK CHENOWETH: Because of
25 your vacations?

1 MS. MARTA PROCTOR: Because I had
2 commitments in my vacation; that is correct.

3 MR. FREDERICK CHENOWETH: Thank you.
4 All right. You indicated that this affected -- this
5 discussion you had with Mr. Houghton allegedly on
6 August 25th, you indicated that this had an affect on
7 your work and affected your approach to things?

8 MS. MARTA PROCTOR: I believe I was
9 asked a question which I don't recall at this time.
10 So, to answer that question I'd prefer to hear the
11 question that I answered again, if possible, because I
12 didn't state that I was asked a question.

13 MR. FREDERICK CHENOWETH: Forgetting
14 about the question you asked, do you remember that you
15 gave evidence yesterday that this conversation you
16 allegedly had with Mr. Houghton affected your work?

17 MS. MARTA PROCTOR: I don't recall the
18 question being stated that way, so I -- I'm sorry, I
19 can't say I said that.

20 MR. FREDERICK CHENOWETH: All right.
21 Thank you. I'm -- I'm not going to take up the
22 invitation to go back into your transcript of
23 yesterday, so I'll attempt to move on and see what, if
24 any, affect it appears to have had in your work.

25 I'm looking at a document which is

1 TOC0207166.

2

3

(BRIEF PAUSE)

4

5 MR. FREDERICK CHENOWETH: And go down
6 to the bottom of that, if we could, please, so the
7 witness could see the full nature of the -- of the
8 exchange that took place.

9 It -- it may be that -- that we can go
10 up a little further to the email of Mr. Houghton to
11 Marta Proctor on August 29th. Could you go up to that
12 email, please? There you go.

13 If you want to go down, we -- I'm hap -
14 - quite happy to do that, but I'm interested in your
15 exchange with Mr. Houghton on August 29th, some four
16 (4) days after this alleged phone conversation and
17 after the meeting of August 27th.

18 MS. MARTA PROCTOR: Could you go up a
19 little, please, so I could see... And if you could go
20 up a little bit more. Okay. And your question,
21 please?

22 MR. FREDERICK CHENOWETH: Yeah. So,
23 you received the email from Mr. Houghton of August
24 29th. Could we --

25 MS. MARTA PROCTOR: M-hm.

1 MR. FREDERICK CHENOWETH: -- go down
2 to that email, please? And Mr. Houghton's asking:
3 "Would you feel comfortable emailing
4 back to Joe and telling him that he
5 -- that he has it wrong? It should
6 be a happy day. We'll be getting a
7 nice surface and a new indoor pool.
8 And this could be just the beginning
9 of something great. If you don't,
10 I'll understand."

11 So, Mr. Houghton was asking you to
12 write an email to Joe telling him it was a happy day;
13 in other words, a supportive email for the -- for the
14 matters that have been recommended to council on the
15 27th and the council had voted to -- to support on the
16 27th.

17 He's asking you to write a supportive
18 email to Joe with respect to the matters that -- that
19 were in the report and voted on at council on the
20 27th. And your response is, "Absolutely"?

21 MS. MARTA PROCTOR: That's correct.

22 MR. FREDERICK CHENOWETH: All right.
23 I -- I take from that -- and we can read the rest of -
24 - of your response. I -- I take from that that, as
25 the 29th, in any event, you had no trouble absolutely

1 supporting the position that council had taken on the
2 27th and the report that had come further -- come
3 forward?

4 MS. MARTA PROCTOR: That is correct.
5 Once there's council direction, I follow it. And I
6 had no trouble following that.

7 MR. FREDERICK CHENOWETH: Good. I
8 understand.

9

10 (BRIEF PAUSE)

11

12 MR. FREDERICK CHENOWETH: So, that I -
13 - I -- as a secondary matter, I don't seem to note any
14 -- any sense of displeasure or anything of that nature
15 between yourself and Mr. Houghton in that email. Is
16 that fair?

17 MS. MARTA PROCTOR: That's fair.

18 MR. FREDERICK CHENOWETH: So that, if
19 -- if this alleged conversation of the 25th of August
20 had any affect on you, that affect certainly wasn't
21 evident by the time of this email exchange on
22 Wednesday August 29th?

23 MS. MARTA PROCTOR: I would suggest
24 that it would be a matter of record for my
25 professional career that I have remained professional

1 and respectful in all my communication and have been
2 known to behave that way.

3 So, we did maintain a professional and
4 respectful relationship despite the conversation.

5 MR. FREDERICK CHENOWETH: Thank you.
6 Very good. So, the conversation, if it occurred, does
7 not appear to have affected your professional approach
8 to your work?

9 MS. MARTA PROCTOR: That is correct.

10 MR. FREDERICK CHENOWETH: Thank you
11 very much. Could we look at a further email,
12 TOC0215881?

13

14 (BRIEF PAUSE)

15

16 MR. FREDERICK CHENOWETH: Again, this
17 is a document you seem to have sent to -- to Mr.
18 Houghton on the 17th of September. And it appears to
19 have been following a possible absence -- I'm a little
20 uncertain about that, but following an absence during
21 the course of the week prior to September 17th?

22

23 (BRIEF PAUSE)

24

25 MS. MARTA PROCTOR: That is correct.

1 MR. FREDERICK CHENOWETH: Thank you.
2 And, again, you, in this email, seem to be thanking
3 Mr. Houghton for his understanding of the necessity
4 for a bit of an absence for you in that prior week.

5 So, you were thanking Mr. Houghton for
6 his ongoing understanding?

7 MS. MARTA PROCTOR: That is correct.

8 MR. FREDERICK CHENOWETH: So, that it
9 certain appears in mid-September, in any event, that
10 you have an ongoing positive relationship with Mr.
11 Houghton?

12 MS. MARTA PROCTOR: We've maintained
13 an ongoing respectful and professional relationship.

14 MR. FREDERICK CHENOWETH: Thank you.

15

16 (BRIEF PAUSE)

17

18 MR. FREDERICK CHENOWETH: I think that
19 -- just a couple of questions on some of the things I
20 believe you said yesterday. It's -- it's pretty clear
21 that no investigation was done by staff with respect
22 to possible other structures to put over the pool.

23 That's what you told us yesterday. And
24 I just want to make the point that there's nothing --
25 nothing unique or unfortunate or a misappropriation of

1 time by staff in that that's -- they were specifically
2 directed as a result of the resolution of July 16th to
3 put a fabric roof over the pool?

4 MS. MARTA PROCTOR: I'm sorry, is --
5 what's the question, sorry?

6 MR. FREDERICK CHENOWETH: You had said
7 yesterday that there -- that the staff did not
8 investigate other structures over the pool. And I'm -
9 - I'm talking about during the time after the 16th of
10 July and before the 27th of August.

11 You made the comment yesterday that
12 they didn't investigate other structures. And I just
13 really wanted to clarify your statement in that
14 respect.

15 They didn't investigate other
16 structures, I take it just as -- because they were
17 directed specifically with respect to a fabric
18 structure over the pool to report on by August 27th?

19

20 (BRIEF PAUSE)

21

22 MS. MARTA PROCTOR: To the best of my
23 recollection, what I said was I believed we were to
24 explore the benefits and any associated implications
25 of covering an outdoor pool with a fabric structure

1 and come back with information.

2 MR. FREDERICK CHENOWETH: All right.
3 So, I take it that you don't find it unusual that
4 there was no expiration by staff following that
5 direction of the 16th other than an exploration of a
6 fabric roof for the pool?

7 MS. MARTA PROCTOR: I'm sorry, could
8 you please repeat the question?

9 MR. FREDERICK CHENOWETH: You're
10 making the comment that staff only investigated fabric
11 roofs for the pool. You made that comment yesterday.
12 I just want to explore if there's anything unique
13 about the fact that they only explored fabric roofs.

14 It's pretty clear that they only
15 explored fabric roofs because in the resolution they
16 were asked to enclose the outdoor pool with a fabric
17 building --

18 MS. MARTA PROCTOR: I'm ver --

19 MR. FREDERICK CHENOWETH: -- usual
20 about the fact that they only explored fabric roofs,
21 is there? I'm just asking you -- I just --

22 MS. MARTA PROCTOR: I -- I --

23 MR. FREDERICK CHENOWETH: -- exploring
24 the comment of yesterday.

25 MS. MARTA PROCTOR: -- I'm very sorry.

1 I don't recall saying I found it unusual that we only
2 explored --

3 MR. FREDERICK CHENOWETH: I didn't --

4 MS. MARTA PROCTOR: -- fabric roofs.

5 MR. FREDERICK CHENOWETH: -- I didn't
6 say that you said you found it unusual.

7 MS. MARTA PROCTOR: Okay.

8 MR. FREDERICK CHENOWETH: I simply
9 said that you said they only explored fabric roofs.
10 I'm trying to establish whether, in your mind, there
11 was anything inappropriate about them only exploring
12 fabric roofs and not exploring other structures.

13 MS. MARTA PROCTOR: No, there would be
14 --

15 MR. FREDERICK CHENOWETH: We're --
16 we're labouring this probably a little longer than we
17 should be, but --

18 THE HONOURABLE FRANK MARROCCO: Yeah,
19 I would say you are.

20 MR. FREDERICK CHENOWETH: Yeah. Well,
21 I'm simply -- simply --

22 THE HONOURABLE FRANK MARROCCO: But --

23 MR. FREDERICK CHENOWETH: -- trying to
24 get the answer to the client (sic). Is there -- is
25 there anything unusual --

1 THE HONOURABLE FRANK MARROCCO: But --
2 but --

3 MR. FREDERICK CHENOWETH: -- and I'll
4 ask -- maybe another question.

5 THE HONOURABLE FRANK MARROCCO: --
6 though, you know, it appea -- it appears Ms. Proctor
7 doesn't recollect her evidence the way you put it to
8 her. Maybe you can ask the question a different way.
9

10 CONTINUED BY MR. FREDERICK CHENOWETH:

11 MR. FREDERICK CHENOWETH: Would there
12 be anything unusual about staff only exploring a
13 fabric roof after the direction they received -- a
14 fabric roof over the pool, after the direction they
15 received from Council on June 6 -- on July 16th?

16 MS. MARTA PROCTOR: Absolutely not.

17 MR. FREDERICK CHENOWETH: Thank you
18 very much. I'm sorry we got mired in that one. In
19 any event, we'll move on to other matters.

20

21 (BRIEF PAUSE)

22

23 MR. FREDERICK CHENOWETH: I'm -- I'm
24 interested in your comment, you were never given -- I
25 think you told us yesterday, in the -- as a result of

1 a question put to you by Inquiry counsel, that you
2 were never given a reason for the rush in preparing
3 this report by August 27th.

4 MS. MARTA PROCTOR: To the best of my
5 recollection, that is correct.

6 MR. FREDERICK CHENOWETH: And you
7 would have been at the meeting of Council that took
8 place on July 16th; in fact, you presented the very
9 options that were put before Council on that evening.

10 MS. MARTA PROCTOR: That is correct.

11 MR. FREDERICK CHENOWETH: Okay, and
12 you would have heard the comments of the various
13 councillors with respect to their views on moving
14 forward on this project.

15 MS. MARTA PROCTOR: That is correct.

16 MR. FREDERICK CHENOWETH: All right.
17 Could we turn to the transcript of the July 16th
18 meeting, if we could, please. We were at that a
19 moment ago, and there was -- you were kind enough to
20 give me the number for that transcript, Inquiry
21 counsel. Can you do that again so we can pull up that
22 transcript?

23 MS. KATE MCGRANN: CJI11234.

24 MR. FREDERICK CHENOWETH: Thank you.
25 Can we look at the comments of Deputy Mayor Lloyd,

1 which are at page 22 to 23 of that transcript?

2

3

(BRIEF PAUSE)

4

5 CONTINUED BY MR. FREDERICK CHENOWETH:

6

MR. FREDERICK CHENOWETH: He expresses

7

a concern in the fourth paragraph:

8

"You know, as a chair of the budget,

9

my concern with the project is

10

initial costs and our ability to

11

service the debt and the debenture

12

debt, and then the ongoing

13

maintenance cost that will be faced

14

in the future. I don't disagree

15

that we need it. I don't disagree

16

that we need it -- that we needed it

17

ten years ago, in fact, but \$35

18

million plus a lot of money, whether

19

it's phased in or not."

20

So he was clearly expressing, as some

21

of the councillors had expressed earlier on June 11th

22

-- he was expressing a concern about -- about the

23

cost. And if we can go down a little further, the

24

paragraph that starts, "I really thought long and

25

hard." There we go.

1 "I really thought long and hard, and
2 I've had many discussions with our -
3 - with our residents, and I believe
4 that, ultimately, we can have a
5 multi-use facility, but not today.
6 In the future, and with a phased-in
7 approach, is what I really believe."

8 So he's talking about not doing the
9 full multi-use again, but he's talking about a -- a
10 phased-in basis.

11 THE HONOURABLE FRANK MARROCCO: It --
12 it -- it seems to me that this witness commenting on
13 what the Deputy Mayor said isn't helpful. We've got
14 his comments. We've got the transcript. Whether the
15 witness agrees that that's the purport of his remarks
16 or not, really matter. We've got the transcript.

17 MR. FREDERICK CHENOWETH: We do have a
18 transcript. We also have the statement of this
19 witness that she --

20 THE HONOURABLE FRANK MARROCCO: Didn't
21 know why they were in such a rush.

22 MR. FREDERICK CHENOWETH: -- why there
23 was such a rush.

24 THE HONOURABLE FRANK MARROCCO: I
25 understand.

1 MR. FREDERICK CHENOWETH: And --

2 THE HONOURABLE FRANK MARROCCO: It --

3 it --

4 MR. FREDERICK CHENOWETH: -- it -- it

5 would seem to be useful to -- to understand what the

6 mood of Council was at that point and why that may

7 well have developed a sense of urgency with respect to

8 the necessity of getting a staff report done by June -

9 - by August 27th and getting -- getting a decision

10 made.

11 THE HONOURABLE FRANK MARROCCO: That -

12 - that's a matter for interpretation of the

13 transcript. The witness has said what she said.

14 Doesn't matter to me whether -- the transcript says

15 what it says, and it's open to people to argue what

16 implications should be taken from it.

17 MR. FREDERICK CHENOWETH: Well, I

18 understand that, Your Honour, but I'm interested in

19 exploring the statement made by the witness that she

20 could never -- never understand why there was rush.

21 And I want to put to the witness that

22 it appears, from a number of the statements made by

23 the councillors at the July 16th meeting, that they

24 wanted this procedure, this process, to be concluded -

25 - concluded in a prompt way. There was an urgency to

1 get ice in, and they wanted --

2 THE HONOURABLE FRANK MARROCCO: But --
3 but didn't you already cross-examine her on the
4 summaries of the comments and -- and the assertion by
5 some of the councillors that they should concentrate
6 on ice and water? I mean, didn't we already do that?

7 MR. FREDERICK CHENOWETH: We did.
8 There's -- there's more of the same here, Your Honour.

9 THE HONOURABLE FRANK MARROCCO: Well --

10 MR. FREDERICK CHENOWETH: And I -- I
11 understand a concern for the -- for the time of the
12 committee, but maybe I can simply just do it this way,
13 if that -- if that assists the Commissioner.

14

15 CONTINUED BY MR. FREDERICK CHENOWETH:

16 MR. FREDERICK CHENOWETH: We've heard
17 the -- we've been through the comments of councillors
18 on June 11th. I -- if I can refer to -- to one (1)
19 more paragraph, Your Honour, and I'll try and move
20 this along. There's a paragraph, "And as well." Out
21 of the -- to come out of Councillor Lloyd:

22 "And as well, I would like staff to
23 give us -- to include in the report,
24 a new ice pad, also at Central
25 Arena. I would like to see us move

1 forward as quickly as possible with
2 the funding, again, looking at the
3 needs of today."

4 I'm only going to take you, I take it,
5 to the remarks of -- of -- of Lloyd, but it's -- the
6 purp -- the purpose of my taking you to these is --
7 did you not take from the remarks of Lloyd and the
8 remarks of others at the July 16th meeting that they
9 wanted the matter of ice and water moved forward as
10 quickly as possible and in a timely way to a
11 conclusion?

12 Did that not appear to be the mood that
13 was being expressed by Council at the Jul -- at the
14 June 11th meeting, and again repeated throughout the
15 comments of the various councillors at July 16th?

16 MS. MARTA PROCTOR: I'm pausing
17 because I'm thin -- trying to recall exactly what I do
18 remember. I am -- I was --

19 MR. FREDERICK CHENOWETH: That's
20 allowed by the way.

21 MS. MARTA PROCTOR: I'm talking loud?

22 MR. FREDERICK CHENOWETH: No, that's
23 allowed, for you to pause.

24 MS. MARTA PROCTOR: Oh, thank you. I
25 clearly recall the new direction and was fully in

1 support of exploring the detail that was required to
2 support the new direction. I understood there was a
3 tight time line, but -- I heard there was a tight time
4 line, but no, I did not understand why we couldn't
5 take a month or two (2) months or three (3) months to
6 prepare the information to meet their priorities, so.

7 MR. FREDERICK CHENOWETH: But -- but
8 you knew there was a tight time line, and you knew
9 that tight time line had been imposed by Council, and
10 you knew that the mood of Council -- I'm putting to
11 you -- that you knew the mood of Council was to move
12 forward as quickly as possible. That was the wish of
13 Council.

14 MS. MARTA PROCTOR: That's correct.

15 MR. FREDERICK CHENOWETH: Thank you.

16

17 (BRIEF PAUSE)

18

19 MR. FREDERICK CHENOWETH: It's
20 interesting that we should review the comments only of
21 -- of Deputy Mayor Lloyd with respect to July 16th.
22 You indicated yesterday that Deputy Mayor Lloyd was
23 the -- was the champion of -- of this process of
24 looking at alternatives and moving things along as
25 quickly as possible.

1 MS. MARTA PROCTOR: From my
2 perspective, that's correct.

3 MR. FREDERICK CHENOWETH: All right.
4 And little doubt that the staff felt some pressure as
5 a result of -- of its interaction with Deputy Mayor
6 Lloyd in this respect.

7 MS. MARTA PROCTOR: Could you repeat
8 that comment for...?

9 MR. FREDERICK CHENOWETH: Little doubt
10 that staff felt some pressure as a result of their
11 interaction with Deputy Mayor Lloyd in this respect,
12 i.e., championing the project, championing the look at
13 alternatives, and moving it along as quickly as
14 possible. That put some pressure on staff. Is that
15 fair?

16 MS. MARTA PROCTOR: That's fair.

17 MR. FREDERICK CHENOWETH: Thank you.
18 And do you think that -- that the gentleman who to
19 some extent was head of staff, i.e., the CAO, Mr.
20 Houghton, do you think he would have equally felt the
21 pressure that was being put on by Deputy Mayor Lloyd?

22 MS. MARTA PROCTOR: Absolutely.

23 MR. FREDERICK CHENOWETH: Thank you.

24

25 (BRIEF PAUSE)

1 MR. FREDERICK CHENOWETH: Moving to a
2 further --

3 THE HONOURABLE FRANK MARROCCO: I
4 think we'll take ten (10) minutes or so if you're
5 moving on to a new area.

6 MR. FREDERICK CHENOWETH: Thank you,
7 Your Honour.

8

9 --- Upon recessing at 10:58 a.m.

10 --- Upon resuming at 11:06 a.m.

11

12 THE HONOURABLE FRANK MARROCCO: Go
13 ahead, Mr. Chenoweth.

14

15 CONTINUED BY MR. FREDERICK CHENOWETH:

16 MR. FREDERICK CHENOWETH: Ms. Proctor,
17 during the course of questions put to you by Inquiry
18 counsel yesterday, we had occasion to look at some
19 correspondence prepared by Marjory Leonard that's
20 dated the 24th of August 2012. And that
21 correspondence is -- if we could pull it up, please,
22 TOC0189770.

23

24

(BRIEF PAUSE)

25

1 MR. FREDERICK CHENOWETH: And you
2 might have a look at that, if you would, please, on
3 your screen.

4

5 (BRIEF PAUSE)

6

7 MR. FREDERICK CHENOWETH: Again,
8 Marjory Leonard is writing to Ed Houghton, and Larry
9 Irwin, and Sara Almas, the other -- other members of
10 the EMC, and she's -- she -- advising members of the
11 EMC that she talked to Dave, and asked him to continue
12 with WGD on the following items.

13 And she's doing this on the 24th of
14 July. No doubt that you had -- you and Dave had been
15 intricately involved with WGD prior to the time of
16 your vacation.

17 MS. MARTA PROCTOR: That's correct.

18 MR. FREDERICK CHENOWETH: Correct?
19 All right. And you had been the -- the main contacts
20 with WGD?

21 MS. MARTA PROCTOR: That is correct.

22 MR. FREDERICK CHENOWETH: All right.
23 And before your vacation, in any event, the -- the EMC
24 and people like Ed Houghton didn't have the detailed
25 involvement with WGD that -- that you and Dave?

1 MS. MARTA PROCTOR: That would be
2 correct.

3 MR. FREDERICK CHENOWETH: Thank you.
4 So that you're now on vacation on the 24th of -- of
5 July, and she is -- she's giving some direction to
6 WGD. There's nothing inappropriate about that?

7 MS. MARTA PROCTOR: I think she was
8 giving direction to Dave to give to WGD. I know it's
9 in the --

10 MR. FREDERICK CHENOWETH: No, I think
11 -- I think you're right.

12 MS. MARTA PROCTOR: Yeah, which is
13 correct.

14 MR. FREDERICK CHENOWETH: That's fine,
15 because you were no longer around, and as you've
16 indicated on a couple of occasions, they were picking
17 up where you weren't able to -- to pitch in?

18 MS. MARTA PROCTOR: That's correct.

19 MR. FREDERICK CHENOWETH: All right.
20 So that the fact that Marjory Leonard is -- through
21 Dave is giving instructions to WGD is -- circumstances
22 where you're away is not inappropriate at all?

23

24

(BRIEF PAUSE)

25

1 MS. MARTA PROCTOR: I'm pausing to
2 think about my answer.

3 MR. FREDERICK CHENOWETH: We said
4 before, your --

5 MS. MARTA PROCTOR: Yeah.

6 MR. FREDERICK CHENOWETH: -- pausing
7 is allowed.

8

9 (BRIEF PAUSE)

10

11 MS. MARTA PROCTOR: I believe the
12 level of detail that was being given by the treasurer
13 on this aspect of the work is not traditional, and
14 again, I think from a concept costing and options, but
15 the detail, I assumed, would still occur later, or it
16 would be my typical process with input from more
17 appropriate people.

18 However, it does reference working with
19 Heritage Park sites with appropriate people like
20 Wendy, the parks manager, the operations people, and
21 Dave Wood. it's the Central Park location that
22 perhaps, in my opinion, looking back at all this,
23 didn't have input from all the appropriate people.

24 MR. FREDERICK CHENOWETH: But she
25 seems be doing her best to get the best information

1 she can for Council?

2 MS. MARTA PROCTOR: Absolutely.

3 MR. FREDERICK CHENOWETH: Thank you.

4 Now another matter that you directed your mind to
5 yesterday, you seem concerned about the fact that --
6 that Ed at some time through this process had chosen
7 to get Dave McNalty involved in the process?

8 MS. MARTA PROCTOR: I do not recall
9 saying that I was concerned that Dave McNalty was
10 involved in this process.

11 MR. FREDERICK CHENOWETH: I don't know
12 that you said that -- that you were concerned that
13 Dave McNalty was a -- a concern of yours. I think you
14 said that you were concerned about the fact that Ed
15 had chosen to assign Mr. McNalty to work on this
16 project. You suggested that maybe it should have been
17 done by Brian MacDonald, who, as I understand it, is
18 with Public Works.

19 MS. MARTA PROCTOR: I believe the
20 question I was asked was, would it be unusual that the
21 CAO would be assigning the work of Dave McNalty. And
22 I indicated, and I cannot recall exactly who he
23 reported directly to at that time --

24 MR. FREDERICK CHENOWETH: Dave
25 McNalty, you can't recall who he -- he reported to?

1 MS. MARTA PROCTOR: Yeah.

2 MR. FREDERICK CHENOWETH: All right.

3 MS. MARTA PROCTOR: And that's what I
4 suggested, if it was Brian typically the CAO would
5 have worked through, but I can't recall directly who
6 Dave McNalty reported to at that time.

7 MR. FREDERICK CHENOWETH: So not
8 knowing who Dave McNalty reported to, you can't be
9 certain that it would have been -- it should have been
10 Brian, because you're not sure that Dave reported to
11 Brian.

12 Is that fair?

13 MS. MARTA PROCTOR: That's fair.

14 MR. FREDERICK CHENOWETH: Thank you.
15 So that if Dave, in fact, reported to the CAO, then it
16 would be quite appropriate for -- for Mr. McNalty to
17 be directed to do that work by the CAO, Mr. Houghton?

18 MS. MARTA PROCTOR: Absolutely.

19 MR. FREDERICK CHENOWETH: Thank you.
20 And we'll leave that the other witnesses to -- to sort
21 out who Dave McNalty reported to.

22 But if Dave McNalty of it -- if the
23 evidence turns out to be that the Dave reported to Mr.
24 Houghton, there'd be nothing wrong with him assigning
25 McNalty to this work?

1 THE HONOURABLE FRANK MARROCCO: I
2 think the witness already answered that question.

3 MR. FREDERICK CHENOWETH: Very good.
4 Thank you, Your Honour. I think -- I think they might
5 have, too.

6

7 CONTINUED BY MR. FREDERICK CHENOWETH:

8 MR. FREDERICK CHENOWETH: So -- but
9 there's -- I -- I take it you didn't have any question
10 about the capabilities of -- of Dave McNalty?

11 MS. MARTA PROCTOR: I enjoyed working
12 with Dave McNalty very much.

13 MR. FREDERICK CHENOWETH: All right.

14 MS. MARTA PROCTOR: He was a very --
15 yes.

16 MR. FREDERICK CHENOWETH: And he
17 appears to -- from what I see through the course of
18 these things, he's got all sorts of emails and
19 amendments to reports that he's doing late at night,
20 11:00 and 12:00 at night. He appears to have been a
21 hard-working colleague to have at your side when
22 trying to put together this staff report.

23 MS. MARTA PROCTOR: That is correct.

24 MR. FREDERICK CHENOWETH: Thank you.
25 So you were pleased to have him on the job.

1 MS. MARTA PROCTOR: That is correct.

2 MR. FREDERICK CHENOWETH: And happy
3 with the contribution that he could make.

4 MS. MARTA PROCTOR: I can't speak to
5 being happy with -- I was happy to have him working
6 alongside with me.

7 MR. FREDERICK CHENOWETH: Thank you.

8

9 (BRIEF PAUSE)

10

11 MR. FREDERICK CHENOWETH: There seems
12 to have been a number of people that were in contact
13 with Sprung through the course of the period from, oh
14 I don't know, the end of May 2012 to August 27th, and
15 I can think of a number who would have been in contact
16 with Sprung.

17 The first of those would have been your
18 friend, Mr. Seymour, who was with Facilities, and
19 another gentleman whose name is escaping my mind, that
20 you directed to -- to get some prices, and they
21 eventually met with Sprung, correct?

22 MS. MARTA PROCTOR: I never directed
23 the staff to get some prices. I asked them to look
24 into options for covering the pool, I believe, and
25 perhaps the arena, with a membrane structure and what

1 the implications were, not directed them to get quotes
2 or -- but to look at the estimated costs and what
3 other people have done.

4 MR. FREDERICK CHENOWETH: Oh. So you
5 asked them to -- I'm sorry, to get -- to get a quote?

6 MS. MARTA PROCTOR: No. I never asked
7 them --

8 MR. FREDERICK CHENOWETH: I'm not sure
9 what we're -- well, let's -- let's look at, if we
10 could, please, at --

11 THE HONOURABLE FRANK MARROCCO: I'm
12 sorry, just -- you were going to say?

13 MS. MARTA PROCTOR: I don't recall
14 ever asking them to get quotes. I asked them to look
15 into this option.

16 And I was thinking about our discussion
17 yesterday on this topic quite a bit because something
18 didn't make sense to me, and it was the notion of when
19 I mentioned that the Deputy Mayor mentioned that that
20 will be covered, and I said it was at the aren -- fire
21 hall opening --

22

23 CONTINUED BY MR. FREDERICK CHENOWETH:

24 MR. FREDERICK CHENOWETH: Okay.

25 MS. MARTA PROCTOR: -- and I was

1 incorrect. It was at that groundbreaking ceremony,
2 not the fire hall opening when they put shovels in the
3 ground and it was a photo-op and that made the time
4 lines finally make sense to me because I was confused
5 in our conversation.

6 MR. FREDERICK CHENOWETH: This was the
7 groundbreaking for the fire hall?

8 MS. MARTA PROCTOR: Correct. Not the
9 opening.

10 MR. FREDERICK CHENOWETH: All right.
11 So that would have been some substantial time prior to
12 the July 12th time on which they opened the fire hall.

13 MS. MARTA PROCTOR: That's correct.

14 MR. FREDERICK CHENOWETH: All right.
15 So that you would have known about the Mayor's (sic)
16 comments about using fabric structures over the pool
17 in any event, I guess sometime probably before June.

18 THE HONOURABLE FRANK MARROCCO: I'm
19 sorry, you -- you said the Mayor, or the Deputy Mayor?

20 MR. FREDERICK CHENOWETH: The Deputy
21 Mayor.

22 MS. MARTA PROCTOR: It was the Deputy
23 -- Deputy Mayor, which provided context for the email
24 you shared yesterday.

25

1 CONTINUED BY MR. FREDERICK CHENOWETH:

2 MR. FREDERICK CHENOWETH: Good. So
3 that just -- just to come to that then, your comments
4 -- or your discussions with the Deputy Mayor would
5 have probably occurred sometime in May when they were
6 doing the groundbreaking for the site.

7 MS. MARTA PROCTOR: It wasn't a
8 discussion; it was a comment that the Mayor made --
9 the Deputy Mayor made.

10 MR. FREDERICK CHENOWETH: That's not
11 the purpose of my question. My purpose of my question
12 is, did that occur in or -- in or about May?

13 MS. MARTA PROCTOR: I cannot recall
14 the date, but it was whenever the groundbreaking took
15 place.

16 MR. FREDERICK CHENOWETH: Would it
17 likely have been two (2) months before the -- the
18 opening of the facility on July 12th?

19 MS. MARTA PROCTOR: I truthfully
20 cannot recall.

21 MR. FREDERICK CHENOWETH: Very good.
22 All right. Let's -- let's get back to what we were
23 talking about, which was your direction to Dennis
24 Seymour and to Darin Potts.

25 Let's look at TOC0172248. I think we

1 may have already looked at this through the course of
2 -- of your examination, but -- this is a -- a letter
3 that you wrote to -- to Seymour and to Potts on June
4 14th, the same day that you got the Deputy Mayor's
5 direction with respect to getting -- getting some
6 pricing, and you seem to have said:

7 "I saw this one coming."

8 And you explain that. And you saw it
9 coming all the way back to the time of the
10 groundbreaking conversation you had with respect to
11 the fire hall.

12 "And can you please confirm some
13 approximate pricing and -- and
14 specifically I would -- would --
15 could include for both. Thanks."

16 So I don't know, you appear to have
17 been asking Seymour and Potts to get -- to get some
18 pricing, even though it was approximate pricing. You
19 seem to be asking that in June of 2014.

20 MS. MARTA PROCTOR: I recall this
21 email occurring, and I -- as I said, I reflected on
22 the timing because I needed to have better context for
23 my own sake, and I recall having follow-up
24 conversations with Darin and Dennis that this was to
25 do some research on what's happening in the industry

1 and approximately what it costs and how it could look
2 for these type of structures.

3 MR. FREDERICK CHENOWETH: Now, I
4 obviously don't want to quibble with what you're
5 saying, but yesterday in my cross-examination of you,
6 you confirm that -- that you had asked them to get
7 some pricing, approximate or whatever, and acknowledge
8 that that might lead them to get some pricing from
9 Sprung.

10 MS. MARTA PROCTOR: It could have very
11 well led them to contact Sprung --

12 MR. FREDERICK CHENOWETH: Thank you.

13 MS. MARTA PROCTOR: -- if they didn't
14 get any information from other sources.

15 MR. FREDERICK CHENOWETH: Thank you
16 very much. I'm only trying to get to the point of
17 who's contacting Sprung. That's where I'm going with
18 this.

19 So it's no surprise to you, I take it,
20 given the email that you sent to them on June 14th,
21 that -- that Seymour and Potts are contacting Sprung.

22 MS. MARTA PROCTOR: It wouldn't
23 surprise me if they did.

24 MR. FREDERICK CHENOWETH: Thank you.
25 And we know that -- that McNalty had met with Sprung.

1 MS. MARTA PROCTOR: I -- I don't know
2 that at -- at this time.

3 MR. FREDERICK CHENOWETH: All right,
4 okay. And -- and we seem to have had reference to the
5 fact that the Mayor had meetings with -- with Sprung
6 through the course of this period of time.

7 MS. MARTA PROCTOR: And --

8 THE HONOURABLE FRANK MARROCCO: The
9 Mayor?

10 MR. FREDERICK CHENOWETH: The Mayor.

11 THE HONOURABLE FRANK MARROCCO: Oh,
12 okay.

13 MS. MARTA PROCTOR: Again, I don't
14 know this at this time.

15

16 CONTINUED BY MR. FREDERICK CHENOWETH:

17 MR. FREDERICK CHENOWETH: Do you -- do
18 you see anything wrong with the -- the concept of --
19 that appears have arisen from the Deputy Mayor, to try
20 and centralize the approaches to Sprung so that
21 there's not a plethora of people contacting Sprung and
22 getting a variety of different kinds of information?

23 Is there anything wrong with the
24 concept that you try and centralize the contact with
25 Sprung to make sure that the evidence was all

1 marshalled in one (1) central location?

2 MS. MARTA PROCTOR: I see value to
3 centralizing the approach, yes.

4 MR. FREDERICK CHENOWETH: Thank you.
5 So the -- the suggestion that Mr. Houghton reflected
6 in some of the emails we looked at yesterday that he
7 was told by the Deputy Mayor that he was to be the
8 contact with Sprung, that -- that would make sense
9 given what you've said, correct?

10 MS. MARTA PROCTOR: Given how you've
11 presented it, that could be a possible solution.

12 MR. FREDERICK CHENOWETH: A possible
13 explanation for why that was said by the Deputy Mayor?

14 MS. MARTA PROCTOR: Yes.

15 MR. FREDERICK CHENOWETH: Thank you.

16 MS. MARTA PROCTOR: That could be.

17 MR. FREDERICK CHENOWETH: All right.

18 Now, you talked about being brought up to speed from
19 time to time in -- during the course of this matter
20 because you're on vacation.

21 And do I take it that -- that members
22 of the EMC made a pretty substantial effort to -- to
23 meet with you and bring you up to speed as to what had
24 been taking place in preparation of the report to
25 Council for August 27th?

1 MS. MARTA PROCTOR: I would say that
2 yes, they were very responsive to any questions or
3 considerations or matters related to this, yes.

4 MR. FREDERICK CHENOWETH: All right.

5 And did you have a number of meetings
6 with members of the EMC to -- to make sure you were in
7 the loop with respect to what was taking place in the
8 preparation of the staff report?

9 MS. MARTA PROCTOR: Yes.

10 MR. FREDERICK CHENOWETH: Thank you.

11 I'm referring you to August 21, a set
12 of emails that are EHH10, could we look at those for a
13 moment?

14

15 (BRIEF PAUSE)

16

17 MR. FREDERICK CHENOWETH: And to look
18 at the bottom of those emails, I'm looking at an email
19 that's from Ed Houghton and he's writing to other
20 members of the EMC. He's saying on August 21, before
21 the -- the report is finalized, and in a period of
22 time I think when you again are away:

23 "Dale West just told me that Marta
24 felt left out of the Central Park
25 solution we are putting together. I

1 told him that she advised us that
2 she'd be away for two weeks. This
3 really upsets me. We are scrambling
4 to do what Council has asked and she
5 tells another councillor that we are
6 leaving her out."

7 Were you concerned at that time that
8 you were being left out?

9 MS. MARTA PROCTOR: I can't speak to
10 why Councillor West sent this email. As I said
11 before, I would have meetings with the PRC councillors
12 and perhaps there was some indication, but I never
13 asked him to write it and I don't recall saying
14 anything specific that would have summarized in that
15 email.

16 MR. FREDERICK CHENOWETH: All right.
17 So -- so you don't think that you
18 expressed to Councillor West that you were feeling
19 left out of the process?

20 MS. MARTA PROCTOR: I don't -- I don't
21 believe I would have said that. I may have said
22 something about the -- the tight turnaround time on
23 the process, because I was very concerned with that.

24 But I cannot recall telling Councillor
25 West that I felt left out.

1 MR. FREDERICK CHENOWETH: Right.

2 And I take it you'd had a number of
3 meetings with the EMC, even though you were absent, so
4 you didn't feel left out?

5 MS. MARTA PROCTOR: No, I didn't feel
6 left out.

7 MR. FREDERICK CHENOWETH: Thank you.

8 And I notice with respect to the number
9 of meetings, looking at an email further up that view,
10 and this is an email from Sara Almas dated August
11 21st:

12 "There has been a million meetings
13 with her on this. I was venting to
14 Marjory today that I am sick and
15 tired with meetings with her and I'm
16 a little disappointed."

17 Forgetting about her disappointment for
18 the moment, there appears to be little doubt, from
19 what you told us, that you weren't feeling left out
20 and that certainly Ms. Almas was of the view that
21 there had been a number of meetings with you, in spite
22 of your vacations, to keep you in the loop as to what
23 was going on.

24 Is that fair? You said there'd been a
25 number of meetings to -- to keep you advised?

1 MS. MARTA PROCTOR: There were a
2 number of meetings, I think millions of meetings in
3 that short time frame is a little --

4 MR. FREDERICK CHENOWETH: It's an over
5 statement?

6 MS. MARTA PROCTOR: It's a little bit
7 of an over statement.

8 MR. FREDERICK CHENOWETH: I think
9 that's probably fair.

10 MS. MARTA PROCTOR: And as I've
11 previously stated, it wasn't about the pro -- the
12 direction we were heading in, it was about the
13 information that I felt was appropriate to compile and
14 present to make this final decision.

15 So my questions were typically on that
16 topic and that's where I felt perhaps we didn't do our
17 due diligence in exploring as much as I would have,
18 based on my past experience.

19 MR. FREDERICK CHENOWETH: All right.

20 So you're telling me that in the
21 meetings, and there appears to have been a number of
22 them, designed to keep you in the process and to
23 discuss the process with you, that you would have
24 underlined the nature of the information that you
25 think would have been appropriate to put before

1 Council?

2 MS. MARTA PROCTOR: Yes, I believe I
3 would hae.

4 MR. FREDERICK CHENOWETH: All right.
5 Okay. Thank you.

6 And I think you indicated that
7 yesterday in some of your testimony that you didn't
8 recall discussions about procurement at any time
9 through the course of the process of -- of preparing
10 the staff report.

11 MS. MARTA PROCTOR: I have no specific
12 recollection of that.

13 MR. FREDERICK CHENOWETH: All right.

14 Just from looking at the staff report,
15 it appears that there was some discussions on the --
16 at least in emails in any event, on the 23rd and 24th,
17 I notice Dave McNalty raised the procurement issue
18 initially with Mr. Houghton and then Marjory Leonard
19 chirped in later that day about procurement and her
20 view that they had done their due diligence, which
21 suggests to me that discussions about procurement
22 really occurred on the 22nd, 23rd and 24th of -- of
23 August around the time of the completion of the
24 report. Would that be fair?

25 MS. MARTA PROCTOR: It's -- if I could

1 see the emails, was I copied on those?

2 MR. FREDERICK CHENOWETH: I don't
3 recall, to be quite honest.

4 MS. MARTA PROCTOR: So I -- I'd be
5 happy to look at it and confirm then.

6 MR. FREDERICK CHENOWETH: I don't know
7 that I have the number for the email sent by Dave
8 McNalty in this respect to -- to Ed Houghton.

9 THE HONOURABLE FRANK MARROCCO: If the
10 argument is that there were discussions of procurement
11 and that this is reflected in the emails, what does it
12 matter? And the witness wasn't copied on the emails,
13 why are we doing that?

14 MR. FREDERICK CHENOWETH: Simply for
15 this purpose, Your Honour. If it's the case that
16 these discussions took place on the 23rd and 24th of
17 August, it -- it's clear from our earlier discussions
18 that -- that you were on vacation during that period.

19 MS. MARTA PROCTOR: Yes, I was on
20 vacation during that period.

21

22 CONTINUED BY MR. FREDERICK CHENOWETH

23 MR. FREDERICK CHENOWETH: If there was
24 some discussions about procurement, and you made the
25 comment that you don't recall any discussions about

1 procurement, you wouldn't have been part of those
2 discussions because you're on vacation?

3 MS. MARTA PROCTOR: That's possible.

4 MR. FREDERICK CHENOWETH: That's the
5 simple point, Your Honour. Thank you.

6

7 (BRIEF PAUSE)

8

9 CONTINUED BY MR. FREDERICK CHENOWETH

10 MR. FREDERICK CHENOWETH: We spent
11 some time yesterday looking at one of the reports of
12 WGD, which was TOC0201266. Could you pull that up,
13 please? And could you go to -- to the bottom of that
14 report?

15 And we discussed under project costs,
16 this is obviously a report in which they're discussing
17 the costs of doing this project with a steel
18 structure.

19 Do you remember this report?

20 MS. MARTA PROCTOR: I recall this
21 report.

22 MR. FREDERICK CHENOWETH: And they
23 appear to have talked, as was pointed out by Inquiry
24 Council, about a building cost for pre-engineered
25 structures of 7,632,000?

1 MS. MARTA PROCTOR: That's correct. I
2 see that.

3 MR. FREDERICK CHENOWETH: Right.

4 And -- and they talked about another --
5 talked about other matters in that report, they talked
6 about the R factors and things of that nature if we go
7 up further into -- into the report they're talking
8 about energy use, et cetera. A little further. Thank
9 you.

10 And would you have been aware that --
11 that in or about October 5th of 2012 Mr. McNalty made
12 some comments on the -- on the report that had been
13 done by WGD in this respect? And I'm looking at
14 document number TOC0226261.0001.0001.

15 If you could just move through that
16 report slowly so the witness can have a look at this -
17 - at this document.

18 This appears to have been a document
19 prepared by Dave McNalty, and this is not directed to
20 you, it's directed to Ed Houghton, in which he makes
21 comments on a number of the things that were set out
22 in the WGD report.

23 Would you have seen this document?

24 MS. MARTA PROCTOR: I do not recall
25 seeing this document until I saw these documents.

1 MR. FREDERICK CHENOWETH: All right.

2 So you would not have seen the document
3 on or about October 5th when it was produced?

4 MS. MARTA PROCTOR: I have no
5 recollection of seeing this document.

6 MR. FREDERICK CHENOWETH: All right,
7 thank you.

8 So that you would have been unaware at
9 that time about his express concerns, for instance, as
10 set out in paragraph 2 of the document. We can go up
11 to the top of the document.

12 Initially the basis that WGD was
13 comparing to was an uninsulated membrane system, as
14 would be typical for enclosures for ambient indoor
15 environments, he talks about for dry storage uses or
16 agricultural uses or industrial or manufacturing
17 purposes, that that was the kind of building that --
18 the kind of membrane building, in any event, that WGD
19 was originally looking at.

20 You wouldn't have been familiar with
21 the comments of -- of McNalty in that respect?

22 MS. MARTA PROCTOR: I am familiar with
23 some comments, not all of those, because we had a
24 discussion before the report was finalized by WGD and
25 their report was adjusted to include the -- and I

1 apologize, my technical knowledge of this is limited,
2 the R-30 factor.

3 MR. FREDERICK CHENOWETH: Okay. And
4 some attempt was made to adjust things such as energy
5 efficiency, because you looked at annual energy costs?

6 MS. MARTA PROCTOR: I'd have to read
7 this report. That -- that's new to me.

8 MR. FREDERICK CHENOWETH: In any
9 event, you didn't get the report so you weren't --

10 THE HONOURABLE FRANK MARROCCO: The
11 witness is now being examined on a report she didn't
12 get, didn't read at the time.

13 MR. FREDERICK CHENOWETH: Yes, that's
14 why I'm moving on, Your Honour.

15 THE HONOURABLE FRANK MARROCCO: Well,
16 yes.

17 MR. FREDERICK CHENOWETH: Thank you, I
18 appreciate your input in that respect.

19

20 CONTINUED BY MR. FREDERICK CHENOWETH:

21 MR. FREDERICK CHENOWETH: So we'll
22 move on then to a document which is TOC0600196. Could
23 you scroll down so the witness can see this entire
24 document?

25

1 (BRIEF PAUSE)

2

3 MS. MARTA PROCTOR: And scroll down.

4 MR. FREDERICK CHENOWETH: Scroll down
5 the rest --

6 MS. MARTA PROCTOR: Yeah.

7 MR. FREDERICK CHENOWETH: -- of the
8 way into the document, please. Thank you. Scroll
9 down to the bottom of the document.

10

11 (BRIEF PAUSE)

12

13 MR. FREDERICK CHENOWETH: I want you
14 to have a look at the document, witness. Are you able
15 to -- have you seen what you need to see?

16 MS. MARTA PROCTOR: Sure, you can go
17 right down to the bottom.

18 MR. FREDERICK CHENOWETH: All right.
19 I'm really interested in the main -- in the first page
20 of the document. Let's have a look at that. Thank
21 you.

22 And, again, let's scroll up so the
23 witness can have a look at it.

24 THE HONOURABLE FRANK MARROCCO: Had
25 you -- just a minute. Had you finished looking at the

1 document before it went back up to the top?

2 MS. MARTA PROCTOR: I've -- I was
3 presented this document yesterday. I don't -- at that
4 time, I indicated I don't have clear recollection if
5 I've seen this document or its context, so that hasn't
6 changed from yesterday to today.

7

8 CONTINUED BY MR. FREDERICK CHENOWETH:

9 MR. FREDERICK CHENOWETH: So, you had
10 no memory of having seen this document either in -- be
11 -- before the August 27th meeting?

12 MS. MARTA PROCTOR: In the form that
13 it's in, I have no recollection of this document.

14 MR. FREDERICK CHENOWETH: All right.
15 It's my information that that was -- and we'll --
16 we'll possibly learn about this with the next witness,
17 but it's my information that this was a document was
18 prepared by Dave McNalty.

19 Would you -- are you able to assist as
20 to who might have prepared the document?

21 MS. MARTA PROCTOR: I have no
22 recollection of this document.

23 MR. FREDERICK CHENOWETH: Thank you.
24 Can we go down to the -- what would appear to be the
25 bottom of the first page where he comes up with a

1 figure, a figure of twelve thousand (12,000) -- or
2 twelve million three hundred thousand (12,300,000)?

3 You don't remember seeing figures of
4 this nature sometime prior to the delivery of the
5 staff report on or about the 24th of August?

6 MS. MARTA PROCTOR: I know I had
7 questions about the numbers, but I cannot recall what
8 my questions were and why.

9 MR. FREDERICK CHENOWETH: Thank you.
10 We'll leave that to Dave McNalty. But no doubt, if we
11 look at the -- the final report, the final report
12 seems to have suggested that -- that insulated
13 architectural membrane arena is seven thousand three
14 hundred and ninety-two dollars (\$7,392).

15 And I can bring up the report if we --
16 I don't think we need to. But you may recall from
17 yesterday that we talked about the fact that the
18 numbers used in the report for the steel structure was
19 eleven one to twelve three.

20 THE HONOURABLE FRANK MARROCCO: The --
21 the -- I -- I don't -- Mr. McNalty did what he did.
22 He's going to be the next witness.

23 MR. FREDERICK CHENOWETH: Well, this
24 is the final report I'm referring to now, Your Honour.

25 THE HONOURABLE FRANK MARROCCO: Well,

1 I don't know what that has to do with this witness.
2 We have the WGD figures. Then Mr. Houghton asked Mr.
3 McNalty to look at it. Mr. McNalty produced a report.
4 And Mr. McNalty's going to be the next witness, so.

5 MR. FREDERICK CHENOWETH: My only
6 point, Your Honour, was it looks like Mr. McNalty's
7 number of twelve million three hundred thousand
8 (12,300,000) seems to have found its way into the
9 final report.

10 THE HONOURABLE FRANK MARROCCO: We --
11 we --

12 MS. MARTA PROCTOR: Is there -- go
13 ahead.

14 THE HONOURABLE FRANK MARROCCO: We can
15 ask Mr. McNalty if his number found its way into the
16 final report. He prepared it. He made the
17 adjustments. The numbers are what they are.

18 MR. FREDERICK CHENOWETH: Very good,
19 Your Honour. Thank you.

20

21 (BRIEF PAUSE)

22

23 MR. FREDERICK CHENOWETH: Your Honour,
24 those are all the questions I have of this witness.
25 Thank you very much.

1 THE HONOURABLE FRANK MARROCCO: Thank
2 you, Mr. Chenoweth. Mr. Marron...?

3 MR. GEORGE MARRON: Yes. Thank you,
4 Your Honour. Thank you.

5

6 CROSS-EXAMINATION BY MR. GEORGE MARRON:

7 MR. GEORGE MARRON: Good morning, Ms.
8 Proctor.

9 MS. MARTA PROCTOR: Good morning.

10 MR. GEORGE MARRON: My name is George
11 Marron. And I'm representing Sandra Cooper, who was
12 the mayor of Collingwood at the time. I just have a
13 couple questions for you.

14 On the -- the 27th of August, 2012, you
15 were asked to come down to town hall. And, at that
16 point, I take it that the slide presentation which was
17 to be presented to the assembled council that evening
18 was displayed to you. Do you recall that?

19 MS. MARTA PROCTOR: At this point in
20 time, I don't have a recollection of that.

21 MR. GEORGE MARRON: Well -- well, I'll
22 refer you, if I may, Your Honour, to paragraph 471 of
23 the Foundation Document. I'd ask you to review that
24 paragraph, Mr. Proctor, as well as the subsequent
25 paragraph. Could you do that in a -- my request that

1 perhaps this may refresh your memory.

2 MS. MARTA PROCTOR: This definitely
3 does refresh my memory and sounds accurate. But I
4 apologize, I think you suggested I was invited to the
5 mayor's office.

6 MR. GEORGE MARRON: No. I -- I said,
7 "Town hall," and I'm -- I'm sorry about that. It
8 doesn't really say where the -- where the review of
9 the slide presentation took place.

10 MS. MARTA PROCTOR: Yeah, I was sent a
11 copy of it. That -- it was the meeting that I
12 couldn't recall.

13 MR. GEORGE MARRON: I stand corrected.
14 I'm sorry.

15 MS. MARTA PROCTOR: Okay. No.

16 MR. GEORGE MARRON: I -- I read it a
17 little differently.

18 MS. MARTA PROCTOR: That's okay. I
19 just wanted to answer the right question.

20 MR. GEORGE MARRON: Well, the -- the
21 question really is, you were asked to review it and to
22 make comment on it.

23 And I take it that with the -- a couple
24 of minor exceptions, one (1) that had to do with slide
25 2. And then the other was as to what increase in

1 full-time staff may be required in the event that you
2 had a standalone arena and a standalone pool.

3 You -- you'd confirm that? Does --
4 does this assist in your recollection?

5 MS. MARTA PROCTOR: Yes, it does.

6 MR. GEORGE MARRON: Can you confirm
7 that then?

8 MS. MARTA PROCTOR: Which -- that I
9 reviewed it and provided those comments? Correct.

10

11 (BRIEF PAUSE)

12

13 MR. GEORGE MARRON: All right. Well,
14 those -- those are my questions then. Thank you.

15 THE HONOURABLE FRANK MARROCCO: Thank
16 you, Mr. Marron. Mr. Trudell...?

17 MR. BILL TRUDELL: No questions, thank
18 you.

19 THE HONOURABLE FRANK MARROCCO: Mr.
20 Bonwick...?

21

22 (BRIEF PAUSE)

23

24 CROSS-EXAMINATION BY MR. PAUL BONWICK:

25 MR. PAUL BONWICK: Ms. Proctor, my

1 name's Paul Bonwick, and I'm a participant at the
2 Hearing.

3 MS. MARTA PROCTOR: Hello.

4 MR. PAUL BONWICK: Hi. I guess, first
5 of all, I'll thank you very much for taking time to
6 travel across Canada to -- to participate in the
7 Inquiry. Excuse me.

8 I think the information that you're
9 going to be able to provide will be very helpful in
10 terms of how the judge -- or the commission makes its
11 determination, so, again, I just want to thank you for
12 that.

13 It's -- I think you've demonstrated,
14 like almost every other witness, I re -- I respect the
15 fact that this is a long time ago, and so it is
16 incredibly difficult to remember specific details.

17 And in light of the fact that there has
18 -- or there was some pretty substantial media coverage
19 related to this matter and the fact that the -- there
20 was an OPP investigation that became public, it
21 sometimes clouds it up in terms of how we can recall
22 specific events.

23 And so, while that's the case, I'm
24 going to try to get -- focus sort of specifically on
25 the 2010/2013 time frame and not let the other stuff

1 skew us. I tend to be a little bit sensitive in terms
2 of how some of the questions are asking, so I may
3 repeat one (1) or two (2), and if I do, I -- I
4 apologize.

5 And Inquiry counsel, at one point,
6 asked you about any interaction you may have had with
7 me. Am I to understand that -- based on your answer,
8 that at no time did reach out to you to lobby in any
9 way related to either the arena or the aquatics
10 facility or, I guess thirdly, the -- or for the multi-
11 use facility?

12 MS. MARTA PROCTOR: I believe that to
13 be accurate.

14 MR. PAUL BONWICK: And in your
15 experience with the municipality -- and could you
16 refresh my memory? How long were you with the
17 municipality for?

18 MS. MARTA PROCTOR: Four (4) years.

19 MR. PAUL BONWICK: Four (4) years.
20 And you started in August of 2010?

21 MS. MARTA PROCTOR: That's correct, in
22 -- in or abouts there.

23 MR. PAUL BONWICK: During that period
24 of time, during those four (4) years, at any time did
25 you and I have any interaction as it related to me

1 trying to lobby you on efforts?

2 MS. MARTA PROCTOR: None that I
3 recall.

4 MR. PAUL BONWICK: During that period
5 of time, did any of your colleagues or any of your
6 council reps raise issue about me lobbying
7 inappropriately in some specific area?

8 MS. MARTA PROCTOR: None that I'm
9 aware of.

10

11 (BRIEF PAUSE)

12

13 MR. PAUL BONWICK: You'll be aware
14 then, if you started arguably sometime in August, that
15 there was a municipal election looming on the horizon.
16 Those campaigns -- I think the election is sometime
17 around the first week of November or somewhere in
18 there, correct?

19 MS. MARTA PROCTOR: Somewhere in the
20 fall.

21 MR. PAUL BONWICK: And so, the
22 elections tend to get underway, for discussion
23 purposes, sometime in September?

24 MS. MARTA PROCTOR: Correct.

25 MR. PAUL BONWICK: And you'll confirm

1 that in September of 2010 you were the director of
2 Parks, Recreation, and Culture?

3 MS. MARTA PROCTOR: Correct.

4

5 (BRIEF PAUSE)

6

7 MR. PAUL BONWICK: During part 1 of
8 the Inquiry, and I should ask this question, have you
9 had an opportunity to -- even at a 30,000-foot level,
10 to review some of the happenings that have taken place
11 over the course of the last number of weeks specific
12 to the Hearing?

13 MS. MARTA PROCTOR: Specific to part
14 1?

15 MR. PAUL BONWICK: Yes.

16 MS. MARTA PROCTOR: None at all.

17 MR. PAUL BONWICK: Okay. So, that
18 would have saved me just a couple of minutes. But I
19 can just share some information. And if you want me
20 to bring it up, I certainly can.

21 During part 1 of the Hearing, the
22 Inquiry heard significant testimony and evidence
23 produced that it was a somewhat highly contested
24 election and the election itself, one (1) of the major
25 themes in the election was finance, in a general term,

1 concern over debt, concern over spending, concern over
2 cost of delivery of service.

3 Do you recall that? And I'm not
4 talking about it happening in the phase 1 part. I'm --

5 MS. MARTA PROCTOR: I just --

6 MR. PAUL BONWICK: Do you recall at
7 the election that that was really one (1) of the
8 arguably most significant themes?

9 MS. MARTA PROCTOR: I cannot recall
10 the theme of the election. I can recall a theme in my
11 hiring but not of the election.

12 MR. PAUL BONWICK: Okay. Did you have
13 the opportunity -- so, the election is over. You had
14 a very brief stint with the previous council, so
15 you'll know that a lot of councillors were not
16 reelected and there was a lot of new councillors
17 brought onboard in -- on or about November of 2010,
18 correct?

19 MS. MARTA PROCTOR: Yeah, at the --
20 towards the end of 2010. I can't remember if you said
21 a month there.

22 MR. PAUL BONWICK: I think it's in
23 Nove -- I'm pretty sure the municipal --

24 MS. MARTA PROCTOR: Yeah.

25 MR. PAUL BONWICK: -- elections are

1 November.

2 MS. MARTA PROCTOR: They were sworn in
3 in December. For some reason, I recall that.

4 MR. PAUL BONWICK: Great. So, that
5 might help you recall. So, after the swearing in
6 ceremony, or during the swearing in cer -- ceremony,
7 I'm not sure, what, it's been thirty (30) years since
8 I've done it, but there's typically a reception where
9 the mayor delivers an inauguration.

10 There's an inaug -- inauguration
11 ceremony and the mayor sort of delivers a keynote
12 speech. You're familiar with that process?

13 MS. MARTA PROCTOR: Correct.

14 MR. PAUL BONWICK: Did you attend that
15 inauguration?

16 MS. MARTA PROCTOR: Yes, I believe I
17 was there.

18 MR. PAUL BONWICK: Ms. McGrann or --
19 or to the court book, did we get a chance to get the
20 inaugural speech? Your Honour, I --

21 THE HONOURABLE FRANK MARROCCO: I -- I
22 know about the request, and I think we have it, so.

23 MR. PAUL BONWICK: I believe they re -
24 - they didn't have in the court book yet.

25 THE HONOURABLE FRANK MARROCCO: No.

1 MR. PAUL BONWICK: I think they had it
2 in evidence, but --

3 MS. KATE MCGRANN: So we received a
4 request this morning, and we're just looking into
5 whether we've been able to get it up in the court
6 book.

7 MR. PAUL BONWICK: I was trying to
8 search myself -- sorry, Ms. McGrann -- last night, and
9 I couldn't --

10 THE HONOURABLE FRANK MARROCCO: No,
11 no, we'll find out. Is it up or not? It is?

12 MS. KATE MCGRANN: Not up yet.

13 THE HONOURABLE FRANK MARROCCO: Not
14 yet. Do you want to ask something else and come back
15 to that, Mr. Bonwick? Can you -- can you do that?

16 MR. PAUL BONWICK: It's -- it's kind
17 of a segueway down and sort of chronologically --

18 THE HONOURABLE FRANK MARROCCO: Well,
19 we'll wait a minute.

20 MR. PAUL BONWICK: -- in terms of what
21 I'm trying to do.

22

23 (BRIEF PAUSE)

24

25 THE HONOURABLE FRANK MARROCCO: What I

1 suppose I -- I -- I could do is -- two (2) minutes?
2 We'll stand down for five (5) minutes until we get it
3 up there.

4

5 --- Upon recessing at 11:56 p.m.

6 --- Upon resuming at 12:04 p.m.

7

8 CONTINUED BY MR. PAUL BONWICK:

9 MR. PAUL BONWICK: Ms. Proctor, the
10 reason I asked is, again -- I mean, I have difficulty
11 remembering what I had for breakfast this morning, so
12 going back seven (7) years ago, I thought it might
13 help if you'd seen a copy of the speech to refresh
14 your memory in terms of what went on that particular
15 day.

16 MS. KATE MCGRANN: The doc ID is
17 CJI11247.

18

19 (BRIEF PAUSE)

20

21 CONTINUED BY MR. PAUL BONWICK:

22 MR. PAUL BONWICK: If you want to read
23 it all, you can, or I can direct you to the parts that
24 I'm going to focus on.

25 MS. MARTA PROCTOR: Sure.

1 MR. PAUL BONWICK: Yeah, I think we...
2 Could you please scroll down -- slowly. Continue to
3 slow down -- or, scroll down, please. Continue to...
4 All right.

5

6 (BRIEF PAUSE)

7

8 MR. PAUL BONWICK: Sorry, can you go
9 up a little wee bit, please?

10

11 (BRIEF PAUSE)

12

13 MR. PAUL BONWICK: I draw your
14 attention to the -- on this screen, it's the third
15 paragraph, I think, or the fourth paragraph. It is --
16 it follows immediately:

17 "It's important for all of us to
18 understand our dream will not come
19 easily."

20 Then it goes on to -- I think, the more
21 important one I'm trying to draw your attention to is:

22 "Our community has an enormous debt,
23 and so the only way we can be
24 supported is through sound financial
25 planning."

1 And so as we read through it, there's
2 other snippets in terms of the state of finances, and
3 I think there was stuff in there about cutting back on
4 legal expenses and consulting fees and things of that
5 regard. But the overall theme, do you recall being a
6 strong message about trying to right-size the finances
7 of the community?

8 MS. MARTA PROCTOR: I have some
9 recollection of that.

10 MR. PAUL BONWICK: Thank you. During
11 Part I of the Inquiry, the Commission was informed
12 that subsequent to the election, the inauguration --
13 that the Mayor delivered on behalf of Council a -- a
14 state-of-the-union to staff, more specifically
15 department heads, to talk about the need to reexamine
16 how you do business, to look for efficiencies, define
17 cost savings measures, where possible; in other words,
18 look outside the box.

19 Do you recall sitting in on that
20 meeting as one (1) of department heads?

21 MS. MARTA PROCTOR: I don't have a
22 concrete recollection but a vague recollection of
23 that.

24 MR. PAUL BONWICK: Thank you. As the
25 Director of Parks, Rec, and Culture, I'm sure you have

1 some understanding of the history of recreational
2 endeavours in the Town of Collingwood, specifically
3 led by Council and staff over the past twenty (20)
4 years. I can walk through, in a similar fashion to
5 Ms. Almas, what we came to terms to agree on as the
6 number of times that Collingwood Council had become
7 engaged over, for argument's sake, a twenty (20) year
8 period in trying to address the recreational needs of
9 the community.

10 Would you like me to do that, or could
11 I maybe just focus in on one (1) of those instances?

12 MS. MARTA PROCTOR: I don't think
13 there's a need to review it all. I was not here for
14 all of it, but I certainly felt the story when I got
15 here.

16 MR. PAUL BONWICK: And so the one (1)
17 I would touch on I think parallels your path to some
18 degree. It was one I watched on the peripheral. I
19 don't recall the exact year, but it was definitely
20 before you. I'm going to say in around 2000, 2001,
21 and I could be mistaken by a year or two (2).

22 But Council appointed a steering
23 committee. The steering committee engaged
24 consultants. They provided a comprehensive effort,
25 brought a level of passion in terms of trying to

1 identify need and recommend to Council how to service
2 that need. Do you recall hearing about that back
3 then?

4 MS. MARTA PROCTOR: Yes, I do.

5 MR. PAUL BONWICK: Would you recall
6 that the committee made recommendations, which I
7 believe Council adopted. I believe, if you'll recall,
8 they actually picked a site. Beyond going to the
9 site, they actually applied for funding and were
10 successful in securing several millions of dollars in
11 funding. Do you recall that?

12 MS. MARTA PROCTOR: I recall hearing
13 about that.

14 MR. PAUL BONWICK: And so then you'll
15 recall that -- or you may recall that one (1) of the
16 competing interests at that time, one (1) of the
17 groups that was somewhat opposed to locating a multi-
18 use facility on what's known as the Fisher Field Park
19 in Collingwood, was the YMCA.

20 Were you familiar with that?

21 MS. MARTA PROCTOR: No, I can't say I
22 knew that.

23 MR. PAUL BONWICK: So the former
24 director of Parks and Rec never briefed you on the
25 fact that there had been a significant issue raised by

1 the supporters of the YMC (sic) about the rationale
2 for locating a multi-use facility on the other side of
3 Collingwood?

4 MS. MARTA PROCTOR: To the best of my
5 recollection, I do not recall a link with YMCA
6 members. I -- I do recall hearing that there was --
7 the -- the end dispute was about the location.

8 MR. PAUL BONWICK: Do you recall the
9 dispute was about the location and also about the fact
10 that it was -- and again, I'm pulling a number out of
11 the dark, but I -- if memory serves me correct, it was
12 around 23 or 24 million back then.

13 Do you recall that number?

14 MS. MARTA PROCTOR: I do remember a
15 number, but it's only the number I was told that -- of
16 the grant. I don't know the number of the project.

17 MR. PAUL BONWICK: Fair enough.

18 THE HONOURABLE FRANK MARROCCO: Mr.
19 Bonwick, before you go on, just for your information,
20 it may be possible to establish that with the Town by
21 way of an agreed statement of fact or something of
22 that nature. You may want to consider. I don't want
23 to do it now, obviously. I want you to go on with the
24 questioning, but that may provide a vehicle for you,
25 putting the -- that information before us as opposed

1 to putting it before us through the evidence of
2 someone who actually wasn't there.

3 MR. PAUL BONWICK: Fair enough, and
4 thank you for that, Your Honour. I did google it, and
5 all I could find was media coverage that said it was
6 24 million, so I think, to the point at hand that's
7 good direction -- thank you -- and I will.

8

9 CONTINUED BY MR. PAUL BONWICK:

10 MR. PAUL BONWICK: I'll come back to
11 your concern related to -- how I interpreted it was
12 sort of expediting process versus following a more
13 traditional process, and I'll -- I'll -- I'll come
14 back to that in a few minutes. What I'd like to do is
15 -- and go to the environment of the day.

16 And so we've heard testimony from you,
17 and Mr. Chenoweth has brought up some evidence that
18 would suggest that there was some strongly competing
19 factions within the community in terms of which
20 direction people felt the community should take as it
21 relates to recreational facilities. Is that fair?

22 MS. MARTA PROCTOR: Could you repeat
23 the last part one time -- more time?

24 MR. PAUL BONWICK: So there was some
25 very strong emotion and positions or camps -- I think

1 one (1) word was used in an email -- in terms of where
2 people felt the municipality should go in terms of
3 delivering recreational services.

4 MS. MARTA PROCTOR: I would say that's
5 accurate.

6 MR. PAUL BONWICK: Do you recall the
7 people -- the names of the people -- and if it's a
8 long list, I won't bother you with the detail. I
9 don't recall the list of people that sat on the --
10 I'll refer to it as the steering committee for the
11 multi-use facility?

12 MS. MARTA PROCTOR: I can do my best
13 to try and do that.

14 MR. PAUL BONWICK: Thank you.

15 MS. MARTA PROCTOR: So there were two
16 (2) co-chairs that were chosen by the committee.
17 Brian Saunderson and Claire Tucker-Reid were the two
18 (2) co-chairs. I will apologize. Can I use last
19 names?

20 MR. PAUL BONWICK: Sure.

21 MS. MARTA PROCTOR: Mr. Geddes, Doc
22 Paul was on for a short time and then resigned. There
23 were YMCA representatives that, for the majority of
24 the duration, were represented by Rob Armstrong;
25 however, he had staff that assisted too, just as I did

1 as a staff person. Well, if I looked at the minutes,
2 I'd be way better. I -- I'm thinking I'm missing some
3 people.

4 MR. PAUL BONWICK: Okay, I we could
5 cover it off there. There was Mr. Saunderson, co-
6 chair, Ms. Claire -- Ms. Tucker-Reid that was co-
7 chair, former Mayor Geddes and Dr. Don Paul for a
8 short period of time, I'm going to assume they were
9 there representing the community at large.

10 And then there would have been one (1)
11 or two (2) representatives from the YMCA, we don't
12 need their exact names, but Mr. Armstrong would be
13 one.

14 And so that's sort of a -- a five (5)
15 or six (6) person committee would sound kind of normal
16 for that kind of stuff.

17 MS. MARTA PROCTOR: And then a PRC
18 advisory board member was added to the committee as
19 well.

20 MR. PAUL BONWICK: Do you recall who
21 that was?

22 MS. MARTA PROCTOR: Penny Skelton.

23 All the first, including Brian
24 Saunderson and Claire Tucker-Reid, along with Mr.
25 Geddes and -- and they always called him Doc Paul, so

1 -- were members of the community at large.

2 MR. PAUL BONWICK: Right. Okay, yes.

3 MS. MARTA PROCTOR: Yeah.

4 MR. PAUL BONWICK: So I'll -- I'll
5 start with the chairs. There was a -- I assume
6 similar to 2000 or 2001, the chairs and this steering
7 committee, along with yourself as a support staff and
8 possibly Rob Armstrong as a support staff or member, I
9 assume there was a tremendous amount of work and
10 effort went into this?

11 MS. MARTA PROCTOR: Yes, a lot of work
12 went into this.

13 MR. PAUL BONWICK: I'm going to
14 assume, based on prior relationships with -- with the
15 Y, that committee was made up of people that had some
16 experience within the recreational -- the delivery of
17 recreational services in the Town of Collingwood?

18 MS. MARTA PROCTOR: There -- the
19 approach to this initiative was not one I was familiar
20 with.

21 However, I did work with the Y to
22 establish an expression of interest and some criteria
23 by which we selected members for this committee.

24 And we looked for a range of expertise
25 and perspective to try and have a highly-functioning

1 committee to address the -- the project at hand.

2 MR. PAUL BONWICK: And I -- I
3 appreciate that. I'm a little confused, and perhaps
4 you can shed some light, this is a municipal --
5 municipally-led initiative as I understand it. It's
6 about meeting the needs -- the recreational needs of
7 the residents of Collingwood, and while the YMCA is a
8 respected and active partner in delivering those,
9 this, I understood, was a Collingwood initiative, YMCA
10 being part of it.

11 But I'm curious why would you be going
12 to the YMCA and asking for recommendations on criteria
13 for putting Board members on a Collingwood board, a
14 Council steering committee, in short?

15 MS. MARTA PROCTOR: First of all, I
16 was -- the City -- Fernie is a city, even though it's
17 smaller, so I had trouble switching from town. The
18 Town was approached after I started by the Y to
19 explore the same partnership.

20 And the presentation made before
21 Council and the direction from Council, based on my
22 recollection, was to work in partnership with the Y.

23 MR. PAUL BONWICK: When did that take
24 place?

25 MS. MARTA PROCTOR: Shortly after I

1 started.

2 MR. PAUL BONWICK: In fairness, August
3 or September, obviously, of 2000?

4 MS. MARTA PROCTOR: I'm -- I'm very
5 sorry, the -- the -- I don't want to guess dates and
6 it's not clear to me.

7 MR. PAUL BONWICK: Fair.

8 MS. KATE MCGRANN: I may be able to
9 provide some assistance with reference to Council
10 meeting minutes that seem to speak to this issue.

11 MR. PAUL BONWICK: I'm absolutely
12 comfortable with Ms. Proctor's response. Thank you.

13

14 CONTINUED BY MR. PAUL BONWICK:

15 MR. PAUL BONWICK: Going back to the -
16 - the leadership, the passion and the commitment that
17 was demonstrated by the -- by the Steering Committee,
18 one has to assume that Mr. Saunderson and Ms. Tucker-
19 Reid put in considerable amounts of time on this
20 initiative, on this Steering Committee, fair?

21 MS. MARTA PROCTOR: Correct.

22 MR. PAUL BONWICK: Provided leadership
23 as chairpersons to help keep them -- not always easy
24 with the committee -- steered in the right direction
25 or going in -- in the right direction and providing

1 that leadership. You would agree that they provided
2 good, strong leadership as co-chairs?

3 MS. MARTA PROCTOR: I would agree.

4 MR. PAUL BONWICK: Would you agree
5 that they were very passionate in terms of the results
6 that were achieved in delivering those results to the
7 residents of Collingwood?

8 MS. MARTA PROCTOR: Can you say that
9 one more time, please?

10 MR. PAUL BONWICK: Yes.

11 Would you agree -- I'll break it out --
12 would you agree that Ms. Tucker-Reid, as a co-chair,
13 was very passionate about delivering the findings of
14 the committee and servicing the needs, recreational
15 needs for the residents of Collingwood?

16 MS. MARTA PROCTOR: Yes.

17 MR. PAUL BONWICK: Thank you. I guess
18 in short, you highly valued her efforts and her
19 leadership?

20 MS. MARTA PROCTOR: I respected the
21 work of the committee and the process by which they
22 did it.

23 MR. PAUL BONWICK: Sorry, I was
24 speaking about Ms. Tucker-Reid, you highly respected
25 and valued the work that she brought to the table, the

1 passion she brought to the table?

2 MS. MARTA PROCTOR: I respected the
3 experience and the leadership she brought to the
4 table.

5 MR. PAUL BONWICK: Experience. How
6 long have you known Ms. -- Ms. Tucker-Reid?

7 MS. MARTA PROCTOR: I have known of
8 her since I started in the City of Toronto. I didn't
9 know her there because she was several layers above
10 where I sat in that organization at that time.

11 So I -- I knew her as the general
12 manager of parks recreation. Actually, City of
13 Toronto the title changed around when I was there.
14 But she was the general manager of a huge department
15 with I think over four thousand (4,000) employees at
16 that time. So I didn't report directly to her,
17 nowhere near her, but I knew of her.

18 So I didn't establish any professional
19 relationship with her until I left the City of Toronto
20 and encountered her as a consultant on several
21 projects, never directly my projects. But I sat on --
22 for example, when I was in conservation I was the
23 director of lands and conservation Halton, the City of
24 Milton asked me -- the Town of Milton asked me to sit
25 on one (1) of their strategic initiatives and Claire

1 Tucker-Reid was the consultant. So we re-acquainted,
2 I attended one (1) or two (2) meetings.

3 It wasn't until I was here in -- in
4 coming here to work in Collingwood that she told me
5 she had a place here and -- and said, you know, if
6 there are ever initiatives I'd love to be involved.

7 So that was, at the time, where we
8 reconnected when we put up the expression of interest.

9 MR. PAUL BONWICK: Great. So, thank
10 you for that.

11 So you -- excuse me -- you certainly
12 had knowledge of Ms. Tucker-Reid and an on and off
13 again relationship based on her consulting for your
14 conservation authority?

15 MS. MARTA PROCTOR: No, she never
16 consulted for the conservation authority. She was a
17 consultant for the Town of Milton, Milton is one (1)
18 of the geographic communities that the Conservation
19 Authority covered, so I was asked as the department
20 head for the Parks to sit on Milton's strategic
21 initiative.

22 MR. PAUL BONWICK: Thank you.

23 You've referenced -- and Your Honour,
24 where I'm going with this is trying to provide clarity
25 in terms of why Council may go in a particular

1 direction based on the environment of the day. And so
2 spending a little bit of time to better understand the
3 other scenario or the other option was on the table, I
4 thought might be helpful.

5 THE HONOURABLE FRANK MARROCCO: That's
6 fine.

7

8 CONTINUED BY MR. PAUL BONWICK:

9 MR. PAUL BONWICK: I've read different
10 numbers about the multi-use proposal, or MURF, I
11 didn't understand what MURF was, I was trying to
12 figure out that acronym when I heard it, but I've
13 heard 34 to 35 million and then I've seen today 35
14 million plus.

15 Irrespective of the exact number, would
16 you agree that it is a very significant amount of
17 money for a municipality the size of Collingwood?

18 MS. MARTA PROCTOR: Yes, I would agree
19 that that would have been a significant investment in
20 that time for a municipality like Collingwood.

21 MR. PAUL BONWICK: Would you also
22 agree that if 34 or \$35 million was invested into
23 recreational facilities into the Town of Collingwood,
24 in the short term that would have had very sizeable
25 and economic impact in terms of some of the service

1 providers that were helping facilitate the
2 construction of this new 34, \$35 million dollar
3 facility?

4 MS. MARTA PROCTOR: I'm sorry. Could
5 you state that question a different way? I didn't
6 understand it totally.

7 MR. PAUL BONWICK: Yes.

8 Would you agree that if Council had
9 approved a 34 or \$35 million dollar budget to support
10 this multi-use facility, that had the ability to have
11 very significant impact economically during that
12 construction phase for the Town of Collingwood?

13 MS. MARTA PROCTOR: Yes, I would
14 agree.

15 MR. PAUL BONWICK: Thank you. You --
16 your testimony yesterday spoke about a company named
17 Ameresco?

18 MS. MARTA PROCTOR: Ameresco?

19 MR. PAUL BONWICK: Ameresco. I was
20 Googling it and wondered why nothing would come up.
21 Ameresco, sorry.

22 MS. MARTA PROCTOR: I'm not familiar
23 with them myself, I believe they're called Ameresco.

24 MR. PAUL BONWICK: Ameresco, thank
25 you.

1 You alluded or you made mention that as
2 part of the work the committee had done in terms of a
3 recommendation, that Ameresco, and I believe you
4 mentioned Greenland Engineering, had sought to become
5 a proponent or a lead or a participant in providing
6 that solution to the Town of Collingwood.

7 Is that what I understood to be
8 correct?

9 MS. MARTA PROCTOR: They offered a
10 consideration that they wanted to be considered in the
11 go-forward plan.

12 MR. PAUL BONWICK: Right. And so
13 Ameresco and Greenland wanted to become an active
14 participant in the 34 or \$35 million solution, should
15 Council choose to move in that direction.

16 Is that an accurate statement?

17 MS. MARTA PROCTOR: Could you say it
18 one (1) more time? I just want to make sure I'm
19 answering the proper question.

20 MR. PAUL BONWICK: Yes. So Ameresco
21 and Greenland desired to play a significant role in
22 delivering on the 34 or \$35 million solution
23 recommended, if Council approved that direction?

24 MS. MARTA PROCTOR: I can't speak on
25 their behalf, but I believe that to be accurate.

1 MR. PAUL BONWICK: Thank you.

2 Was there ever any questions asked of
3 your committee members or your chairs as it related to
4 potential conflicts of interest specific to Ameresco
5 or Greenland? Was there ever any questions raised to
6 any of the members of the committee as it related to
7 potential conflicts?

8 It's a small town, Greenland is an
9 engineering firm, the co-chair is a lawyer in the Town
10 of Collingwood. Was there ever any issues raised
11 about the relationships between the Board members or
12 the Steering Committee members and the proponents for
13 that particular initiative? Do you recall?

14 MS. MARTA PROCTOR: None specific to
15 that that I recall. But I vaguely recall some
16 discussion about conflict of interest in the terms of
17 reference for the committee.

18 MR. PAUL BONWICK: Okay. The fact
19 that there could be \$34 million or \$35 million spent
20 in a community and you agree that would have sizeable
21 economic impact for a period of time, certainly to
22 those that are supporting the development of that.

23 You -- would you agree that not only
24 based on the desire to deliver those services, but
25 there would be a vested economic interest on some

1 participants to want to see this project move forward.

2 Is that fair or accurate?

3 MS. MARTA PROCTOR: I've -- I haven't
4 had these discussions with anybody, that was not the
5 perspective from which our committee was doing our
6 work. But when you frame it that way, yes, there
7 could be potential benefit -- economic benefit to
8 people in the community.

9

10 (BRIEF PAUSE)

11

12 MR. PAUL BONWICK: I might want to
13 take a couple of minutes. I think Mr. Chenoweth
14 explored this to some degree. But I -- I think, in
15 fairness, if I could bring up EHH, and I had it as
16 000010. It was the communication link that started
17 out with Councillor West raising an issue of concern.

18

19 (BRIEF PAUSE)

20

21 MR. PAUL BONWICK: Scroll down, please
22 -- or up, sorry. That's good. Thank you. That's
23 fine there.

24

25 We've had the -- we have not heard from
Ms. Leonard as of yet, but we've had the opportunity

1 to hear from Ms. Almas both in phase 1 -- or part 1 of
2 the Inquiry, as well as -- as part 2.

3 And Ms. Almas, amongst other staff
4 people, have been very vocal in terms of their pride
5 in work and the delivery of service that they offer
6 the community, council, while it can be a pressured
7 environment. I certainly took that away from some of
8 them.

9 At no time would they compromise their
10 professional integrity or their reputation in the
11 community to simply serve the wishes or needs of any
12 individual councillor.

13 And that's why I'm struggling with the
14 allegations or the statements that you've made whereby
15 -- if -- if understood you properly, you suggested
16 that on numerous occasions, it sounded that to me, you
17 raised concern over process and that your concern over
18 process, whether it be Ms. Leonard, Ms. Almas, or
19 others, was met with the standard response of this is
20 how we do business. I wrote it down on a few
21 occasions when you commented yesterday.

22 And I think about Ms. Almas, served
23 three (3) terms of -- three (3) different councils, at
24 least, maybe four (4), seems to be well respected
25 within the community and the staff.

1 Ms. Leonard's been here at least three
2 (3) or four (4) terms of councils and obviously enjoys
3 their confidence still because she's still employed
4 here, Mr. Irwin thirty (30) plus years and now Chief
5 Operating Officer of EPCOR.

6 I'm just trying to get my head wrapped
7 around how three (3) professionals that seem to be
8 highly respected in their individual fields who have
9 made commitments that they would not breach their
10 integrity simply respond to you, That's how we do
11 business, but yet there's no email trails. There's no
12 confirmation that you raised these on any occasions.

13 And so, I'm struggling with this as it
14 relates to the process. Can you enlighten us? Do you
15 have any email records or any evidence beyond you
16 raising it in general discussion that these
17 conversations took place?

18 MS. MARTA PROCTOR: I -- I hold no
19 corporate records from this organization.

20

21 (BRIEF PAUSE)

22

23 MR. PAUL BONWICK: You can understand
24 the difficulty when we've got three (3) people of that
25 calibre, or four (4) counting Mr. Houghton,

1 collectively having the same response over and over
2 again with you while they're individual conversations.

3 I would suspect that would it not make
4 sense to you that the clear who's responsible for
5 process, who's responsible for the -- making sure
6 people follow the code of conduct, making sure she's
7 advising councillors and staff as it relates to the
8 Municipal Act, does it not make sense that, if a
9 department head brought a concern to her, that she
10 would put that in writing and confirm that with the
11 department head?

12 Does that make sense to you?

13 MS. MARTA PROCTOR: I cannot speculate
14 on what Ms. Almas would or would not do.

15 MR. PAUL BONWICK: Thank you. I'm
16 going to move forward to the questioning of judi --
17 Inquiry counsel, and it was related to the change, and
18 I'm using my language, in our world, we call it a
19 change work order, the addition of the therapeutic
20 pool. And there was some questioning on that
21 yesterday.

22 If I could...

23

24 (BRIEF PAUSE)

25

1 MR. PAUL BONWICK: One (1) second.
2 I'll get my little...

3

4 (BRIEF PAUSE)

5

6 MR. PAUL BONWICK: If I could ask for
7 CJI0011245 to be brought up on the screen, please.
8 So, you were asked about the addition of the
9 therapeutic pool I suspect for two (2) reasons. One
10 (1) is it was a very sizeable increase in terms of
11 cost if in fact a therapeutic pool was going to be
12 added.

13 I don't recall the exact amount, but I
14 think it was in excess of a million dollars and -- and
15 maybe more than that. But in your -- in your response
16 you said you didn't recall why or how it got there.
17 And that kind of surprised me a little bit based on
18 your experience as a director of Parks and -- Park,
19 Recreation, and Culture.

20 You'll be aware of the fact, of course,
21 that the contact centre -- for those new, the contact
22 centre was a quasi multi-use recreational facility,
23 weight rooms, yoga studios, or classrooms.

24 Do you recall the contact centre?

25 MS. MARTA PROCTOR: Yes, I recall the

1 contact centre. And I'd like to clarify a point, if I
2 may. I didn't say I don't know why it came about. I
3 couldn't recall specifically where it came from, and I
4 knew it was from several sources, to include the fact
5 that we shut down the contract centre.

6 MR. PAUL BONWICK: Right. And -- and
7 that's -- and thank you very much for that because
8 that's what I was trying to sort of unroot for the
9 commission and the Inquiry --

10 MS. MARTA PROCTOR: Yeah.

11 MR. PAUL BONWICK: -- is the fact that
12 this wasn't sort of a frivolous ask, let's throw in a
13 therapeutic pool. And when you said it could have
14 come for the Clippers, it could have been a warm water
15 pool --

16 MS. MARTA PROCTOR: It --

17 MR. PAUL BONWICK: -- for the kids --

18 MS. MARTA PROCTOR: Yeah, it came from
19 several from -- sources, as far as I recall.

20 MR. PAUL BONWICK: What I would ask
21 maybe is just if -- if you could look at the screen.
22 I was trying to figure out what a therapeutic pool
23 was. It actually comes down to aquatic therapy. It
24 talks about what it actually does, the services that
25 it provides.

1 I suspect you've lived in this commu --
2 you lived in this community long enough to recognize,
3 I'll say this politely, that some of us are aged, that
4 the average demographic may be slightly above the
5 Provincial average.

6 And so, you can appreciate then -- or
7 will you agree that the therapeutic pool was a very
8 important consideration considering that the contact
9 centre has lost theirs and in fact that the community
10 did not have one (1) at that point in time?

11 MS. MARTA PROCTOR: I would agree a
12 hundred percent. And I also think there's benefits
13 for beyond people with disabilities and aging people.
14 There is benefits for programming for young infants,
15 as well.

16 MR. PAUL BONWICK: Thank you.
17 Especially in light of the fact that your predecessor,
18 the former Director of Parks, Rec, had put together
19 plans in the past about refurbishing the contact
20 centre, about bringing it up to a standard that was --
21 would be deemed acceptable that would include
22 maintaining the therapeutic pool and all that time and
23 investment went into proposing to council that they do
24 that.

25 In fact, they ended up shutting it down

1 and -- anyways. And so, I think that just reinforces,
2 would you agree, the importance of having the
3 therapeutic pool as part of the overall aquatics
4 facility?

5 MS. MARTA PROCTOR: I think the
6 addition of a therapeutic aspect in an aquatic
7 facility is a very important consideration in any
8 construction or design.

9 MR. PAUL BONWICK: Thank you for
10 expanding on that. I listened -- changing over to
11 another point now. I -- I listened with interest
12 about your comments related to 3P (sic) partnerships
13 and the appropriateness of them under different
14 circumstances.

15 Quite frankly, I couldn't agree with
16 you more in terms of your statement. Would you agree
17 that a municipality really has only two (2) mechanism
18 to pay for anything of substantial infrastructure and
19 -- or building, and one (1) is they pay it themselves,
20 whether that be through reserves or debentures or --
21 and part of that could be government support, but --
22 or two (2), they have the option in larger scenarios
23 of a 3P (sic) partnership.

24 Those are really kind of the two (2)
25 main choices they have in terms of funding a 30-\$40

1 million facility. Is that -- do you agree with that?

2 MS. MARTA PROCTOR: At a high level,
3 yes. And you did include other sources of funding
4 from other orders of government.

5 MR. PAUL BONWICK: Right

6 MS. MARTA PROCTOR: Yeah.

7 MR. PAUL BONWICK: Right. And so, I
8 think we were both of the same opinion, that while 3P
9 (sic) partnerships can work well in certain areas, and
10 whether that be water or hospitals where there's hus -
11 - regular revenue streams, stable high revenue
12 streams, they can work but a little bit more
13 problematic.

14 And I think when you were comment that,
15 I...

16

17 (BRIEF PAUSE)

18

19 MR. PAUL BONWICK: Could I bring up
20 CJI0011243? And while that's coming up, you'll no
21 doubt be well aware of the fact that councillors
22 regularly attend conferences throughout the year.

23 We've heard of AMO, I think,
24 Association of Municipalities of Ontario, good roads,
25 road construction, Federation of Canadian

1 Municipalities. I'm going through my memory.

2 And so, if you could scan down to page
3 7, please -- or, no, sorry. Scan down a little, wee
4 bit, please. There's a comment in here from the
5 infrastructure. Down a little further, please.

6

7 (BRIEF PAUSE)

8

9 MR. PAUL BONWICK: Did make the note.
10 Which -- that's 243. Page 2, first paragraph. Sorry
11 about taking you down so low, auditor ge -- there's
12 one (1) there.

13 "The auditor -- auditor general is
14 blunter, suggesting that the
15 government's so-called value
16 assessments are a little more than
17 junk science. The probability in
18 cost impacts are not based on
19 empirical data that support the
20 valuation of risk."

21 She said in her report. If you'll go
22 up a little further, please. Thank you. A little
23 further. The paragraph that starts with, "These."
24 You'll notice that the auditor general suggested that:

25 "Governments may have overpaid to

1 the tune of \$8 billion on seventy-
2 four (74) major infra --
3 infrastructure projects dating back
4 nine (9) years."

5 And I think that simply reinforces the
6 very point you were trying to make. You need to be
7 very cautious when you're entering into a 3P (sic)
8 partnership. Is that a fair statement?

9 MS. MARTA PROCTOR: I think that's a
10 very fair statement. And going back to your point
11 about the two (2) sources, and it's what I was
12 alluding to, one (1) option is still divestment of
13 infrastructure, and the reinvesting that money into
14 new or improving existing infrastructure.

15 MR. PAUL BONWICK: Fair enough. One
16 (1) is going it alone --

17 MS. MARTA PROCTOR: Yeah.

18 MR. PAUL BONWICK: -- however you're
19 going to do it. Two (2) is finding a --

20 MS. MARTA PROCTOR: Totally.

21 MR. PAUL BONWICK: -- public/private
22 partnership. And going it alone creates -- you would
23 explore various options --

24 MS. MARTA PROCTOR: Various.

25 MR. PAUL BONWICK: -- in order to --

1 to fund that. And so, I'd like to bring up
2 CJI0011242.

3 The reason I bring this up is, back
4 during that period of time, I was actually very active
5 outside of this community, down in Port Colborne, in
6 pursuing a funding partnership through the Provincial
7 Government and became intimately aware of what the
8 Province and the Federal Government were doing in
9 terms of infrastructure support.

10 I'm sure you'll recall that -- I'll
11 call it the tripartite funding agreements, they --
12 they -- for years, they had the -- Feds would bring in
13 thirty-three (33), the Province would bring in thirty-
14 three (33), the municipality would bring in thirty-
15 three (33).

16 You will confirm that?

17 MS. MARTA PROCTOR: Those --

18 MR. PAUL BONWICK: You're --

19 MS. MARTA PROCTOR: Those were very
20 calming -- common funding programs.

21 MR. PAUL BONWICK: And you'll confirm
22 in the -- or will you confirm, in the early days, when
23 those programs came out, and I'm thinking back in the
24 mid/late '90s, early 2000s, that they were quite broad
25 in terms of qualifying criteria, libraries, arenas,

1 administration buildings, highways, bridges?

2 It was -- it seemed to be quite a broad
3 criterion.

4 MS. MARTA PROCTOR: Over time, there
5 have been various eligibility criteria, so.

6 MR. PAUL BONWICK: But do you recall -
7 - what I'm getting at is, going back 15 years ago, the
8 criteria was -- or, sorry, going back about 15 years
9 ago or more, the criteria tended to be very broad; and
10 then moving forward to 2012, 2013, 14, 15, and beyond,
11 the criteria tended to shrink up in a fairly
12 substantive way.

13 Would you agree with that? And if I
14 could get down to page 7, please.

15 THE HONOURABLE FRANK MARROCCO: Well,
16 we'll just let the witness answer whether she agrees
17 with it or not.

18 MS. MARTA PROCTOR: I recall, working
19 in the Parks and Recreation industry, that there
20 became less access to funding for capital programs of
21 recreation infrastructure.

22

23 CONTINUED BY MR. PAUL BONWICK:

24 MR. PAUL BONWICK: And so -- and thank
25 you for confirming that -- and this was really to --

1 to help -- I keep going back to the fact that it's a
2 2012, 2011 lens, and we get confused.

3 But you can see, if you scroll down
4 just a little wee bit -- there we go. You can see
5 here, clearly, that the infrastructure investments
6 capital program is very much focused now on water,
7 wastewater, bridges. They've effectively eliminated
8 what Province and Feds tended to qualify as soft
9 infrastructure, and that was libraries, arenas, and
10 multi-use facilities, and that sort of thing.

11 So you would agree that the focus
12 during this period of time in upper-tier levels of
13 government was really on roads, bridges, water,
14 wastewater. And in fact, would you agree that the
15 measuring stick was either health or economic impact
16 as it related to investing in those kinds of services?

17 MS. MARTA PROCTOR: When you use the
18 term "this period," I'm not sure exactly --

19 MR. PAUL BONWICK: I'm sorry.

20 MS. MARTA PROCTOR: I -- I -- I know
21 there were periods --

22 MR. PAUL BONWICK: 2010 to 2013.

23 MS. MARTA PROCTOR: Yeah, and I can't
24 speak to the exact programs that were available. I --
25 I know there was some infrastructure programs that

1 came to Recreation around there, but it did change
2 over time.

3 MR. PAUL BONWICK: What I'm trying to
4 do is clarify that, in fact, there was no -- I repeat,
5 no -- significant upper-tier funding programs
6 available to support a 34 or \$35 million recreational
7 facility.

8 MS. MARTA PROCTOR: Right at the time
9 that we were working on the project, I was not aware
10 of any funding program for that.

11 MR. PAUL BONWICK: Are you aware of
12 any funding program that took place in the subsequent
13 three (3), four (4), or five (5) years that would
14 support a \$35 million recreational facility from
15 provincial or federal government?

16 MS. MARTA PROCTOR: I'm aware -- I'm
17 aware of a recent program, but not in between.

18 MR. PAUL BONWICK: Thank you.

19

20 (BRIEF PAUSE)

21

22 MR. PAUL BONWICK: I want to just
23 touch quickly on process. If I could bring up
24 CJI0011244, and I think what I'm trying to do here is
25 give you a bit of background, and I'm sure you know

1 this, but Collingwood was not unique in its challenges
2 and its approach towards trying to secure recreational
3 facilities within its community.

4 If you can go to the bottom of the
5 page, please. Keep going down. Keep going down.
6 Keep going down. Further. Further -- there we go.
7 So there's just a -- a parallel in terms of Cambridge
8 making a decision to move forward with a recreational
9 multi-use facility in 2014.

10 Go up to 2016. Stop, please. They
11 were going to do it with a partner. 2016, there was
12 challenges over location. 2017 -- 16, more
13 challenges. Fast-forward to 2019. They still haven't
14 built anything. Five (5) years of following a
15 convoluted process, changing locations, changing
16 priorities, changing councils, and there's a community
17 that finds themselves in the exact some position they
18 were four (4) years ago, not having a multi-use
19 facility.

20 And I couldn't help but think that
21 paralleled Collingwood back in 2000/01, and in terms
22 of -- these councils seem to struggle with being able
23 to deliver from time to time on what the needs of the
24 community are. Would you agree with that?

25 MS. MARTA PROCTOR: That councils

1 struggle with delivering --

2 MR. PAUL BONWICK: Struggle with being
3 able to delivering what the residents are asking for.

4 MS. MARTA PROCTOR: Yes, I would agree
5 with that.

6 MR. PAUL BONWICK: And so I'm going to
7 sort of wrap up in terms of where I said I'm going to
8 leapfrog over and cover all of this stuff. We know
9 that there was a 34 or \$35 million solution on the
10 table for Council to consider. We know that there was
11 zero (0) funding available from upper-tier levels of
12 government that year and continuing years. We know
13 that Council has, through their various travels,
14 become knowledgeable about things that have happened
15 in other communities, like things like 3P
16 partnerships, and again, you and I are on the same
17 breath.

18 We know that in 2010, Mayor and Council
19 were elected in part -- in a significant part on a
20 campaign or on a platform of fiscal conservatism. We
21 know that the Mayor has followed up subsequently and
22 said, We need to do things better and right. And we
23 know that there was an absolute need for 20-plus years
24 -- I like the saying water and ice -- for an ice
25 surface and a proper aquatics facility. We know this

1 stuff to be true.

2 And so when I put it in that bundle,
3 can you not appreciate that with Council only having
4 14 or 15 months or whatever it was left in its mandate
5 -- I think they're 4-year terms then as well; it could
6 have been a 3 -- that based on all that information,
7 if they're given information from the Treasurer, that
8 they wouldn't want to act in the most expeditious
9 manner possible to deliver water and ice to their
10 constituents?

11 Knowing the history and understanding
12 what I've just did, can you now appreciate that eight
13 (8) out of nine (9) councillors would feel that was
14 the best route to go?

15 MS. MARTA PROCTOR: There was a lot of
16 information there. I'm not really clear what question
17 I should be answering.

18 MR. PAUL BONWICK: There was one (1)
19 question. What I did was I tried to walk you through
20 chronologically or --

21 MS. MARTA PROCTOR: Yeah.

22 MR. PAUL BONWICK: -- in terms of
23 points of consideration that would have been forefront
24 in the mind of every councillor.

25 You will agree with me that the

1 councillors are elected from the community at large?

2 MS. MARTA PROCTOR: Yes.

3 MR. PAUL BONWICK: You'll agree with
4 me that these councillors typically work, raise their
5 families, go to church, participate in sporting events
6 with people from the community at large?

7 MS. MARTA PROCTOR: Yes to some of
8 those. I can't say to all of that.

9 MR. PAUL BONWICK: Not all -- not all
10 of them, but yeah.

11 MS. MARTA PROCTOR: Yeah.

12 MR. PAUL BONWICK: So you would agree
13 with me then that individual councillors -- not
14 collectively -- individual councillors should have a
15 pretty good understanding, at the very least, of what
16 the people that elected them want out of municipal
17 government.

18 MS. MARTA PROCTOR: Yes, I believe
19 they should have an understanding of that.

20 MR. PAUL BONWICK: And so when you
21 have nine (9) sitting around the table -- and I'm not
22 going to go back through the list of no funding
23 available, \$35 million. I'm not going to go through
24 all that list again, but the fact is, 20 years, no
25 ice, no water; eight (8) people -- nine (9) people

1 that are elected from the community at large; and
2 understanding all the stuff I said, can you not now
3 appreciate why Council might want to expedite this
4 process to deliver what they delivered to their
5 constituents?

6 MS. MARTA PROCTOR: It's not my
7 position to appreciate or not. I work on the will of
8 Council --

9 MR. PAUL BONWICK: Right, but --

10 MS. MARTA PROCTOR: -- and my
11 questions were about process, and I answered them. I
12 didn't make statements without being asked a question.

13 MR. PAUL BONWICK: I maybe
14 misinterpreted what you were saying yesterday, but I
15 took away that you seem to be concerned about why they
16 were rushing this, why they were expediting process,
17 and you kept raising that.

18 That's what I took away yesterday from
19 your testimony, and I'm saying, if you expand your
20 lens and look at everything that they had to consider,
21 would you not agree that there was good reason why
22 they would want to expedite this process and deliver
23 this arena and aquatics facility?

24 MS. MARTA PROCTOR: Quite frankly, I
25 can understand their interest in expediting it, but I

1 can't understand it in -- at the expense of a proper
2 process.

3 MR. PAUL BONWICK: And I guess that's
4 why Cambridge is sitting there five (5) years later
5 without anything.

6 THE HONOURABLE FRANK MARROCCO: Well,
7 I think you've put the issue on the table, Mr.
8 Bonwick.

9 MR. PAUL BONWICK: Ms. Proctor, we'll
10 agree to disagree on that, but we will agree on this,
11 and that is, I do appreciate you taking all the time
12 to come out here and sit with us and walk us through
13 this. It's not an easy process, and it is much
14 appreciated. So thank you. That ends my questions.

15 MS. ANDREA WHEELER: No questions for
16 this witness.

17 THE HONOURABLE FRANK MARROCCO: All
18 right. Well, that's it then.

19 MS. KATE MCGRANN: I -- I beg your
20 pardon, Your Honour. I do have one (1) question.

21 THE HONOURABLE FRANK MARROCCO: Oh,
22 re-examination. You know -- you know, I -- I left
23 myself a note that said don't forget to ask Mr. Marron
24 if he has any questions, and now I've forgotten my own
25 counsel. It appears I have a limited capacity to keep

1 track of the questioners.

2 MS. KATE MCGRANN: And I'm incapable
3 of taking a hint.

4 THE HONOURABLE FRANK MARROCCO: No, go
5 ahead.

6

7 RE-DIRECT EXAMINATION BY MS. KATE MCGRANN:

8 MS. KATE MCGRANN: I just wanted to --
9 I just wanted to come back to something that has come
10 up now, and it's your recollection of the Deputy Mayor
11 making a comment to you. You said that you recalled
12 it happening at the ground-breaking ceremony.

13 We have a -- we found a document that
14 indicates the date of that ceremony. It's at
15 TOC182487. And you can take a look at it when it's
16 coming up, but the document says that the date of that
17 ceremony is on July 12th, 2012, so the conversation or
18 the email exchange that -- and there it is right there
19 -- the email exchange that I think you were
20 referencing -- that comment in reference to -- took
21 place on June 14th, 2012.

22 Now that we've got a date for the
23 ground-breaking ceremony, I wonder if you can speak to
24 the comment that you made in your email, which is at
25 paragraph 166 of the Foundation Document.

1 THE HONOURABLE FRANK MARROCCO: I'm
2 sorry. Before you leave that, I'm having some trouble
3 with the date.

4 MS. KATE MCGRANN: July 12th, 2012, is
5 the date of the ground-breaking ceremony for the new
6 fire hall.

7 THE HONOURABLE FRANK MARROCCO: Okay.

8

9 CONTINUED BY MS. KATE MCGRANN:

10 MS. KATE MCGRANN: When we look at
11 paragraph 166 of the Foundation Document, this
12 paragraph discusses an email in which you forward the
13 Deputy Mayor's request to look into pricing for the
14 two (2) fabric buildings. You wrote that you saw this
15 one coming. This is an email that you sent on June
16 14th, 2012.

17 Based on the dates that we see for the
18 ground-breaking, it seems that that comment could not
19 have been made at the time that you thought, and I
20 just wanted to bring that to your attention and ask
21 what your reaction to that is.

22 MS. MARTA PROCTOR: As I said
23 yesterday, and now I'm even more confused, this one
24 (1) topic is not sitting clearly with me, and I
25 thought it became clearer, but clearly it hasn't. So

1 I apologize. It -- it -- it -- there were so many
2 things going on. I was really trying to recall, but
3 clearly, I did not recall properly.

4 MS. KATE MCGRANN: Those are my
5 questions.

6 THE HONOURABLE FRANK MARROCCO: Thank
7 you. Thank you very much.

8

9 (WITNESS STANDS DOWN)

10

11 THE HONOURABLE FRANK MARROCCO: Break
12 for lunch. Two o'clock.

13

14 --- Upon recessing at 12:58 p.m.

15 --- Upon resuming at 2:01 p.m.

16

17 MR. JOHN MATHER: The next witness is
18 Dave McNalty.

19

20 DAVE MCNALT, Sworn

21

22 EXAMINATION-IN-CHIEF BY MR. JOHN MATHER:

23 MR. JOHN MATHER: Good afternoon, Mr.
24 McNalty.

25

1 (BRIEF PAUSE)

2

3 MR. JOHN MATHER: You are the manager
4 of fleet facilities and purchasing for the Town of
5 Collingwood.

6 Is that correct?

7 MR. DAVE MCNALTY: That's correct.

8 MR. JOHN MATHER: And I understand
9 that you've held this position since 2009.

10 Is that right?

11 MR. DAVE MCNALTY: Yes.

12 MR. JOHN MATHER: And prior to working
13 for the Town, as I understand it, you worked at an
14 ethanol plant called Amaizeingly Green.

15 Is that correct?

16 MR. DAVE MCNALTY: Yes.

17 MR. JOHN MATHER: And Amaizeingly
18 Green's predecessor, which was the Nacan starch plant.

19 Do I have that right?

20 MR. DAVE MCNALTY: Yes.

21 MR. JOHN MATHER: What positions did
22 you hold at Amaizeingly Green and Nacan before that?

23 MR. DAVE MCNALTY: Starting from the
24 beginning, I guess, I started at the starch plant at
25 Nacan as a draftsman, proceeded into managing

1 projects, got involved with engineering and
2 maintenance, and became the engineering and
3 maintenance manager of -- when the announcement that
4 will -- was made that the plant was going to be shut
5 down, I became involved with the transition team and
6 looked after the plant closure.

7 Then myself and one (1) other
8 individual were charged with looking after the plant
9 through a sale process to the -- what would be the
10 developers of the ethanol plant. And I stayed on as -
11 - to assist with the process of designing and
12 constructing the ethanol portion of the plant.

13 We went through the startup and -- or
14 period of a year plus I was the plant manager.

15 MR. JOHN MATHER: And is that a year
16 up until the time you stopped working at Amaizeingly
17 Green?

18 MR. DAVE MCNALT: Yes, I was the
19 plant manager at the time I finished there.

20 MR. JOHN MATHER: Do you recall when
21 you became the engineering and maintenance manager at
22 Nacan?

23

24

(BRIEF PAUSE)

25

1 MR. DAVE MCNALTY: It would be in the
2 '90s, probably mid '90s.

3 MR. JOHN MATHER: In the -- the
4 various rules you held at Nacan and then Amaizeingly
5 Green, what experience did you obtain with respect to
6 procurement?

7 MR. DAVE MCNALTY: On a daily basis,
8 we would deal with procurement of one sort or another.
9 In the '90s, the corporation also had a -- a major
10 portion evolution to change procurement policies,
11 primarily to drive the expense of our operation.

12

13 (BRIEF PAUSE)

14

15 MR. DAVE MCNALTY: I would -- I would
16 be involved with bid documents. I would be involved
17 with contracts, as well as being involved with the
18 day-to-day purchases and how we were going to go about
19 obtaining what we needed.

20 MR. JOHN MATHER: In those roles, did
21 you ever participate in a procurement on the scale
22 that would be similar to the two (2) Sprung structures
23 in 2012?

24 MR. DAVE MCNALTY: Early on in the --
25 it would have been in the '80s, I was involved with a

1 warehouse expansion, which was probably a couple
2 million dollars. In...

3

4 (BRIEF PAUSE)

5

6 MR. DAVE MCNALTY: ...the '90s, it
7 would be the late '90s, we did a \$9 million process
8 expansion, which included building a whole proprietary
9 process, and all the buildings and amenities that went
10 with that.

11 Subsequent to that, we did a \$6 million
12 wastewater treatment plant expansion.

13

14 (BRIEF PAUSE)

15

16 MR. DAVE MCNALTY: Two (2) of those
17 would have been a design/build process, and one (1) of
18 them was a more traditional engineer design/procure
19 process.

20 MR. JOHN MATHER: Which one was the
21 more traditional process?

22 MR. DAVE MCNALTY: The \$9 million
23 process expansion.

24 MR. JOHN MATHER: Looking at the \$9
25 million process expansion and the wastewater treatment

1 project, what was your role in those procurements?

2 MR. DAVE MCNALTY: The -- the process
3 expansion, I was part of a -- a corporate engineering
4 team that put the project together. I was, I suppose,
5 the -- the site representative on the project, because
6 some corporate forces came in to assist with that
7 project.

8 The wastewater treatment plant
9 expansion was done more in house, where we engaged a -
10 - a process consultant to assist in defining
11 performance spec for the waste treatment plant, and
12 then went out to market to find a design/build
13 contractor to build it. And then I supervised the
14 construction.

15 MR. JOHN MATHER: With respect to the
16 waste treatment design/build contract, I take from
17 your answer that was done by way of an RFP process?

18 Is that correct?

19

20 (BRIEF PAUSE)

21

22 MR. DAVE MCNALTY: It -- I'm -- it may
23 not have been open market, but there was at least an
24 invitational RFP process, yes.

25 MR. JOHN MATHER: And with the \$9

1 million process expansion, was there a competitive
2 element of that procurement?

3 MR. DAVE MCNALTY: Yes. It went out
4 to public tender.

5

6 (BRIEF PAUSE)

7

8 MR. JOHN MATHER: At a high level,
9 what's your education background?

10 MR. DAVE MCNALTY: I am a construction
11 technologist. That's not a -- not a term you hear
12 often, but it's like a civil technologist, except it's
13 all to do with buildings.

14 MR. JOHN MATHER: And is that
15 something you earned a degree or diploma in?

16 MR. DAVE MCNALTY: A diploma.

17 MR. JOHN MATHER: From where?

18 MR. DAVE MCNALTY: Conestoga College.

19 MR. JOHN MATHER: And in what year?

20

21 (BRIEF PAUSE)

22

23 MR. DAVE MCNALTY: In '84 --

24 MR. JOHN MATHER: Sorry. I didn't --

25 MR. DAVE MCNALTY: Maybe '83,

1 somewhere in there.

2 MR. JOHN MATHER: Do you have any
3 training in architecture?

4 MR. DAVE MCNALTY: From that program,
5 we -- that's what we did as our projects, was
6 designing and producing working drawings for buildings
7 in each of the three (3) years of the program.

8

9 (BRIEF PAUSE)

10

11 MR. DAVE MCNALTY: And then I guess
12 relative to that, working as a draftsman in the early
13 days at the starch plant, that's essentially what I
14 was tasked with, from a -- from an industrial plant
15 point of view.

16 MR. JOHN MATHER: Give us a sense of
17 what you would be drafting as a draftsman at a high
18 level.

19 MR. DAVE MCNALTY: The -- the
20 processes, schematics for the processes, layouts for
21 the processes, and -- and the buildings that would
22 surround them.

23 MR. JOHN MATHER: Prior to the Sprung
24 project in 2012, did you have any experience in the
25 design or construction of recreation facilities?

1 MR. DAVE MCNALTY: No.

2 MR. JOHN MATHER: What led you to join
3 the Town in 2009?

4 MR. DAVE MCNALTY: I had left the
5 ethanol plant, and the job with the Town was posted.
6 I applied for it, and won the competition.

7 MR. JOHN MATHER: Do you recall who
8 you interviewed with for the job?

9

10 (BRIEF PAUSE)

11

12 MR. DAVE MCNALTY: HR representative
13 at the time, I think it was Jennifer Pearson. I think
14 Ed Houghton was there. There may have been a third.
15 I can't recall.

16 MR. JOHN MATHER: And when you were
17 hired, who did you report to?

18 MR. DAVE MCNALTY: Ed Houghton.

19 MR. JOHN MATHER: And what was his
20 role as you understood at that point in time?

21 MR. DAVE MCNALTY: Director of Public
22 Works and Engineering from the Town's point of view,
23 and CEO, I think it was, of Collus from the Utility
24 point of view.

25 MR. JOHN MATHER: Did who you reported

1 to change over time between when you were hired and
2 the summer of 2012?

3 MR. DAVE MCNALTY: Yes. When -- when
4 CAO Wingrove -- or when Ms. Wingrove was the CAO, she
5 wanted to have more direct contact with the projects
6 that I was working on, so I started to report to the
7 CAO.

8 MR. JOHN MATHER: And when Ms.
9 Wingrove's employment was terminated, what happened
10 then?

11 MR. DAVE MCNALTY: I continued to
12 report to the CAO.

13 MR. JOHN MATHER: At that time Mr.
14 Houghton?

15 MR. DAVE MCNALTY: Yes.

16 MR. JOHN MATHER: Can you explain
17 again at a high level what your job responsibilities
18 were in 2012 as the Manager of Fleet, Facilities and
19 Purchasing?

20 MR. DAVE MCNALTY: From a Fleet
21 perspective, maintaining accurate records of what we
22 had in our fleet, including all other rolling stock,
23 not just cars and trucks; ensuring that those were
24 adequately insured; that they were maintained,
25 recommending replacement, determining life cycles.

1 From a Facilities' point of view, day-
2 to-day maintenance of facilities, again making sure
3 that all the facilities had adequate insurance
4 coverage, renovation or improvement projects to
5 facilities.

6 And from a Purchasing perspective -- I
7 guess on Facilities, I guess I could also add to that,
8 supervision of contractors that we might bring in to
9 do either renovation projects or maintenance work.

10 In terms of Purchasing, I acted as a
11 facilitator mostly for the various departments of the
12 Town, to assist and help them work through their
13 procurement activities. So I would help to develop
14 tenders and RFPs and RFQs.

15 I would manage -- with the assistance
16 of the Clerk's department, I would manage the
17 advertising and the posting of the documents and the
18 actual tendering or the -- the bid processes, and I
19 would be involved with the bid openings and the
20 subsequent evaluations and award of the -- whatever
21 opportunity it was.

22 MR. JOHN MATHER: When you say you
23 would assist with the development of the tenders and
24 the RFPs, RFQs, what would you do to assist in the
25 development generally?

1 MR. DAVE MCNALTY: It would depend on
2 the project. Sometimes I would -- using our templates
3 that we had at the time, I would develop a draft of
4 the project scope on my own through discussions with
5 them and then circulate that for their input, and we
6 would normally go through a few revisions, or some of
7 the more experienced departments would develop that --
8 develop those documents themselves and then send them
9 to me for review.

10 I might make some edits and we'd come
11 to a final document and then be ready to move on with
12 the rest of the process. And then -- then I would
13 assist with the -- the technical part of getting the
14 documents posted and going through the bid process.

15 MR. JOHN MATHER: When you joined the
16 Town, did you receive any training or instruction on
17 the Purchasing Bylaw that was in place at the time?

18 MR. DAVE MCNALTY: No formal training.
19 I received a copy of the bylaw.

20 MR. JOHN MATHER: Did anyone explain
21 to you the provisions of the bylaw, how it operated?

22 MR. DAVE MCNALTY: I'm -- I'm sure
23 that we had discussions about it, but I don't recall
24 any formal training on it.

25 MR. JOHN MATHER: Another document

1 that we've seen that is referenced in the Purchasing
2 Bylaw is the Unsolicited Proposals Guideline.

3 Is that something you became familiar
4 with in your role as Manager of Fleet, Facilities and
5 Purchasing?

6 MR. DAVE MCNALTY: Yes.

7 MR. JOHN MATHER: Did you receive any
8 training on that document?

9 MR. DAVE MCNALTY: No. It would be
10 similar. Perhaps a -- a discussion on it but no
11 formal -- nothing more formal than that.

12 MR. JOHN MATHER: Other than those two
13 (2) documents, the Purchasing Bylaw and the
14 Unsolicited Proposals Guideline, what other resources
15 were available to you in 2012 on how to conduct
16 procurements?

17 MR. DAVE MCNALTY: The Town had a
18 series of -- a series of templates that could be used
19 for various purposes.

20 So there was an RFP template. There
21 were tender templates that were commonly used for
22 engineering projects. I think there was an RFQ
23 template as well, and using those templates we kind of
24 developed other templates for specific purposes if
25 they didn't fit.

1 MR. JOHN MATHER: If we could pull up
2 the Purchasing Bylaw, TOC0517154. And while we're
3 pulling that up, I asked you whether you received
4 training on the -- the bylaw or the Unsolicited
5 Proposals Guideline.

6 Did you receive any training more
7 generally about how the Town approached procurements
8 or anything along those lines?

9

10 (BRIEF PAUSE)

11

12 MR. DAVE MCNALTY: I guess the -- the
13 only thing that comes to mind when I started with the
14 Town was the -- although it's contained in the bylaw,
15 of the practice of how projects would be awarded, and
16 what Council's involvement would be was -- was
17 something I had to learn as I came to the Town.

18 MR. JOHN MATHER: So how did you come
19 to learn that?

20 MR. DAVE MCNALTY: General
21 conversation and watching.

22 MR. JOHN MATHER: Conversation with
23 who?

24 MR. DAVE MCNALTY: Probably the Clerk
25 and the Treasurer.

1 MR. JOHN MATHER: What did you learn
2 in that process about Council's involvement with
3 procurements?

4 MR. DAVE MCNALTY: Essentially I guess
5 the process of when something had to go to Council for
6 approval, how it would be presented to -- to Council,
7 so in a staff report; what the structure of the staff
8 report would be like; and those sort of basic
9 mechanical things.

10 MR. JOHN MATHER: In 2012 what role
11 did you understand Council was to play when it came to
12 a Town procurement?

13 MR. DAVE MCNALTY: They would have the
14 authority to approve, again depending on the amount of
15 the spend and whether they needed to be involved in
16 that approval or whether it could be approved at a
17 department head level.

18 MR. JOHN MATHER: Did they have any
19 role in either the development of a procurement or the
20 operation of a procurement?

21 MR. DAVE MCNALTY: No.

22 MR. JOHN MATHER: If we could go to
23 page 3 of the Purchasing Bylaw. And if you see, this
24 is in the definitions section of the bylaw, and
25 subparagraph (q) has a defined titled called

1 "Purchasing Manager" and says:

2 "The Purchasing Manager shall mean
3 the individual responsible for
4 ensuring that the purchasing bylaw
5 policies and procedures are
6 consistently applied in the
7 corporation and who serves as a
8 resource to departments in support
9 of the purchasing function. In the
10 absence of a purchasing manager the
11 department head of the department
12 responsible for the use of goods and
13 services shall be deemed to be the
14 purchasing manager."

15 In 2012, were you the purchasing
16 manager as defined in the bylaw?

17 MR. DAVE MCNALTY: Generally, and in -
18 - in terms of my -- my function, yes. I would say
19 that the responsibility for ensuring the way that it
20 states that was a shared responsibility between myself
21 and the department head.

22 MR. JOHN MATHER: And when you say the
23 "department head," are you -- do you mean as with
24 respect to the department head overseeing the
25 procurement or purchase at issue?

1 MR. DAVE MCNALTY: Yes. Depending on
2 whose budget it was coming out of.

3 MR. JOHN MATHER: Other than yourself
4 and the department head whose budget the purchase was
5 coming out of, was there anyone else responsible on
6 staff for ensuring that the bylaw and related policies
7 were applied when a procurement proceeded?

8 MR. DAVE MCNALTY: The purchasing
9 bylaw fell under the treasury department, and so the
10 treasurer had an interest in ensuring that the bylaw
11 was being followed.

12 And second to that, of course, the CAO
13 would have ultimate responsibility.

14 MR. JOHN MATHER: After you joined the
15 Town and got a sense of how purchasing and
16 procurements proceeded, what was your impression about
17 whether or not, as a general matter, those
18 procurements proceeded in accordance with the bylaw?

19 MR. DAVE MCNALTY: It varied by
20 department and -- varied by department, I guess, and
21 perhaps also varied by the nature of the project.

22 And so one of the things that I set out
23 to do was to try to get everybody working to the same
24 set of standards that would comply with the bylaw,
25 have everybody follow the same process as -- as

1 opposed to everybody have their unique processes.

2 MR. JOHN MATHER: Is that something
3 you were able to achieve?

4 MR. DAVE MCNALTY: It certainly got
5 much better over time.

6 MR. JOHN MATHER: And -- and the
7 summer of 2012, at that point in time, was your
8 general -- what was your general impression in terms
9 of whether procurements proceeded in accordance with
10 the bylaw?

11 MR. DAVE MCNALTY: It had certainly
12 improved since there -- because there was one
13 individual that was attempting to move everybody in
14 the same direction, as opposed to there being nobody
15 doing that.

16 Were we all the way there in 2012?
17 Certainly not.

18 MR. JOHN MATHER: And at the risk of
19 asking the obvious, are you the individual who was
20 trying to move everyone in the same direction?

21 MR. DAVE MCNALTY: Yes.

22 MR. JOHN MATHER: Okay.

23 In 2012, at that point in time, if you
24 needed guidance or had a question about how to deal
25 with something in relation to a purchase or a

1 procurement, who would you speak to?

2 MR. DAVE MCNALTY: Depending on the
3 nature of the issue, it would be the clerk or the
4 treasurer.

5 And I was just -- I mean, the
6 department head as well, but if it was to understand
7 how to proceed in terms of the bylaw, it would be the
8 clerk or the treasurer, depending on the nature of the
9 question.

10 MR. JOHN MATHER: Do you recall prior
11 to the Sprung decision in 2012 whether you had ever
12 sought legal advice with respect to any Town
13 procurements?

14 MR. DAVE MCNALTY: Not that I can
15 recall.

16 MR. JOHN MATHER: Is that something
17 that you understood was available to you if you had a
18 legal question?

19 MR. DAVE MCNALTY: Yes.

20 MR. JOHN MATHER: Prior to the
21 decision to proceed with the Sprung purchases by way
22 of sole source, had you been involved in any other
23 sole source purchases for the Town, prior to the
24 Sprung decision?

25 MR. DAVE MCNALTY: No.

1 MR. JOHN MATHER: What was your
2 understanding in 2012 about the circumstances in which
3 the Town could proceed with a purchase that wasn't a
4 competitive tender?

5 MR. DAVE MCNALTY: The -- there were
6 several instances set out in the bylaw where if a part
7 just met the criteria you could go outside of a -- a
8 regular tender.

9 One, as I remember, was the -- the
10 extension of consulting work where it made sense
11 because of a -- a change in project direction.

12 There were opportunities to single-
13 source purchases if -- if based on the evaluation of
14 the information there was a deemed benefit to the Town
15 to proceed in that manner.

16 Sole sourcing is also addressed in
17 there, in the bylaw. And I forget what the wording
18 was around it, but it was -- it was spoken to in the
19 bylaw.

20 MR. JOHN MATHER: So if we could pull
21 the bylaw back up, which is TOC517154 and go to page
22 5. Scroll down to section 6.7.

23 So 6.7 discusses circumstances where
24 competitive tendering may not be desirable. And if we
25 continue scrolling down under the next page, it lists

1 circumstances -- it lists examples of those
2 circumstances.

3 When you were talking about the portion
4 of the bylaw that set out when competitive tendering
5 did not need to be followed, is this the section you
6 were referring to?

7 MR. DAVE MCNALTY: That's correct.

8 MR. JOHN MATHER: Are there any other
9 sections of the bylaw, to your knowledge, that deal
10 with when competitive tendering cannot be followed?

11

12 (BRIEF PAUSE)

13

14 MR. DAVE MCNALTY: There's a section
15 on -- on consulting that speaks about a roster of
16 consultants.

17

18 (BRIEF PAUSE)

19

20 MR. JOHN MATHER: Any other sections?

21 MR. DAVE MCNALTY: That's what I can
22 recall at the moment.

23 MR. JOHN MATHER: So, if we could
24 scroll up in this document a bit. Sorry, staying with
25 6.7, so down. So, like I said, it sets out the

1 circumstances in which competitive tendering might be
2 undesirable. The first subparagraph (a) deals with
3 emergency situations.

4 And then if we look at subparagraph
5 (b), it talks about:

6 "Conditions may dictate that the con
7 -- the conduct of negotiations for
8 the acquisition of goods and/or
9 services provided that the clerk has
10 received either verbal or written
11 authorization prior to the start of
12 negotiations with any supplier.

13 Nog -- negotiations may be
14 authorized when any of the following
15 conditions apply."

16 And we see in subsection (b) to that it
17 identifies:

18 "Where there's only one (1) known
19 source of goods or services (sole
20 source)."

21 Backing up to the language introducing
22 that list, it contemplates something providing the
23 clerk with verbal or written authorization to proceed
24 with direct negotiations.

25 Do you know who -- who was capable of

1 providing that -- the clerk that direction or
2 authorization?

3 MR. DAVE MCNALTY: I would...

4

5 (BRIEF PAUSE)

6

7 MR. DAVE MCNALTY: Who has provided
8 the clerk with the authorization --

9 MR. JOHN MATHER: Yes. So, in --

10 MR. DAVE MCNALTY: -- as received? I
11 guess my understanding of that would be that that
12 authorization to the clerk would come from the CAO or
13 higher.

14 MR. JOHN MATHER: And was that
15 something you understood was a requirement of the
16 purchasing bylaw in 2012 in order to proceed with, you
17 know, sole sourcing or one (1) of the other options
18 here, that either the clerk or someone -- sorry, the
19 CAO or higher had to give the clerk authorization?

20

21 (BRIEF PAUSE)

22

23 MR. DAVE MCNALTY: That's certainly
24 what the bylaw says, and that's what would be my
25 understanding of it. Was that necessarily practised

1 at that point in time? I couldn't be sure.

2 MR. JOHN MATHER: When you say, The
3 CAO or someone higher -- or something higher than
4 that, what's higher than the CAO?

5 MR. DAVE MCNALTY: Council.

6 MR. JOHN MATHER: Stepping back from
7 the wording of the bylaw specifically, in 2012, what
8 was your understanding about who would make the
9 decision whether or not, for instance, the criteria of
10 subsection (b) which defines a sole source had been
11 met?

12

13 (BRIEF PAUSE)

14

15 MR. DAVE MCNALTY: I would think
16 Council.

17 MR. JOHN MATHER: You say -- when you
18 say, "I would think," is that something you knew at
19 the time or is that something you're assessing today
20 as you look at it?

21 MR. DAVE MCNALTY: I don't think I
22 recall another sole source of anything significant,
23 so, at the time, it wouldn't have been top of mind.
24 That would be the way I would read it today.

25 MR. JOHN MATHER: And just to be sure,

1 when we talk about the decision to proceed with the
2 Sprung buildings, it was this subsection (b) of
3 subsection (b) that desi -- defines 'sole source'.
4 That's the provision under which that decision could
5 proceed by way of sole source. Is that correct?

6 MR. DAVE MCNALTY: Yes.

7 MR. JOHN MATHER: I have some
8 questions now about the executive management committee
9 that was established after Mr. Houghton became the
10 acting CAO.

11 As a staff member who was reporting to
12 the CAO at the time, what was your understanding of
13 the role of the EMC when it was formed?

14 MR. DAVE MCNALTY: That it was an
15 advisory body to the CAO that could assist with the
16 day-to-day operations of the Town.

17 MR. JOHN MATHER: What sort of matters
18 did you understand they were providing the CAO with
19 advice?

20

21 (BRIEF PAUSE)

22

23 MR. DAVE MCNALTY: Anything from HR
24 issues to public inquiries to really any of the
25 business of the Town, whatever the subject of the day

1 might be.

2 Each of the -- the members of the EMT
3 had their own specialties and could advise on their
4 area of expertise.

5 MR. JOHN MATHER: Was it your
6 understanding that any member of the EMC could make a
7 decision that had previously been within the purview
8 of the CAO?

9 MR. DAVE MCNALTY: Not in isolation.

10 MR. JOHN MATHER: What do you mean by,
11 "not in isolation"?

12

13 (BRIEF PAUSE)

14

15 MR. DAVE MCNALTY: It was a
16 collaborative group that would openly discuss the --
17 whatever the issue was. And they would come to either
18 a consensus or a decision based on that discussion.
19 That was my impression.

20 MR. JOHN MATHER: Do you recall if you
21 ever were present with the EMC made a decision of...

22

23 (BRIEF PAUSE)

24

25 MR. DAVE MCNALTY: I was -- from time

1 to time I may have attended an EMC meeting where
2 certain issues were discussed. I don't -- I don't
3 recall a specific decision that I can relate to.

4 MR. JOHN MATHER: Speaking more
5 generally, when Mr. Houghton became the acting CAO,
6 did the frequency or the nature of contact you had
7 with him in his capacity as CAO change as compared to
8 Kim Wingrove?

9

10 (BRIEF PAUSE)

11

12 MR. DAVE MCNALTY: No, I wouldn't say
13 so.

14 MR. JOHN MATHER: How did you
15 communicate with Mr. Houghton?

16 MR. DAVE MCNALTY: On a -- on an
17 issue-by-issue basis, would probably normally be by
18 email. And with both Mr. Houghton and Ms. Wingrove, I
19 had a regular meeting time once a week or once every
20 two (2) weeks or whatever it was where we would -- we
21 had a schedule timeslot to discuss whatever we needed
22 to discuss.

23

24 (BRIEF PAUSE)

25

1 MR. JOHN MATHER: If there was an
2 instance in which Mr. Houghton wasn't available and
3 you needed a decision or direction, was it your
4 understanding you could go to another member of the
5 EMC and obtain that direction or decision?

6 MR. DAVE MCNALTY: Only if it was in
7 their purview.

8 MR. JOHN MATHER: And what do you mean
9 by, "only if it was in their purview"?

10 MR. DAVE MCNALTY: If it was a
11 financial question, I could speak with the Treasurer.
12 If it was a -- a procedural question, I could speak to
13 the Clerk. If it was -- at the same time, if it was a
14 department-specific question, I could go directly to
15 the department head. And at that point, I guess it
16 would -- I would be escalating it to them. They could
17 decide whether to give me direction or whether we
18 needed to take it to the CAO.

19 MR. JOHN MATHER: So I take it from
20 that answer, if a member of the EMC gave you direction
21 with respect to something you brought to them, you
22 would follow that direction, as a general matter.

23 MR. DAVE MCNALTY: Yeah. Likely.

24 MR. JOHN MATHER: When do you recall
25 first becoming aware that the Town -- or, that the

1 Town may consider purchasing one or multiple fabric
2 membranes for recreation facilities?

3 MR. JOHN MATHER: There had been
4 earlier investigations, back as far as 2009 or '10, on
5 either a -- an agricultural-style fabric building over
6 the outdoor rink, or there was discussion about a --
7 an air-supported structure at one point in time. And
8 those options didn't proceed to any -- to any extent
9 after the investigations. And then, I suppose, the
10 next time it came up was in regards to the Sprung --
11 the Sprung Structures.

12 MR. JOHN MATHER: I'm going to ask you
13 more about what was looked into in 2009/2010 with
14 respect to covering the outdoor arena, but before I do
15 that, do you recall when you first became aware of the
16 possibility of the Sprung Structures being an option
17 for the recreation facilities?

18 MR. DAVE MCNALTY: There was a -- a
19 meeting to discuss options, I believe, at the library
20 with Council, where the sales information -- and by
21 that, I just mean pictures and brochures of Sprung
22 Structures -- was circulated.

23 MR. JOHN MATHER: So you recall a
24 meeting with Council at the library where pictures and
25 brochures are circulated. Do you recall who was

1 circulating the pictures or brochures?

2 MR. DAVE MCNALTY: I believe they came
3 from the Deputy Mayor.

4 MR. JOHN MATHER: Do you recall what
5 was discussed about the Sprung Structures at the
6 meeting you recall?

7 MR. DAVE MCNALTY: At that point, only
8 that this is an option that we should be looking at.

9 MR. JOHN MATHER: And who was -- who
10 was making that suggestion that this should be an
11 option that we should be look -- we could -- we should
12 look at?

13 MR. DAVE MCNALTY: I think the Deputy
14 Mayor.

15 MR. JOHN MATHER: We see in the
16 documents that on June 11th, 2012, there was --
17 Council had a meeting at the library, in which Council
18 members were invited to share ideas or talk about what
19 they wanted to see with recreation facilities. It was
20 called a strategic planning session or workshop.

21 Is that the meeting you're recalling at
22 the library where Sprung brochures were available?

23 MR. DAVE MCNALTY: Sounds like it.

24 MR. JOHN MATHER: Do you recall
25 attending any other meetings at the library where

1 Council members discussed recreation facilities?

2 MR. DAVE MCNALTY: There -- there was
3 subsequent meetings that I attended. I can't remember
4 if they were at the library, or they may have been
5 here.

6 MR. JOHN MATHER: So before the
7 meeting at the library that you recall, you do -- you
8 -- you mention that the Town, in 2009 or 2010, had
9 discussed and looked into the possibility of covering
10 the outdoor arena with a fabric structure as well as
11 an air structure.

12 And when you say that, are you
13 referring to a compressed-air bubble?

14 MR. DAVE MCNALTY: Yes.

15 MR. JOHN MATHER: Were you involved in
16 the investigations at that point in time into whether
17 those would be feasible for the outdoor arena?

18 MR. DAVE MCNALTY: I was involved in
19 the case of the fabric structure. The -- the air-
20 supported structure, I was not involved in.

21 MR. JOHN MATHER: And what was
22 determined in terms of whether or not the hockey arena
23 could be covered with a fabric structure?

24 MR. DAVE MCNALTY: Ultimately, there
25 were issues with building code related issues, I

1 think, in terms of flame spread rating and those
2 technical issues. It was also going to be difficult
3 to incorporate any insulation into the structure.

4 One of the req -- one of the ideals
5 that the Town had set out at that time was to install
6 sprinklers in any new instru -- new construction.
7 That would be not impossible, but difficult. I think
8 the -- the real reason it was shelved was it would
9 have been very difficult to get around the building
10 code issues.

11 MR. JOHN MATHER: If we can turn up
12 TOC34069.

13

14 (BRIEF PAUSE)

15

16 MR. JOHN MATHER: This is a staff
17 report from February 20th, 2010, and if we go down to
18 page 2, the staff report was looking at enclosure
19 options with respect to the outdoor arena. If you
20 scroll down, you see there's a heading there called
21 Fabric Cover System.

22 Does this reflect the results of the
23 investigation you undertook in 2009/2010 into the
24 viability of a fabric cover for the arena?

25 MR. DAVE MCNALT: Yes, I believe that

1 was the basis for what went into that report.

2 MR. JOHN MATHER: And when Sprung
3 became a potential option in 2012, did you return to
4 the work you'd done in 2009 and 2010 and consider the
5 limitations you identified at that point in time?

6 MR. DAVE MCNALTY: Yes.

7 MR. JOHN MATHER: Did you determine
8 that these limitations continued to exist?

9 MR. DAVE MCNALTY: The exact time
10 frame of this, I can't say off the top of my head, but
11 in -- in one of the -- perhaps the first meeting that
12 I was involved with with Sprung, I had a list of
13 questions, which essentially came out of this
14 investigation, to -- to confirm whether their
15 structure would be able to meet the requirements that
16 it -- an agricultural-style building would not.

17 MR. JOHN MATHER: Do you remember what
18 requirements the agricultural-style building would not
19 meet?

20 MR. DAVE MCNALTY: It was to do with
21 the -- it was to do with the combustibility of the
22 building and the requirement for sprinklers.

23 I seem to remember something about
24 exiting requirements as well, but that's -- might have
25 been a side issue.

1 MR. JOHN MATHER: So you recall
2 attending a meeting with Sprung where you have a list
3 of -- of issues you want addressed.

4 Did you raise those with Sprung at that
5 meeting?

6 MR. DAVE MCNALTY: I believe so, yes.

7 MR. JOHN MATHER: Do you remember who
8 from Sprung was at that meeting?

9 MR. DAVE MCNALTY: Not without seeing
10 a list of attendees. I mean, a list of invitees,
11 even.

12 MR. JOHN MATHER: Do you recall if Tom
13 Lloyd from Sprung was at that meeting?

14 MR. DAVE MCNALTY: Tom was certainly
15 at one (1) of the early meetings.

16 MR. JOHN MATHER: Do you recall if he
17 was at the meeting where your list of concerns were
18 discussed?

19 MR. DAVE MCNALTY: I -- I think so. I
20 know that -- I know that he was at one of the early
21 meetings and I know that those types of issues were
22 discussed and my sense is it was likely the same
23 meeting.

24 MR. JOHN MATHER: Do you recall if a
25 Dave MacNeil from Sprung was at that meeting?

1 MR. DAVE MCNALTY: That name is
2 familiar as well. They may have both been there. I'm
3 unsure.

4 MR. JOHN MATHER: Do you remember what
5 Sprung said to you that addressed your concerns?

6 MR. DAVE MCNALTY: They, essentially,
7 stated that in answer to my questions they had a
8 positive response that their structure would meet the
9 requirements of the building code on those basis.

10 MR. JOHN MATHER: Did you verify the
11 answers that Sprung provided you with anyone else at
12 the Town?

13 MR. DAVE MCNALTY: No.

14 MR. JOHN MATHER: Did you verify them
15 with anyone outside of the Town?

16 MR. DAVE MCNALTY: No.

17 MR. JOHN MATHER: Is there any reason
18 why you wouldn't verify those answers with someone in
19 the Town who may know about this provision of the
20 building code?

21 MR. DAVE MCNALTY: At that point in
22 time that would have been -- I wouldn't have had the
23 information to be able to intelligently present it to
24 the building department, for instance.

25 Essentially what it comes down to is

1 they would state that their -- that their -- the
2 material that they built the structure out of had a
3 flame spread rating of under some number.

4 And if that number is under the
5 requirements of the building code, then that would be
6 the answer, so.

7 I think that review by the building
8 department came along much later.

9 MR. JOHN MATHER: Do you know if the
10 building department conducted any review prior to the
11 August 27th, 2012 Council meeting?

12 MR. DAVE MCNALTY: I don't know.

13 MR. JOHN MATHER: Is that a review you
14 would have expected to have been done prior to that
15 meeting?

16 MR. DAVE MCNALTY: Not necessarily,
17 because if it came time to get the building permit and
18 the building wouldn't meet the requirements of the
19 building code, then there would just be no building
20 permit and it wouldn't go forward.

21 MR. JOHN MATHER: Would there have
22 been anything preventing you or someone at the Town
23 from bringing the information to the building
24 department prior to August 27th to ensure that what
25 Sprung was saying about its buildings complied with

1 the building code?

2 MR. DAVE MCNALTY: Nothing to say that
3 we couldn't, other than we, at that point, just didn't
4 have the detailed information.

5 MR. JOHN MATHER: Did you gather that
6 information prior to August 27th, 2012?

7 MR. DAVE MCNALTY: Only if it was
8 included in their -- the literature that they provided
9 us.

10 MR. JOHN MATHER: Do you know if
11 anyone from the building department was consulted at
12 any point in time prior to August 27th, 2012?

13 MR. DAVE MCNALTY: Perhaps in general
14 conversation. But not in any formal manner.

15 MR. JOHN MATHER: Do you recall if you
16 personally had any conversations with anyone in the
17 building department?

18 MR. DAVE MCNALTY: I don't recall
19 specifically. I may have, but I don't recall.

20 MR. JOHN MATHER: If we could turn up
21 paragraph 177 of the Foundation Document. 177.

22 So this is an email dated June 25th,
23 2012 and it says, it's from you to Dave MacNeil at
24 Sprung and you say:

25 "Further to our conversation last

1 week we have been piecing together
2 some background information for the
3 two sites."

4 And then it says that you provided with
5 -- Mr. MacNeil with a series of aerial photographs of
6 Heritage Park, and you also then sent information
7 about the intent for the arena, more aerial views,
8 drawings for the outdoor rink, and photos of Central
9 Park.

10 Do you recall having a conversation
11 with Sprung at some point in the week prior to June
12 25th, 2012?

13 MR. DAVE MCNALTY: So is -- there's a
14 possibility, I think, that this is relating to the --
15 did you say June 11th meeting?

16 MR. JOHN MATHER: They're the
17 strategic planning session at the library happened on
18 June 11th, 2012.

19 MR. DAVE MCNALTY: Okay, so then there
20 was a subsequent meeting, I believe, with Sprung
21 representatives, and that would be the meeting,
22 perhaps, that this is speaking to.

23 MR. JOHN MATHER: This subsequent
24 meeting, were you in attendance at it?

25 MR. DAVE MCNALTY: I was in attendance

1 at a subsequent meeting.

2 MR. JOHN MATHER: So if we could go --

3 MR. DAVE MCNALTY: I can't confirm the
4 date.

5 MR. JOHN MATHER: -- to paragraph 175.

6 This is an email from Tom Lloyd of
7 Sprung to Dennis Seymour, copying Dave MacNeil and
8 Patrick Mills of Sprung.

9 And in it, Mr. Tom Lloyd thanks Mr.
10 Seymour for a meeting yesterday, we look forward to
11 assisting you with your plans.

12 You're not copied on this email or
13 mentioned on this email. Do you recall if -- do you
14 recall Dennis Seymour attending a meeting with Sprung
15 in and around June 19th, 2012?

16 MR. DAVE MCNALTY: That's quite
17 possible. I -- I don't have a specific recollection
18 of -- of the individual meeting and who was there, but
19 I certainly recall being in meetings with Sprung
20 representatives where Dennis was there.

21 MR. JOHN MATHER: In paragraph 177 we
22 saw that you were sending Sprung aerial photos and
23 other information.

24 Do you know why you were sending Sprung
25 that information at that point in time?

1 MR. DAVE MCNALTY: Because I was asked
2 to do that at the meeting.

3 MR. JOHN MATHER: Who asked you to do
4 that at the meeting?

5 MR. DAVE MCNALTY: I believe the CAO.

6 MR. JOHN MATHER: And did you have an
7 understanding of why the CAO had asked you to provide
8 that information to Sprung?

9 MR. DAVE MCNALTY: Because there was a
10 desire to get Sprung to provide a concept and a budget
11 -- a budget estimate on what their facilities would
12 look like and what they'd cost.

13 MR. JOHN MATHER: When you say there
14 was desire to get Sprung to provide a budget estimate,
15 was that the purpose of having the meeting that you're
16 recalling?

17 MR. DAVE MCNALTY: The -- the meeting
18 that I'm recalling there was, in my recollection, was
19 an introductory meeting where the benefits of their
20 product were being presented and as the meeting
21 evolved it kind of concluded with, well, we'll --
22 we'll provide you information on our locations and
23 facilities and you come back to us with a concept and
24 a budget.

25 MR. JOHN MATHER: And do I have it

1 correct from your earlier answer that it was Mr.
2 Houghton who ended the meeting on that note?

3 MR. DAVE MCNALTY: I believe so.

4 MR. JOHN MATHER: Do you recall what
5 potential Sprung structures were discussed at that
6 meeting?

7 MR. DAVE MCNALTY: Either -- either
8 covering the outdoor rink or a single pad arena that
9 could be -- that could evolve into a twin pad arena
10 that goes with the -- the considerations at that
11 point.

12 MR. JOHN MATHER: Do you know if
13 covering the pool was discussed at that meeting, or do
14 you recall?

15 MR. DAVE MCNALTY: I don't recall
16 that.

17 MR. JOHN MATHER: You do -- let me
18 back up.

19 You've indicated that representatives
20 from Sprung were at the meeting and it may have been
21 Mr. Lloyd or Mr. MacNeil, is that correct?

22 MR. DAVE MCNALTY: It may have been
23 Mr. Lloyd. I -- I know that Mr. Lloyd was in town, I
24 believe that Dave MacNeil was in town. I can't put a
25 face to these names at this point, so it could have

1 been all three (3) of those gentlemen, including Mr.
2 Mills, but I -- I can't remember.

3 MR. JOHN MATHER: Focussing on Town
4 representatives, you were there, it sounds like Mr.
5 Houghton was there, Mr. Seymour may have been there.

6 Was there anyone else from the Town
7 that you recall being at that meeting?

8 MR. DAVE MCNALTY: I think the Mayor
9 was there.

10 MR. JOHN MATHER: When you say you
11 think, why -- it sounds like you don't have a clear
12 recollection.

13 MR. DAVE MCNALTY: I -- I remember one
14 (1) of the early meetings the Mayor was at the table,
15 because I think she was sitting next to me, and so
16 that's why I can -- I can recall -- I would -- I would
17 think it was like the introductory meeting that she
18 was there for.

19 MR. JOHN MATHER: So if we could go to
20 paragraph 201 of the Foundation Document.

21 So this paragraph contemplates and
22 exchange of emails between Pam Hogg and Deputy Mayor
23 Lloyd, which essentially result in a calendar invite
24 being sent for a July 11th, 2012 meeting with the
25 Deputy Mayor, yourself, Mayor Sandra Cooper, Tom

1 Lloyd, Dave Mill and -- Dave MacNeil, sorry, and Pat
2 Mills.

3 Do you recall if the meeting that is
4 contemplated here took place on July 11th, 2012?

5

6 (BRIEF PAUSE)

7

8 MR. DAVE MCNALTY: I don't have a
9 specific recollection, but I certainly could have.

10 MR. JOHN MATHER: Do you recall being
11 in more than one (1) meeting with the mayor and
12 representatives from Sprung?

13 MR. DAVE MCNALTY: Certainly with
14 representatives from Sprung.

15

16 (BRIEF PAUSE)

17

18 MR. DAVE MCNALTY: I would be unsure
19 about the other attendees.

20 MR. JOHN MATHER: And my question is
21 really: Do you have any recollection of attending more
22 than one (1) meeting where there's representatives of
23 Sprung there and the mayor is also there?

24 MR. DAVE MCNALTY: No specific
25 recollection.

1 MR. JOHN MATHER: In your experience,
2 would it be common for the mayor to attend a meeting
3 with a potential supplier?

4

5 (BRIEF PAUSE)

6

7 MR. DAVE MCNALTY: Would it be common
8 in other procurement processes? No. This was -- was,
9 however, sort of a unique -- unique approach at the
10 time.

11 MR. JOHN MATHER: What was unique
12 about the approach at this point in time?

13

14 (BRIEF PAUSE)

15

16 MR. DAVE MCNALTY: It wasn't a
17 traditional design engineer tender project. It was
18 leaning towards the idea of sole sourcing a product.

19 MR. JOHN MATHER: And just to assist
20 you in the chronology as we see it in the documents,
21 the meeting complica -- the meeting contemplated here
22 would have occurred on July 11th, 2012.

23 There's a Council meeting on July 16th,
24 2012, in which Council directs staff to investigate
25 the construction of a single-pad arena and covering

1 the outdoor pool with a fabric building.

2 Do you recall if the possibility of a
3 sole source was something that was contemplated before
4 the July 16th, 2012 Council meeting?

5 MR. DAVE MCNALTY: I don't recall that
6 there was any contemplation of the idea that it would
7 be a sole source. At that point in time, it was here
8 is an interesting product that might fulfill our
9 needs.

10 MR. JOHN MATHER: So, going back to --
11 to my original question, which was do you know --
12 maybe -- I didn't put it to you this way, but I'll put
13 it to you this way.

14 Do you know why the mayor was at an
15 early meeting with Sprung when they were presenting a
16 product that may be able to address the Town's needs?

17 MR. DAVE MCNALTY: That's what
18 salesmen do. They -- I mean, the -- the salesmen want
19 to have the right -- the -- they want to have the key
20 players, the key representatives in their audience
21 when they present their information.

22 MR. JOHN MATHER: I appreciate that
23 might be what Sprung wants. From your perspective, as
24 purchase -- as the manager responsible for purchasing,
25 was it something you thought it was appropriate to

1 have the mayor at a meeting with a potential supplier?

2 MR. DAVE MCNALTY: Probably not, but
3 that wasn't in my -- I wasn't asked.

4 MR. JOHN MATHER: Do you know how it
5 came about that the mayor was at the meeting?

6 MR. DAVE MCNALTY: No.

7 MR. JOHN MATHER: Do you recall
8 raising this issue with anyone at the time?

9 MR. DAVE MCNALTY: No.

10 MR. JOHN MATHER: You said that you
11 weren't asked whether or not it was appropriate for
12 her to be there. Why would it not be appropriate, in
13 your view, for her to be there?

14

15 (BRIEF PAUSE)

16

17 MR. DAVE MCNALTY: Because it tends to
18 open the door of opportunity for the -- the salesmen
19 to try and influence a potential future sale.

20 MR. JOHN MATHER: And what's -- what's
21 the problem with that?

22

23 (BRIEF PAUSE)

24

25 MR. DAVE MCNALTY: It's -- well, it's

1 -- in government -- in -- in municipal or any
2 government, that's deemed to be interference and
3 inappropriate.

4 MR. JOHN MATHER: And I'm just trying
5 to get a sense of what your understanding was at the
6 time. What -- you know, it's deemed to be
7 interference and inappropriate.

8 From your perspective, what -- what was
9 -- what's the risk of interference? What's the --
10 what's the inappropriateness that -- that can arise?

11

12 (BRIEF PAUSE)

13

14 MR. DAVE MCNALTY: We're talking about
15 the mayor in attendance?

16 MR. JOHN MATHER: Yes.

17 MR. DAVE MCNALTY: So, the mayor, in
18 that case, could be undue influenced and lose their
19 objectivity on the subject.

20 MR. JOHN MATHER: Was there a risk
21 that also staff members could lose their objectivity
22 or have -- be influenced at this point in time?

23

24 (BRIEF PAUSE)

25

1 MR. DAVE MCNALTY: That's a risk.

2

3 (BRIEF PAUSE)

4

5 MR. DAVE MCNALTY: I suppose that's
6 why you have the -- the check and the balance.

7 MR. JOHN MATHER: And what's the check
8 and the balance?

9 MR. DAVE MCNALTY: Meaning that staff
10 needs to collaboratively come to a conclusion as to
11 what they're going to recommend. And Council then has
12 the opportunity and responsibility to challenge that
13 and ensure that they agree with the recommendation of
14 staff.

15 MR. JOHN MATHER: Was there a reason
16 that you didn't raise this potential concern at this
17 point in time in the process?

18 MR. DAVE MCNALTY: With the -- with
19 the group of individuals involved, it wasn't -- in my
20 opinion, it wasn't my place.

21 MR. JOHN MATHER: And what was it
22 about that group of individuals that led you to that
23 conclusion?

24 MR. DAVE MCNALTY: Their relative
25 position in the Town management and hierarchy.

1 MR. JOHN MATHER: And who are the
2 group of individuals you're referring to?

3

4 (BRIEF PAUSE)

5

6 MR. DAVE MCNALTY: The CAO. Specific
7 to this, the CAO, the mayor, deputy mayor if he was
8 involved.

9 MR. JOHN MATHER: Do you recall if the
10 deputy mayor was involved?

11 MR. DAVE MCNALTY: I -- I don't have a
12 specific recollection of him being at particular
13 meetings.

14 MR. JOHN MATHER: Setting -- step --
15 setting aside for a moment the mayor's presence at the
16 meeting, do you recall if you had any concerns at this
17 point in time about having members of staff attend a
18 meeting with a potential supplier in -- and how that
19 may affect that supplier's ability to participate in
20 an RFP down the road or the Town's ability to conduct
21 an RFP when a supplier has already met with members of
22 the Town?

23 MR. DAVE MCNALTY: How did you start
24 out that question? What --

25 MR. JOHN MATHER: Well, it was a long

1 question. Do you remember if you had any concern
2 about meeting with a potential supplier at this point
3 in time from a future procurement perspective?

4 MR. DAVE MCNALTY: At this point in
5 time? No, because in my mind, at this point in time,
6 it was an investigative process. It was to learn
7 about the product, learn about the potential,
8 determine if it was something to pursue going forward.

9 MR. JOHN MATHER: When, in your mind,
10 did the investigative process when it came to Sprung
11 come to an end?

12

13 (BRIEF PAUSE)

14

15 MR. DAVE MCNALTY: Certainly be --
16 before -- before staff were putting their mind to
17 developing the staff report, so.

18

19 (BRIEF PAUSE)

20

21 MR. DAVE MCNALTY: This was July 11th.
22 And now I could -- I could say maybe by the 1st of
23 August there -- the investigative process should have
24 been done.

25 MR. JOHN MATHER: I'm just looking at

1 my questions, and I'm moving on to something else. I
2 don't know if now's a good time or if you want to keep
3 going.

4 THE HONOURABLE FRANK MARROCCO: We'll
5 take ten (10) minutes, Mr. McNalty.

6

7 --- Upon recessing at 3:20 p.m.

8 --- Upon resuming at 3:31 p.m.

9

10 THE HONOURABLE FRANK MARROCCO: I
11 understand someone's got some teaching to do, so we'll
12 stop at a quarter to 5:00.

13 MR. RYAN BREEDON: Thank you, Your
14 Honour.

15 THE HONOURABLE FRANK MARROCCO: Please
16 give our regards to Mr. Hoffa.

17 MR. RYAN BREEDON: Well, I figured I
18 was in the right seat to raise the issue today, so.

19

20 CONTINUED BY MR. JOHN MATHER:

21 MR. JOHN MATHER: And before we took
22 the break, Mr. McNalty, you had described a meeting
23 that you recall where the Mayor was in attendance.
24 You also described a meeting in which Sprung provided
25 a -- a form of introduction, and at the end of the

1 meeting, you were directed to provide Sprung with some
2 additional information so that Sprung could come back
3 with some pricing. Do you recall if that was the same
4 meeting or two separate meetings?

5 MR. DAVE MCNALTY: My recollection
6 would be it would be the same meeting.

7 MR. JOHN MATHER: Could we turn up
8 paragraph 219 of the Foundation Document?

9

10 (BRIEF PAUSE)

11

12 MR. JOHN MATHER: This paragraph
13 reflects that on July 16th at 4:04 p.m., Dave MacNeil
14 sent Deputy Mayor Rick Lloyd a link with three (3)
15 budgets to Sprung turnkey structures. You're copied
16 on the email.

17 Do you recall receiving these budgets
18 from Sprung on July 16th?

19 MR. DAVE MCNALTY: I recall receiving
20 budgets on conceptual structures.

21 MR. JOHN MATHER: And would you
22 consider what's described here -- does this look like
23 budgets on conceptual structures? We can open them up
24 if it assists.

25 MR. DAVE MCNALTY: Based on the time

1 frame, these would have been preliminary budgets. I'm
2 suspecting that after this date, there was more
3 discussion on what might be included in the individual
4 structures, which would mean the budget would change,
5 but I would think this was preliminary budgets.

6 MR. JOHN MATHER: Do you know why
7 Sprung sent these preliminary budgets at this point in
8 time?

9 MR. DAVE MCNALTY: I would think as a
10 response to the request in the earlier meeting.

11 MR. JOHN MATHER: Okay. Do you know
12 what was done with the information that was provided
13 by Sprung in these budgets?

14 MR. DAVE MCNALTY: I don't have a
15 recollection at this time.

16 MR. JOHN MATHER: On the same day, and
17 shortly after these emails are sent, there's a Council
18 meeting that I'll have some questions about, but one
19 of the things we see at the Council meeting is there
20 isn't a mention of the fact that Sprung has already
21 provided some preliminary estimates.

22 Do you know why that wasn't raised at
23 the Council meeting?

24 MR. DAVE MCNALTY: Did you say there
25 was not a mention?

1 MR. JOHN MATHER: Was -- yeah, was
2 not.

3 MR. DAVE MCNALTY: I don't know why
4 that would be.

5 MR. JOHN MATHER: One of the budgets
6 that is provided is a -- a insulated Sprung structure
7 to cover the existing Centennial Pool.

8 Does that refresh your memory at all
9 about whether there'd been any discussions prior to
10 this about the potential of covering the outdoor pool?

11 MR. DAVE MCNALTY: Well, evidently
12 they were responding to some direction here. In the
13 earlier information that -- that I sent them, was
14 there information there about the pool and Cent -- and
15 Heritage Park, or was it specific to Central Park?

16 MR. JOHN MATHER: One (1) of the items
17 you sent was an aerial photo of Heritage Park.

18 MR. DAVE MCNALTY: So then that must
19 have been part of the discussion at that time.

20 MR. JOHN MATHER: Do you know where
21 the idea of potentially covering the pool came from?

22 MR. DAVE MCNALTY: No.

23 MR. JOHN MATHER: Prior to the
24 interactions we've been looking at with Sprung in June
25 and July 2012, is that something you were aware had

1 been discussed?

2 MR. DAVE MCNALTY: So thinking about
3 that, I should say that as part of the major
4 redevelopment of Central Park, one (1) of the
5 components of that was a -- a larger indoor pool that
6 would satisfy the needs of the swim club and so on.
7 How that got transferred to covering Centennial Pool
8 with anything, I don't know.

9 MR. JOHN MATHER: Do you recall at any
10 time ever being aware of anyone considering covering
11 the Centennial Pool with any form of structure?

12 MR. DAVE MCNALTY: Not that I was
13 aware of.

14 MR. JOHN MATHER: So I want to ask
15 some questions now about the July 16th, 2012, Council
16 meeting. One (1) of the documents that is provided to
17 Council at that meeting is a document that sets out
18 various resolutions that the Council can pass with
19 respect to recreation facilities divided into two (2)
20 general directions.

21 One is a direction A, to continue down
22 the road of a multi-use recreation facility and the
23 recommendations of this Central Park Steering
24 Committee, and the other one is direction B, which is
25 identifying new options for exploration. So if we

1 could pull up paragraph 233 of the Foundation
2 Document.

3

4 (BRIEF PAUSE)

5

6 MR. JOHN MATHER: And the box on the
7 screen, if we could scroll down, are the direction B
8 options that were in the document I just described.

9 Do you have any recollection of -- of -
10 - of -- of the document I described looking at
11 potential resolutions for Council to pass with respect
12 to recreation facilities?

13 MR. DAVE MCNALTY: I don't believe
14 that I had any involvement in developing it. I may
15 have seen it.

16 MR. JOHN MATHER: Looking at the slide
17 in front of you with options 1 to 10, do you know
18 where those options came from?

19

20 (BRIEF PAUSE)

21

22 MR. DAVE MCNALTY: I'm not 100
23 percent, but like, my sense would be that this came
24 from PRC.

25 MR. JOHN MATHER: And with respect to

1 specifically the options identified, do you know where
2 the PRC got those options or how they generated those
3 options?

4 MR. DAVE MCNALTY: Some of them,
5 obviously, because they were topics of discussion,
6 they were part of the work of the Steering Committee
7 and so on. A -- a theatre performing arts centre was
8 another discussion going on maybe not in the
9 community, but in -- well, between the community,
10 staff, Council. It was something I'd heard of before.
11 So my sense is this was an attempt to just list out
12 everything that everybody knew about.

13 MR. JOHN MATHER: Looking at the ten
14 (10) options, were you asked to look into the cost,
15 the feasibility, the parameters of any of these
16 options prior to the July 16th meeting?

17 MR. DAVE MCNALTY: I don't believe so.

18 MR. JOHN MATHER: If we could go to
19 paragraph 250.

20

21 (BRIEF PAUSE)

22

23 MR. JOHN MATHER: So we're going to
24 look at -- scroll down to the -- the excerpt from the
25 minutes. This is an excerpt from the minu -- meeting

1 minutes. It's similar to the box we looked at, but it
2 shows the result of Council's vote. First question,
3 it says that:

4 "Council directs staff to pursue the
5 following recommended options."

6 Do you know what it was meant by
7 "recommended options"?

8 MR. DAVE MCNALTY: The ones with the
9 checkbox.

10 MR. JOHN MATHER: So, and we can go
11 back if you want, there wasn't a -- there was no
12 checkboxes when it was presented. Do you know --
13 maybe I'll put it this way. Do you know whose -- who
14 was -- whose recommendation was it for those options,
15 in your understanding?

16 MR. DAVE MCNALTY: I believe staff was
17 looking for Council's selection of the options that
18 they wanted to -- that they wanted staff to look
19 further into.

20 MR. JOHN MATHER: Let me put it this
21 way. Was it the case that these ten (10) options were
22 ten (10) options staff recommended to Council and
23 Council could pick between the recommended options, or
24 is it the case that staff was looking for Council to
25 recommend some of these ten (10) options and it would

1 be Council's recommended options, or was it something
2 else?

3 MR. DAVE MCNALTY: I think the second
4 one.

5 So I think this was, at least the list
6 was, staff's attempt to list all of the options that
7 were being talked about or were known about and staff
8 was putting them in front of Council to have Council
9 identify which ones they were interested in.

10 MR. JOHN MATHER: So we see that one
11 (1) of the options that was selected was enclose
12 outdoor pool with a fabric building.

13 Do you know why a fabric building was
14 identified as the structure for enclosing the pool?

15 MR. DAVE MCNALTY: No, I don't.

16 MR. JOHN MATHER: Other than what you
17 may have learned in your meetings with Sprung prior to
18 this, which we've discussed, did you know anything
19 else about fabric buildings at this point in time?

20 MR. DAVE MCNALTY: About a Sprung
21 style fabric building, or a fabric building in
22 general? Because I had some background knowledge of
23 what I would call agricultural style fabric buildings.

24 MR. JOHN MATHER: And would that be
25 from the -- the previous research that we talked about

1 earlier today?

2 MR. DAVE MCNALTY: Yes.

3 MR. JOHN MATHER: When you say a
4 "Sprung style fabric building," what do you mean by
5 that?

6 MR. DAVE MCNALTY: Extruded aluminum
7 frame with an exterior -- an exterior membrane,
8 insulation, and an interior membrane.

9 MR. JOHN MATHER: And I take it from
10 your answer that is something different than the
11 agricultural buildings you were looking at in 2009 and
12 2010?

13 MR. DAVE MCNALTY: Yes.

14 MR. JOHN MATHER: Do you recall if
15 prior to this vote happening on July 16th, 2012, that
16 distinction that you've drawn or that description that
17 you've -- you've provided was shared with Council?

18 MR. DAVE MCNALTY: What was the date
19 of the first meeting? The one that was held at the
20 library?

21 MR. JOHN MATHER: June 11th, 2012.

22 MR. DAVE MCNALTY: So I don't think
23 that staff presented any information on the difference
24 between the types of structures, but they may have
25 learned that on their own from the information that

1 was circulated at the meeting.

2 MR. JOHN MATHER: And similarly,
3 Council I take it then might have learned information
4 about Sprung structures about what was circulated at
5 that meeting, is that -- is that fair?

6 MR. DAVE MCNALTY: Yes.

7 MR. JOHN MATHER: Other than what was
8 circulated at that meeting, do you know what other
9 information was provided to Council about Sprung-type
10 fabric buildings prior to July 16th, 2012?

11 MR. DAVE MCNALTY: Nothing that I'm
12 aware of.

13 MR. JOHN MATHER: Prior to Council
14 recommending or voting, directing staff to proceed
15 with these two (2) options, do you know if any work
16 was done to assess the feasibility of putting a
17 Sprung-style fabric structure over the outdoor pool?

18 MR. DAVE MCNALTY: Nothing
19 specifically, other than I think by this point, if I
20 have the timeline correct, I think by this point
21 Sprung had provided the concept that they could do it.

22 MR. JOHN MATHER: So -- and correct me
23 if I'm wrong -- I take it from your answer that Sprung
24 has provided the concept that they could do it, but --
25 and I guess maybe I'll put it this way, my question

1 is: Has anyone looked at the pool itself and
2 determined whether or not that's something that could
3 be done? What would be involved in doing that, in
4 placing a Sprung structure on top of the existing
5 pool?

6 MR. DAVE MCNALTY: There had been no
7 work that I know of that was specific to that. There
8 was an ongoing project, however, to upgrade the
9 existing Centennial Pool, the piping and so forth, the
10 piping, the pump, the filtration and so on.

11 And so there had been work done around
12 the pool, but as far as I know, not specific to
13 covering it with any structure.

14 MR. JOHN MATHER: When you say "there
15 had been work done around the pool," can you just give
16 us a sense of what had been done?

17 MR. DAVE MCNALTY: It was in
18 preparation for the wellness centre project that never
19 went forward.

20 But there was some site works done,
21 site grading, essentially, and preparation. There was
22 a contract that was to a pool company that -- I want
23 to say was maybe 40 or \$50 thousand to upgrade the --
24 the pump and the filtration and replace the piping
25 around the pool because -- I think because it needed

1 to be larger.

2 And those changes were being made in
3 order to bring the pool up to current health
4 standards.

5 MR. JOHN MATHER: Do you know when
6 that work was done?

7 MR. DAVE MCNALTY: It was like, a year
8 before. It would either be 2011 or 2012.

9 MR. JOHN MATHER: Prior to Council
10 directing staff to look at the -- or to pursue a
11 project timeline and detailed estimates for enclosing
12 the pool with a fabric building, would you have
13 expected there to have been more work or investigation
14 into the feasibility of that before this decision was
15 made?

16 MR. DAVE MCNALTY: I think the -- the
17 further investigation would have been warranted more -
18 - more or mostly in light of the scope changes to what
19 this concept was at this date, to what the final
20 concept was -- or what the interim concept was by the
21 time there was a contract to the final contract or to
22 the final concept after everybody had their input and
23 the pool was modified to suit the swim team and the
24 pool was modified or the therapeutic pool was modified
25 and all of those changes were -- certainly warranted

1 more detailed investigation.

2 The idea of just putting an enclosure
3 over the existing pool without changing the intent of
4 the pool may not have res -- resulted in the need for
5 a whole lot more investigation.

6 MR. JOHN MATHER: I'm going to break
7 some of that down, starting with -- and I -- at this
8 point in time, if the intent is to cover the pool with
9 a Sprung structure, basically put the Sprung on top of
10 it, I take it from your answer you say there may not
11 have needed to be much further investigation.

12 Why -- why not?

13 MR. DAVE MCNALTY: Because -- because
14 in it -- in its inception, it was just that, put a
15 cover over the existing pool, not change -- not
16 significantly change the mechanical systems, not
17 signif -- significantly change anything about the
18 existing pool, but just to cover it over.

19 But as the concept evolved, then that
20 changed. And it became -- I think there was always
21 the idea that the existing pool change room building
22 would be taken down and rebuilt inside the enclosure.

23 But in the initial inception, there was
24 -- there wasn't discussion about re -- redoing all the
25 filtration system, all of the -- the chemical systems,

1 all the -- all the components of the pool that were
2 already there and existing.

3 At the end of the day, the only thing
4 they really salvaged was the concrete tub. But at
5 this point in time, that wasn't the -- the concept, I
6 guess.

7 And -- and, again, as -- as the concept
8 further developed, the mechanical systems got more
9 involved, the heat recovery systems got more involved,
10 and all of that added up to -- to perhaps the need to
11 question the vi -- the viability of covering that pool
12 or building a new pool beside it, for instance.

13 MR. JOHN MATHER: You've been
14 discussing --

15 THE HONOURABLE FRANK MARROCCO: Just
16 before you go on, I just wanted to understand. There
17 was always the idea that the -- that the -- the change
18 room, that would have to be taken down and done again.
19 That was always part of the concept or part of the
20 idea?

21 MR. DAVE MCNALT: I remember in one
22 (1) of the early -- one (1) of those early meetings
23 that the question was -- the question was asked, it
24 might have been by myself, what are you -- what are
25 you talking about here? Are you saying you're going

1 to put a cover over the existing change room, or does
2 that get taken down and built new?

3 And the answer was that gets taken down
4 and built new.

5 THE HONOURABLE FRANK MARROCCO: So --
6 so, in -- in essence then, the idea of putting the
7 membrane over the existing -- just dropping it down
8 over the existing structure was -- and never really on
9 the table because you were always going to redo -- at
10 the very least, you were always going to redo the --
11 the change facilities and -- and the shower, I assume,
12 that goes with that and whatever else the swimmers
13 need in order to prepare, well, I guess, if you're not
14 swimming in a competition, but just in order to go
15 swimming?

16 MR. DAVE MCNALTY: Yes. And that
17 would be one (1) of the things that came out of one
18 (1) of those early discussions, that -- that intent,
19 so, yes.

20 THE HONOURABLE FRANK MARROCCO: I --
21 I'm sorry. Go ahead.

22 MR. DAVE MCNALTY: So, I guess, going
23 -- I guess we've started out -- like, at this point in
24 time, the question was about should there be further
25 investigation into the pool.

1 And even based on the idea of just
2 changing -- putting new change rooms and that kind of
3 facility inside the new structure is a lot different
4 than making changes to the mechanical systems, the
5 pumping systems, the ability for the pool to meet FINA
6 regulations and so on.

7

8 CONTINUED BY MR. JOHN MATHER:

9 MR. JOHN MATHER: In terms of the
10 scope of work changes that you're describing that may
11 have warranted further investigation, did any of that
12 -- did the scope of work change prior to August 27th,
13 2012, in a capacity that you thought would have
14 required further investigation?

15 MR. DAVE MCNALTY: My recollection is
16 that all of those -- all of those significant changes
17 that resulted in changes to the design of the -- of
18 what was the concept, they all happened after the
19 contract was signed.

20 THE HONOURABLE FRANK MARROCCO: Sorry,
21 but except for the fact that the change room --

22 MR. DAVE MCNALTY: Except for -- ex --

23 THE HONOURABLE FRANK MARROCCO: -- was
24 going to have to be changed?

25 MR. DAVE MCNALTY: Except for that --

1 that fact, that the pool building would be taken down
2 and essentially a new pool building built inside.

3 THE HONOURABLE FRANK MARROCCO: Inside
4 the frame. So, someone considering whether dropping
5 the frame on top of the existing structure was -- was
6 viable, there would have been more work that needed to
7 be done around whether or not the new change room
8 would fit satisfactorily, how it would fit and how it
9 would change the design and/or the -- or the structure
10 or the co -- or the -- the improvements that -- that
11 you would have to make to the structure if something
12 like that's going to happen as opposed to just
13 dropping it on top of what's there.

14 Am I -- am I right about that or not?

15

16 (BRIEF PAUSE)

17

18 MR. DAVE MCNALTY: The -- the design
19 of what would be put in place to replace the existing
20 pool change rooms and that existing building that was
21 there would have to be done.

22 It would have to fit inside that
23 proposed structure. The proposed structure might have
24 to increase in size by a number of feet to facilitate
25 that.

1

2

(BRIEF PAUSE)

3

4

MR. DAVE MCNALTY: But that's

5 different than changing the intent of the pool and the

6 -- the -- and the intent of the use of the pool.

7

THE HONOURABLE FRANK MARROCCO: You're

8 not changing that because you're not changing the pool

9 at that stage?

10

MR. DAVE MCNALTY: At that stage,

11 correct.

12

THE HONOURABLE FRANK MARROCCO: But

13 you are changing the change rooms.

14

15 CONTINUED BY MR. JOHN MATHER:

16

MR. JOHN MATHER: Looking at the

17 direction that Council gave staff at the July 16th

18 meeting, what -- I'm going to start with the arena,

19 and then the pool.

20

What was your understanding that staff

21 was tasked to do in terms of -- what were they going

22 to report back on on August 27th when it come -- came

23 to the pool -- or the arena? Let's start with the

24 arena.

25

1 (BRIEF PAUSE)

2

3 MR. DAVE MCNALTY: I think the -- in -
4 - in the case of the arena, it would be a comparison
5 of a traditional style bricks and mortar arena to a
6 fabric structure, may or may not be specifically a
7 Sprung fabric structure, but a fabric structure, and
8 that could be phased into a double pad in either case.

9 MR. JOHN MATHER: When this resolution
10 was passed on July 16th, was it your understanding
11 that one (1) of the construction types for the arena
12 that was to be investigated was a fabric structure?

13 MR. DAVE MCNALTY: That would be the
14 understanding that I had after this meeting, yes.

15 MR. JOHN MATHER: And how did you come
16 to form that understanding that fabric would be one
17 (1) of the options?

18

19 (BRIEF PAUSE)

20

21 MR. DAVE MCNALTY: Because of the
22 conversations with Sprung, because of the concepts
23 that they provided, and because of the general
24 interest to pursue that as one (1) of the options.

25 MR. JOHN MATHER: When you say,

1 "general interest to pursue that as one (1) of the
2 options," what do you mean by that?

3

4 (BRIEF PAUSE)

5

6 MR. DAVE MCNALTY: The interest -- I
7 guess evidenced by the CAO, and mayor, and the deputy
8 mayor...

9

10 (BRIEF PAUSE)

11

12 MR. DAVE MCNALTY: ..through the
13 series of meetings and discussions that had gone on.

14 MR. JOHN MATHER: So was it your
15 understanding at this point in time that Mr. Houghton
16 was interested in pursuing Sprung buildings?

17 MR. DAVE MCNALTY: As an option.

18 MR. JOHN MATHER: And do you know why
19 he was interested in that?

20 MR. DAVE MCNALTY: No.

21 MR. JOHN MATHER: Did you ever ask him
22 why?

23 MR. DAVE MCNALTY: No.

24 MR. JOHN MATHER: Do you know what the
25 mayor or deputy mayor's interest was in pursuing

1 Sprung buildings?

2 MR. DAVE MCNALTY: No.

3 MR. JOHN MATHER: Any reason why you
4 didn't ask Mr. Houghton what his interest was in
5 pursuing Sprung buildings?

6 MR. DAVE MCNALTY: No reason I didn't.

7

8 (BRIEF PAUSE)

9

10 MR. DAVE MCNALTY: Other -- I mean,
11 myself, I could see the merits of the Sprung type of
12 fabric building, not that they're necessarily
13 superior, but they had their own merits.

14 MR. JOHN MATHER: And what were the
15 merits that you saw?

16 MR. DAVE MCNALTY: Largely, the
17 simplicity of construction and the insulating value
18 that could be achieved in the basic structure. And we
19 haven't talked about it yet, but the -- the proclaimed
20 LEED equivalency -- LEED silver equivalency of the
21 building.

22 MR. JOHN MATHER: At this point in
23 time, did you have any sense of the LEED potential of
24 a Sprung structure?

25 MR. DAVE MCNALTY: I think it was one

1 (1) of the items discussed by the Sprung
2 representatives in the meetings that we'd had to that
3 date.

4 MR. JOHN MATHER: And what you recall
5 they said about LEED in Sprung?

6 MR. DAVE MCNALTY: That the LEED -- or
7 the Sprung building, by its basic design, is a LEED
8 equivalent building, meaning that you could take that
9 building and apply for your LEED certification, and be
10 granted it without any design changes to the building.

11 MR. JOHN MATHER: Was it your
12 understanding that other steps would have to be taken
13 in order to achieve a LEED certification outside of
14 the fact that the building did not require design
15 changes?

16 MR. DAVE MCNALTY: Certainly, the --
17 the consulting -- the consulting work to prove it, and
18 the additional commissioning work, again to prove it,
19 because the -- the LEED organization, in order to
20 grant the certification, needs to have all that
21 documentation on the -- on the build.

22 MR. JOHN MATHER: Was it the case that
23 you understood that -- take the pool, for instance,
24 that if a Sprung structure was placed on top of the
25 pool, it would be LEED certified, so long as the

1 certification process was pro -- followed?

2 MR. DAVE MCNALTY: That was -- that
3 was what we were told. That was my understanding at
4 the time.

5 MR. JOHN MATHER: And that
6 understanding came from?

7 MR. DAVE MCNALTY: Sprung
8 representatives.

9 MR. JOHN MATHER: At that point in
10 time, had you had any experience with LEED buildings?

11 MR. DAVE MCNALTY: Only on the fringe
12 to do with the library building.

13

14 (BRIEF PAUSE)

15

16 MR. DAVE MCNALTY: The majority of
17 that work to achieve LEED -- the LEED certification on
18 the library building was done in the design and during
19 construction and commissioning, but after that point,
20 I took over the building as the facility manager, and
21 so there was additional reporting requirements for
22 years after in order to ensure that the building was
23 performing as it was intended.

24 MR. JOHN MATHER: Did your
25 understanding change at any point in time about the

1 notion that a Sprung structure would be capable of
2 being LEED certified, so long as the commissioning
3 process was followed?

4 MR. DAVE MCNALTY: It didn't change,
5 no.

6 MR. JOHN MATHER: When you were told
7 that the buildings would be LEED certified, did you
8 verify that or check that with anyone outside of
9 Sprung?

10 MR. DAVE MCNALTY: No. And they
11 wouldn't -- just to clarify, they wouldn't be LEED
12 certified. They would be LEED equivalent.

13 MR. JOHN MATHER: Did you check with
14 anyone whether or not to confirm that the Sprung
15 buildings were LEED equivalent?

16 MR. DAVE MCNALTY: No.

17 THE HONOURABLE FRANK MARROCCO: Just
18 help me with that, though. It -- it doesn't --
19 there's more -- before you get to the LEED
20 equivalency, there's a lot more that has to be done
21 than simply purchasing -- than -- than simply the --
22 the way the structure -- the way the membrane is -- is
23 manufactured?

24 MR. DAVE MCNALTY: No, that was --
25 see, that was their claim, which I suppose I don't

1 know to be true to -- true or not true to this day,
2 but their claim was that their building, by its basic
3 design, would meet the requirements of a LEED silver
4 certification.

5 So in the case of a library, which is a
6 traditional structural steel building, bricks and
7 mortar, flat roof, in order to take that building to
8 not a LEED silver's certification level, but to a LEED
9 gold certification level, there had to be many, many,
10 many components upgraded or added to that building in
11 order to gain the -- the points that would be required
12 to meet that level of LEED certification, as opposed
13 to the Sprung structure which, by its nature, the
14 claim was that it was LEED capable of that LEED silver
15 certification without any modifications.

16 THE HONOURABLE FRANK MARROCCO: Okay.
17 That was the representation?

18 MR. DAVE MCNALTY: Yes.

19

20 CONTINUED BY MR. JOHN MATHER:

21 MR. JOHN MATHER: How was that
22 communicated to you?

23 MR. DAVE MCNALTY: Verbally, and my --
24 I think it may have been in some of their literature.
25 And there was a -- there was an energy study that they

1 provided on one (1) of their buildings. I can't
2 remember specifically what it said, but there was a --
3 a study provided that identified the superior
4 insulation, and particularly the airtightness of the
5 facility that -- that added to the building's
6 efficiency.

7 MR. JOHN MATHER: And just to confirm,
8 other than the statements made by Sprung either in
9 person or in writing, did you do any further
10 investigation into the LEED capabilities of Sprung
11 buildings?

12 MR. DAVE MCNALTY: No.

13 MR. JOHN MATHER: Going back to the
14 slide in front of us, begin by asking you what you
15 understood Council direction -- what staff had been
16 directed to do with respect to the arena, and you said
17 compare fabric structure to a bricks and mortar
18 structure.

19 What did you understand staff to have
20 been directed to do when it came to Option 8 and
21 covering the pool with a fabric building?

22 MR. DAVE MCNALTY: As far as -- as far
23 as what I would have known, the only option there in
24 consideration would have been a Sprung structure.

25 MR. JOHN MATHER: At that point in

1 time had you done any research into whether or not
2 Sprung had competitors?

3 MR. DAVE MCNALTY: At that point in
4 time, I can't say.

5 MR. JOHN MATHER: Did you understand
6 that staff had been directed to consider other
7 potential construction types for the pool, at least as
8 a means of comparis -- comparison to a fabric
9 structure?

10 MR. DAVE MCNALTY: I didn't understand
11 that, no.

12 MR. JOHN MATHER: So with that in
13 mind, what did you understand staff were supposed to
14 do when it came to reporting back on the fabric
15 building?

16 MR. DAVE MCNALTY: A project time line
17 and estimates for Council's consideration.

18 MR. JOHN MATHER: And at that point
19 did you -- did you have an understanding or
20 consideration of how staff would go about determining
21 the time line and estimates, what steps they would
22 take?

23 MR. DAVE MCNALTY: At that point in
24 time, probably not. At that point in time, I don't
25 believe that we were -- I don't believe the intention

1 was to go out with a -- go out and get a detailed
2 design and go through a competitive process. I think
3 it was still in the investigative stage where we would
4 do cost comparisons between similarly featured
5 structures, for instance.

6 MR. JOHN MATHER: When you -- can you
7 just explain what you mean by similarly featured
8 structures?

9 MR. DAVE MCNALTY: I guess I'm talking
10 specifically about a -- a traditional style, pre-eng
11 building type arena versus a fabric structure, in the
12 case of the arena. In the case of the pool, there was
13 no comparison to be done that I can recall.

14 MR. JOHN MATHER: And I'm just trying
15 to get a sense -- because -- at least as I understand
16 your understanding, there was no comparison to be done
17 -- maybe I'll put it this way.

18 After this resolution was passed, were
19 you -- did you participate in any discussions on what
20 staff was going to do to fulfil the direction to
21 report back on a outdoor pool with a fabric building?

22 MR. DAVE MCNALTY: Specific to the
23 outdoor pool?

24 MR. JOHN MATHER: Yes.

25 MR. DAVE MCNALTY: No, I don't recall

1 any discussions.

2 MR. JOHN MATHER: Did you do anything
3 after the July 16th meeting to look into the covering
4 of the outdoor pool with a fabric building?

5 MR. DAVE MCNALTY: I think at that
6 point I had already provided whatever information I
7 had on Heritage Park and the -- and the existing
8 Centennial pool and the change room facility and so
9 on, so I don't think that I did anything further.

10 At some point we identified the -- the
11 features in a description of what would be in either
12 an arena or a pool as a -- as a basis. I can't recall
13 whether it was before or after this resolution.

14 So specific to the pool again, at some
15 point we made a -- a -- a list essentially, defining
16 what would be included in the pool -- covering the
17 pool.

18 MR. JOHN MATHER: And I believe we'll
19 get to that in a moment.

20 Other than compiling the list of
21 features of the pool, did you have any other
22 involvement in researching or further investigating
23 covering the outdoor pool with a fabric building?

24

25 (BRIEF PAUSE)

1 MR. DAVE MCNALTY: In terms of
2 investigation, no.

3 MR. JOHN MATHER: Council directed
4 staff to report back on -- no -- not later than August
5 27th, 2012.

6 Do you know how that date was selected?

7 MR. DAVE MCNALTY: I -- I don't know.

8 MR. JOHN MATHER: Do you recall if you
9 formed a view at the time whether that was sufficient
10 amount of time to report back on what you'd been
11 directed to report back on?

12 MR. DAVE MCNALTY: I certainly had a
13 view on that. It was too short of a time line, but
14 that was the time line.

15 MR. JOHN MATHER: Why, in your view,
16 was it too short of a time line?

17 MR. DAVE MCNALTY: Because of the
18 amount of work that would have to go into satisfying
19 those requirements and -- and being able to put all
20 the information together.

21 MR. JOHN MATHER: When you say that,
22 are you talking about the work of comparing the
23 construction types for the arena?

24

25 (BRIEF PAUSE)

1 MR. DAVE MCNALTY: Probably, 'cause
2 that's where I could see the biggest amount of work.

3 MR. JOHN MATHER: Any other large
4 amount of work -- work that you were forecasting would
5 be difficult to achieve by August 27th?

6 MR. DAVE MCNALTY: Not that I recall.

7 MR. JOHN MATHER: Did you share with
8 anyone your view that this was not enough time to get
9 this done?

10 MR. DAVE MCNALTY: Not that I recall.

11 MR. JOHN MATHER: Any reason why you
12 wouldn't raise that?

13 MR. DAVE MCNALTY: Raising it wouldn't
14 change it. That was the -- the date that was provided
15 and so that was the date that we had to work to.

16 MR. JOHN MATHER: Why was it the case
17 that you felt that if you raised it, it wouldn't
18 change the date?

19

20 (BRIEF PAUSE)

21

22 MR. DAVE MCNALTY: I guess again it
23 wasn't my place to change the date or to request that
24 the date would be changed.

25

1 (BRIEF PAUSE)

2

3 MR. JOHN MATHER: Was -- in -- in your
4 position that you had, if you needed more time when
5 Council imposed a deadline, what was the process for
6 asking more time?

7

8 (BRIEF PAUSE)

9

10 MR. DAVE MCNALTY: The process would
11 be go back to Council and ask for more time, and that
12 seldom happened.

13

14 (BRIEF PAUSE)

15

16 MR. JOHN MATHER: Why did that not
17 happen that often?

18

19 (BRIEF PAUSE)

20

21 MR. DAVE MCNALTY: Because I think --
22 I think that staff's -- staff's desire is to -- to
23 meet the -- meet the expectations of Council as
24 they're given.

25

1 (BRIEF PAUSE)

2

3 MR. DAVE MCNALTY: It's -- it's seldom
4 a -- it's seldom a discussion. It's seldom ki -- or
5 it's mostly one (1) directional in terms of something
6 like a time line.

7 MR. JOHN MATHER: In this instance,
8 did you feel you had any opportunity to express to
9 Council that the time line they had set was tight or
10 you would benefit from more time?

11 MR. DAVE MCNALTY: No, I was not in
12 communication with Council. I was not presenting Coun
13 -- to Council and didn't converse with Council about
14 it.

15 MR. JOHN MATHER: Who would converse
16 with Council about the time lines?

17 MR. DAVE MCNALTY: That would be at
18 the department head or the CAO's level.

19 MR. JOHN MATHER: In this case, did
20 you have any conversations with any department heads
21 or CAOs -- or the CAO about this time line?

22 MR. DAVE MCNALTY: Not that I recall.

23 THE HONOURABLE FRANK MARROCCO: Just
24 before we go on any further, thi -- this motion,
25 that's July the 16th?

1 MR. JOHN MATHER: Yes.

2 THE HONOURABLE FRANK MARROCCO: So,
3 what -- what's involved with detailed estimates? What
4 -- what do you understand when you're told to go out
5 and get detailed estimates of -- of the cost of
6 enclosing the outdoor pool with a fabric building?

7 MR. DAVE MCNALTY: Specific to the
8 pool, and if -- if there were other considerations
9 other than a Sprung building over the pool, then it
10 might involve approaching Sprung, plus the other
11 suppliers, with a design concept to say -- to
12 essentially get a good budget estimate on what this
13 would be worth, not a competition at that point but
14 budget pricing.

15 In the -- a little simpler there, if
16 there was only one (1) manufacturer in consideration
17 at that point and those conversations had kind of
18 already started in terms of what we would -- what the
19 components of the enclosure for the pool would be and
20 what it would cost.

21 So, there would have to be a
22 description of what the -- of what would be included.
23 I would think, in response to that, there would be a
24 conceptual design and there would be a budget estimate
25 that would go along with it that then the Town could

1 take and put appropriate contingencies on and say this
2 is what we think it'll cost.

3 THE HONOURABLE FRANK MARROCCO: Right.
4 And at -- at this stage, July the 16th, a decision has
5 been made to exclude all other kinds of -- of
6 coverings, except the fabric building, all other kinds
7 of buildings have been excluded, as I read that.

8 MR. DAVE MCNALTY: That's the way I
9 read it.

10 THE HONOURABLE FRANK MARROCCO: So,
11 would -- would -- in -- in your experience, would that
12 not mean that there would have had to have been some
13 serious consideration of the other -- of the various
14 types of structures that were available and a decision
15 made that the fabric building was preferable before
16 they could get to this recommended option?

17 MR. DAVE MCNALTY: I would agree with
18 that.

19 THE HONOURABLE FRANK MARROCCO: Do you
20 need detailed plans to give detailed estimates?

21 MR. DAVE MCNALTY: Not at this point.
22 Not -- not...

23 THE HONOURABLE FRANK MARROCCO: Well,
24 you've got to come back on August tve -- not you
25 personally, but staff have to come back on August 27th

1 with details estimates.

2 MR. DAVE MCNALTY: The detailed
3 estimate is not the result of a competitive bid, for
4 instance --

5 THE HONOURABLE FRANK MARROCCO: Right.

6 MR. DAVE MCNALTY: -- in my mind.
7 It's -- it's -- in traditional construction, it could
8 be an engineer's estimate. So, you go to the
9 engineering consultant and, based on their experience
10 and industry standards, they could come to you with a
11 detailed estimate for a traditional style building.

12 In the case of a fabric building,
13 they're special -- specialized. And the only people
14 that would be able to provide the detailed estimate on
15 a fabric building would be the fabric building
16 manufacturer or somebody connected to them.

17 THE HONOURABLE FRANK MARROCCO: Were
18 you under the impression that the only fabric building
19 manufacturer was Sprung?

20 MR. DAVE MCNALTY: They are the only -
21 - they were the only ones that have that robust design
22 and that wouldn't take -- that wouldn't take
23 modifications for a traditional fabric style building
24 to make it suitable.

25 And they were the only one that was

1 actively marketing not a fabric building, but a sports
2 facility enclosed by a fabri -- fabric building.

3 So, I could go to one (1) of the
4 agricultural style building suppliers and say can you
5 cover this pool. And they'd say, sure. But what
6 you'd get is an agricultural style building over the
7 pool, the difference being that Sprung's -- Sprung was
8 marketing the whole facility.

9 THE HONOURABLE FRANK MARROCCO: But --
10 but this doesn't say Sprung. It just says, "A fabric
11 building."

12 MR. DAVE MCNALTY: Right.

13 THE HONOURABLE FRANK MARROCCO: So --

14 MR. DAVE MCNALTY: That's correct.

15 THE HONOURABLE FRANK MARROCCO: I
16 mean, would -- would you -- in your experience, would
17 you have expected then that there would be various
18 fabric building -- detailed estimates for various
19 types of fabric buildings and detailed project time
20 lines for the various fabric buildings that were out
21 there, and then a decision would be made?

22 MR. DAVE MCNALTY: That kind of goes
23 back to the earlier investigation into fabric
24 buildings for over the outdoor rink. They wouldn't
25 meet building code requirements for -- for an assembly

1 type occupancy like a pool or an arena.

2 THE HONOURABLE FRANK MARROCCO: What
3 do you mean by that?

4 MR. DAVE MCNALTY: Under the building
5 code, an assembly type occupancy -- and it provides
6 examples like arena, pool, auditorium, and so on --
7 they have specific -- specific requirements that need
8 to be met, and in our earlier investigation, the
9 agricultural-style buildings that we looked at to
10 cover the existing outdoor rink couldn't meet those
11 building code criteria.

12 THE HONOURABLE FRANK MARROCCO: Those
13 are agricultural-style fabric buildings?

14 MR. DAVE MCNALTY: Yes.

15 THE HONOURABLE FRANK MARROCCO: Are
16 there --

17 MR. DAVE MCNALTY: And by fabric --

18 THE HONOURABLE FRANK MARROCCO: -- are
19 there other kinds of fabric buildings that are not
20 agricultural style?

21 MR. DAVE MCNALTY: Generally speaking,
22 they'll have a -- a steel structural frame, so like a
23 truss system with a membrane on the outside of the
24 trusses, and that's it.

25 In conversation with suppliers

1 previously, my own determination was that they would -
2 - they would put insulation under that membrane if you
3 requested it, but it would be a similar insulation
4 membrane as an older-style pre-engineered building,
5 meaning it would be 2 or 3 inches of fibreglass batt
6 rolled over underneath the membrane, and that was
7 their solution to provide insulation.

8 THE HONOURABLE FRANK MARROCCO: That's
9 the agricultural style. Is that correct?

10 MR. DAVE MCNALTY: Yes. That was the
11 information that I got from the agricultural-style
12 building suppliers.

13 THE HONOURABLE FRANK MARROCCO: Were
14 there other types of fabric buildings that were not
15 agricultural style?

16 MR. DAVE MCNALTY: Not that I'm aware
17 of. They -- they all fit that same design basis.

18 THE HONOURABLE FRANK MARROCCO: Okay.

19 MR. DAVE MCNALTY: And -- and perhaps
20 agricultural style isn't the right thing to call them,
21 but it's -- it's that simplistic design, which is a
22 steel truss and a membrane. And I -- and I was never
23 aware of any that varied off of that simple design.

24 THE HONOURABLE FRANK MARROCCO: Okay.

25

1 CONTINUED BY MR. JOHN MATHER:

2 MR. JOHN MATHER: Picking up on that,
3 after the July 16th meeting, did you do any research
4 to determine whether or not there was another
5 manufacturer of a fabric building that wasn't
6 agricultural style but met the requirements you saw in
7 Sprung?

8 MR. DAVE MCNALTY: My additional
9 research, I think, was focussed on whether there was
10 anybody else that was marketing a membrane style
11 structure or a fabric structure that was specifically
12 intended to cover sports facilities.

13 MR. JOHN MATHER: And why did you have
14 that focus?

15 MR. DAVE MCNALTY: Because I'd been
16 through the other analysis that I just explained, that
17 the other traditional style of fabric buildings would
18 be very difficult, if even possible, to get to that --
19 to get to that place.

20 MR. JOHN MATHER: Did you look to see
21 if anyone had a style of building like Sprung but had
22 used it for applications other than recreation
23 facilities?

24 MR. DAVE MCNALTY: I couldn't find any
25 other manufacturers of buildings like Sprung.

1 MR. JOHN MATHER: And what did you do
2 to satisfy yourself that there wasn't other
3 manufacturers of buildings like Sprung?

4 MR. DAVE MCNALTY: That was based on
5 my own Internet searches.

6 MR. JOHN MATHER: I appreciate it was
7 a while ago. Can you give a sense of what was
8 involved in your Internet searches?

9 MR. DAVE MCNALTY: I guess searching
10 on every word combination I could think of to -- to
11 try and come up with something.

12 MR. JOHN MATHER: Do you have a sense
13 of how many searches you ran?

14 MR. DAVE MCNALTY: I think I was -- I
15 was fairly focussed on it for a while, so I probably
16 tried different combinations and searched around for -
17 - for maybe half a day, maybe not continuously, but as
18 a sort of a focus.

19 MR. JOHN MATHER: Did you keep a
20 record of your searches or your search results?

21 MR. DAVE MCNALTY: No.

22 MR. JOHN MATHER: Do you know if other
23 staff members were doing searches into whether Sprung
24 had competitors?

25 MR. DAVE MCNALTY: I don't know.

1 MR. JOHN MATHER: Did you ever ask
2 Sprung if they had any competitors?

3 MR. DAVE MCNALTY: I don't know if I
4 ever asked them that, but I think my sense was that
5 their statement would be that they didn't.

6 MR. JOHN MATHER: Did you ever speak
7 to any other people in any other municipalities who
8 had recently built arenas and -- or pools and asked
9 them what they had looked into?

10 MR. DAVE MCNALTY: Not that I recall.

11 MR. JOHN MATHER: What was your
12 understanding of how many arenas Sprung had
13 constructed at that point in time?

14 MR. DAVE MCNALTY: There was perhaps
15 three (3) or four (4) in Canada and another half dozen
16 or so in the U.S., maybe.

17 MR. JOHN MATHER: Do you recall if you
18 reached out to any of those users and asked them about
19 their experience with Sprung or whether they had
20 considered other options?

21 MR. DAVE MCNALTY: Not myself.

22 MR. JOHN MATHER: Do you know if
23 anyone on staff did?

24 MR. DAVE MCNALTY: I don't know.

25 MR. JOHN MATHER: So we see after the

1 August -- sorry, after the July 16th, 2012, Council
2 meeting, you become involved with WGD in the work that
3 they're carrying out, and you also become involved in
4 the drafting of the staff report that's presented on
5 August 27th, 2012.

6 How did you get assigned to this
7 project?

8 MR. DAVE MCNALTY: To the project
9 overall?

10 MR. JOHN MATHER: To the work of
11 working with WGD and then working on the staff report.

12 MR. DAVE MCNALTY: I -- I don't -- I
13 don't believe that anybody said, This is your
14 assignment and these are your tasks. I think because
15 of my -- because of me being invited to the early
16 meetings with Sprung, it was sort of an assumption
17 that I would carry on and do work towards not only --
18 not only early meetings with Sprung, but I guess at
19 the same time I was -- I had become involved in the --
20 the report from the Central Park Steering Committee,
21 not directly, but in looking at the options and
22 helping to figure out how that would play out in the
23 whole Central Park scheme. And so based on all that,
24 nobody assigned me to be involved. I just stayed
25 involved.

1 MR. JOHN MATHER: Do you know why you
2 were invited to the initial Sprung meetings?

3 MR. DAVE MCNALTY: I think because of
4 my facility -- facility manager role, because I had --
5 because these were facilities being talked about and I
6 had access to facility information on existing
7 facilities and so on, and maybe because I was already
8 involved in the outcome of the Steering Committee
9 report to some extent.

10 MR. JOHN MATHER: Did anyone explain
11 that to you, or is that something that you -- you
12 gleaned based on what you'd already been working on?

13 MR. DAVE MCNALTY: Yeah. Nobody
14 explained that at all.

15 MR. JOHN MATHER: Your Honour, I
16 believe the union had suggested we shut down at this
17 point in the day.

18 THE HONOURABLE FRANK MARROCCO: Is
19 Friday 9:00 convenient for everybody?

20 MR. JOHN MATHER: Thursday, Your
21 Honour.

22 THE HONOURABLE FRANK MARROCCO: I'm
23 sorry. Thursday at 9:00? Right.

24

25 --- Upon adjourning at 4:45 p.m.

1

2

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4 Certified Correct,

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8 _____

9 Wendy Woodworth, Ms.

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