

RED HILL VALLEY PARKWAY INQUIRY

TRANSCRIPT OF PROCEEDINGS
HEARD BEFORE THE HONOURABLE J. WILTON-SIEGEL
held via Arbitration Place Virtual
on Monday, June 27, 2022 at 9:30 a.m.

VOLUME 38

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INDEX

	PAGE
RICHARD ANDOGA; AFFIRMED	6677
EXAMINATION BY MS. BRUCKNER	6677
EXAMINATION BY MS. JENNIFER ROBERTS	6914
EXAMINATION BY MR. MISHRA	6932

LIST OF EXHIBITS

NO.	DESCRIPTION	PAGE
104	E-mail regarding a draft information update on the sustainability plan, HAM32555.	6694
105	Draft information update on the sustainability plan, HAM32556.	6698
106	E-mail from Mr. Worrton to Mr. Andoga, HAM26073.	6843

1 Arbitration Place Virtual

2 --- Upon resuming on Monday, June 27, 2022

3 at 9:30 a.m.

4 MS. BRUCKNER: Good morning.

5 JUSTICE WILTON-SIEGEL: Good
6 morning.

7 MS. BRUCKNER: I would like to
8 open this hearing by acknowledging that the City
9 of Hamilton is situated upon the traditional
10 territories of the Erie, Neutral, Huron-Wendat,
11 Haudenosaunee and Mississaugas. This land is
12 covered by the Dish With One Spoon Wampum Belt
13 Covenant, which was an agreement between the
14 Haudenosaunee and Anishinaabek to share and care
15 for the resources around the Great Lakes. We
16 further acknowledge that the land on which
17 Hamilton sits is covered by the Between the Lakes
18 Purchase, 1792, between the Crown and the
19 Mississaugas of the Credit First Nation.

20 Many of the counsel appearing
21 today are in Toronto, which is on the traditional
22 land of the Huron-Wendat, the Senecas and most
23 recently the Mississaugas of the Credit River.
24 Today this meeting place is home to many
25 indigenous people from across Turtle Island and

1 I'm grateful for the opportunity to work on this
2 land.

3 Madam court reporter, I don't
4 believe that Mr. Andoga has been sworn.

5 RICHARD ANDOGA; AFFIRMED

6 EXAMINATION BY MS. BRUCKNER:

7 Q. Good morning Mr. Andoga.
8 My name is Hailey Bruckner and I'm commission
9 counsel. I'm going to ask you a couple of
10 questions this morning and I'm going to start off
11 with your background. Could you tell me a little
12 bit about your education and professional
13 qualifications?

14 A. I graduated from Mohawk
15 College as a civil technician and since that time
16 I've worked basically for municipalities through
17 the years in the municipal world.

18 Q. Okay. I understand that
19 you were employed by the City of Hamilton from
20 about 2000 until July 1, 2020. Is that right?

21 A. Yes.

22 Q. Okay. And prior to that,
23 you were employed by the City of Stoney Creek as
24 an engineering technologist?

25 A. Yes.

1 Q. For about ten years?

2 A. Twelve years there.

3 Prior to that, I was with the town of Halton
4 Hills, Acton, Georgetown, and before that I did a
5 one-year stint with the City of Hamilton.

6 Q. And when you were with
7 the City of Hamilton, you were a senior project
8 manager in infrastructure programming, asset
9 management and engineering services. Is that
10 right?

11 A. I finished, yes, with
12 that, yes.

13 Q. Okay. And what was your
14 role before that?

15 A. I was a project manager.

16 Q. Okay. And what year did
17 you shift between the two roles?

18 A. I don't recall. Sorry.

19 Q. Would it have been around
20 roughly 2014?

21 A. Possibly. Maybe sooner
22 than that. I can't recall.

23 Q. Okay. Can you describe
24 your role as a senior project manager in
25 infrastructure programming and asset management?

1 A. I started -- when I
2 started with asset management, I was dealing with
3 bridges and roads, so everything within the
4 right-of-way. I completed the capital program and
5 budgets and developed project scope and that
6 thing. So, what we did was create the capital
7 budget and deliver the capital budget.

8 Q. Okay. So, when you say
9 you delivered project scopes, these are scopes
10 that your group develops and then they're put
11 together by another group. Is that design?

12 A. Our scope would be
13 forwarded to design and then ultimately design to
14 construction within engineering services.

15 Q. And you said you worked
16 primarily on bridges when you started. Did you
17 work on other City of Hamilton assets?

18 A. No. I was with roads --
19 I did roads and bridges at that time, so...

20 Q. Okay. And you reported
21 in your role to the manager of asset management?

22 A. Yes, I did.

23 Q. And I understand that
24 that would have been Sam Sidawi from about 2015 to
25 2018. Is that right?

1 A. Sounds correct.

2 Q. All right. And then it
3 was Erika Waite after that?

4 A. Yes.

5 Q. And the manager of asset
6 management reported to the director of engineering
7 services. Is that correct?

8 A. Yes.

9 Q. And it would have been
10 Mr. Moore until about May 31, 2018 and then
11 Mr. McGuire after that?

12 A. Sounds correct.

13 Q. Okay.

14 A. I'm not good with dates.
15 I'm sorry.

16 Q. But it was those two
17 people in the position?

18 A. Yes.

19 Q. Thank you. Did you have
20 direct or indirect reports during your time at the
21 City?

22 A. Sorry, again?

23 Q. Did people report to you
24 during your time at the City?

25 A. Yes. Sorry. I had a

1 project manager and a technologist at the end and
2 then at the beginning I had I think there was five
3 people. There was a finance person, two finance
4 persons, and a bridge and a roads, two roads.

5 Q. Okay. Do you recall the
6 names of the project managers that reported to
7 you?

8 A. Trevor McClung and Alan
9 Jazvac.

10 Q. Okay. And the name of
11 the technologists that reported to you?

12 A. Nick Piedigrossi. There
13 was Dawn Kim was also there for a while with
14 bridges.

15 Q. If he was with bridges,
16 was Nick with roads?

17 A. Dawn was with bridges and
18 Nick was with roads, yes.

19 Q. Okay. Can you just
20 describe for me a little bit about what the asset
21 management department does as compared to other
22 Public Works departments?

23 A. We assisted in corporate
24 assets, in creating asset management plans for
25 those assets. We've done that and we also, like I

1 said, we did the capital programming for
2 right-of-way assets. So, we also had -- within
3 our section I had a counterpart which took care of
4 underground assets.

5 Q. Why did you leave your
6 role at the City?

7 A. Freedom 55.

8 Q. What does that mean?

9 A. I retired.

10 Q. Okay. We're going to go
11 through some documents that I'm going to have the
12 registrar pull up for us. As we get into this, if
13 you have any difficulty seeing them or viewing
14 them, just let me know.

15 Registrar, could you please
16 pull up HAM320.

17 So, Mr. Andoga, I understand
18 that you're familiar with the LINC and Red Hill
19 Valley Parkway sustainability plan that was
20 prepared in 2007. Is that correct?

21 A. Correct.

22 Q. What was the
23 sustainability plan?

24 A. It was a plan to identify
25 best practices to manage the roadway.

1 Q. How was the plan
2 prepared?

3 A. Through a series of
4 interviews with staff and with the help of a
5 consultant.

6 Q. Do you remember which
7 consultant it was?

8 A. Stantec, I believe.

9 Q. Registrar, can you take
10 us to image 12.

11 So, this is the acknowledgment
12 page for the report. And you'll see -- Registrar,
13 if you can call out that section just so we can
14 see it a little bit better where it lists off
15 names. You'll see, Mr. Andoga, you're listed as a
16 member of the project team as well as a major
17 contributor for this project. Can you tell me
18 what your role is in the creation and drafting of
19 the sustainability plan?

20 A. Our state of the
21 infrastructure reports, our sustainability plans,
22 that kind of thing, was basically done through a
23 series of interviews with staff.

24 Q. Okay.

25 A. So, I would coordinate

1 those meetings between staff and the consultant.

2 Q. How did you know which
3 staff to bring to a meeting with the consultant?

4 A. I would start at the
5 manager's level or director's level and let them
6 decide who should be available or can attend.

7 Q. And how would you know
8 which director to approach about each of the
9 meetings that Stantec wanted to arrange?

10 A. Well, it's within Public
11 Works, so the subject of a road, we would ask the
12 operational groups to come in.

13 Q. So, it was based on your
14 understanding of who had control of that aspect of
15 the asset?

16 A. It was up to their
17 director, yes.

18 Q. But the group that you
19 approached was based on your understanding of who
20 had --

21 A. Yeah, interest, a vested
22 interest. Yes.

23 Q. Can you can you tell me
24 what the distinction is between a major
25 contributor and a member of the project team as

1 set out in this?

2 And, Registrar, can you close
3 this actually just so that there's a bit more
4 context. The top line of the intro there says:

5 "In particular, we note
6 the following major
7 contributors."

8 And then there's the entry at
9 the bottom for the project team. And what's the
10 distinction between a major contributor and a
11 member of the project team?

12 A. My understanding is this
13 would be the major contributor would be their
14 supervisor.

15 Q. Would be whose
16 supervisor?

17 A. Those that have submitted
18 any type of input to the report.

19 Q. Okay. So, you think that
20 major contributors are the managers or directors
21 of the Public Works departments that were involved
22 in contributing to the report?

23 A. Yeah. It basically
24 identifies that section being the major
25 contributor, right, and the director, manager.

1 Q. So, you'll see here under
2 capital planning and implementation, you're
3 listed, as is Gary Moore and Gerry Davis. What
4 was Mr. Moore's role as a major contributor to the
5 sustainability plan?

6 A. He was the manager of the
7 group, so he would oversee those that came in
8 through the design process. So, if anybody came
9 in to the interview sections from the design
10 group, they would come forward. He was also the
11 one that built the Red Hill and the LINC, so he
12 would have extensive knowledge of that roadway as
13 well.

14 Q. And so, Mr. Davis, he's
15 also listed there with Mr. Moore and yourself.
16 What was his major contribution to the plan?

17 A. Yeah. It would be the
18 director of the group, so again it would be rolled
19 up to the top.

20 Q. So, I see that Marco Oddi
21 is listed under the Red Hill valley project, as is
22 Chris Murray. Can you tell me what their major
23 contributions were?

24 A. I can't tell you the
25 detail. I can tell you that being involved in the

1 construction, they would have extensive knowledge
2 of that roadway and would be able to assist with
3 any type of information that was requested.

4 Q. So, they're there because
5 of their high-level involvement in the
6 construction and because of their position in the
7 Red Hill Valley Parkway office?

8 A. That's correct.

9 Q. Registrar, can you please
10 take us to image 99 and split screen with
11 image 101 of the report, and if you could call out
12 2.11 under Pavement Safety and on the other side
13 if you could pull out -- thank you, Registrar. If
14 you could make that a little smaller. If you
15 could pull out 2.21 under Skid Resistance on the
16 other page just so that we can see them a little
17 bit better.

18 Mr. Andoga, are you able to
19 read those two sections?

20 A. Yeah.

21 Q. Do you want to take a
22 minute and just read them through, please, and let
23 me know when you're done?

24 A. Okay.

25 Q. Did you have a role in

1 drafting or revising either of these sections of
2 the sustainability plan?

3 A. Not -- I don't believe
4 drafting. It was reviewed internally.

5 Q. Okay. So, you would have
6 reviewed these sections of the sustainability
7 plan?

8 A. We would have reviewed
9 the plan, yes.

10 Q. Okay. Do you know who
11 Stantec would have been speaking to about the
12 sections of the report that deal with skid
13 resistance and friction testing on the assets?

14 A. I do not.

15 Q. And so, you'll see here
16 that there's a recommendation under skid
17 Resistance which says:

18 "The main purpose of the
19 skid resistance testing
20 is to identify the areas
21 with low skid resistance
22 that may affect public
23 safety. It's recommended
24 to perform skid
25 resistance testing every

1 who they would talk to. It falls under operations
2 and maintenance. I can't remember the structure
3 of the City at that time. I don't know with where
4 the traffic department sat. I believe it was
5 under the operations and maintenance group, so I
6 think at that time it would have fallen under
7 operations and maintenance.

8 Q. Okay. And why would
9 friction testing have fallen under operations and
10 maintenance?

11 A. It falls under the
12 traffic section. My opinion is it falls under the
13 traffic section. It's a safety issue.

14 Q. Okay. So, from your
15 perspective, then, if there was to be friction
16 testing on the Red Hill Valley Parkway every two
17 years after it was opened, according to that
18 recommendation, it would have been operations and
19 maintenance, specifically traffic, that was
20 responsible for it?

21 A. Yeah. Yes, ma'am.

22 Q. Registrar, my apologies,
23 I know I'm jumping around on you a bit. Can you
24 take us back to image 99 and 101, and start off by
25 pulling out section 2.11. Thank you.

1 So, there are a number of
2 statements here in this section. Do you agree
3 with the statement that what surface accidents may
4 occur because of the lack of skid resistance or
5 low friction?

6 A. Do I agree to that? Yes.

7 Q. That pavement safety is
8 primarily evaluated in terms of skid resistance?

9 A. I'm sorry, say that
10 again, please?

11 Q. That pavement safety is
12 primarily evaluated in terms of skid resistance,
13 do you agree with that statement?

14 A. I don't know if I can
15 agree with that.

16 Q. Why not?

17 A. I don't know that skid
18 resistance is that much, that important or that
19 high priority with regard to an accident.

20 Q. So, this drafting is
21 coming from a consultant retained by the City, but
22 you disagree with the premise that pavement safety
23 is primarily evaluated in terms of skid
24 resistance?

25 A. I'm not disagreeing with

1 it. I can't argue it. He's telling me yes.

2 Q. Okay.

3 A. The report says yes, it
4 is.

5 Q. And it goes on to say
6 that pavement skid resistance would typically
7 deteriorate over time due to pavement surface
8 weathering. Do you agree with that?

9 A. Yes, I do.

10 Q. Skid resistance
11 constitutes a safety concern and should be
12 evaluated on a regular basis, which is, as I
13 understand it, the basis for the one to two-year
14 recommendation for skid testing on the Red Hill
15 Valley Parkway and LINC. Do you agree with that
16 statement as well?

17 A. As a best practice, yes.

18 Q. Okay. Registrar, you can
19 close this out and if you can pull out quickly for
20 us 2.21, which is the other section under Skid
21 Resistance.

22 And it says the main purpose
23 of the skid resistance testing is to identify the
24 areas with low skid resistance that may affect
25 public safety. Do you have any reason to disagree

1 with that statement?

2 A. No, I don't disagree with
3 that.

4 Q. So, it's my
5 understanding -- sorry, Registrar, you can close
6 this down. It's my understanding that the
7 recommendation for friction testing on the Red
8 Hill Valley Parkway every one to two years was
9 never implemented by the City. Is that right?

10 A. To the best of my own
11 knowledge, no.

12 Q. Okay. And I think that
13 I'm going to get into why.

14 So, Registrar, could you
15 please take us to HAM32555, and if you could pull
16 up beside it HAM32556, which is the attachment.
17 Thank you.

18 So, you circulate a draft
19 information update on the sustainability plan that
20 we were just looking at on November 1, 2007 and
21 you send it to Bill Weaver and Jennifer Atkinson.
22 Just for some context, who are Bill Weaver and
23 Jennifer Atkinson?

24 A. They were under the road
25 operations section, I believe --

1 Q. And you would have --

2 A. Bill was -- and Jen was,
3 I don't know her title but he was in the office.

4 Q. Okay. And you copy on
5 this e-mail Gerry Davis, Jennifer DiDomenico, John
6 Murray, Bryan Shynal and Mr. Gary Moore. Why did
7 you copy those particular individuals on the draft
8 information update?

9 A. It's directors.
10 Jennifer -- well, Gerry was director. Jennifer
11 was, I can't recall her title, but because of the
12 Red Hill, she might have been the contact for the
13 Red Hill. John Murray was my manager, Bryan
14 Shynal was director of operations and maintenance
15 and Gary Moore was the manager of design at that
16 time, again, because of his involvement with the
17 Red Hill.

18 Q. I'm going to close out
19 this e-mail so we can take a closer look at the
20 information update, but before I do that, I
21 believe, Registrar, that the e-mail has not yet
22 been marked and that it would Exhibit 104. Could
23 we mark that, HAM32555?

24 THE REGISTRAR: Noted,
25 counsel. Thank you.

1 EXHIBIT NO. 104: E-mail
2 regarding a draft
3 information update on the
4 sustainability plan,
5 HAM32555.

6 BY MS. BRUCKNER:

7 Q. And, Registrar, if you
8 could take down the e-mail, please, and pull up
9 both pages of the information update. Thank you.
10 So, this is just a better look
11 at the information update that you prepared,
12 Mr. Andoga. And you'll see that this is a draft
13 information update from Mr. Gerry Davis to the
14 mayor and members of council and it says at the
15 top there, so paragraph 1, that the sustainability
16 plan has been completed and then it outlines the
17 activities and costs required to operate and that
18 the plan outlines the activities and costs
19 required to operate and maintain the
20 infrastructure assets that comprise the LINC and
21 the Red Hill Valley Parkway, and that's just in
22 the first paragraph there.

23 And then the plan goes on to
24 say -- Registrar, could you pull out from the
25 third paragraph on image 1, it says accordingly,

1 just so we can have a bit of a better view of
2 that.

3 So, it goes on to say:
4 "Accordingly, the
5 operations and
6 maintenance division will
7 submit resulting
8 operating budget
9 estimates to the 2008
10 budget process for
11 consideration in an
12 annualized context. The
13 sustainability report has
14 identified the following
15 recommended conclusions."

16 And there's a list of
17 recommended conclusions, the first of which being
18 a request for an average annual operations and
19 maintenance budget of \$4.2 million for the LINC
20 and the Red Hill Valley Parkway project and then
21 there's actually a continuation, there's a fifth
22 point, on to the next page.

23 Registrar, if you could just
24 close down the call out just so Mr. Andoga can see
25 that point as well.

1 So, it's my understanding from
2 that that the sustainability plan identified the
3 need for an operations and maintenance budget of
4 \$4.2 million annually for the Red Hill Valley
5 Parkway and LINC. Do you recall if that request
6 was submitted to the 2008 operating budget?

7 A. I would not know. Sorry.
8 I didn't -- I wasn't involved in operating
9 budgets.

10 Q. So, that would have gone
11 through the operations and maintenance division,
12 if it went?

13 A. From this report, I would
14 assume so, yes.

15 Q. And in your view, is that
16 because they were responsible for aspects of the
17 sustainability plan?

18 A. Operation and maintenance
19 of, yes.

20 Q. Okay. Do you recall what
21 the outcome of the request for funding for the
22 sustainability plan was? It's not a memory test.
23 I can take you to a document that I think can help
24 to refresh your memory if you want.

25 A. Please.

1 Q. Okay. Registrar, could
2 you please close this down. Actually, sorry,
3 before we move on, I believe this draft
4 information update also has not been marked.
5 Registrar, could we mark HAM32556 as Exhibit 105?

6 THE REGISTRAR: Noted,
7 counsel. Thank you.

8 EXHIBIT NO. 105: Draft
9 information update on the
10 sustainability plan,
11 HAM32556.

12 BY MS. BRUCKNER:

13 Q. Thank you. And,
14 Registrar, if you could take us to HAM58041. I
15 think that I have given you the wrong
16 image number, Registrar. Could you try HAM58042.
17 Sorry, Registrar, I think you had the numbers
18 reversed on the first one. It's HAM58041. I
19 think you had a 08.

20 THE REGISTRAR: Sorry, is it a
21 native file?

22 MS. BRUCKNER: No. It should
23 be a PDF of an e-mail, HAM58041.

24 THE REGISTRAR: Sorry. One
25 second. HAM58041?

1 MS. BRUCKNER: I believe so
2 and hope so.

3 THE REGISTRAR: No, it is
4 probably my fault.

5 MS. BRUCKNER: Yes, there we
6 go. Okay.

7 BY MS. BRUCKNER:

8 Q. So, you'll see there,
9 Mr. Andoga, this is an e-mail exchange on the
10 value for money audit, which happens much later in
11 time than we currently are, in 2019, and the
12 e-mail in the middle of the page is a response to
13 you, to Dipankar Sharma, in response to some
14 questions that he had with respect to the
15 sustainability plan.

16 Registrar, if you don't mind
17 just calling out the centre e-mail there.

18 And you'll see there he was
19 asking you about the sustainability plan and you
20 respond to him:

21 "The report was presented
22 to council and
23 subsequently received.
24 The requested funding
25 amount was to be brought

1 forward through the
2 budget process but was
3 not supported by council.
4 Therefore, the
5 maintenance plan was not
6 implemented."

7 Does that help to refresh your
8 memory about what the outcome of the request for
9 funding of the sustainability plan was?

10 A. Sorry, yes. I remember,
11 mm-hmm. It's true.

12 Q. And so, it's my
13 understanding from this, then, that the report was
14 presented but council didn't approve funding for
15 the sustainability plan?

16 A. Yeah. The report was
17 just received.

18 Q. Okay. And so, would that
19 mean that the plan wasn't implemented because
20 there was no funding?

21 A. Again, it would have
22 gratefully helped if they supported it. I'm not
23 sure if anything -- what was identified in the
24 operating budgets of the operating groups, because
25 the LINC and Red Hill, the LINC, the Red Hill

1 being a new road, would have increased their
2 operating regardless. So, whether that was a
3 reallocation of existing funds or added funds, I
4 don't know.

5 Q. Sorry, when you say the
6 Red Hill being new, it would have increased their
7 funds anyway, so can you break that down a little
8 bit for me?

9 A. You still have the remove
10 the snow on it, you still have to cut the grass on
11 it, you would have to maintain or repair accidents
12 or whatever it may be with that roadway, so, you
13 know, to change a lightbulb, the work still has to
14 be done.

15 Q. Okay. So, there would
16 have been an operations and maintenance budget for
17 the Red Hill --

18 A. Some sort of expenditure
19 within existing accounts or I don't know if they
20 separated it out. I wouldn't know.

21 Q. Registrar, you can take
22 this down.

23 Did you expect that the
24 recommendations in the sustainability plan would
25 be operationalized after council declined to fund

1 the plan through maintenance or operations
2 budgets?

3 A. Not to the extreme that
4 they were noted within the report.

5 Q. Can you break that down?
6 What do you mean by not to the extreme as noted
7 within the report?

8 A. I'm sure there would be
9 items within that report that they could not do or
10 would not do because of the lack of funding or
11 support. Again, like I said, you still had a
12 service level for snow removal, so there's -- you
13 know, I'm not the operating expert, but I'm sure
14 they would have done something out of that report.

15 Q. Okay. Did you have any
16 discussions with anyone else at the City about how
17 to address the recommendations in the
18 sustainability plan after council declined to fund
19 it?

20 A. No, I did not.

21 Q. Do you have any knowledge
22 of any of the other Public Works departments
23 incorporating recommendations from the
24 sustainability plan into their operations and
25 maintenance budgets or covering them in any other

1 way?

2 A. I don't recall any
3 examples of such.

4 Q. Did you have any role
5 after the council vote in figuring out how to get
6 the recommendations that were made in the
7 sustainability report operationalized?

8 A. Myself, no.

9 Q. Was anyone taking steps
10 to figure out how to operationalize the
11 recommendations after the funding request was
12 declined?

13 A. I don't know. I don't
14 recall.

15 Q. Who, if anyone, would
16 have been responsible for the implementation of
17 the recommendations in the sustainability plan
18 once funding was declined?

19 A. Well, funding was
20 declined through the report. They could have at
21 that time handed over a cheque and everybody would
22 be happy and go home. Whether -- how they got
23 that expenditure, how they got that money or any
24 such money to do anything to that roadway, there
25 would have been discussions through the budget

1 process.

2 Q. Okay. And the they in
3 that sentence, is that operations and maintenance?

4 A. They would be definitely
5 a part of it. They had a budget committee, so all
6 the asks, financial asks or justification, they
7 would go through that committee.

8 Q. And so, you said
9 operations and maintenance would have been part of
10 it. Was there another Public Works department
11 that would have been part of it as well?

12 A. I think if I summed it up
13 by operations and maintenance pretty much covers
14 all Public Works at that given time.

15 Q. Okay. Pretty much covers
16 all of Public Works at the given time, what do you
17 mean by that?

18 A. Forestry, traffic, roads
19 operations, those groups.

20 Q. Okay. And those are the
21 groups that you think would have been potentially
22 responsible for taking steps to ensure that
23 recommendations in the sustainability plan were
24 funded through other processes?

25 A. I would think they would

1 play a major role, like a higher impact, to their
2 operating budgets, just with the addition of that
3 road.

4 Q. Do you have any knowledge
5 as to what steps they would have taken or how they
6 would have assessed what aspects of the
7 sustainability plan they could operationalize?

8 A. No. I didn't get
9 involved in that.

10 Q. Okay. Were you involved
11 in any discussions or meetings about how to
12 maintain the LINC and the Red Hill Valley Parkway
13 as City assets after the sustainability report was
14 not funded?

15 A. No, I don't believe so.

16 Q. To your knowledge, did
17 operations and maintenance or any other Public
18 Works division ever bring forward or implement a
19 plan to maintain the Red Hill Valley Parkway and
20 LINC through the implementation of any of the
21 recommendations in the sustainability plan?

22 A. I don't recall any. I
23 dealt with capital budgets, but if they went
24 through an operating budget, I couldn't tell you.
25 I don't recall any capital improvement plans.

1 Q. Okay. Did asset
2 management take any steps to try and get
3 recommendations from the sustainability plan dealt
4 with in other ways or funded by other means?

5 A. I don't believe so. We
6 would have done the capital programming for the
7 roadway, if that's what you classify as such, but
8 that would be the limit of.

9 Q. And what would have been
10 included in the capital program as distinct from
11 the types of recommendations in the sustainability
12 plan?

13 A. We're looking -- the
14 asset management section would strictly look at
15 the timing of rehabilitation for the roadway.

16 Q. So, it's my
17 understanding, based on the sustainability plan,
18 that they had set out, that Stantec had set out,
19 models for when rehabilitation would be required
20 in that plan based on other steps and
21 recommendations they made. Did that have any
22 impact on your planning for the capital budget
23 around the Red Hill Valley Parkway and LINC?

24 A. Yes. I would say yes.

25 Q. Can you tell me how?

1 A. We would look at the
2 recommended timing to allow that to get into our
3 program. It's a combination of what's being
4 recommended and an analysis of the roadway as it
5 ages.

6 Q. Did you take steps to
7 find out if other departments were implementing
8 recommendations under the plan to see if that
9 might affect your own planning for rehabilitation
10 or repaving in the future?

11 A. We were hearing nothing,
12 I believe, at that time.

13 Q. Hearing nothing from the
14 other Public Works departments?

15 A. Right.

16 Q. So, was it your
17 understanding, then, that the recommendations
18 under the plan weren't being implemented?

19 A. I can't answer that. I
20 don't know what was being done at that given time
21 through other groups.

22 Q. But you weren't
23 personally aware of any recommendations from the
24 sustainability plan being implemented?

25 A. I was worried about the

1 black cracking asphalt and that's what I dealt
2 with.

3 Q. Black cracking asphalt,
4 can you break that down for me? What do you mean
5 when you say you were worried about the black
6 cracking asphalt?

7 A. We built our program
8 based on observations.

9 Q. Okay. And the black
10 cracking asphalt was one of those observations?

11 A. It would have been a
12 priority to bring that road forward, yes.

13 Q. Okay. Is that on the Red
14 Hill that you noticed the black cracking asphalt?

15 A. Yes.

16 Q. When?

17 A. I can't tell you the
18 exact dates. I'm sorry.

19 Q. Is that connected to the
20 later rehabilitation and resurfacing?

21 A. Yes.

22 Q. Maybe I'm going to take
23 you through some of those e-mails on that, so if
24 you are triggered and recognize that there's a
25 time period or an indication that connects the

1 black cracking asphalt, let me know and I will
2 make sure to ask you about it as we go through as
3 well.

4 A. Okay.

5 Q. In your view, who was
6 responsible for ensuring that the LINC and the Red
7 Hill Valley Parkway were maintained in a good
8 state of repair?

9 A. Council.

10 Q. Okay. And which Public
11 Works departments were responsible advising
12 council as to steps that needed to be taken to
13 meet that goal?

14 A. It would be brought
15 forward through a capital budget process, so it
16 would come from engineering services to the
17 director or the GM of Public Works.

18 Q. Okay. And so, if the
19 sustainability plan was not funded, was there
20 another maintenance plan that was developed and
21 funded for the Red Hill Valley Parkway or LINC?

22 A. I don't recall. I
23 couldn't answer that.

24 Q. So, then was maintenance
25 dealt with primarily from expenditures from Public

1 Works departments as they identified them?

2 A. Again, maintenance was
3 under a different director. I couldn't answer
4 that.

5 Q. Okay. Which director was
6 it under?

7 A. I think it started with
8 Bryan Shynal.

9 Q. Okay. In operations?

10 A. Yes.

11 Q. And would it have been
12 Mr. Shynal who decided when to implement
13 maintenance on the Red Hill Valley Parkway or
14 LINC, in your view?

15 A. Brought forward from his
16 support staff, yes.

17 Q. And in your view, it
18 would have been that group as well that would have
19 been responsible for any friction testing and
20 monitoring on the Red Hill Valley Parkway or
21 another group? I know there's a distinction
22 between operations and traffic engineering later
23 in the other group's department structure?

24 A. Yeah, it would be brought
25 forward through them.

1 Q. Okay. Operations or
2 traffic engineering?

3 A. It would typically, from
4 what I recall, it would be traffic engineering and
5 then brought forward to the operational group to
6 implement.

7 Q. Was it your understanding
8 that --

9 A. Sorry. If I say
10 operational group, I mean roads operations.

11 Q. Okay.

12 A. So, it's a coordinated
13 effort between those two groups.

14 Q. Understood. Was it your
15 understanding that staff in traffic engineering or
16 road operations had any knowledge or expertise
17 about friction testing?

18 A. I wouldn't know.

19 Q. Registrar, could you take
20 us back to HAM3220 and take us to image 120 and
21 121.

22 So, this is just back to the
23 sustainability plan and I can call out some
24 aspects of this because I know it's very small.
25 But this is, as I understand it, one of the

1 prediction models that Stantec developed and the
2 one that they recommended which sets out their
3 recommendations for surface treatments, timing of
4 minor and major rehabilitation on the LINC and the
5 Red Hill as well as for maintenance activities
6 like regular skid testing.

7 Do you remember reviewing this
8 chart?

9 A. Very vaguely, yeah.

10 Q. And this work that
11 Stantec did, is this the element of the report
12 that would have impacted what you were doing in
13 asset management in terms timing for
14 rehabilitation and surface treatments and things
15 like that on the Red Hill?

16 A. Mm-hmm, yes.

17 Q. So, I see that there are
18 a bunch of references, and so it's a little bit
19 confusing, but the first couple of columns are for
20 the Red Hill and there are a couple of columns for
21 the LINC and you'll see that there are references
22 to surface treatments as well as minor
23 rehabilitations, so there's a reference to surface
24 treatment for the Red Hill Valley Parkway in 2017
25 and then it says minor rehabilitation, 2026.

1 What's the distinction between a surface treatment
2 and a minor rehabilitation?

3 A. Surface treatment might
4 be some sort of -- sorry. Yeah, surface treatment
5 might be some sort of exactly what it says, a
6 treatment for the surface, so maybe there was some
7 sort of application to be laid on top of the
8 existing asphalt.

9 Q. So, something like
10 microsurfacing?

11 A. Yes.

12 Q. And then a minor
13 rehabilitation is a level up, I assume, from a
14 surface treatment?

15 A. It is. It's more like a
16 shave and pave, mill and overlay.

17 Q. Understood. And then
18 there's no major rehabilitation listed for the Red
19 Hill Valley Parkway under this schedule anyways
20 until 2042?

21 A. Yeah.

22 Q. What would a major
23 rehabilitation entail?

24 A. Full reconstruction of
25 the pavement structure.

1 Q. Registrar, you can take
2 this down. Thank you. Registrar, could you
3 please take us to HAM377.

4 And so, I have a couple of
5 questions for you about this paper. So, this is a
6 paper by Mr. Moore, Dr. Uzarowski and
7 Dr. Henderson from Golder is it is from March 2011
8 titled "Using Instrumentation Data on an Active
9 Highway for Pavement Management."

10 Registrar, if you can just
11 pull up image 2 alongside image 1.

12 And you'll see, Mr. Andoga, at
13 the very bottom of this page, Registrar, could you
14 call out under Acknowledgements, there's a
15 reference there that says:

16 "The authors would like
17 to thank Mr. Rick Andoga,
18 P.Eng, from the City of
19 Hamilton, Ontario, Canada
20 for providing
21 documentation and help
22 with the initial
23 analysis."

24 And just for reference, you're
25 not a professional engineer. Right?

1 A. No. Maybe that's being a
2 little bit, you know.

3 Q. So, I'm assuming that
4 that is an error in the drafting?

5 A. Yes, definitely.

6 Q. Okay. Did you contribute
7 to this paper?

8 A. I must have. I don't
9 know what I gave them. If I supplied them with
10 something, I don't know.

11 Q. The acknowledgement
12 suggests that you assisted with the initial
13 analysis. Do you remember what initial analysis
14 that would have been?

15 A. I do not.

16 Q. Did you generally assist
17 Mr. Moore with academic papers?

18 A. If there's an asset
19 management component, usually we would do it. We
20 wrote papers ourselves.

21 Q. Okay. And when you --
22 so, I'm just taking it from this that aside from
23 this occasion, there may have been other occasions
24 where you worked with Mr. Moore on academic
25 papers?

1 A. Yeah --

2 Q. Do you recall generally
3 what was your role when the two of you worked
4 together?

5 A. That would be the asset
6 management or provided information with regard to
7 the asset management component.

8 Q. So, did you have a role
9 in drafting or was it more of a he approached you
10 and asked for information that he would then
11 incorporate into the --

12 A. Yeah. It would be more
13 along those lines.

14 Q. Okay. And for this
15 particular publication, do you remember if you
16 reviewed this paper before it was published?

17 A. I do not.

18 Q. Do you recall whether or
19 not you had any conversations with Mr. Moore about
20 the paper?

21 A. I don't recall. This
22 might have been created through informal
23 discussions with Ludomir at my desk at the time.
24 I really don't --

25 Q. Formal discussions with

1 Ludomir at your desk, so I take it that
2 occasionally you would run into Dr. Uzarowski in
3 the office?

4 A. Yes.

5 Q. Was this during the time
6 period that he had an office at the City of
7 Hamilton or a desk?

8 A. No.

9 Q. So, in what circumstances
10 would you encounter him?

11 A. He would pass by my desk
12 coming into the office and we would have a
13 discussion either before or after his meeting
14 usually --

15 Q. Okay. So, you think it's
16 possible that this report and your acknowledgement
17 in it could have come from a passing conversation
18 with him?

19 A. Could have.

20 Q. To your knowledge, what
21 was Mr. Moore's contribution to this paper as
22 compared to Dr. Henderson or Dr. Uzarowski's?

23 A. Yeah. I couldn't answer
24 that. I don't know what this report is.

25 Q. Okay. Registrar, you can

1 take this down. Registrar, could you please take
2 us to HAM63995 and image 4, please.

3 So, this is a long e-mail
4 exchange from 2013 where Stephen Cooper, who is in
5 traffic engineering, is looking for a timeline on
6 the resurfacing for the Red Hill Valley Parkway
7 and you'll see the e-mail in the middle is from
8 Alan Jazvac, who I understand reported to you, and
9 he responds to Mr. Cooper that the LINC had just
10 been resurfaced in 2011 and he goes on to indicate
11 that the Red Hill Valley Parkway will be
12 resurfaced before the LINC's next resurfacing and
13 he suggests that the Red Hill Valley Parkway might
14 be resurfaced around 2021. Do you remember this
15 e-mail exchange? Just for context, you're up at
16 the top responding.

17 A. I don't recall the
18 e-mail, no.

19 Q. As of October 2013, was
20 it your understanding that the Red Hill Valley
21 Parkway would likely be resurfaced in or around
22 2021?

23 A. Sorry, what timeline?

24 Q. 2021, just based on this
25 e-mail and what Mr. Jazvac has said to Mr. Cooper.

1 A. 2013, I would I believe
2 that would be accurate.

3 Q. So, at that point, then,
4 in 2021, the Red Hill would have been about
5 14 years old? I know it's a --

6 A. Yeah. I'm sorry. Yeah.

7 Q. I'm sorry, I didn't mean
8 to challenge your arithmetic.

9 A. Coffee makes me loose
10 this morning, I'm sorry. But yes, it seems
11 accurate, yes.

12 Q. Why was it your
13 expectation that the Red Hill Valley Parkway would
14 be resurfaced around 2021?

15 A. Hold on here. Sorry. I
16 think that's where it sat in within our capital
17 financial program, so we had allocated a spot for
18 it because of the amount of expenditure required,
19 so that's what Alan was probably reading off of as
20 well, is the timeline identified for finance.

21 Q. Okay. So, when you say
22 we've allocated a spot for it, can you explain to
23 me exactly what that means?

24 A. We identified a ten-year
25 capital program but we operated a larger program

1 internally. Ten-year was presented to council on
2 an annual basis, so we had to -- we had financial
3 projections. You know, we had to fill those
4 projections and we would look at the timelines
5 proposed for the Red Hill and find a holding spot
6 for it.

7 Q. Okay. So, the holding
8 spot for the Red Hill Valley Parkway was in
9 roughly 2021. Is that because major resurfacing
10 projects are planned well in advance? Like, is
11 that the typical process within the City?

12 A. Yeah, that's standard of
13 practice.

14 Q. Okay. And is that
15 because of the expense or for other reasons?

16 A. We would ask for a
17 project scope for those projects within three
18 years.

19 Q. Okay.

20 A. That's what our goal was.
21 And then anything beyond the three years, the
22 priority for any type of project scope would fall
23 off, but we would have to build those financial
24 models, so to answer your question, there was just
25 a holding spot for the Red Hill rehabilitation.

1 Q. So, when you say that you
2 would ask for the scopes three years in advance,
3 does that mean that three years in advance of 2021
4 in order to maintain the Red Hill project in that
5 holding spot, you would need to receive a project
6 scope for it?

7 A. We would start building
8 something like the Red Hill, yeah, we would have
9 to build that much further before.

10 Q. Okay. So, generally
11 speaking, what would be your expectation about how
12 much advance notice there would be for
13 rehabilitation or repaving on the Red Hill Valley
14 Parkway?

15 A. How much time we would
16 have or we would want?

17 Q. Yeah.

18 A. Is that what you're
19 asking?

20 Q. Yeah. Like, what would
21 be the typical timeline be from, you know, this is
22 a thing that we're with going to do through to
23 we're implementing this?

24 A. Okay. We would want --
25 again, we were asking for three years. Given the

1 complexity of the Red Hill, you know, it may take
2 five years to develop a project scope.

3 Q. Okay. So, for the Red
4 Hill, you would expect that you would be trying to
5 do that scope work about five years in advance of
6 a resurfacing?

7 A. It would be preferred.

8 Q. Okay. And what sort of
9 factors go into whether or not that timeline is
10 met?

11 A. Well, the finances have
12 to be in order and we would have to have the scope
13 in place.

14 Q. Okay. Registrar, you can
15 take this down. Thank you. Registrar, could you
16 please take us to OD 5, image 12, paragraph 22.

17 So, in around 2005, Public
18 Works or the City of Hamilton started releasing
19 reports on Public Works assets titled State of the
20 Infrastructure Reports. Were you involved in the
21 preparation of the state of the infrastructure
22 reports?

23 A. Yeah. They were started
24 in 2003.

25 Q. Okay. And were you

1 involved throughout the entire time period in
2 which the reports were produced until you left the
3 City?

4 A. Yes, except the last one.
5 Yeah, pretty much. Yeah.

6 Q. Was there one that you
7 weren't involved in?

8 A. The last one I had very
9 minimal, I believe.

10 Q. Okay. What was your role
11 in developing the state of the infrastructure
12 reports?

13 A. They were done, again,
14 through a number of internal meetings with a
15 consultant, so it was through an interview process
16 and I would coordinate those meetings.

17 Q. So the process, then, was
18 quite similar to the process that was followed for
19 the sustainability plan?

20 A. Very similar, yes.

21 Q. Did you sit in on the
22 interviews that the consultant had with City
23 staff?

24 A. Some, I did. Some, I did
25 not.

1 Q. Registrar, could you
2 please take us to image 17, paragraph 30, of this
3 document, please.

4 So, this is from the City's
5 2014 asset management plan and it states that
6 methodologies for the overall condition rating
7 used in the state of the infrastructure reports
8 relied on three metrics: Condition and
9 performance, capacity, and need versus available
10 funding.

11 Can you walk me through how
12 each of these factors impacts an asset's rating?

13 A. From what I recall, I
14 don't know if it was evenly distributed. I don't
15 recall if it was evenly distributed to get that
16 grade.

17 Q. Okay.

18 A. A lot of this is --
19 again, it was through a series of interviews, so
20 it was discussions with those that managed the
21 asset and it would be their internal feelings,
22 their gut feelings, that would drive, you know,
23 the condition and performance capacity and what's
24 needed out there.

25 Q. Okay. Registrar, you can

1 take this down and if you can pull up
2 paragraph 30, which is just below.

3 So, you'll see that there's
4 this chart in the asset management plan that
5 describes the ratings for the various assets owned
6 by the City of Hamilton. The LINC and the Red
7 Hill Valley Parkway are given a C, whereas the
8 urban network or the urban road network receives a
9 and plus and the rural network gets a C minus?

10 A. Mm-hmm.

11 Q. Do you recall how those
12 ratings were generated?

13 A. I do not recall. I
14 believe they were basically justified feelings of
15 the managers --

16 Q. Justified?

17 A. Yeah. If you look at
18 those three, if you look at condition and capacity
19 versus need and the finance, all those would come
20 up with that trend line and give you a rating
21 system. As a manager of the Lincoln Alexander
22 Parkway, if you were to ask about capacity, you
23 know, it's, again, your gut feeling. Is that road
24 at capacity? You know, is it an A, B, C or and or
25 an E or an F? And that's how those grades came

1 about. And then the trend line is what's
2 happening out there. So, with the LINC, the
3 condition of it was falling, there's no financial
4 plan to support and the capacity was growing, so
5 it's a combination of all those three grades.

6 Q. Right. And this is based
7 primarily on the interpretation of the manager or
8 the staff that are being interviewed about these
9 assets?

10 A. Yeah.

11 Q. Okay. Generally
12 speaking, what does a C rating mean as compared to
13 the and plus rating here that the urban network
14 gets?

15 A. The difference between
16 the two could be any one of those three items, but
17 most of the impact was financial. There's no
18 financial for the urban network. There's no
19 financial support for it.

20 Q. Okay. And when you say
21 any one of the three items, you mean condition,
22 performance, capacity, and need versus available
23 funding?

24 A. Yeah, correct.

25 Q. Okay. Were you involved

1 in the meetings about the LINC and the Red Hill
2 Valley Parkway for this rating?

3 A. I believe so.

4 Q. Do you recall what was
5 said about the LINC and the Red Hill Valley
6 Parkway at those meetings that resulted in them
7 getting a C rating where other road systems rated
8 lower?

9 A. I do not.

10 Q. In your view, if council
11 had approved funding for the sustainability plan
12 for the Red Hill Valley Parkway and LINC, would
13 that have improved the rating for those assets in
14 the state of the infrastructure reports and asset
15 management plans?

16 A. Yes.

17 Q. In what way?

18 A. You would have the
19 financial commitment and support of council to
20 implement the plan. And, as the plan states, it
21 was a matter of standard operating procedures to
22 assist in the development of those operating
23 procedures. That would have been groundbreaking
24 in the industry.

25 Q. It would have been

1 groundbreaking. So, it's something that wasn't
2 generally done?

3 A. No.

4 Q. And so, the
5 sustainability plan, in your view, was a bit
6 innovative?

7 A. Definitely.

8 Q. Would it have been your
9 expectation that at the meetings with staff with
10 respect to the state of infrastructure reports, if
11 staff were implementing recommendations for that
12 sustainability plan, they would have advised
13 Stantec of that?

14 A. No.

15 Q. Why not?

16 A. I don't believe -- oh, at
17 this point in time? Sorry. At this point in
18 time? Yeah, that would possibly be brought
19 forward.

20 Q. Do you know if it was
21 brought forward at any of the meetings that you
22 attended?

23 A. I do not. I don't know
24 the detail or extent of how that was messaged.

25 Q. Do you know if the other

1 departments within Public Works had copies of the
2 sustainability plan?

3 A. They did.

4 Q. Okay. From their
5 original work? Like, if they were major
6 contributors, they would have had a copy or it was
7 distributed?

8 A. Well, their GMs had it.
9 Probably some of the directors had it. So, I
10 don't know. Council had it. I don't know where
11 it went from there.

12 Q. So, do you have direct
13 knowledge that all of the other departments in
14 Public Works had a copy of the sustainability
15 plan?

16 A. Yes, they would have had
17 it. There was an e-mail that you showed me
18 previously that showed the link, not the road but
19 the actual document link to the network where it
20 was posted.

21 Q. Okay. So, it was saved
22 somewhere on the network that was accessible to
23 all departments?

24 A. Yeah, and I believe we
25 had hard copy at that time distribution, too. I

1 don't know to what extent. I can't recall to what
2 extent.

3 Q. Do you remember what
4 section, like, where it was saved so that it would
5 have been accessible to all departments in terms
6 of the structure and document access within the
7 City departments?

8 A. S-drive was the corporate
9 drive, so it was saved on an S-drive and/or -- I
10 don't recall if we had that actually on the City
11 website at the given time.

12 Q. Okay. You think the
13 sustainability plan would have been posted to the
14 S-drive?

15 A. I know probably for --
16 well, yeah. It would either be the S-drive or it
17 was on our City website.

18 Q. If the sustainability
19 plan didn't receive funding, would it still have
20 been posted to the website for the City of
21 Hamilton?

22 A. Quite possibly.

23 Q. Okay. Registrar, you can
24 close this down and if you could take us to OD 7,
25 image 119, paragraphs 380 and 381.

1 So, I'm going to take you a
2 bit of a step forward. We were in 2014 a moment
3 ago and we're stepping into March 2016 now. So,
4 in late March 2016, Derek Nunn, who I understand
5 is from Norjohn, reaches out to the City to
6 schedule a meeting about a scrub seal.

7 Is it relatively common for a
8 provider, a consultant or a materials person to
9 suggest getting together to talk about new
10 products and innovations to City staff?

11 A. Yes.

12 Q. Registrar, could you
13 please pull up HAM33918.

14 So, this is the meeting
15 invitation for the meeting which is scheduled for
16 April 27, 2016, but the calendar invitation is
17 sent around on April 4, 2016.

18 Registrar, could you just
19 please pull out the invitees, so under 2 up there,
20 so we can see them a little bit better, just who
21 the calendar invitation was sent to.

22 I know this is a little bit
23 difficult to read.

24 A. That's fine.

25 Q. Can you tell me who these

1 individuals are? So, the City staff invited, I
2 see a number of them are from asset management?

3 A. Yeah.

4 Q. And then there are a
5 couple additional invitees. So, Michael Becke is
6 invited?

7 A. Design group, yes. Nick
8 Piedigrossi was up with us in asset management,
9 George and Brian Hughes is operations group.

10 Q. Okay. And Lisa
11 Castronovo, who sends around the invitation,
12 what's her role at this point?

13 A. She was our assistant in
14 asset management.

15 Q. Okay. Registrar, you can
16 close that call out. Thank you. And if you could
17 take us to HAM33919.

18 So, this is an e-mail chain
19 that's attached to this calendar invitation that
20 we were just looking at.

21 A. Okay.

22 Q. And if you could pull out
23 both pages, please, Registrar, so image 1 and
24 image 2.

25 So, you'll see on image 2 that

1 on April 15, 2016, you send an e-mail to Derek
2 Nunn.

3 And if you could just pull
4 that out for us, please, Registrar, the big e-mail
5 on image 2.

6 And so, you write to Mr. Nunn
7 and you say:

8 "Next year the City of
9 Hamilton is proposing to
10 address the pavement
11 rehabilitation needs of
12 both the LINC and the Red
13 Hill Valley Expressway.
14 The objective is to
15 improve skid resistance
16 on the Red Hill Valley
17 Expressway, seal the
18 existing pavement for the
19 ramps of the LINC and
20 extend pavement life as
21 well as increase the
22 service levels the
23 roadway provides. We
24 would like to invite
25 Walker Industries to

1 submit a proposal that
2 recommends a
3 rehabilitation strategy
4 that would meet these
5 budget objectives in
6 addition to completing a
7 500-metre test section
8 this year."

9 Do you recall sending this
10 e-mail to Mr. Nunn?

11 A. To some degree, yes.

12 Q. When did you learn that
13 the City was proposing to address pavement
14 rehabilitation needs on the LINC and the Red Hill
15 Valley Parkway in 2017?

16 A. Probably very close to
17 the date that this was sent.

18 Q. Is that a decision that
19 you would have made?

20 A. It was a mutual decision
21 amongst the group.

22 Q. Amongst the group. Is
23 the group asset management or is it engineering
24 services?

25 A. Engineering services.

1 Q. Was there a connection
2 between the proposed rehabilitation of the Red
3 Hill Valley Parkway in 2017 and the recommendation
4 that we were looking at earlier for a surface
5 treatment on the Red Hill Valley Parkway in the
6 sustainability plan in 2017?

7 A. This would fall under the
8 guidelines of a surface treatment.

9 Q. Okay. And was the timing
10 and the decision on the timing, was that at all
11 connected to the recommendations in the
12 sustainability plan?

13 A. Not at this point in
14 time.

15 Q. Okay. So, you said that
16 engineering services would have made the decision
17 as a group. Can you walk me through how the
18 decision would have been made?

19 A. It's actually a very
20 simple process of a lot of eyes looking at the
21 existing conditions of the roadway and how that
22 roadway is aging and it would be a combination of
23 those minds coming together to determine what to
24 do with the roadway.

25 Q. And when those minds come

1 together, is that by way of a meeting, some other
2 form of discussion?

3 A. Yeah. It would be very
4 informal. It could be a passing in the hallway.

5 Q. Do you recall who was
6 involved within engineering services in making
7 that decision? Like, who those minds were that
8 identified that the Red Hill Valley Parkway needed
9 to be rehabilitated?

10 A. It would be members of --
11 it would be members of the groups, of the
12 sections within engineering services.

13 Q. Do you recall
14 specifically who?

15 A. I would think majority of
16 time it would be the seniors and above, so it
17 would be the seniors and the managers of those
18 groups, senior project managers of those groups
19 and the managers of those groups, along with, at
20 this time, we would have the support of the
21 director.

22 Q. Okay. So, the manager of
23 your group was Sam Sidawi. Was he involved in
24 making the decision?

25 A. I don't recall.

1 Q. Okay. The director of
2 engineering at this point in time is Gary Moore.
3 Was he involved in making the decision?

4 A. I'm sure he was.

5 Q. Okay. Actually,
6 Registrar, can you close this down.

7 And you'll see that on the
8 e-mail, you have copied Mr. Moore, Mr. Sidawi,
9 Brian Hughes and Paul McShane. Does that assist
10 you at all in who was involved in making the
11 decision that the Red Hill needed to be
12 rehabilitated?

13 A. Well, the operational
14 group, I can't recall if they had any input in
15 telling about the existing condition of the road.
16 I don't recall, I'm sorry. If it came from
17 engineering services, it was myself, Gary Moore
18 traditionally, Michael Becke, Marco Oddi.

19 Q. Okay.

20 A. Those kind of --

21 Q. So, these people were
22 likely involved in making the decision?

23 A. That something needed to
24 be done, yes.

25 Q. Okay. Do you recall

1 having any discussions with Mr. Moore, Mr. Becke,
2 Mr. Oddi or anyone else that you just listed as
3 individuals that were generally involved in
4 deciding when something needed to be done about
5 what specifically the pavement rehabilitation
6 needs of the Red Hill Valley Parkway and LINC were
7 before you sent this e-mail?

8 A. I'm sorry, can you repeat
9 the question again?

10 Q. Do you recall having any
11 discussions with any of the individuals that you
12 just listed, so Mr. Moore, Mr. Oddi, Mr. Becke,
13 about what the specific pavement rehabilitation
14 needs were for the Red Hill Valley Parkway and
15 LINC were before you sent this e-mail?

16 A. We would have a
17 discussion, but again, it would be based on
18 very -- it would be created through a visual
19 inspection of the roadway. So, with regard to
20 what we have, you know, in the tool box to fix it,
21 at this point in time, we don't know what we're
22 doing yet.

23 Q. And would part of that
24 discussion have been about what the specific needs
25 were for each of the roadways?

1 A. I'm sorry, I'm not
2 understanding the question again. Can you --

3 Q. Would part of that
4 discussion have been about what the specific
5 rehabilitation needs were for the Red Hill Valley
6 Parkway and the LINC?

7 A. They could be -- at this
8 given time, again, we're looking for something,
9 some sort of rehabilitation or surface treatment
10 that we can do to correct the defects in the
11 roadway.

12 Q. Okay. So, you say to
13 Mr. Nunn in this e-mail that the objective is to
14 improve skid resistance of the Red Hill Valley
15 Expressway, seal the existing pavement for the
16 ramps on the LINC and extend pavement life as well
17 as increase the service levels the roadway
18 provides.

19 So, the first objective listed
20 for the Red Hill Valley Parkway is improving the
21 skid resistance. Did you come up with that
22 objective for the Red Hill Valley Parkway repaving
23 or rehabilitation?

24 A. I can't take credit for
25 it, no. I don't know if that was one of the

1 aspects we were looking at when we -- this must
2 have been the result of a meeting, a
3 collaboration. You know, to what extent, I don't
4 know. It could be a meeting at somebody's desk,
5 for all it was worth.

6 So, again, at this time, we're
7 looking at a low-cost rehabilitation technique
8 that we could actually apply to both roadways.
9 Improving skid resistance would fall under if you
10 put a slurry seal or some sort of seal on that
11 roadway that could reduce friction, we didn't want
12 that to happen, so one of our primary concerns or
13 what I was trying to do was direct Derek to a
14 product in the selection process, so something
15 within his tool box that would increase the
16 friction and extend the life of the roadway.

17 Q. As I read this e-mail,
18 it's saying that the objective specific to the Red
19 Hill Valley Parkway is improving skid resistance,
20 and then it goes on to list different objectives
21 for the rehabilitation of the LINC. Why is skid
22 resistance specifically listed as an objective for
23 the Red Hill Valley Parkway rehabilitation?

24 A. Because we wanted a
25 product to improve the skid resistance as opposed

1 to making it -- reducing the skid resistance
2 because of the alignment of the roadway, because
3 of the speeds on that roadway.

4 Q. Okay. So, that's because
5 of the speeds on the roadway?

6 A. Part of it, I would
7 assume, at this time.

8 Q. Okay. What's the rest of
9 it?

10 A. Well, it's the alignment,
11 the alignment and operating of that roadway --

12 Q. What do you mean?

13 A. It was over capacity at
14 given times of the day.

15 Q. Okay. And when you say
16 alignment, what do you mean by that?

17 A. Curvature, the alignment
18 of the roadway, pavement.

19 Q. Did someone give you the
20 objective of improving skid resistance to put into
21 the e-mail for the objective of the Red Hill
22 Valley Parkway rehabilitation?

23 A. To the best of my
24 knowledge, I believe that it was discussed through
25 the collaboration of that development of the

1 e-mail.

2 Q. Okay. So, it would have
3 been discussed when you decided that the Red Hill
4 Valley Parkway needed to be rehabilitated in 2017
5 and I think that you said that the individuals
6 that you thought would have been involved in that
7 were Mr. Moore, Mr. Oddi, Mr. Becke, yourself.

8 Out of that group of people,
9 did anyone have expertise about friction testing
10 or skid resistance?

11 A. I wouldn't know.

12 Q. At that meeting when you
13 discussed the objectives for the repaving, did
14 someone discuss specifically friction or skid
15 resistance on the Red Hill Valley Parkway?

16 A. I don't recall.

17 Q. And just to circle back
18 on the distinction between the objective for the
19 LINC and the Red Hill Valley Parkway, can I safely
20 assume that the City wouldn't want to rehabilitate
21 the LINC with a product that would create an issue
22 with skid resistance either?

23 A. Oh, definitely not.

24 Q. So, this specific
25 reference to the objective for the Red Hill Valley

1 Parkway skid resistance improvement, that can't
2 just be coming from concerns about Norjohn
3 producing a product recommendation that's going to
4 decrease skid resistance, can it?

5 A. I'm sorry, again?

6 Q. So, then if the Red Hill
7 Valley Parkway and LINC, neither of which the City
8 wants to pave or rehabilitate with something that
9 would increase skid resistance -- actually, let me
10 come at this a different way.

11 So, we have this list of
12 objectives for the repaving. We have the specific
13 objective, being to improve skid resistance for
14 the Red Hill Valley Parkway, and we don't have
15 that objective being listed for the LINC
16 rehabilitation, despite the fact that we can
17 safely assume and you've agreed that we can safely
18 assume that the City doesn't want to rehabilitate
19 the LINC with something that would decrease skid
20 resistance, so then can I assume that this
21 specific objective of increasing skid resistance
22 for the Red Hill Valley Parkway is coming from
23 something other than just concerns that Norjohn is
24 going to propose a product that is going to
25 decrease skid resistance?

1 A. I can't answer that. My
2 concern was to get some product to improve the
3 skid resistance in the sense that we didn't want
4 to create a problem out there.

5 Q. Okay.

6 A. As far as other people,
7 what they were saying or doing, I can't recall.

8 Q. Okay. You didn't want to
9 create a problem, but based on the phrasing of
10 this e-mail, you're only focused on not creating a
11 problem on the Red Hill Valley Parkway?

12 A. For skid resistance,
13 because I don't think with the LINC there was no
14 issue of or issue with regard to improving skid
15 resistance on the LINC.

16 Q. So, there was an issue
17 with improving skid resistance on the Red Hill
18 Valley Parkway, then, in 2016?

19 A. Well, it would be more
20 important because the alignment, again, of the
21 road.

22 Q. Okay. And because, I
23 think you said, there were other factors in that
24 as well as speed. Were there any other factors?

25 A. I don't recall specifics.

1 Q. Was this an objective of
2 the repaving for the -- sorry, the rehabilitation
3 for the Red Hill Valley Parkway because at this
4 point you had been advised of concerns about
5 friction levels on the Red Hill Valley Parkway?

6 A. No. I was not advised of
7 any friction concerns on the Red Hill Valley
8 Parkway.

9 Q. Okay. As of 2016, had
10 you been advised or reviewed the Tradewind report?

11 A. No.

12 Q. Okay. And the Tradewind
13 report and friction levels on the Red Hill Valley
14 Parkway, were they discussed at the meeting that
15 you had about the rehabilitation of the Red Hill
16 Valley Parkway or in the discussions that you had?

17 A. Not to my knowledge, no.

18 Q. Do you know if you were
19 present for all of the meetings about the
20 rehabilitation and its objectives?

21 A. No, I wouldn't be
22 involved in all the meetings, I'm sure.

23 Q. Why do you say that?

24 A. I'm sure there was plenty
25 of meetings to be held. I may have allocated even

1 to some of those meetings, whether Mr. Jazvac that
2 worked for me at that time attend the meeting --

3 Q. Okay. Just to --

4 A. There was no need for me
5 to be at all the meetings.

6 Q. Okay. And I'm asking
7 specifically about the meeting or the discussions
8 where it was decided that the Red Hill Valley
9 Parkway would be rehabilitated. Would you have
10 been involved in all of the meetings about that
11 decision?

12 A. I would not know.

13 Q. As of 2016, what, if
14 anything, did you know about safety concerns on
15 the Red Hill Valley Parkway?

16 A. All I would have known is
17 whatever would be in the Hamilton Spectator.

18 Q. Okay. You read the
19 Spectator fairly regularly?

20 A. No.

21 Q. Okay. So, why would you
22 have been aware about concerns raised in the
23 Hamilton Spectator?

24 A. You would hear about it.
25 If there was an accident on the Red Hill, you

1 would hear about it.

2 Q. From whom?

3 A. In papers. You would
4 hear about it in the papers.

5 Q. Okay. You would hear
6 about it in the papers, but I think you said that
7 you weren't a regular reader, so how did you know
8 that it was being covered in the papers?

9 A. I don't faithfully, you
10 know, look at the Spectator every day, but if
11 you're going to get -- there's radio, there's news
12 on the news, you would hear about it, so --

13 Q. So, you would hear about
14 accidents or collisions on the Red Hill Valley
15 Parkway when they occurred?

16 A. Sure.

17 Q. Because they were
18 generally covered by the media?

19 A. Yeah.

20 Q. Did that lead you to have
21 any concerns about the safety of the Red Hill
22 Valley Parkway?

23 A. No.

24 Q. Were you aware of or
25 involved in conversations about safety on the Red

1 Hill Valley Parkway in engineering services as of
2 April 2016?

3 A. I don't believe so.

4 Q. Okay. Do you recall if
5 safety was discussed at all in the decision or the
6 discussions that you had around making the
7 decision to rehabilitate the Red Hill Valley
8 Parkway in 2017?

9 A. I had nothing to initiate
10 it, no, in the sense that nothing was brought
11 forward to bring this project forward.

12 Q. Okay. So, you say you
13 had nothing to initiate it. Was it raised by
14 anyone else in those discussions?

15 A. Correct.

16 Q. It wasn't? Sorry.

17 A. Well, I don't know what
18 you mean by in discussions, but, like, typically
19 if there was an issue, there would be an e-mail
20 or, you know, we would discuss it at our
21 coordination meetings. And then, yeah, sure, we
22 can accelerate projects based on certain needs and
23 demands, I would call it, but to the best of my
24 knowledge the project was initiated because of the
25 cracking on the Red Hill.

1 Q. Okay. So, this is coming
2 back to the comment that you made earlier about
3 the black cracking on the Red Hill Valley Parkway.
4 Is that right?

5 A. Yeah. This is very early
6 in the stage of where the project birth occurred,
7 so this is basically the start, I would think,
8 around this timeline.

9 Q. What was the concern with
10 cracking on the Red Hill?

11 A. To protect that pavement
12 structure.

13 Q. And where had cracking
14 been identified?

15 A. I don't recall.

16 Q. Do you recall who
17 identified it or raised it as an issue?

18 A. No, I do not.

19 Q. As of 2016, so when you
20 send this e-mail, had you heard anecdotal concerns
21 about the level of skid resistance on the Red Hill
22 Valley Parkway?

23 A. I don't know. I don't
24 recall, unless there's something, accusations made
25 in the Spectator.

1 Q. Okay. Speaking of the
2 Spectator, I want to jump forward briefly in time.

3 Registrar, could you take us
4 to OD 10, image 193, paragraphs 515 and 516. I'm
5 just stepping forward into this because it relates
6 back to the e-mail that we're talking about right
7 now.

8 A. Okay.

9 Q. So, this is jumping
10 forward to some media requests that happen after
11 the Tradewind report is disclosed to the public.

12 So, on April 9 -- on April 4,
13 2019, Ms. O'Reilly, who is with the Hamilton
14 Spectator, e-mails Mr. McKinnon and Ms. Jasmine
15 Brown, who is a communications officer with the
16 City, a question that relates specifically to you.
17 So, you'll see that she says:

18 "In the FOI documents
19 there's an April 15, 2016
20 e-mail from Richard
21 Andoga to a guy at Walker
22 Industries."

23 And that, I believe, is the
24 e-mail about planned rehabilitation work for the
25 LINC and Red Hill the following year:

1 "The e-mail invites
2 Walker Industries to
3 submit a proposal for the
4 work that would include
5 testing 500 metres."

6 She asks about the testing,
7 whether it happens, and then she goes on to say:

8 "Also in the e-mail,
9 Richard lists the reasons
10 for the rehabilitation.
11 One is the objective is
12 to improve skid
13 resistance on the Red
14 Hill Valley Parkway."

15 And she says:

16 "How is that an objective
17 if no one was aware of
18 the Tradewind report?"

19 And so, this is circulated
20 internally for answers and Ms. Graham drafts a
21 response.

22 Registrar, could you take us
23 to OD 10, image 198, paragraph 520, which I think
24 is just one page over.

25 You'll see the very bottom of

1 this red and black, so, Registrar, if you can call
2 out the last paragraph that in black and then --
3 yes. Right there.

4 So, you'll see, Ms. Graham
5 prepares a draft response for the Hamilton
6 Spectator to this question and she says:

7 "Again, while we
8 anticipate that the
9 investigation will help
10 to shed more light on
11 this matter, Rick has
12 shared with us that
13 during this time, staff
14 were reviewing surface
15 treatment methods to
16 prolong life spans of
17 various roads in
18 Hamilton, including the
19 Red Hill Valley Parkway.
20 At this time, we suspect
21 this objective came as a
22 result of anecdotal
23 evidence related to skid
24 resistance on the
25 parkway."

1 Were you involved in preparing
2 this draft response that Ms. Graham circulates?

3 A. No. I don't recall this
4 at all.

5 Q. Do you recall any
6 discussions with Ms. Graham about this question
7 from Ms. O'Reilly at the Spectator?

8 A. No.

9 Q. Any discussions with
10 anyone else within your group or with Mr. McKinnon
11 or someone else in Public Works asking questions
12 about this in 2019?

13 A. 2019?

14 Q. Yes. Sorry. This is in
15 2019, so the exchange with the Spectator is in
16 February 2019.

17 A. Well, I probably talked
18 to Jasmine directly with regard to, yeah, we're
19 investigating, you know, rehabilitation
20 strategies. But other than that, that was it --

21 Q. Okay. So, you think --
22 sorry, go ahead.

23 A. Yeah, I don't -- I don't
24 recall anything in this anecdotal evidence. No, I
25 don't know what you're talking about there.

1 Q. Okay. So, in your view,
2 is that sentence there, at this time, we suspect
3 this objective came as a result of anecdotal
4 evidence related to skid resistance on the
5 parkway, is that sentence inaccurate, then, in
6 your view?

7 A. If she's saying I said
8 it, yeah, it's inaccurate because it wasn't a
9 concern of mine.

10 Q. If she's not saying that
11 you said it?

12 A. If she's saying I did not
13 say it, I don't know what she knows as opposed to
14 what I know. I don't know if she knew more.

15 Q. So, in 2016, to your
16 knowledge, there were no discussions of anecdotal
17 evidence about skid resistance on the Red Hill
18 Valley Parkway?

19 A. No.

20 Q. But I think we can safely
21 assume you can't speak to discussions that were
22 happening that you weren't involved in?

23 A. Yeah, that's a fair
24 statement.

25 Q. Okay. So, when you say

1 that you can't comment on it if she's not saying
2 it was you that said it, that's what you mean.
3 Right?

4 A. Yeah. I don't know what
5 she's -- yeah. I read that and it sounds like
6 she's implying that we're doing the work because
7 of a skid resistance issue, and that's not the
8 case.

9 Q. Okay. And to your
10 understanding, why were you doing the work?

11 A. Prolong the life of the
12 asset. So, the problem is that was perpetual
13 pavement. We needed to save that pavement
14 structure. With the top-down cracking that was
15 occurring, that was the major concern; and hence,
16 we were looking at possible sealing operation in
17 alliance with what was done on the Red Hill Valley
18 or the sustainability report with regard to
19 surface treatment. Again, that was very early in
20 the project life in 2016.

21 Q. Understood. So, if that
22 was the primary aim of the rehabilitation, can you
23 shed any light on why improving skid resistance is
24 listed as the main objective for the
25 rehabilitation in that e-mail to Mr. Nunn?

1 A. Well, it was a concern in
2 the sense that we wanted to improve it as opposed
3 to put down some sort of slurry seal or some sort
4 of application that would, again, reduce the
5 friction. That being a concern because of the
6 speed and the alignment of the roadway. We were
7 also concerned about separation. If we put
8 anything on that roadway, will it come off? So,
9 again, we were ignorant with regards to what was
10 available at the time given time with regards to
11 that roadway, what could be used on that roadway,
12 so we were reaching out to Derek to provide us
13 some sort of if he had something in his toolbox
14 that we can use as a low-cost solution to seal
15 that top asphalt off as opposed to traditional
16 methods.

17 Q. And as compared to the
18 LINC, were you particularly concerned about the
19 risk of some sort of product that would reduce
20 skid resistance on the Red Hill Valley Parkway?

21 A. Less concerned because
22 the road was straight. And, again, I can't recall
23 the actual condition of the LINC at that given
24 time. I'm not sure if a slurry seal was possible.
25 Again, we were just reaching out to consultants

1 for their input and their expertise on their
2 products.

3 Q. Okay. So, would you say
4 that there was more concern about putting
5 something that would reduce skid resistance on the
6 Red Hill Valley Parkway than the LINC?

7 A. Yes.

8 Q. Okay. And that comes
9 back to the factors that you have already listed,
10 which I think were alignment, speeding. Is that
11 right?

12 A. Yes.

13 Q. So, just to close off
14 this section about Ms. O'Reilly's question, so her
15 question is how was that the objective if no one
16 was aware of the Tradewind report or why was that
17 the objective if no one was aware of the Tradewind
18 report? If you had been consulted in preparing
19 this draft response, how would you have answered
20 that question?

21 A. Well, I think I was
22 consulted --

23 Q. Okay. Sorry.

24 A. But I don't understand
25 why that last sentence is there --

1 Q. Okay.

2 A. That's not something that
3 obviously wasn't discussed.

4 Q. I mean, I think that last
5 sentence is going to the question of how that was
6 the objective if no one was aware of the Tradewind
7 report. So, just to close this off, why was the
8 objective of the rehabilitation in 2016 to improve
9 skid resistance if no one was aware of the
10 Tradewind report at that time?

11 A. Again, we were directing
12 towards materials, so we were looking -- I was
13 directing towards the type of material that we
14 could actually use on that roadway.

15 Q. Okay. Registrar, you can
16 close this off and we'll step back to April 2016.
17 Could you pull out HAM33919 and pull out image 2
18 as well, please.

19 So, just to close this off, as
20 of April 15, 2016 when you sent this e-mail, had
21 you ever seen or heard of the Tradewind report?

22 A. No, I don't believe so.

23 Q. Had you seen the 2014
24 Golder report that appended the Tradewind report?

25 A. No.

1 Q. Had you reviewed or been
2 advised of any safety reports prepared by CIMA
3 about the Red Hill Valley Parkway?

4 A. No.

5 Q. Generally speaking, how
6 familiar were you with friction testing results
7 and how one might improve skid resistance on a
8 roadway as of April 2016?

9 A. To look at results, it
10 would be hieroglyphics to me. I wouldn't know
11 what I would be looking at. I had never seen
12 testing reports.

13 Q. Did you have a general
14 sense of how one might improve skid resistance on
15 a roadway?

16 A. Generally, again, I spent
17 20 years within the City of Hamilton and within
18 those 20 years there was a couple of occasions
19 where skid resistance was an issue or a perceived
20 issue. Possibly accident orientated. I don't
21 know. It wasn't handled through our group, but
22 those were handled through traffic engineering and
23 road operations, so they would be in identified
24 locations of improvement.

25 Q. And what was done at

1 those locations to improve it?

2 A. Surface condition
3 improvements.

4 Q. Okay. And that was
5 handled through traffic operations?

6 A. Identified by and
7 completed by road operations.

8 Q. And when did that happen
9 and on what roads?

10 A. Oh, god.

11 Q. If you can remember.

12 A. No. Sorry. There's
13 Upper Sherman at the top of the Sherman access. I
14 recall there's an S-bend there that people were
15 hitting the house on the corner. That house
16 subsequently got walls in front of it and then
17 there was surface improvements made. There's
18 another hill in Dundas that was perceived slippery
19 and that received a resurfacing as well.

20 Q. Do you know what time
21 period that would have been?

22 A. I'm sorry. I would be
23 guessing ten years. I've been retired, too, so
24 maybe ten years ago, I'm assuming.

25 Q. So, it was -- do you

1 think it would have been before 2016?

2 A. Yes. On occasion, yes.

3 Q. The hill that you
4 referenced in Dundas, would that be the Queen
5 Street hill?

6 A. No, I don't believe it
7 was Queen Street hill. I don't recall the name of
8 it. Millet hill? It is millet hill or something?
9 It was very -- I don't recall.

10 Q. Okay. So, in your view,
11 who, if anyone, at the City had expertise in
12 friction testing methods and methods for improving
13 skid resistance on roadways?

14 A. I don't know anybody
15 within the City that had that expertise defined.

16 Q. So, what did the City do
17 when it needed expertise in skid resistance or
18 friction testing?

19 A. Utilized the consultant
20 roster.

21 Q. As of April 2016, had you
22 requested any friction testing on the Red Hill
23 Valley Parkway to assess the existing skid
24 resistance levels?

25 A. No.

1 Q. Do you know if anyone in
2 engineering services had done so?

3 A. I do not.

4 Q. Regular skid resistance
5 testing is identified as one of the key factors of
6 roadway safety in the sustainability plan. Do you
7 know why steps weren't taken to implement regular
8 skid resistance testing on the Red Hill Valley
9 Parkway?

10 A. I do not.

11 Q. In your view, who would
12 have been responsible for trying to operationalize
13 that recommendation after the plan was funded?

14 A. It would be brought
15 forward through traffic engineering.

16 Q. Because it's for safety
17 purposes?

18 A. Yes.

19 Q. If it were framed as
20 something that were for asset management purposes
21 as opposed to for safety purposes, would that
22 change which department had responsibility for it?

23 A. It's a safety issue. No.
24 If you're asking me if I would have completed it,
25 I don't believe anybody in the industry of asset

1 management completes friction testing to assess
2 the asphalt.

3 Q. Okay. So, it's not
4 something that's generally done as a maintenance
5 or asset management practice?

6 A. Not within a municipality
7 that I'm aware of.

8 Q. And because the
9 sustainability plan identified friction testing as
10 being primarily for safety purposes, you would
11 consider it something that was the responsibility
12 of traffic operations?

13 A. Yeah.

14 Q. So, in the run-up to this
15 e-mail exchange, you hadn't had any discussions
16 about friction testing or friction levels on the
17 Red Hill Valley Parkway with anyone in engineering
18 services?

19 A. To the best of my
20 knowledge, no.

21 Q. Had Mr. Moore told you he
22 was in possession of friction testing results for
23 the Red Hill Valley Parkway?

24 A. I don't believe so.

25 Q. Did you ever discuss

1 friction testing results for the Red Hill Valley
2 Parkway with Mr. Moore, so that's distinct from
3 this exchange in 2016, at any time?

4 A. No, I don't believe so.

5 Q. So, in this e-mail to
6 Mr. Nunn, you ask for a proposal to address the
7 objective of the rehabilitation and reference that
8 a 500-metre testing section should be completed in
9 2016. Was that test section a precursor to the
10 full rehabilitation of Red Hill Valley Parkway and
11 LINC?

12 A. It would have been, yes.

13 Q. And who would have been
14 responsible for assessing the effectiveness of the
15 test section?

16 A. Primarily through
17 Mr. Moore, because of his asphalt knowledge. It
18 would also be brought through design construction
19 personnel.

20 Q. So, as we've discussed,
21 one of the objectives for the Red Hill Valley
22 Parkway rehabilitation is improving skid
23 resistance. How would that objective and the test
24 section's ability to meet that objective have been
25 assessed?

1 A. I would not know.

2 Q. Who would have been
3 responsible for assessing whether or not the test
4 section was successful on that grounds?

5 A. It would probably be a
6 collaboration of those previously identified, so
7 it would be Mr. Moore, design and construction
8 staff, it would be myself. We would comment on
9 it.

10 Q. Could that assessment or
11 the assessment of the test strip have been done
12 without knowledge of the existing state of
13 friction levels on the Red Hill?

14 A. I'm sorry, say that
15 again?

16 Q. So, in order to assess
17 whether or not the objective of improving skid
18 resistance has been met with the test strip, could
19 that have been done without knowledge of the
20 existing friction levels on the Red Hill Valley
21 Parkway?

22 A. I'm not understanding the
23 question, one more time? Sorry.

24 Q. So, the objective of the
25 rehabilitation for the Red Hill Valley Parkway is

1 to improve skid resistance.

2 A. Okay.

3 Q. And there's going to be a
4 test strip which is going to be assessed to see if
5 it meets the criteria and the objectives of the
6 rehabilitation. Could that test strip have been
7 assessed with respect to whether or not it
8 improved the friction levels on the Red Hill
9 Valley Parkway without knowledge of prior friction
10 levels on the Red Hill Valley Parkway?

11 A. I think it's what -- I
12 think we were maybe a little confused on what we
13 were asking for. So, we were asking for something
14 with some sort of skid resistance product as
15 opposed to something being so-called slippery.
16 Anything with regard to friction characteristics
17 of that application, I would assume Norjohn would
18 have. So, if it was -- if friction was a concern
19 to us, one of the questions that we would ask the
20 supplier is about those friction characteristics
21 so we would know the friction characteristics of
22 that application. So, if we were to throw that
23 product down the entire roadway, we would know the
24 friction levels at that time. Does that answer
25 your question?

1 Q. How would you know if it
2 had met the objective of improving --

3 A. Okay. Yeah. We would
4 not know.

5 Q. Okay.

6 A. But that's not what we
7 were looking for. We were looking just for the
8 product to cover up that roadway that had a
9 friction characteristic.

10 Q. Okay. So, I think I
11 understand what you're saying is that in your
12 view, you actually didn't intend for the main
13 objective of the rehabilitation in 2016 to be
14 improving skid resistance on the Red Hill Valley
15 Parkway expressway. Is that right?

16 A. Yeah. That's correct.
17 It wasn't the key overall player. It was just
18 part and parcel of it, of the selection process.

19 Q. Okay. So, why draft the
20 e-mail this way to Mr. Nunn?

21 A. I was trying to direct
22 him in a certain direction through his tool box.
23 As opposed to letting him look at the broad
24 spectrum of product, I wanted to narrow it down
25 for him, so I was trying to give him whatever we

1 had.

2 Q. Did anyone that you have
3 copied on this e-mail from the City approach you
4 after you sent the e-mail to speak to you about
5 the way you had framed the objective for the
6 rehabilitation and identifying skid resistance as
7 the objective?

8 A. No. No.

9 Q. If improving the skid
10 resistance wasn't the main point of the
11 rehabilitation project, would you have concerns
12 about the way this e-mail is framed in that it
13 doesn't seem to indicate what the main objective
14 of the project is for Mr. Nunn in terms of putting
15 together a proposal for you?

16 A. I feel the e-mail gives
17 him the information he needed to give us a
18 proposal product, if that's what you're asking.

19 Q. Okay. And where does it
20 do that?

21 A. When I ask him to extend
22 life.

23 Q. Okay. Registrar, you can
24 take this down and if you could take us to OD 7,
25 image 120, at paragraph 383.

1 So, you'll see that on
2 April 15, 2016, you e-mail Mr. Becke and
3 Ms. Jacob, who are in design, and you advise them
4 that asset management had programmed the Red Hill
5 Valley Parkway and LINC for rehabilitation in
6 2017.

7 Registrar, can you just call
8 out this e-mail so it's a little bigger for us to
9 look at.

10 Why did you send this e-mail
11 to Mr. Becke and Ms. Jacob?

12 A. To notify them of the
13 project timeline. So, they're our design group,
14 so they would have to know because they have to do
15 their allocations on their side of, you know,
16 allocating staff to resources and that. So, if
17 we're coming in 2017, what year was this sent out?
18 Sorry. 2016?

19 Q. Yes.

20 A. So, that's a pretty
21 aggressive timeline, so we would want to let them
22 know as soon as possible that this is coming
23 through. It's a big project, big roadway.

24 Q. Okay. And so, you tell
25 Mr. Becke and Ms. Jacob that the objective is to

1 improve skid resistance on the Red Hill Valley
2 Parkway expressway?

3 A. Yeah.

4 Q. Can you tell me why?

5 A. Yeah. This was just a
6 copy of the other e-mail.

7 Q. For their roles in
8 design, did Mr. Becke and Ms. Jacob need to
9 understand the objective for the rehabilitation?

10 A. Yeah. It was included in
11 the rehabilitation selection process.

12 Q. Okay. Did you have
13 discussions with them after you sent this e-mail
14 about what your view was in terms of the actual
15 objective of the Red Hill Valley Parkway
16 rehabilitation?

17 A. I think by the time this
18 e-mail went out, our view was already mutually
19 understood, so we were working together at this
20 time. It's just more importantly the timeline.

21 Q. Okay. So, in your view,
22 would they have been involved in those discussions
23 about the rehabilitation and the decision to
24 rehabilitate the Red Hill?

25 A. Definitely.

1 Q. So, you go on to say that
2 both Miller Group and Norjohn have been invited to
3 provide a proposal. Do you recall or know whether
4 or not Miller Group ever did provide a proposal?

5 A. If I recall correctly,
6 they're one and the same.

7 Q. I don't think that's
8 right. I think that Norjohn is part of Walker
9 Industries and Miller Group is separate.

10 A. Okay. I don't recall
11 Miller Group submitting anything.

12 Q. Okay. Registrar, could
13 you please take us to OD 7, image 120,
14 paragraph 384, which is just below.

15 So, you'll see that Mr. Becke
16 responds to you and he says:

17 "Interesting. Are we
18 thinking about
19 microsurfacing?"

20 To which you respond:

21 "Yes, sir."

22 Why were you thinking about
23 microsurfacing?

24 A. We wanted a low-cost
25 solution, something that would fall in line with

1 that timeline again with what was identified in
2 the state of the infrastructure report for the Red
3 Hill. So, again, very early in the selection
4 stage, so we would go through this kind of process
5 to determine the proper rehabilitation process.

6 Q. Why would Mr. Becke guess
7 from this e-mail that you sent him that you were
8 considering microsurfacing specifically?

9 A. Mike and I worked very
10 close together and we were both interested in
11 newer products, the use of newer products. He had
12 his interests and I had mine and I think that's
13 where this comes through, comes by.

14 Q. And my understanding is
15 that microsurfacing treatments are quite distinct
16 from resurfacing or repaving. Is that correct?

17 A. Yeah, definitely.

18 Q. And microsurfacing, is
19 that generally viewed as a maintenance practice?

20 A. Yes. Even a mill and
21 pave can be considered a maintenance practice.

22 Q. When is microsurfacing
23 generally employed as a maintenance practice?

24 A. Early in the life of the
25 asset.

1 Q. Okay. And under what
2 circumstances?

3 A. It would be early in the
4 stage, so it would be minor defects, minor
5 cracking, minor defects. If you can imagine it's
6 just a liquid on top. Right? So, it's not really
7 changing profile or anything like that.

8 Q. There's a section in the
9 sustainability plan, which I can take you if you
10 would like, that identifies microsurfacing as one
11 of the maintenance practices that can address low
12 friction characteristics on a roadway. Were you
13 thinking about microsurfacing because it could
14 increase skid resistance on the Red Hill Valley
15 Parkway?

16 A. Could increase? No.

17 Q. So, that wasn't part of
18 why you were considering microsurfacing for the
19 Red Hill Valley Parkway in 2017?

20 A. Correct.

21 Q. You can close this down,
22 Registrar, and if you could take us to OD 7,
23 image 121, paragraph 385 to 386.

24 So, Mr. Nunn submits a
25 proposal for something called ultrathin bonded

1 wearing course in response to your e-mail to him?

2 A. Mm-hmm.

3 Q. You circulate that

4 proposal internally and you say:

5 "For discussion at our

6 meeting with Norjohn on

7 Wednesday."

8 Am I correct that the bonded

9 wearing course discussion basically gets added to

10 that agenda for the meeting that was originally

11 going to be about the scrub seal product?

12 A. Yeah. I think that's

13 fair to say, yeah.

14 Q. Registrar, could you

15 please take us to HAM33921. So, this is the

16 letter that you received from Norjohn about the

17 ultrathin bonded wearing course. Registrar, could

18 you please pull out the third paragraph of the

19 letter.

20 So, you'll see the letter

21 indicates that bonded wearing course is an

22 ultrathin lift of hot mix asphalt suitable for

23 high-speed traffic. It extends pavement life by

24 sealing the existing surface and greatly improves

25 skid resistance, particularly in wet conditions,

1 with the use of premium aggregates. There are a
2 number of other benefits that bonded wearing
3 course provides and it does have some limitations.

4 So, my understanding from this
5 is that Mr. Nunn is emphasizing that bonded
6 wearing course meets the objective identified in
7 your e-mail, which is improving skid resistance on
8 the Red Hill Valley Parkway. Is that right?

9 A. Correct.

10 Q. There's also a specific
11 reference to bonded wearing course improving skid
12 resistance in wet conditions on the Red Hill
13 Valley Parkway. Sorry, not on the Red Hill,
14 generally?

15 A. The product itself, yeah.
16 The product itself has improved skid resistance in
17 wet conditions, yes. Okay.

18 Q. At the time that you
19 received this letter, on April 25, 2016, were you
20 aware that there was a high proportion of wet
21 surface condition collisions on the Red Hill
22 Valley Parkway as compared to the LINC, the City
23 and provincial averages?

24 A. No.

25 Q. Is that something that

1 you would have expected to be made aware of in
2 your role in asset management?

3 A. No. No, not myself. No,
4 not unless it was a concern. Again, if it was
5 brought forward through traffic engineering,
6 that's a different issue.

7 Q. Why would it be a
8 different issue if it was brought forward through
9 traffic engineering?

10 A. Well, I wouldn't have
11 knowledge of anything going on at the Red Hill.

12 Q. Okay. When it comes time
13 to program scopes for rehabilitation or
14 resurfacing projects, do you generally expect to
15 be provided with reports or other information
16 about the roadways that you're doing programming
17 for?

18 A. If it pertains to --
19 typically, no. Again, we're acting upon pavement
20 conditions, so we're looking more at cracks,
21 deterioration of the road. We also look at the
22 service of the road or that it provides, so we're
23 looking at master planning documents. That's
24 typically brought forward through a planning
25 group. We have to coordinate again with

1 development, that kind of thing. So, with regard
2 to reports, no, we would get cores of the existing
3 pavement structures and send that through with the
4 project scope to design.

5 Q. So, I think you said
6 earlier, and you can correct me if I'm wrong, that
7 there are circumstances in which a rehabilitation
8 or a repaving program would be accelerated due to
9 safety concerns or other items raised by other
10 Public Works departments. How would you expect
11 the need to accelerate a rehabilitation or a
12 repaving project to come to your attention?

13 A. Typically the department
14 would just identify it and bring it forward
15 through our project coordination meetings. So, if
16 there was, say, a perceived safety issue that had
17 to be addressed through a capital improvement plan
18 or if we had a capital improvement in five years,
19 if something was brought forward as a safety
20 concern, you know, we may be able to bring that
21 project, it would come up higher in priority and
22 then bring it forward possibly in three years. It
23 typically took us, on any average local road
24 reconstruction project, about a good three years
25 to deliver.

1 Q. So, you would expect the
2 department that identified the safety concern to
3 advance it and flag the need for possible --

4 A. They would have to flag
5 the need, yes. And then we would adjust the
6 timeline.

7 Q. Okay.

8 A. Or they would pursue it
9 on their own. That would always be an option.

10 Q. And what mechanisms were
11 available to them to pursue it on their own?

12 A. Again, it depends on
13 whether that work could be done through operations
14 or existing contracts throughout the City, that
15 kind of thing.

16 Q. Registrar, you can close
17 this out and if you can take us to OD 7,
18 image 121, paragraphs 387 and 388, please.

19 So, Mr. Moore responds to you
20 in respect to the calendar appointment and e-mail
21 about the Norjohn meeting and he says that he
22 doesn't have the meeting in his calendar. Did you
23 have any -- and you respond that he doesn't need
24 to be there. Did you have any other conversations
25 with Mr. Moore about whether he needed to be at

1 this meeting with Norjohn?

2 A. I don't recall.

3 Q. What do you recall about
4 the meeting on April 27 with Norjohn?

5 A. I really don't recall
6 much. I recall that we did a -- again, I forget
7 the name. The sweep treatment. We did a test
8 sample of that up in the Stoney Creek mountain, I
9 believe. But other than that, I don't recall. I
10 know we did some sample sections, too, with the
11 product recommended, he recommended, for the Red
12 Hill, but we did that on local streets.

13 Q. Okay.

14 A. As far as saying no or
15 not accepting the product for the Red Hill and
16 LINC, I don't recall.

17 Q. Okay. You don't recall
18 if bonded wearing course was employed or why it
19 wasn't?

20 A. Why it -- well, I think
21 why it wasn't, it wasn't cost effective to do it.

22 Q. Okay. Registrar, you can
23 close this down and if you can take us to OD 7,
24 image 122, paragraphs 390 and 391.

25 So, this is an e-mail exchange

1 that you have with Mr. Cifelli, who is actually
2 someone who is at Miller Group, about the Dartnall
3 Road drawing, so you send him an e-mail and he
4 responds with this link, the e-mail here. If you
5 don't mind just taking a moment to review it,
6 you'll see he's speaking about driving the LINC
7 and the Red Hill Valley Parkway.

8 A. Okay.

9 Q. And you'll see at the
10 bottom of this e-mail he says:

11 "Brad feels that micro is
12 a good option. However,
13 we need to allow for some
14 pre-construction repairs,
15 potholes, cracked sealing
16 base."

17 Does this e-mail exchange
18 refresh your memory as to whether or not Miller
19 Group ever submitted a proposal for work or
20 rehabilitation on the Red Hill Valley Parkway?

21 A. No, sorry, it does not.

22 Q. Do you remember if Miller
23 Group ever specifically proposed microsurfacing on
24 the Red Hill Valley Parkway or LINC, aside from
25 what's noted here at the bottom of this e-mail?

1 A. I do not recall.

2 Q. You can close this down,
3 Registrar, and if you can take us to OD 7, image
4 123, paragraphs 393 to 394.

5 And so, you'll see in
6 November 2016, you have an e-mail exchange with
7 Mr. Nunn about the bonded wearing course on
8 residential roadways, which I think relates to
9 your comment earlier that there were some test
10 strips of bonded wearing course run on residential
11 road in Hamilton. Is that right?

12 A. Yeah. We used it on a
13 number of streets.

14 Q. Okay. And so, then
15 Mr. Nunn responds to you and I think this e-mail
16 actually continues on to the next image,
17 Registrar, sorry about that, if you can pull up
18 the next image over.

19 So, you'll see this e-mail
20 continues and Mr. Nunn asks you. He says:

21 "Also have to ask about
22 the Dartnall ramps, LINC,
23 Red Hill and Strachan,
24 Norjohn is poised to make
25 an investment in the

1 equipment to do more
2 bonded wearing course and
3 it makes it easier to
4 justify if we know the
5 City of Hamilton plans to
6 continue using the
7 project with a rough idea
8 of on annual quantities.
9 We should get together
10 very soon for some
11 holiday cheer to
12 discuss."

13 Does this help to refresh your
14 memory at all about the proposed test strips for
15 the bonded wearing course on the Red Hill Valley
16 Parkway?

17 A. It does not. I'm sorry,
18 it does not. I think at this given time I think
19 that -- I don't know if this time or probably not
20 this time through Derek's e-mail but we had
21 concerns about the cost. I think that was the
22 issue. And then you're talking about, you know,
23 there's cost-benefit analysis that looks at what
24 needs to be done out there and then, you know,
25 more traditional shave and pave and life

1 expectancy, so that was -- I don't think we were
2 persuing the bonded wearing course, if not at this
3 time, very soon.

4 Q. As of 2016, within
5 engineering services, did you consider the need
6 for rehabilitation work on the Red Hill Valley
7 Parkway at all urgent?

8 A. At 2016 for the Red Hill?

9 Q. Yeah.

10 A. I wouldn't call it
11 urgent, no.

12 Q. Would you describe it in
13 some other way?

14 A. Typical. The Red Hill is
15 a big road, so it has a big impact on the City, so
16 it would -- we would take, you know, it could be
17 four, five years before we get out there to do
18 something.

19 Q. So, this was in respect
20 of rehabilitation that you were hoping to do in
21 2017?

22 A. Yeah, because this would
23 be on the low impact if we were able to go out
24 there and just spray the roadway with something.

25 Q. Right. So, as of 2017,

1 was any rehabilitation work completed on the Red
2 Hill Valley Parkway?

3 A. Not that I'm aware. I
4 don't recall if operations went out there and did
5 something or not.

6 Q. But there was nothing
7 done by your group?

8 A. Not that I'm aware, no.

9 Q. Why not?

10 A. Anything that would be
11 done by us would be considered a capital
12 improvement. It's more of a total rehabilitation
13 as opposed to a maintenance. If it was a
14 maintenance procedure, it would be done by
15 maintenance. So, whether they were out there fix
16 settlement areas or not, I don't know.

17 Q. Just to clarify though,
18 you were originally sending e-mails for a proposed
19 rehabilitation of the Red Hill in 2017 and it
20 doesn't seem like that is done. At what point was
21 it decided that there wouldn't be a rehabilitation
22 on the Red Hill Valley Parkway by your group in
23 2017?

24 A. Well, probably at the
25 time when we decided that bonded wearing course

1 wasn't an adequate rehabilitation technique. So,
2 whatever time that was, it was probably ruled out
3 very quickly.

4 Q. And were you considering
5 other rehabilitation methods besides bonded
6 wearing course for 2017?

7 A. I don't believe so.

8 Q. Why not?

9 A. I think that would be the
10 best solution, given -- like, if there was a
11 product out there that we could have used. We
12 pursued the hot in-place application, so we were
13 looking at different options, but if there was
14 nothing in, say, the surface treatment industry
15 that could help us, then we ruled that out and
16 then hot in-place was ruled out. Hence, the
17 traditional methods. Right?

18 Q. So, when you say hence,
19 the traditional methods, is the reason that there
20 wasn't a rehabilitation pursued in 2017 because
21 you decided that you needed to consider a repave
22 once bonded wearing course was ruled out?

23 A. It was an ongoing
24 process, yes.

25 Q. Okay. Commissioner, I

1 see I've taken us a little bit past our scheduled
2 morning break and I'm about to move on to another
3 topic of conversation, so now may be an ideal time
4 for a break.

5 JUSTICE WILTON-SIEGEL: Okay.
6 Let's adjourn, then, until ten to 12:00.

7 --- Recess taken at 11:35 a.m.

8 --- Upon resuming at 11:50 a.m.

9 MS. BRUCKNER: Commissioner,
10 may I proceed?

11 JUSTICE WILTON-SIEGEL: Yes,
12 please proceed.

13 BY MS. BRUCKNER:

14 Q. Mr. Andoga, before break
15 I was changing to a new topic, and so I want to
16 revisit the issue of the state of the
17 infrastructure reports, but this time the ones
18 from 2016 and 2017.

19 Registrar, could you please
20 take us to OD 5, image 19, paragraph 35.

21 In late 2016, Stantec submits
22 a report titled City of Hamilton 2016 State of the
23 Infrastructure Report and Asset Report Card to the
24 City. You're listed again as a member of this
25 project team. Is your involvement in this state

1 of the infrastructure report similar to your
2 involvement in the earlier state of the
3 infrastructure reports that we discussed?

4 A. Yes, yeah. In dealing
5 with records, I'd have comment.

6 Q. So, you were facilitating
7 the meetings between Stantec and City staff?

8 A. Yes.

9 Q. Do you recall if you sat
10 in on meetings for this report?

11 A. I probably did, yes.

12 Q. Registrar, could you
13 please pull up HAM45368. And so, this is state of
14 the infrastructure report for 2016. Registrar,
15 could you please take us to image 16.

16 So, you'll see down at the
17 bottom that there's another set of report card
18 grades for the City's assets, similar to the ones
19 that we looked at in the earlier reports?

20 A. Yeah.

21 Q. The road network rating
22 improved from a and minus in 2009 to a C in 2016.
23 What did that indicate?

24 A. I believe -- what did
25 that indicate? The increase?

1 Q. Sure. What was the basis
2 of the increase?

3 A. Physical condition is
4 generally in fair condition. So, I'm reading the
5 comments. That would tell me at that given time
6 there was probably an increase in funding to some
7 degree, possibly the planning of how things were
8 completed, so that would increase the grade.

9 Q. And I see the comment
10 also says:

11 "There is a lack of
12 dedicated fundings to
13 sustain assets."

14 Are you able to expand on that
15 for me at all?

16 A. That's pretty much
17 standard comment because we were not -- we didn't
18 have sustainable funding at the given time in our
19 roads program. Hence, we were having a deficit
20 every year.

21 Q. When you say we didn't
22 have sustainable funding, can you expand on
23 exactly what that means for me?

24 A. We calculated how much
25 money we needed to maintain a service level.

1 Without sustainable funding, the service level
2 declines. If you have sustainable funding, it's
3 basically a flat line of service level, so you're
4 going to maintain a certain level -- the road
5 conditions will be maintained at a certain level.
6 If you have an overabundance of funding, that
7 increases that service level. Does that make
8 sense to you?

9 Q. Yeah, that makes sense.
10 So, were you requesting that level to maintain the
11 flat line from council?

12 A. We were pushing an
13 increase in funding continuously every year.

14 Q. And what was generally
15 the outcome?

16 A. Thank you very much. We
17 did receive some funding, you know, but it was
18 nowhere near the sustainable amount we needed.

19 Q. So, it wasn't sufficient
20 to allow you to maintain that flat line --

21 A. No. No, not by any
22 means. Every year the infrastructure deficit
23 grew.

24 Q. Okay. Where were the
25 funding sources that were available to maintain

1 the City's road network in 2016 coming from?

2 A. Development charges,
3 there's the gas tax allocation, federal gas tax
4 allocation. If there's any programs at any given
5 time through the government, we would get funding
6 from there or capital tax dollars.

7 Q. Okay. Registrar, could
8 you please take us to image 66 of this report.

9 So, this is a section under
10 Life Expectancy that explains the basis for those
11 ratings for the road system.

12 Registrar, could you call out
13 the top of this page, so where the text is.

14 So, this section of the report
15 indicates that:

16 "Since the conclusion of
17 the 2009 state of the
18 infrastructure report,
19 the City has increased
20 maintenance and renewal.
21 The physical condition of
22 the road network is
23 generally poor to fair,
24 except for the
25 expressways, which are in

1 good condition. The road
2 network capacity is in
3 generally good condition.
4 A lack of dedicated and
5 consistent funding for
6 roads continues to be a
7 problem."

8 So, I understand this is a bit
9 of an expansion of the smaller comment that we
10 were looking at earlier?

11 A. Yeah, that would be
12 correct.

13 Q. And then it goes on to
14 list positive factors contributing to the
15 condition ratings. And one of those positive
16 factors, number one there, is the expressway
17 system was improved to reflect a recent safety
18 review. I'm assuming that the expressway system
19 is a reference to the LINC and the Red Hill Valley
20 Parkway?

21 A. Yes.

22 Q. Do you know which safety
23 report is being referenced here in the report?

24 A. I do not.

25 Q. Do you know if the safety

1 report being referred to was shared with Stantec
2 by City staff?

3 A. I do not. I do not know.

4 Q. Would it have been
5 discussed at those meetings between Stantec and
6 City staff?

7 A. Given the comment, I'm
8 sure it has been, yes.

9 Q. I think you said earlier
10 that often the meetings between City staff and the
11 consultants were based on the group being
12 interviewed's general view about the assets. Do
13 you know if that is how Stantec came to learn
14 about the safety report?

15 A. I'm sure they did.
16 That's what -- they would have found out that way.

17 Q. Was Stantec given any
18 prior reports or other information about the Red
19 Hill Valley Parkway as part of its work on the
20 state of the infrastructure report?

21 A. I would not know.

22 Q. Who would have been
23 responsible for providing them with information
24 about reports that have been done on the Red Hill
25 Valley Parkway, if anyone?

1 A. Well, it would be through
2 the discussion process. So, if they were sitting
3 there and having a discussion about the Red Hill
4 or whatever it may be, if they were to bring in,
5 you know, about a safety review, for instance, for
6 this, the response would be, you know, can you
7 send me that, or it depends on the discussion.

8 Q. Okay. So, you would
9 expect the staff who raised the report to send it
10 to Stantec?

11 A. That's typically what
12 would happen.

13 Q. In preparing the state of
14 the infrastructure reports, was there a general
15 process before the meetings with staff began for
16 collecting information that Stantec might need or
17 want to review in the work on the state of the
18 infrastructure report?

19 A. That would be up to
20 probably those being interviewed, if they had any
21 viable documentation, but then it probably would
22 not go before the meeting, but maybe brought to
23 the meeting or after the meeting.

24 Q. Okay. So, asset
25 management wasn't collecting a catalogue of

1 reports for Stantec to review before they got into
2 these meetings with City staff?

3 A. No. Again, this process
4 was more interviews and more of a gut feeling from
5 those that managed the roadway.

6 Q. Okay. So, I think you
7 indicated earlier that you weren't present at all
8 interviews that Stantec had with City staff. Was
9 another member of the project team generally
10 present?

11 A. Typically no. If there
12 was a meeting with a certain group, I would
13 probably be there to introductions and do a little
14 intro and then, I guess depending on the
15 discussion, depending on the topic, I would excuse
16 myself and let the consultants obtain the
17 information they needed.

18 Q. Okay. Generally, what
19 discussions would you stay for and which
20 discussions would you excuse yourself from?

21 A. It's depending on asset
22 management type principles with regard to the
23 roadway, so it was more about the existing
24 condition and certain metrics of, you know, how
25 old the network is and that kind of stuff.

1 Q. So, you would stay for
2 discussions that you thought would touch on asset
3 management?

4 A. Yeah, that I could add
5 input to.

6 Q. Okay. What mechanisms
7 were in place for the project team to satisfy
8 itself that Stantec was receiving all relevant
9 information for its work?

10 A. That was done typically
11 between the consultant and the group or I would
12 have got involved, maybe CC'd on something, being
13 forwarded through, that the documentation probably
14 went straight through. I don't recall.

15 Q. So, the expectation was
16 that the group being interviewed would satisfy
17 Stantec?

18 A. Yeah. It would be to
19 their benefit to do that, yeah.

20 Q. To your knowledge, were
21 roadway friction levels discussed with Stantec at
22 any of the meetings with staff?

23 A. Not to my knowledge, no.

24 Q. Did Stantec ever ask any
25 questions about friction levels of you or any of

1 the other members of the project team?

2 A. I can't speak for the
3 project team, but for myself, no.

4 Q. Okay. Were you ever
5 asked to locate friction testing results or
6 roadway safety assessments for the Red Hill Valley
7 Parkway or LINC in order to provide them to
8 Stantec?

9 A. Never.

10 Q. So, there are
11 references -- actually, no. I'm going to rephrase
12 that.

13 Were meetings arranged with
14 traffic engineering staff to discuss the Red Hill
15 as part of this state of the infrastructure
16 report?

17 A. I believe so. I believe
18 also at the beginning of the document -- I'm sorry
19 to interrupt, but at the beginning of the document
20 there should be a listing of all those that
21 attended meetings.

22 Q. I think that there is --
23 let me find your reference. I think that there is
24 a page similar to what is at the outset of the
25 sustainability plan.

1 Registrar, could you take us
2 to image 3 of this document.

3 A. I'm sorry, but if I was
4 involved in the document, this is my trademark. I
5 would do this.

6 Q. So, you always set this
7 out to identify which groups had been involved in
8 a project?

9 A. I wanted it for the
10 reference of who attended, who made comment, so
11 everybody on this list was interviewed at one
12 given time, except for those under the City of
13 Hamilton list. I would have to be selective of
14 who actually sat in. I don't think that manager
15 or general manager of Public Works sat in.

16 Q. Okay.

17 A. But the participants
18 listed is those that sat in.

19 Q. So, the participants are
20 the individuals that sat in on interviews. And is
21 that distinct, then, for that City of Hamilton
22 listing that's seems to be mostly directors?

23 A. Those were supervisors.

24 Q. Okay. Were the
25 supervisors present at the interviews?

1 A. I don't recall. It would
2 be up to their discretion.

3 Q. Okay. So, I do see some
4 folks from traffic engineering and operations
5 listed here. Do you recall what aspects of the
6 Red Hill Valley Parkway they discussed with
7 Stantec?

8 A. I do not. I don't
9 believe I sat through that one.

10 Q. You don't think you would
11 have stayed for the meetings with traffic
12 engineering and operations?

13 A. No.

14 Q. I also see some
15 individuals who I think were in engineering
16 services listed here. Do you recall what aspects
17 of the state of the infrastructure reports Stantec
18 was discussing with engineering services?

19 A. It would have been
20 right-of-way assets, so road, water, sewer, that
21 kind of thing.

22 Q. So, they would have been
23 discussing potentially the roadways with those
24 individuals?

25 A. Yes. There's also

1 Mr. McGuire, Peter Locs and probably Mike Field,
2 they would be street lighting.

3 Q. Registrar, could you take
4 us back to image 67, please.

5 So, you'll see there's a
6 listing here that indicate significant negative
7 factors contributing to the condition ratings for
8 the roadway, so this is the next page over from
9 the positive factors that we were looking at a
10 minute ago?

11 A. Yeah.

12 Q. And you'll see item 2
13 there says:

14 "The LINC and Red Hill
15 are expected to require a
16 significant investment
17 over the next five years
18 to improve overall
19 physical condition. This
20 is a priority road within
21 the overall road network.
22 Reallocating funds to
23 maintain this road is a
24 necessity. This could
25 lead to road deficiencies

1 in other areas of the
2 City."

3 Why were the LINC and Red Hill
4 Valley Parkway expected to require a significant
5 investment to improve their physical condition as
6 of -- well, this is based on 2016 information but
7 it lands in early 2017?

8 A. Okay. Both the LINC and
9 Red Hill, I don't recall the distance, lengths and
10 that kind of thing, but they are important
11 roadways that would require large funding
12 allocations based on the strategies. That's why
13 one thing we were looking for was surface
14 treatment would be the cheapest method of
15 rehabilitation as opposed to, again, traditional,
16 but the traditional gave you the most life
17 expectancy. With a road like that, you do not
18 want to go out there on a daily basis and shut it
19 down or do a lane closure or anything like that.
20 Somewhat of the practice today is you don't want
21 to do that kind of stuff. But we had a different
22 logic. We go out there once, we fix it right and
23 we go away.

24 Q. What aspects on the
25 overall physical condition for the Red Hill needed

1 to be improved as of 2016, 2017?

2 A. I don't fully recall the
3 condition of the roadway, but I believe at that
4 time again we were pursuing surface treatment
5 practices, so there would be top-down cracking on
6 the roadway.

7 Q. So, Stantec is collecting
8 this information from interviews with City staff.
9 Do you know who would have provided Stantec with
10 the information that's captured in point 2?

11 A. In point 2, that would
12 have been probably a combination of asset
13 management, therefore myself, my staff, and
14 probably road operations.

15 Q. Do you recall if Stantec
16 was given reports or other information about the
17 condition of the road to support the assessment
18 that the condition -- that the overall physical
19 condition needed to be improved?

20 A. They had our pavement
21 condition data, so they would have access to the
22 condition of the data. I don't recall when it was
23 tested, but they would have that data in the
24 history of the roadway.

25 Q. And when you say pavement

1 condition data, can you break that down for me?

2 What exactly is that comprised of?

3 A. It's all the different
4 kind of cracking that may occur, settlement areas,
5 whatever it may be, that kind of thing.

6 Q. And what's the source of
7 that information?

8 A. We did it on a four-year
9 cycle at that given time where a vehicle actually
10 goes out and does a visual inspection of the
11 roadway and there's an electronic ride calculator
12 that measures the ride index of the roadway.

13 Q. And is there a report
14 that's generated at the end of that?

15 A. Not necessarily. Well,
16 it's a document -- it's a condition assessment of
17 the roadway that links in with our mapping system
18 and our mapping system was like on a block per
19 block basis, segment and leases.

20 Q. What does the overall end
21 product of that look like? What does it look
22 like?

23 A. I'm struggling here. It
24 sits in a computer. It runs through a program.
25 You can see the physical defects of the roadway.

1 Q. Okay. So, is it a map or
2 it's an Excel street?

3 A. Yeah. Sorry. It ties
4 into, like, a GIS, like a geographical information
5 system, and the data is linked to a map, yes.

6 Q. Okay. And so, you expect
7 that that would have been provided to Stantec?

8 A. They have access to it.
9 They have done the analysis with regard to road
10 needs on our roadways as well, so I believe at
11 this time they had it.

12 Q. They would have had it
13 from prior projects?

14 A. Yeah.

15 Q. So, this point indicates
16 that the need on the Red Hill Valley Parkway and
17 LINC was significant enough that funds had to be
18 diverted away from maintaining other City roadways
19 and flags that there would be a risk of
20 deficiencies on those roadways?

21 A. Yeah.

22 Q. Why were the LINC and Red
23 Hill prioritized over other City roadways?

24 A. 20,000 vehicles a day,
25 number one road in our network.

1 Q. So, it's a question of
2 traffic volume?

3 A. Yes.

4 Q. Was this an unexpected
5 change in the status of the LINC and the Red Hill
6 Valley Parkway, that they needed improvements on
7 this timeline?

8 A. Sorry, can you say that
9 again, please?

10 Q. Was this an unexpected
11 change in the status of the Red Hill Valley
12 Parkway and Red Hill Valley Parkway, that they
13 needed improvements over the next five years to
14 improve physical condition?

15 A. I don't believe so.

16 Q. So this was an expected
17 expense for the City?

18 A. To some degree. I
19 believe it was accelerated. Again, we had it out
20 in 2025 and if you do the math, you know, whatever
21 it was, 18 years or whatever, that's a little bit
22 long. I think the Red Hill was expected 10 to 15.
23 We caught the early end of that and I think that's
24 related to the volumes that the roadway delivered.

25 Q. Okay. So, did funds need

1 to be redirected --

2 A. Yeah.

3 Q. -- from other roadways
4 because of the accelerated timeline on the Red
5 Hill Valley Parkway and LINC work?

6 A. Yeah. We did that. That
7 was annually done.

8 Q. Annually done. Can you
9 break that down?

10 A. Yeah. That process of
11 building the budget, the capital program, things
12 would be jockeyed and reallocated based on
13 priority.

14 Q. So, the Red Hill and LINC
15 were advanced based on priority?

16 A. Yeah. We also had to
17 deal with LRT, so there was other projects that
18 could, you know, possibly impact that timing.

19 Q. How does the LRT project
20 impact the timing for the Red Hill Valley Parkway
21 and LINC?

22 A. LRT was, back in this
23 timeline, we knew it was coming, I guess, but one
24 thing we had to prepare for is those roads
25 adjacent to support. Because if you sit back and

1 take main street out of the picture and you take,
2 you know, the LINC or the Red Hill out of the
3 picture, it's not an ideal situation to shut down
4 the City like that. So, even with the shut down
5 of the LINC and Red Hill, we would want Stone
6 Church and other related roads that would take
7 that traffic to be at a certain condition, so it
8 was an ongoing phasing of projects that needed to
9 be done.

10 Q. So, the concern was that
11 you wouldn't want to projects to be too close
12 together because it would require the City to shut
13 down too many main thoroughfares?

14 A. Yes. This also affects
15 industry, too. Right? If the Red Hill is taking
16 all the asphalt, the other asphalt prices get
17 expensive.

18 Q. Understood. Okay.
19 Registrar, you can take this down and if you can
20 take us to OD 5, image 19, paragraph 36, and call
21 out paragraph 36, please.

22 So, this is from January 27,
23 2017. Stantec submits a report titled City of
24 Hamilton State of the Infrastructure 2016 Roads
25 Update. The objective of this report is described

1 as:

2 "This assignment provides
3 an updated condition
4 report on the road
5 network along with the
6 budget and level of
7 service analysis based on
8 the 2015 condition
9 assessment data. The
10 objectives of this
11 assignment were to
12 demonstrate how
13 historical spending
14 impacted the performance
15 of the network, report
16 the condition of the road
17 network based on the 2015
18 condition assessment and
19 investigate future
20 funding scenarios and
21 impact on the network."

22 Do you recall why the City
23 retained Stantec to do the 2016 roads update?

24 A. I do not.

25 Q. Were you involved in the

1 preparation of the 2016 roads update?

2 A. I believe I was, but to
3 what degree, I don't think I was as active as I
4 was in the previous report.

5 Q. Okay. Registrar, could
6 you close this down and take us to HAM5597.

7 And just for your reference,
8 this is the 2016 roads update from Stantec.

9 Registrar, could you please
10 pull up images 23 and 24 of this report.

11 So, you'll see that there is a
12 chart here that shows that the Red Hill Valley
13 Parkway and LINC have an OCI of 77. And it also
14 indicates OCI levels for other roadways in the
15 City.

16 Registrar, can you pull up the
17 graph that has got the blue columns in it.

18 A. It's based on 2015 data.

19 Q. Yeah. Functional class.

20 Then, Registrar, if you could
21 just move that over a little bit, there's a chart
22 on the next page that tells us what those OCI
23 values indicate. Yeah, so just pull that out as
24 well.

25 So, then there's a chart on

1 the next page that indicates what the OCI
2 categories typically indicate. Can you tell me a
3 little bit about what an OCI value is?

4 A. Okay. There's SCI, which
5 is a surface condition index. That's a visual
6 inspection by four guys in a van that drive the
7 roadway. On that van there's electronic sensors
8 that measure the ride index. That's the RCI. The
9 RCI, if you take the SCI plus the RCI of
10 50/50 percent, that's how you typically get
11 your -- the City of Hamilton got their rating of
12 OCI, which is overall condition index.

13 Q. Are friction levels a
14 factor in the OCI rating that a road receives?

15 A. No, they're not.

16 Q. So, I understand from
17 this chart that the OCI levels of 77 for the LINC
18 and the Red Hill Valley Parkway indicate that
19 they're in quite good condition. Is that right?

20 A. On the chart, yes, they
21 would be defined as being good, yes.

22 Q. Registrar, you can close
23 this down and call out the text under the OCI
24 values by functional class.

25 So, you'll see there's a

1 section of the report that says:

2 "The results show that
3 expressway urban arterial
4 major and all rural roads
5 were above the network
6 average OCI of 72. The
7 urban arterial minor,
8 urban collector and local
9 roads were just below the
10 network average OCI. The
11 City generally uses OCI
12 of 60 to trigger
13 rehabilitation.
14 Currently, the network
15 average of OCI for urban
16 collector and urban local
17 roads suggest that more
18 funding may be needed to
19 bring these roads up to
20 an OCI of 60."

21 So, my understanding of this
22 is that Stantec is suggesting that additional work
23 needs to be done to bring urban collector and
24 local roads up to the 60 OCI value. Is that
25 right?

1 A. Yeah. They're saying you
2 would need to make that investment to bring them
3 up to 60, yes.

4 Q. And the City uses an OCI
5 of 60 as a rehabilitation trigger?

6 A. Yes.

7 Q. And the term
8 rehabilitation, what does that generally refer to?

9 A. Above a 60 is a
10 maintenance situation, so it's typically
11 maintenance practices. And then below 60, you're
12 talking more of a shave and pave type
13 rehabilitation or a full reconstruction.

14 Q. Okay. And when you say
15 maintenance practices, if it was above a 60,
16 maintenance practices such as?

17 A. You can go out there and
18 crack seal it. You do pothole repairs. You know,
19 minor stuff that the City did, minor patch
20 overlays, that kind of thing.

21 Q. Okay. Registrar, you can
22 close this down and if you can please take us to
23 image 28.

24 So, this is a prediction model
25 that has been put together that shows lines for

1 the various roadway assets, including the Red Hill
2 Valley Parkway and LINC. And so, Stantec
3 describes this as prediction models which are used
4 to determine how a pavement section would
5 deteriorate through its service life. These
6 models are compiled from a review of
7 deteriorations of roads in several cities and
8 they, again, explain that the rehabilitation
9 trigger identifies when a pavement should be
10 considered for rehabilitation or resurfacing
11 treatment, whereas a reconstruction trigger
12 indicates when pavement may qualify for
13 rehabilitation or full reconstruction or, sorry,
14 major rehabilitation or full reconstruction.

15 Registrar, do you mind just
16 calling out specifically the chart so we can get a
17 little bit better view of it.

18 So, I believe the yellow
19 dotted line that goes across from the OCI of 60 is
20 the rehabilitation trigger and the red line at 40
21 is the reconstruction trigger. And then the
22 expressway Red Hill Valley Parkway line is the
23 darker blue line at the very top of the chart?

24 A. No. Hold on. Okay.
25 Okay. Yeah.

1 Q. So, it's my understanding
2 from this --

3 A. Okay.

4 Q. -- that Stantec is
5 predicting that the Red Hill Valley Parkway will
6 hit its rehabilitation trigger, so the OCI 60,
7 when it's between 30 to 35-years old, just based
8 on where it's hitting that dotted line. Is that
9 right?

10 A. Yes.

11 Q. And then they had the
12 reconstruction for the trigger for the Red Hill is
13 actually all the way off the map, so it looks like
14 it's happening after 50?

15 A. Yeah.

16 Q. So, this report is
17 circulated in January of 2017 and at this point,
18 we've already seen you exchanging e-mails with
19 Norjohn about proposed rehabilitation of the Red
20 Hill Valley Parkway?

21 A. Mm-hmm.

22 Q. But it's my understanding
23 from this that the Red Hill Valley Parkway hasn't
24 reached its rehabilitation trigger. It's actually
25 at an OCI of 77, which seems to be quite good

1 based on the other road assets?

2 A. Mm-hmm.

3 Q. And Stantec doesn't

4 expect that it is going to be hitting that trigger

5 until it's 30 to 35-years old. Meanwhile, we see

6 the urban collector and urban local roads have

7 OCIs that are already below 60 and Stantec has

8 indicated in the section that we just looked at

9 that more funding might be needed to bring those

10 roads up to an OCI of 60.

11 When you reviewed this roads

12 update from Stantec, did it give you any pause in

13 terms of engineering services's plans to

14 rehabilitate the Red Hill Valley Parkway?

15 A. I'm sorry, did it what?

16 Q. Did it give you any pause

17 in terms of the timing of the rehabilitation of

18 the Red Hill Valley Parkway?

19 A. No.

20 Q. Why not?

21 A. Because I knew what the

22 existing asphalt was like. I knew the existing

23 conditions of the roadway.

24 Q. Can you break that down

25 for me?

1 A. I'm struggling with this
2 because I don't know my involvement with this. I
3 know there was an issue with life expectancies and
4 our decision models and there was a point in time
5 where initiative came in to review those models
6 and I'm not sure if this was the outcome of that.

7 But with regard to this, that
8 50-year timeline on the Red Hill, that would be
9 the one going back to the original sustainability
10 report and the identified life expectancy of the
11 roadway.

12 Q. Okay. So, stepping back
13 from the prediction model and the rehabilitation
14 trigger timeline that's set out here, we were
15 looking at the chart that showed that the OCIs for
16 the Red Hill Valley Parkway and LINC were at 77?

17 A. Yes.

18 Q. Whereas there were other
19 City roads that were already below the OCI
20 trigger --

21 A. Yeah.

22 Q. -- when they were
23 assessed? Did that alone, so discounting the
24 prediction model that we're looking at -- and,
25 Registrar, you can take that down for us -- give

1 you any pause about engineering service's plans
2 for the repaving and the prioritization of the
3 repaving of the Red Hill Valley Parkway?

4 A. No, not at all. That
5 highway all together, if it's \$100 million or what
6 it is as opposed to, you know, a million dollar
7 local road, there's no comparison. That roadway
8 dealt with 90,000 vehicles a day, so as being a
9 number one asset, yes. That's why I think we --
10 you know, we had that sustainability report. We
11 identified the surface treatment. You know, we
12 could go through two different surface treatments
13 and then go to a minor rehabilitation, a shave and
14 pave. That wasn't cost effective to do. So, if
15 it meant we had to go out there every ten years
16 and take the top off, that's more cost effective
17 than dealing with any other roadway.

18 Q. So, were the factors that
19 you or your knowledge about the state of the
20 pavement on the Red Hill Valley Parkway that you
21 said informed your thought process on prioritizing
22 that rehabilitation, did that form any part of the
23 OCI rating that Stantec gives the roadway?

24 A. Did it harm it?

25 Q. Form part of it. Did

1 they consider those factors that you're looking at
2 in making the decision to repave or rehabilitate?

3 A. No. They would just look
4 at the -- well, they would have the crack
5 information from 2015, I believe this was taken
6 from, so they would have that crack information
7 and then they're talking about a two-year timeline
8 to existing conditions. Right? So, there's a
9 little difference there.

10 Q. Okay. Who ultimately
11 made the decision to prioritize work on the Red
12 Hill Valley Parkway and LINC over work on the
13 roads that have been identified as having OCIs
14 below the rehabilitation trigger in this report?

15 A. Who would prioritize that
16 road number one?

17 Q. Who made the decision?

18 A. Well, we would
19 collectively do that as a group when we prioritize
20 the capital budget projects.

21 Q. Is the "we" in that
22 engineering services?

23 A. Again, it would be
24 collectively done throughout the group. Like, we
25 had all the Public Works sitting at a table and

1 that's where we would go through it.

2 Q. So, it's beyond
3 engineering services. It's an entire Public Works
4 department decision?

5 A. It's either entire Public
6 Works at the -- I believe it was reviewed through
7 the project coordination meeting. That would be
8 the entire Public Works with my counterparts the
9 seniors and project managers, that would be then
10 subsequently brought up to the director level and
11 GM level.

12 Q. Okay. To your knowledge,
13 was the work on the Red Hill Valley Parkway
14 prioritized over other roadways in whole or in
15 part because of concerns about friction levels on
16 the Red Hill?

17 A. Not with regard to
18 friction levels at all.

19 Q. The concern was, again,
20 the top-down cracking?

21 A. Yes.

22 Q. Registrar, you can take
23 this down. Thank you very much. And if you could
24 take us to OD 7, image 150, paragraph 454.

25 So, on January 23, 2017,

1 Mr. Ferguson, who is in traffic operations and
2 engineering, e-mails Mr. Moore and Mr. Sidawi
3 under the subject line "Repaving the Red Hill
4 Valley Parkway." He copies his manager, Martin
5 White, and he says:

6 "Just following up on
7 plans for the Red Hill
8 Valley Parkway. You had
9 mentioned last year that
10 you were planning on
11 repaving the Red Hill
12 Valley Parkway and that
13 we should hold off on
14 installing reflective
15 markers until that time."

16 And he asks for a timeline for
17 the repaving to take place. On January 25, 2017,
18 Mr. Moore responds to Mr. Ferguson and Mr. Sidawi
19 and, for your reference, you weren't on the
20 original e-mail, but Mr. Moore adds you into the
21 e-mail chain and he says:

22 "We need to do it soon or
23 at least start a program
24 (i.e. a bit each year for
25 five years) I don't know

1 yet. Sam can set up a
2 meeting with traffic
3 operations to discuss
4 timing and need."

5 When was the plan to repave as
6 opposed to some other rehabilitation treatment,
7 such as microsurfacing or something along those
8 lines, the Red Hill Valley Parkway reached within
9 engineering services?

10 A. I can't recall the exact
11 timeline. I don't know what we identified within
12 the 2017 capital budget with regard to the Red
13 Hill and LINC. Yeah, I can't recall.

14 Q. Do you recall what the
15 basis for the decision was to move from a
16 rehabilitation to a repave?

17 A. From my perspective, it
18 was strictly financial and the service that we
19 were going to provide. So, you're talking about
20 life expectancy of the application, so if we go
21 out there, we had some concerns with regard to
22 surface treatment and then as is typically a short
23 life span, a rehab of shave and pave was the best
24 viable option.

25 Q. So, was the view that a

1 repaving would give you more for your money than a
2 rehabilitation?

3 A. Yeah. A shave and pave
4 is a rehabilitation, but yes, it's cost effective
5 and it gives you maximum life.

6 Q. Okay. More so than a
7 maintenance surface treatment, like microsurfacing
8 or something along those lines?

9 A. Yeah. I think the issue
10 with microsurfacing was the separation from the
11 asphalt would be a concern.

12 Q. Okay. And when you say
13 the separation from the asphalt would be a
14 concern, can you break that down for me and just
15 explain what the concern would be around that?

16 A. Yeah. You're building
17 layers. Right? So, you put a layer on top of
18 that roadway and that layer would come off.

19 Q. Due to the
20 microsurfacing?

21 A. Well, the microsurfacing
22 would be lifted because of the traffic volumes and
23 the alignment of the road forces on that pavement.

24 Q. Okay. So, as of January
25 23, 2017, engineering services hadn't finalized

1 the program for rehabilitation or I guess in this
2 point it's repaving specifically on the Red Hill
3 Valley Parkway?

4 A. In January 2017, our
5 budgets probably were just approved and there
6 would have been something in the Red Hill, for the
7 Red Hill, within those capital budget programs.

8 Q. And would that something
9 have been a repaving?

10 A. I don't recall.

11 Q. And so, Mr. Moore says to
12 Mr. Ferguson, "We need to do it soon." Was it
13 your understanding as of January 2017 that there
14 was need for that repaving on the Red Hill Valley
15 Parkway to happen soon?

16 A. I believe so, yes.

17 Q. Okay. Did you know what
18 the basis for that -- and I know it says a little
19 bit for a year or for five years. Did you get a
20 sense of what the urgency around the repaving was?

21 A. Top-down cracking. We
22 had to protect that rich layer of asphalt within
23 the pavement structure. The whole idea of
24 perpetual pavement, we had to save that.

25 Q. Okay. Did you have any

1 discussions with Mr. Moore about the urgency of
2 the project in or around this time?

3 A. I'm sure we did. I'm
4 sure we had discussions. A lot of it, you know,
5 everybody was busy and running around, so whether
6 we were talking, you know, casually within
7 ourselves or...

8 Q. And so, at the end of all
9 the this, the Red Hill is actually resurfaced in
10 2019. Am I right on that?

11 A. I believe so.

12 Q. Was that in line with the
13 timeline that you were hoping for as of
14 January 2017?

15 A. It's pretty aggressive to
16 get it out there in two or three years, yes.

17 Q. So, you respond to
18 Mr. Moore's e-mail on January 25, 2017 and you
19 say:

20 "Totally agree. Road
21 operations will be
22 completing test strips in
23 2017, which will result
24 in project program to
25 address the surface needs

1 of the Red Hill and LINC.
2 The same will be
3 reflected in the 2018
4 budget."

5 Were test strips completed in
6 2017?

7 A. I don't believe -- I
8 don't recall. Sorry. That just tells me, sorry,
9 that we didn't have a full -- we didn't commit to
10 repaving yet.

11 Q. Okay. Is that because of
12 the reference to the 2018 budget there?

13 A. Yeah. It says the
14 completion of the test strips, surface needs.
15 We're still talking Red Hill and LINC, so we were
16 trying to do the whole nine yards, both roads,
17 sorry, at that given time yet.

18 Q. Okay. So, the test
19 strips that you reference in connection with 2017,
20 do you recall where those test strips were to be
21 placed or what they were for?

22 A. I have to tell you that
23 through this process I recalled the Dartnall ramp
24 and those dip areas that were throughout the Red
25 Hill. I believe those were areas of concern to

1 get fixed and we were targeting those. I know
2 there was some issues with we did some sampling
3 out there, but as far as the rehabilitation or
4 those repairs to those areas, I can't recall.

5 Q. Okay. So, you say the
6 test strips will result in a project program to
7 address the surface needs of the LINC and Red
8 Hill. At this time, what was your understanding
9 about the surface needs of the Red Hill Valley
10 Parkway?

11 A. Yeah. I would be talking
12 there that if we did those test strips, that would
13 define the rehabilitation strategy moving forward,
14 if they were to pass.

15 Q. Okay. And that
16 rehabilitation strategy would be geared at
17 specific surface needs for each of the roadways?

18 A. That's ultimately what we
19 were trying to achieve, depending on the outcome
20 of those test strips, yes.

21 Q. Okay. And we've talked a
22 bit about the top-down cracking. Were there any
23 other surface needs that you had identified on the
24 Red Hill that needed to be addressed?

25 A. Those dips we needed to

1 fix, I think we knew that one. At this point in
2 time, I believe we were just looking within
3 engineering services and the needs of the asphalt.

4 Q. Was there a project
5 program to address the needs of the Red Hill
6 Valley Parkway or LINC incorporated into the 2018
7 budget?

8 A. Yeah, I'm sure it was in
9 there. For what year, I don't know. I can't
10 recall the year where it was actually identified
11 for, but within that 2018 budget I'm sure the Red
12 Hill and LINC were there.

13 Q. Just so that I have a
14 sense of it, when do you submit budgets for 2018?
15 Like, what part of the year do you put those
16 budgets requests in and send them to council?

17 A. By January typically
18 we're approved unless it's an election year. An
19 election year would cause a delay. Typically
20 we've been approved in November/December, so we
21 would get them in September, at the beginning of
22 September.

23 Q. Of the year before the
24 budgets?

25 A. Yeah. And then they go

1 through budget deliberations and typically we get
2 approved fairly early the year prior.

3 Q. Was the decision to shift
4 to repaving on the Red Hill Valley Parkway based
5 in part or in whole about concerns of skid
6 resistance levels on the Red Hill?

7 A. No.

8 Q. So, this is now January
9 of 2017. As of January 2017, had you been advised
10 of or seen the Tradewind report?

11 A. No.

12 Q. Registrar, could you
13 please take us to OD 7, image 151, paragraph 5458,
14 please.

15 So, a meeting is arranged for
16 February 6, 2017 to discuss the repaving of the
17 Red Hill Valley Parkway, and you'll see the
18 required attendees of the meeting are Mr. Moore,
19 Mr. Sidawi, Mr. Ferguson, Mr. White, yourself,
20 Ms. Jacob, Mr. Hughes and Ms. Matthews-Malone.
21 Why this group of people?

22 A. This sounds like we had a
23 meeting with operations, so this was, I believe, a
24 meeting between engineering services and
25 operations, being traffic and road operations.

1 Q. Do you recall what was
2 discussed at the meeting?

3 A. I believe we met weekly
4 or monthly.

5 Q. So, in the event it helps
6 to refresh your memory, Ms. Matthews-Malone
7 circulates an e-mail to her group on February 7,
8 2017 in which she seems to be summarizing what I
9 believe is the meeting that we were just talking
10 about.

11 Registrar, can you call out
12 the next image over and just pull out
13 Ms. Matthews-Malone's description of the meeting.

14 So, she sends this e-mail to
15 her direct reports.

16 No, the next e-mail,
17 Registrar. It's the one at 459. Other direction,
18 paragraph 459. Sorry, I was not clear in that.

19 So, she says to her group that
20 she and Brian attended a meeting with asset
21 management yesterday and the following is an
22 overview of that meeting. She says:

23 "They're looking to
24 repave the Red Hill
25 Valley Parkway in

1 2018/2019 and cold
2 in-place the LINC in 2020
3 and 2021."

4 Then she says:

5 "Ideas are being tossed
6 around about sequencing.
7 There are some road
8 depressions that can't
9 readily be explained."

10 Some reference to the cat's
11 eyes. Does this e-mail help to refresh your
12 memory about that meeting?

13 A. To some degree, yes.

14 Q. Okay. And so, at this
15 point in time, asset management had settled on a
16 shave and pave for the Red Hill in 2018 and 2019?

17 A. No, I don't believe so.
18 In accordance with this e-mail, we were looking at
19 a hot in-place option still alive as a possible
20 rehab strategy.

21 Q. It says they're looking
22 to shave and pave the Red Hill Valley Parkway?

23 A. Sorry. And cold in-place
24 on the LINC and Red Hill. I'm sorry, yes. It
25 would have been ruled out, yes.

1 Q. Okay. If you were going
2 to do a shave and pave on the Red Hill in 2018 as
3 proposed by this e-mail, what season would it
4 generally be done in?

5 A. Summer. Summer months.
6 Volumes are lower in the summer.

7 Q. And in order to -- this
8 is February 2017. In order to do or start a shave
9 and pave on the Red Hill in the summer of 2018,
10 when would you need to tender the project?

11 A. Preferably in 2017.

12 Q. How early in 2017?

13 A. Earlier the better.
14 September.

15 Q. Okay.

16 A. There's policies in place
17 that would allow us to move the money forward so
18 we would be able to tender an award with council.

19 Q. So, at this point, then,
20 in February 2017, it was maybe a tight schedule
21 but you still had some time to get the tender
22 ready for potentially a shave and pave in 2018, in
23 the summer?

24 A. It would be tight. It
25 would be -- yeah. Yes.

1 Q. When you say it would be
2 tight, in your view would it still have been
3 feasible?

4 A. If everything -- if we
5 had everything in our hands, yes.

6 Q. Okay. Registrar, you can
7 take down those call outs. Thank you. And if you
8 can take us to OD 7, image 154, paragraph 468.
9 Sorry, you're going to need to go one over.

10 So, the bottom paragraph
11 there, on February 24, 2017, you e-mail Mr. White
12 and Mr. Ferguson in traffic engineering under the
13 subject line "LINC and Red Hill Valley Expressway
14 resurfacing. " You say:

15 "We're proposing the
16 resurfacing of the LINC
17 and Red Hill Valley
18 Expressway over a
19 four-year period."

20 And then you set out the
21 proposed schedule, which again has the 2018/2019
22 timing for the Red Hill. And then at the very top
23 of the next page, you'll see you say:

24 "In addition to
25 identifying the needs, is

1 there a preference as to
2 the scheduling of the
3 work to be performed? We
4 have structured the
5 timing for our
6 perspective in doing
7 50 percent of the
8 required resurfacing per
9 year, but the resurfacing
10 limits can be adjusted if
11 needed."

12 And so, I'm assuming from this
13 that the plan was to repave the Red Hill Valley
14 Parkway in parts over 2018 and 2019?

15 A. That's originally the way
16 it was set up. The money was split over two
17 years. Yes.

18 Q. Okay. So, you ask
19 Mr. Ferguson and Mr. White to identify the traffic
20 needs in your e-mail. What did you mean by that?

21 A. If they had what they
22 needed out there. So, we're doing a resurfacing.
23 You know, do you need anything out there while
24 we're doing it?

25 Q. Okay. So, this is a

1 request for items that traffic engineering wants
2 included in the scope of the repaving?

3 A. Exactly.

4 Q. Is it standard practice
5 to ask traffic operations and engineering if
6 there's anything that they wanted included in the
7 scope of a repaving project?

8 A. Yes, it is. We ask
9 everybody.

10 Q. Okay. So, Mr. Ferguson
11 responds.

12 Registrar, could you please
13 close this out and take us to paragraph 469, which
14 is the -- you'll have to go over to the next
15 image, I think, to get the entire thing.

16 So, he responds and traffic
17 proposes a number of items for inclusion in the
18 scope of the repaving project.

19 Registrar, I'll ask you to
20 call that out.

21 Mr. Andoga, I'll give you a
22 moment to just review that scope and let me know
23 when you have had a chance to do that.

24 A. Okay.

25 Q. So, traffic engineering

1 is proposing the installation of barriers in
2 certain areas to prevent crossover collisions or
3 at least that's my understanding from this. Do
4 you recall that?

5 A. Yeah. Okay. Yeah.

6 Q. Did you have a view of
7 that request when you received it in 2017?

8 A. Yeah.

9 Q. What was that view?

10 A. It's going to be
11 expensive. I didn't know what they were talking
12 about.

13 Q. Okay.

14 A. So, you know, the other
15 issues of rumble strips and markings and that kind
16 of thing, we've done them before. I know what
17 that is. We used our tug and barriers. You're
18 talking -- I don't know what you're talking about,
19 so I didn't know the impact of the project.

20 Q. Okay. So, you didn't
21 have a sense of what a median barrier was when you
22 received this proposal?

23 A. No. I didn't know what
24 they were asking. No.

25 Q. Would you have had any

1 knowledge about whether or not a barrier on the
2 Red Hill Valley Parkway would assist in preventing
3 crossover collisions?

4 A. Sorry, again?

5 Q. Would you have had any
6 information or knowledge when you received this
7 e-mail about whether or not a median barrier on
8 the Red Hill Valley Parkway would assist in
9 preventing crossover collisions?

10 A. No. From my experience,
11 I would expect that a barrier would expect a
12 crossover. That, I -- yes. But other than that,
13 no.

14 Q. Registrar, if you can
15 close this down and take us to paragraph 470,
16 which is Mr. Andoga's response.

17 And so, you respond to
18 Mr. Ferguson with a number of points and one of
19 them is that you say item 6, which is the
20 installation of barriers, will be a sensitive
21 issue. What did you mean when you described it as
22 a sensitive issue?

23 A. I did not know what he
24 was talking about or what he was asking for. I
25 didn't know the impact of the project.

1 Q. Why would that make it a
2 sensitive issue?

3 A. Because I don't know if
4 we can do it or not under rehabilitation of the
5 road. You know, was the barrier going down the
6 middle of the road between the two roadways? I
7 don't know. At that time, I didn't know what was
8 being asked.

9 Q. Okay. And just for my
10 purposes, that seems like something that you could
11 have spoken to Mr. Ferguson about in terms of what
12 traffic was requesting. Why does your not having
13 a sense of what he meant by a median barrier make
14 median barriers a sensitive issue?

15 A. I think this is only part
16 of it. Dave and I probably did talk between
17 e-mails. So, all I'm doing here is documenting so
18 we can discuss further.

19 Q. Okay. Do you remember
20 what you discussed with Mr. Ferguson that led you
21 to say that you expected the installation of
22 barriers would be a sensitive issue?

23 A. I don't recall right off
24 the -- you know, I probably said, you know, it's
25 going to be expensive. I don't know how we're

1 going to do it or whatever. I don't know at that
2 given time. But we were actually communicating
3 really good as a group at this time, so that's why
4 I logged this as just a document recording what
5 needs to be discussed further.

6 Q. Did you view it as a
7 sensitive issue because of the expense? You
8 mentioned the expense a couple times.

9 A. Expense and impact. I
10 only had so much money allocated in the capital
11 budget and I'm going to -- you know, I don't know
12 what he's asking for.

13 Q. So, is the money
14 consideration the factor that leads you to think
15 that it might be sensitive issue?

16 A. It's always a factor,
17 yes, for me.

18 Q. Were there other factors?

19 A. We tried to limit the
20 amount of scope creep. So, you know, we wanted to
21 keep it as a rehabilitation. We didn't want to do
22 a full reconstruction again. Again, this is just
23 to document what we can and cannot do at the given
24 time.

25 Q. When you say scope creep,

1 is that a relatively standard term that's used in
2 the industry?

3 A. It's a very -- I don't
4 know if I would assume it's pretty much standard
5 throughout the industry. The way we operated, you
6 know, if you can imagine asking anybody for
7 anything, they're going to ask for everything. We
8 typically couldn't do that. So, then we would try
9 to limit the amount of scope creep by expanding
10 the project, say, keep it to a \$10 million project
11 as opposed to a \$20 million project, that kind of
12 thing.

13 Q. So, scope creep is when
14 someone is asking for something that's beyond the
15 boundaries of the project?

16 A. Yes.

17 Q. So, at the time that you
18 send this e-mail to Mr. Ferguson, I think you said
19 that you had had discussions with Mr. Ferguson.
20 Had you had discussions with anyone else about the
21 installation of barriers on the Red Hill Valley
22 Parkway or about traffic's proposed scope?

23 A. Not that I recall, no.

24 Q. Registrar, you can take
25 this down. Thank you. And if you can take us to

1 OD 7, image 171, paragraph 504 and 505. And I
2 think you may need to pull up the next image.

3 So, on March 1, 2017, you send
4 an e-mail to Brian Hughes and Gord McGuire about
5 the proposed resurfacing in 2018 and 2019 on the
6 Red Hill Valley Parkway and that the LINC in 2020
7 and 2021 and you copy a number of City staff,
8 including Martin White.

9 Mr. White, and you'll see this
10 at paragraph 505 on the next page, forwards this
11 e-mail to John Mater, who is his director, and
12 says:

13 "I mentioned yesterday to
14 Rick that they may wish
15 to tell council sooner
16 rather than later."

17 Do you remember having a
18 conversation like that with Mr. White in or around
19 March 2017?

20 A. No, I don't. Sorry.

21 Q. Do you recall why
22 Mr. White would have raised the question of
23 advising council of the resurfacing?

24 A. The impact to the City,
25 so I'm sure they want to know. I don't recall at

1 this time whether or not there was issues with the
2 Red Hill or LINC with regard to the safety
3 components.

4 Q. So, you said with respect
5 to the safety components. My understanding is
6 that this exchange was around the timing for the
7 resurfacing. Were there other safety components
8 that were in issue in and around this time?

9 A. Not that we were aware.
10 I don't know what traffic was working on at that
11 given time.

12 Q. Okay. So, it reads to me
13 like Mr. White is saying that he suggested to you
14 that you should let council know about the planned
15 repaving --

16 A. Yeah.

17 Q. -- sooner rather than
18 later?

19 A. Mm-hmm.

20 Q. At this time, had council
21 been advised of plans to repave the Red Hill
22 Valley Parkway or LINC?

23 A. I don't recall.

24 Q. Do you have any sense of
25 when council was first made aware of the proposed

1 resurfacing plans?

2 A. Back probably in 2016,
3 maybe. Maybe. Again, maybe. I don't recall. I
4 would have to recall when we identified it within
5 the capital program. And through those reports,
6 it was identified that work had to be done within
7 five years, so they had some knowledge it was
8 coming on board.

9 Q. So, the reference in the
10 state of the infrastructure reports to their
11 having been an identified need over the next five
12 years --

13 A. Yes.

14 Q. You considered that as
15 notice to council of potential repaving or other
16 rehabilitation on the Red Hill Valley Parkway or
17 LINC?

18 A. That would have been,
19 yes.

20 Q. All right. Registrar,
21 you can take this down and if you can take us to
22 OD 7, image 158, paragraph 475. And I think we'll
23 need to go slightly over on to the next page.
24 More than slightly.

25 So, you're sent an e-mail from

1 Jason Worrton, who at that at the time is senior
2 projet manager in roadway safety and traffic
3 engineering, on June 12, 2017. And he says:

4 "Thanks for the
5 opportunity to sit and
6 discuss the upcoming
7 contract for improvements
8 to the northbound Red
9 Hill valley."

10 Do you remember having a
11 meeting with Mr. Worrton about this, the repaving
12 project?

13 A. No, I do not.

14 Q. Do you remember working
15 with Mr. Worrton generally?

16 A. I remember Mr. Worrton,
17 yes.

18 Q. Did you work with him
19 fairly frequently?

20 A. No, I wouldn't say
21 frequently.

22 Q. But you had interactions
23 with him?

24 A. Yeah.

25 Q. And you don't recall

1 attending a meeting where the items in
2 Mr. Worrton's e-mail are discussed?

3 A. I'm not sure if
4 Mr. Jazvac attended this meeting in my absence.

5 Q. Okay. So, you think that
6 someone else might have sat in on this project for
7 you?

8 A. I think so.

9 Q. Registrar, could you
10 please pull up HAM26073.

11 THE REGISTRAR: Sorry,
12 counsel, did you say HAM26703?

13 MS. BRUCKNER: 26073. And
14 just before I ask questions about this, I believe
15 this needs to be marked as an exhibit. Could we
16 please mark it as Exhibit 106?

17 THE REGISTRAR: Noted,
18 counsel. Thank you.

19 EXHIBIT NO. 106: E-mail
20 from Mr. Worrton to
21 Mr. Andoga, HAM26073.

22 BY MS. BRUCKNER:

23 Q. So, you'll see -- could
24 you pull up the second page of this as well, the
25 second image. Thank you.

1 So, this is the e-mail that
2 Mr. Worrton sends to you and you'll see that you
3 subsequently remove Mr. Worrton and other traffic
4 operations and engineering staff from the e-mail
5 chain and forward it to Mr. Moore, Mr. Sidawi,
6 Ms. Jacob, Mr. Becke, Ms. Matthews-Malone and
7 Mr. Hughes.

8 Why did you forward this
9 exchange to Mr. Moore?

10 A. He was my supervisor and
11 had a vested interest in this project, so he
12 wanted to know what we were doing with the road.

13 Q. At this point in time,
14 were you having ongoing discussions with him about
15 the scope that traffic engineering was proposing
16 for the Red Hill Valley Parkway repaving?

17 A. Yeah. He knew what the
18 scope was.

19 Q. Okay. At this point in
20 time, had he expressed any concerns to you about
21 the scope that traffic engineering and operations
22 had proposed for the repave?

23 A. Not to myself, no.

24 Q. Registrar, you can take
25 this down, thank you very much, and if you can

1 take us to OD 7, image 159, paragraphs 476 and
2 477.

3 So, Mr. Moore ends up
4 forwarding this e-mail to Mr. Mater and he doesn't
5 include you or anyone else on the e-mail chain?

6 A. Yeah.

7 Q. And he says:

8 "Why are we getting this?
9 I thought you and I and
10 the GM were going to
11 decide what to do. Where
12 do your people get this
13 from? Do they think
14 we're going to spend
15 \$10 million?"

16 Mr. Mater responds to
17 Mr. Moore and he says:

18 "They are providing the
19 scope they believe is
20 required."

21 Did Mr. Moore express views
22 this like to you with respect to traffic's
23 proposed scope for the resurfacing project?

24 A. I don't recall.

25 Q. Were you aware that he

1 had concerns about the scope that they were
2 proposing or the expense of the scope that they
3 were proposing?

4 A. No.

5 Q. Did you personally have
6 concerns about the expense of the scope that
7 traffic was proposing?

8 A. Yes.

9 Q. Registrar, you can close
10 this down and if you can take us to OD 7,
11 image 160, paragraph 478, which is just the next
12 page over.

13 So, on June 16, 2017,
14 Mr. Ferguson responds to Mr. Worrton's e-mail to
15 you that we were just looking at and he says he's
16 reviewed the scope submissions with Jason and they
17 have the following update to these specific items,
18 and then he lists a number of specific items.
19 That reference that he makes at the outset of the
20 e-mail to reviewing the scope with Mr. Worrton,
21 were you involved in that review?

22 A. The review between
23 Mr. Ferguson and Mr. Worrton?

24 Q. What I'm asking is was it
25 a review that involved you or do you think it was

1 specific to Mr. Ferguson and Mr. Worrton?

2 A. I wasn't there. I think
3 the problem was, from what I recall, is that
4 traffic -- we were getting multiple scopes from
5 multiple people not only with traffic but
6 throughout the City so we were asking, you know,
7 can we get one source to relay the scope? So,
8 Mr. Ferguson previously sent me a scope and then
9 Mr. Worrton sends me a scope and they conflict, so
10 how do you deal with that?

11 Q. How did you deal with
12 that?

13 A. I believe we asked for
14 probably clarification.

15 Q. Okay.

16 A. Hence this revised
17 listing maybe.

18 Q. So, actually, Registrar,
19 can you pull up the next image over.

20 So, you'll see that on
21 June 20, 2017 you respond to Mr. Ferguson with the
22 e-mail that's at the top of the image I just
23 pulled up. Registrar, would you pull that out for
24 us, please.

25 And you say to Mr. Ferguson:

1 "Upon further review, we
2 will proceed with the
3 project scope as outlined
4 in your e-mail. We are
5 assuming the request for
6 mentioned the placement
7 of continuous guide rail
8 and/or the previous
9 discussion surrounding
10 lighting improvements
11 will not be required.
12 Council direction as well
13 as a funding source will
14 be required for any such
15 enhancements."

16 And then you list the items
17 that will be included in the scope. So, when you
18 say we're assuming that the placement of
19 continuous guide rail and the previous discussions
20 surrounding lighting improvements will not be
21 required, on what basis were you making that
22 assumption?

23 A. They weren't listed in
24 the scope document set forward.

25 Q. The scope document set

1 forward, so that e-mail from Mr. Ferguson?

2 A. Yeah. We're basically
3 asking for clarification.

4 Q. So, I think that,
5 Registrar, could you take this down for a second.

6 A. If I'm recalling. It's
7 not listed there, is it?

8 Q. I think that if we pull
9 up Mr. Ferguson's e-mail, he says at the outset
10 that they had the following update to specific
11 items, so I'm not sure that he meant this as a
12 revision to all of traffic's proposed scope, but I
13 understand from your response that that's how you
14 interpreted it?

15 A. Yeah. We wanted
16 clarification.

17 Q. What were the previous
18 discussions surrounding lighting improvements that
19 you mentioned in your e-mail?

20 A. I'm not sure if we
21 discussed it over the phone or whatever have you
22 with regard to the impact of lighting.

23 Q. Okay. Do you remember
24 what the specific improvements that traffic was
25 proposing was?

1 A. No, I do not. With
2 regard to lighting?

3 Q. Yeah.

4 A. No, I do not.

5 Q. Did you think it was odd
6 that that request was coming from traffic
7 operations and engineering instead of something
8 that was coming through one of the engineering
9 services departments?

10 A. No, I don't think it
11 would be strange.

12 Q. Who ultimately decides
13 what's included in the scope of a repaving
14 project?

15 A. Council does.

16 Q. So, you say in your
17 e-mail to Mr. Ferguson:

18 "Council direction as
19 well as funding source
20 will be required for any
21 such enhancements."

22 What did you mean by that?

23 A. We wanted traffic
24 engineering to go forward with and advise council
25 of what they were asking. We, as engineering

1 services, would not be able to speak for traffic,
2 so we wanted them to get council's support upfront
3 and possibly a funding source. Because, if you
4 can imagine, lighting would be expensive or
5 whatever they would, the expensive items.

6 Q. So, it's my understanding
7 that at this point in time the scope for the
8 repaving hadn't gone to council for approving and
9 funding yet. Is that correct?

10 A. We didn't have it yet,
11 no. We were still building it.

12 Q. So, was there some reason
13 that the request from traffic operations and
14 engineering for a guide rail and whatever lighting
15 improvements they had requested couldn't have gone
16 to council as part of the overall proposal for the
17 resurfacing?

18 A. It could have. It sure
19 could have. But, again, it made a major impact to
20 our existing capital program, so we have to
21 consider the funding sources and where they're
22 coming from, so we would ask them to go forward
23 and ask council to come up and either, A, provide
24 the funding or tell us it's included in our
25 existing capital budgets or whatever have you, so

1 we wanted council's support with regard to those
2 issues that they were asking for.

3 Q. Okay. And just so that
4 I'm clear on this, why couldn't that have been
5 obtained in the same proposal put forward for the
6 resurfacing generally?

7 A. It's a totally different
8 process. You're talking about the capital budget
9 process, so basically all it is is a page or a
10 line on a list. Right? And, you know, you got
11 \$20 million, sure would draw some interest. And
12 I'm sure they're looking for the details and ask
13 some questions, but is that the right time to do
14 it? I don't think so. We would like to do that
15 and be a little bit transparent with council and
16 eliminate those questions at that time. We would
17 prefer to get that support of council upfront.

18 Q. So, I think that what
19 you're saying, and please correct me if I'm wrong
20 on this, is that if it had been included, you
21 would have been going to council with a very big
22 number for the repaving that wouldn't have had any
23 of the underlying explanation for where that
24 figure was coming from?

25 A. Limited. It's going to

1 raise questions and concern.

2 Q. Okay. I am slightly over
3 our time allocated for the lunch break. I think I
4 have about five minutes left on this topic, but I
5 will let the Commissioner decide.

6 JUSTICE WILTON-SIEGEL: If you
7 have got five minutes, why don't you do that and
8 we'll have our break a little later.

9 MS. BRUCKNER: Perfect. Thank
10 you very much.

11 BY MS. BRUCKNER:

12 Q. Registrar, could you take
13 this down and take us to OD 7, image 163,
14 paragraph 480. And I think we'll need to pull up
15 162 as well, just for the context. Sorry, one
16 image over, so 161 and 162.

17 So, you'll see at
18 paragraph 480 here that Mr. White forwards your
19 e-mail to Mr. Ferguson and you're not copied on
20 that e-mail exchange.

21 Registrar, could you call out
22 paragraph 480 and 481, please.

23 And I will give you a chance
24 to just review what traffic operations and
25 engineering's response is to your e-mail and let

1 me know when you have had a chance to do that.

2 A. You're talking about 481?

3 Q. 480 and 481. So, 480 is
4 the initial response and then 481 is Mr. Ferguson
5 responding to Mr. White.

6 A. That's fine, yeah.

7 Mm-hmm.

8 Q. Were you aware of traffic
9 operations and engineering's reaction to this
10 e-mail that you had sent about the scope?

11 A. I don't recall.

12 Q. Do you recall if you
13 personally took any steps to address their
14 response to the exclusion of median barriers and
15 lighting from the scope?

16 A. I'm not sure if I got a
17 response.

18 Q. Okay. So, you're just
19 not sure if you were aware that they had concerns?

20 A. No. No. They're
21 different section.

22 Q. So, Mr. White says in
23 this e-mail about the exclusion of the guide rail
24 and the lighting improvements:

25 "Should that not be

1 council's call, not
2 Rick Andoga's and
3 Gary's?"

4 So, my understanding from this
5 is that you didn't have agreement from traffic
6 engineering for the removal of these items from
7 the scope at this point in time. Did you speak to
8 Mr. Moore about the decision not to pursue the
9 median barriers and lighting?

10 A. I don't believe so.

11 Q. Was your direction to
12 Mr. Ferguson and Mr. White to pursue lighting and
13 median barriers through a separate approval
14 request to council directed by Mr. Moore at all?

15 A. I don't believe so or
16 possibly. I don't recall.

17 Q. Okay. Do you recall if
18 you had any discussions with him about traffic's
19 proposed inclusion of lighting and median barriers
20 in the scope?

21 A. I don't recall. Sorry.

22 Q. So, Mr. White goes on to
23 say:

24 "The overhead lighting
25 will not happen while

1 Gary controls the asset,
2 I would expect."

3 Do you have a view on that
4 statement?

5 A. No. I do have a -- you
6 know, with 480 when he says, you know, it's
7 council's decision, he's right. It's council's
8 decision. We were asking him to get council's
9 decision.

10 Q. Okay. I think his view
11 was that it should go as one proposal and your
12 view was different from that, which was that
13 traffic should be asking for those items
14 separately if they wanted them included?

15 A. I think that the issue
16 was, you know, we would deliver a budget process
17 strategically. There's reasons why we do things.
18 You know, we want to inform council as much as
19 possible prior to, especially with projects such
20 as this.

21 Q. And was part of the
22 direction to them to go to council separately
23 related to your concerns about scope creep?

24 A. Definitely, yes. It's a
25 financial obligation and it impacts that entire

1 capital program.

2 Q. Would you agree with the
3 statement that Mr. White makes that Mr. Moore
4 controlled the Red Hill Valley Parkway?

5 A. No.

6 Q. To your knowledge, was
7 Mr. Moore opposed to overhead lighting or lighting
8 improvements on the Red Hill Valley Parkway?

9 A. To my knowledge, no.

10 Q. Did you have knowledge
11 about his position on lighting either way?

12 A. I believe when lighting
13 was brought up, the fact that it was an issue
14 within the EA of the Red Hill Valley Parkway;
15 hence, there's no lights on that roadway today.
16 It was not wanted.

17 Q. So, your understanding
18 was that lighting didn't exist on the Red Hill
19 Valley Parkway because of the original
20 environmental assessment. Did you have any sense
21 or had you been advised about whether that
22 environmental assessment impacted the City's
23 ability to implement lighting on the Red Hill?

24 A. No. I didn't know
25 anything about that. I imagine that EA was pretty

1 intense. I had nothing on it.

2 Q. Okay. So, that brings me
3 to the end of this section of questioning and I
4 would propose that now would be a good time to
5 take the lunch break.

6 JUSTICE WILTON-SIEGEL: Sure.
7 It is not quite a quarter past, but we'll take it
8 as quarter past. Let's return at 2:30. We stand
9 adjourned until that time.

10 --- Luncheon recess taken at 1:13 p.m.

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

12 MS. BRUCKNER: Commissioner,
13 may I proceed?

14 JUSTICE WILTON-SIEGEL: Yes,
15 please do.

16 MS. BRUCKNER: Thank you.

17 BY MS. BRUCKNER:

18 Q. Mr. Andoga, Registrar,
19 could you please take us to HAM26141 at images 1
20 and 2.

21 While the registrar calls that
22 up, Mr. Andoga, in June of 2017, Councillor
23 Connelly e-mails Mr. White and Mr. Moore looking
24 for pavement friction testing results. Mr. White
25 replies to that e-mail, which is at the very

1 bottom of image 2 there, and he replies at the top
2 of image 1 and he says:

3 "Hi, Doug. Traffic
4 doesn't have the RHVP
5 pavement friction testing
6 results. I believe asset
7 management has the info."

8 And he copies you and
9 Mr. Sidawi into that e-mail exchange.

10 Had you ever had any
11 discussions with Mr. White about asset management
12 having friction testing information for the Red
13 Hill Valley Parkway as of June 2017?

14 A. Never.

15 Q. Had Mr. White or anyone
16 else from traffic engineering and operations
17 requested friction testing results from you or
18 your staff prior to June 2017?

19 A. Not that I'm aware of.

20 Q. Did asset management have
21 friction testing results for the Red Hill Valley
22 Parkway?

23 A. Not that I'm aware of.

24 Q. Would those friction
25 testing results have been relevant to the

1 programming that you were doing for the repaving
2 project?

3 A. No.

4 Q. It's not something that
5 you would have wanted to look at in preparing the
6 project for tender or putting together the
7 programming for the project?

8 A. No. Somebody would have
9 to bring that forward and support that initiative,
10 like, if there was something wrong with the
11 friction.

12 Q. Right. So, if they
13 wanted friction or increased skid resistance
14 included, it would need to be an objective of the
15 repaving project?

16 A. Or a request of scope.

17 Q. Okay. Were you aware of
18 anyone else being in possession of friction
19 testing results for the Red Hill Valley Parkway as
20 of June 2017?

21 A. No.

22 Q. Were you aware that
23 friction testing had been completed on the Red
24 Hill Valley Parkway as of June 2017?

25 A. No.

1 Q. Okay. So, you'll see
2 that Mr. Sidawi responds to this e-mail a few days
3 later and he says:

4 "We're trying to track
5 down who has the info."

6 Do you recall whether between
7 June 5 and 8 you discussed trying to track down
8 the pavement friction testing results with
9 Mr. Sidawi?

10 A. I know for a fact I did
11 not.

12 Q. Did he approach you or
13 ask you to locate the friction testing results?

14 A. I'm sure he would have
15 asked me if I've seen them or have them and my
16 answer to that was no.

17 Q. Okay. Did he ask you to
18 do anything after you told him you hadn't seen
19 them or had them?

20 A. No.

21 Q. Did you personally take
22 any steps to locate friction testing results for
23 the Red Hill Valley Parkway in June 2017?

24 A. No.

25 Q. Do you recall any

1 conversations around a councillor looking for the
2 friction testing results in June 2017 within your
3 department or Public Works generally?

4 A. No.

5 Q. Registrar, could you
6 please take this down and pull up HAM26141. I'm
7 sorry, I told you to take down the document that
8 was already up.

9 So, you'll see that
10 Mr. Ribaric responds to this e-mail exchange from
11 Mr. Sidawi on June 27, 2017, so that's just shy of
12 a month after the first request is circulated for
13 the friction testing results, and he says:

14 "Doug is still looking
15 for this information.

16 Has anyone found it yet?"

17 And Mr. Ribaric, for context,
18 is Councillor Connelly's assistant?

19 A. Yeah, I'm aware.

20 Q. Could you take this down
21 and take us into OD 7, image 187, paragraph 552.

22 So, on June 27, 2017,
23 Mr. Sidawi responds to Mr. Ribaric's e-mail and
24 you and Mr. Moore and Mr. White are all still
25 copied and he says:

1 "I wasn't able to track
2 down skid resistance
3 information. However, we
4 are proposing to
5 resurface the Red Hill
6 Valley Parkway starting
7 next year."

8 Did Mr. Sidawi advise you that
9 he had looked for the friction testing results for
10 the Red Hill Valley Parkway and couldn't find
11 them?

12 A. I don't recall. Just
13 through this e-mail.

14 Q. Okay. Do you recall
15 Mr. Sidawi telling you about any conversations he
16 had had with Mr. Moore about looking for the test
17 results in 2017?

18 A. No.

19 Q. Did you ever have a
20 conversation with Mr. Moore after this exchange in
21 June about what happened and why the councillor
22 was looking for friction testing results?

23 A. No.

24 Q. Did you ever request a
25 set of friction testing results from Mr. Moore or

1 from anyone else in engineering services --

2 A. No.

3 Q. -- or asset management?

4 A. No.

5 Q. Did you discuss this
6 request from Counsellor Connelly with anyone else
7 in engineering services?

8 A. I did not, to the best of
9 my knowledge.

10 Q. What did you think of
11 Mr. Sidawi tying the request for the friction
12 testing information to the proposed resurfacing?

13 A. I don't know his
14 intention. I basically stayed out of this one.
15 All I did was -- I'm on the e-mail because I had a
16 relationship with councillors at the given time,
17 so when this one came through, it was directed to
18 Sam. I just filed it within Ward 9.

19 Q. I mean, I think it's
20 actually Mr. White that adds you into this e-mail
21 change rather than Councillor Connelly?

22 A. I know, but it's within
23 Ward 9, so I just filed it.

24 Q. Okay. You weren't
25 curious about the friction testing results?

1 A. No.

2 Q. And, in your view, did
3 they have any connection to the proposed repaving?

4 A. At this point in time, I
5 didn't even know the road was tested, so I really
6 didn't know here nor there. It wouldn't apply to
7 my position.

8 Q. Okay. Registrar, could
9 you please call out HAM52704.

10 So, this is a July 15, 2017
11 article that Nicole O'Reilly from the Spectator
12 writes titled "Highway traffic tragedies: Why are
13 there so many crashes on the Red Hill?" Do you
14 recall if you read this article?

15 A. I did not.

16 Q. Do you recall if there
17 were discussions about it within engineering
18 services?

19 A. I really don't know. I
20 was out of the country for three weeks. I
21 probably left around this time, so --

22 Q. What was the timeline for
23 your vacation?

24 A. I think it was mid-July
25 to almost the second week of August.

1 Q. Okay. And do you recall
2 if you reviewed this article when you returned?

3 A. I did not read it. I
4 don't believe I read it. I did hear about having
5 another accident on the Red Hill, though.

6 Q. Okay. Registrar, could
7 you please take us to image 2.

8 So, Mr. Moore makes comments
9 in this article about there being an informal
10 chart from December 2015 recording friction
11 testing results from the Red Hill Valley Parkway.
12 Did he ever tell you anything about an informal
13 chart --

14 A. No.

15 Q. -- of friction testing
16 results?

17 A. No.

18 Q. He also states in this
19 article that friction testing gave an indication
20 that the City should do further work on the Red
21 Hill Valley Parkway, which is over on image 3,
22 Registrar, at the very top. Did Mr. Moore ever
23 indicate to you that friction testing results from
24 the Red Hill Valley Parkway gave an indication
25 that the City needed to do further work?

1 A. To the best of my
2 knowledge, Mr. Moore did not talk to me about
3 friction testing or results of.

4 Q. Registrar, could you take
5 us back to image 2. So, at the very bottom of
6 this article, Registrar, could you pull out the
7 last two paragraphs, so just from there. Yes,
8 that's fine.

9 So, you'll see there's an
10 excerpt there in which Mr. Moore reportedly states
11 that there is no official report, only an informal
12 chart from December 2015, and the article goes on
13 to say:

14 "But instead of doing
15 further friction testing,
16 as was recommended, the
17 City has decided to
18 repave."

19 At this point in time, did you
20 have any understanding or had you been advised by
21 Mr. Moore that the repaving for the Red Hill
22 Valley Parkway was to address friction testing
23 results?

24 A. Not to my knowledge, no.

25 Q. What was the purpose of

1 the planned repaving?

2 A. Crack down on top-down
3 cracking on the surface course of the pavement.

4 Q. Okay. Did you ever come
5 to learn that there was a connection between
6 friction testing results on the Red Hill Valley
7 Parkway and the planned repaving?

8 A. No.

9 Q. Registrar, you can take
10 this down. Thank you. And if you could take us
11 to HAM26538.

12 So, this is in November of
13 2017. Mr. Moore copies you into an e-mail
14 exchange with Dr. Uzarowski from Golder on
15 November 28, 2017. In the subject line, you'll
16 see a reference to testing for possible hot
17 in-place recycling?

18 A. Yeah.

19 Q. Is this e-mail exchange
20 the first time that you became aware of
21 conversations around possibly using hot in-place
22 recycling for the Red Hill Valley Parkway repave?

23 A. Was it the first time?

24 No, I don't believe it was not. I think we talked
25 about it possibly internally first.

1 Q. Do you recall around when
2 you learned that the City was considering hot
3 in-place recycling?

4 A. It was probably about
5 around this time, of November.

6 Q. Okay. Who made the
7 decision to look into hot in-place recycling for
8 the Red Hill Valley Parkway?

9 A. Again, we looked at it as
10 a collective consortium of all of us, sat down and
11 went through it. The City was known for hot
12 in-place in previous years. The technology has
13 changed. We heard that there's somebody in
14 British Columbia doing it and it was successful
15 and they actually wanted to come to the Ontario
16 market, so we were interested in the product as a
17 potential being used on the Red Hill.

18 Q. Do you recall who first
19 raised that idea of hot in-place recycling?

20 A. I don't recall.

21 Q. Okay. Do you recall who
22 was involved in those discussions about wanting to
23 bring hot in-place recycling back and discussions
24 with an individual in BC?

25 A. It would have been the

1 members of the design group, Michael Becke and I
2 believe Gary.

3 Q. Ms. Jacob, I believe, is
4 also in design?

5 A. Yes.

6 Q. And you -- would
7 Mr. Sidawi have been involved in those
8 conversations?

9 A. Possibly.

10 Q. Registrar, could you
11 please take us to HAM1132.

12 So, this is a calendar
13 appointment for a meeting on March 9 with Golder
14 to talk about hot in-place recycling. Do you
15 recall this meeting?

16 A. Vaguely. I couldn't tell
17 you details pertaining to it.

18 Q. Before this meeting
19 scheduled for March 9, how involved had you been
20 in discussions about the City's considerations of
21 hot in-place recycling?

22 A. I don't know how I would
23 measure that.

24 Q. What was your role in
25 those conversations?

1 A. Yeah. I'm more
2 interested in how much does it cost and the life
3 and the asset management principles of the hot
4 in-place, so if I was on the selection committee,
5 say for say, or part of that selection group, yes,
6 I would add that financial component and the asset
7 management principles of the asphalt.

8 Q. Okay. So, am I correct,
9 then, that you wouldn't have been involved in the
10 technical analysis of whether hot in-place
11 recycling --

12 A. That's above my mindset,
13 yes. That would not be me.

14 Q. Do you know who was
15 handling the technical analysis for the City?

16 A. A lot of it was managed
17 through the design group. Most of it through the
18 design group, I would think.

19 Q. Okay. So, that would be
20 Mr. Becke or Ms. Jacob?

21 A. Yeah.

22 Q. Registrar, could you take
23 this down and take us into overview document 8,
24 image 69, paragraph 193.

25 So, you'll see here

1 Dr. Uzarowski replies to the calendar invite
2 that's circulated for the March 9 meeting.

3 And, Registrar, if I could ask
4 you to pull out Dr. Uzarowski's response.

5 And so, he mentions in this
6 e-mail a Dr. Pat Wiley, who I understand is based
7 in BC. Do you know if that was the individual
8 that folks in engineering services had some
9 discussions with around hot in-place recycling?

10 A. I don't recall the name
11 off the top of my head, no, but from what was
12 written, yeah, that would be him. That would be
13 the group we were interested in.

14 Q. Okay. So, my
15 understanding of this e-mail is that Dr. Uzarowski
16 is indicating that hot in-place recycling may not
17 be feasible for an SMA surface. Would you say
18 that's a fair reading of this e-mail?

19 A. Okay. Because it's only
20 considered for flexible pavements. I would say
21 so, yes.

22 Q. Do you recall if the view
23 Dr. Uzarowski expressed in the e-mail is
24 consistent with the one he expressed at the
25 March 9, 2018 meeting?

1 A. Quite possibly. I
2 couldn't answer that here nor there.

3 Q. What effect, if any, did
4 this e-mail have on the City's consideration of
5 the use of hot in-place for the Red Hill Valley
6 Parkway?

7 A. I don't recall if this
8 was the end of it, for say. I couldn't answer it.

9 Q. Registrar, could you take
10 us back to the calendar invitation, which is
11 HAM1132.

12 So, while the registrar is
13 pulling that up, this is the invitation again for
14 the March 9 meeting.

15 Registrar, could you call out
16 the invitees.

17 And, Mr. Andoga, are you able
18 to confirm if the individuals listed on this
19 calendar invitation attended the March 9 meeting?

20 A. I couldn't do that.

21 Q. Are you able to confirm
22 if any of them attended?

23 A. Oh, geez. I'm sure Mike
24 was there, Marco, Tyler was probably there,
25 Sarath. I would think they would all be there,

1 yes.

2 Q. Do you recall if anyone
3 left the March 9 meeting before it was over?

4 A. It might have been me. I
5 don't know. I couldn't answer that.

6 Q. You're not able to recall
7 one way or the other?

8 A. No.

9 Q. Do you recall if you --

10 A. If anybody was going to
11 leave, it would have been me.

12 Q. Why is that?

13 A. My vested interest at
14 that point in time was a little different. Again,
15 I was just the money guy. This was probably a
16 very technical meeting.

17 Q. Okay. Do you recall if
18 there was a conversation where some of the
19 attendees at the meeting stayed after the
20 conclusion of the main meeting on March 9, 2018 to
21 continue having discussions with Dr. Uzarowski?

22 A. No, I couldn't tell you.

23 Q. Okay. Registrar, could
24 you take this down and take us into GOL5970.

25 So, this is an internal memo

1 that Dr. Uzarowski prepares about the March 9
2 meeting.

3 A. Okay.

4 Q. Describing his
5 interpretation of it. He identifies that you're
6 present. Could you review these notes and let me
7 know if they helped you assist your recollection
8 of the March 9 meeting?

9 A. Okay. I don't really
10 recall details of the meeting, no.

11 Q. Okay. So, you're not
12 able to confirm whether or not these notes are
13 consistent with what happened at the March 9
14 meeting?

15 A. No, I wouldn't. I don't
16 recall. Sorry.

17 Q. Okay. So, Dr. Uzarowski
18 has testified before this inquiry. He indicated
19 that he gave a presentation advising that hot
20 in-place recycling would not be possible on the
21 Red Hill Valley Parkway and that Mr. Moore and
22 Mr. Becke ended up having a -- I'm sorry, not
23 Mr. Becke, Mr. Oddi, had a heated exchange where
24 not-typically-used language, I understand Fs and
25 Ss was the language that he used to describe it,

1 was exchanged with some animus behind it.

2 Are you able to recall an
3 exchange like that at the March 9 meeting?

4 A. I remember the argument,
5 but I don't remember details of the argument. I
6 don't.

7 Q. When you say you remember
8 the argument, do you remember an argument between
9 Mr. Oddi and Mr. Moore at the March 9 meeting?

10 A. I just remember -- I
11 don't even remember. I don't recall the details
12 of it. I don't know if it was Marco and Gary
13 or -- I couldn't tell you.

14 Q. Okay. What do you
15 remember about it?

16 A. I just remember it got
17 elevated. It just got a little louder in the
18 room. Not that that was abnormal with the way we
19 operated, but...

20 Q. Okay. It got elevated.
21 Would you describe it as heated or angry?

22 A. It's just a -- I would
23 describe it as stubborn bulls arguing in a
24 conference room. It's just my opinion versus
25 yours, you know. It's that kind of thing that was

1 going on.

2 Q. And do you recall whose
3 opinion was at war with whose opinion in that
4 argument?

5 A. No, I don't. Again, I
6 think for myself I think that meeting was a little
7 bit too technical for me and I just probably
8 blanked myself out of it.

9 Q. Do you recall any of the
10 details about what the basis of those two opinions
11 was or what was in dispute at the meeting?

12 A. No. This letter here
13 from Ludomir kind of just gives me what I know or
14 recall. That's it.

15 Q. Okay. Do you recall Fs
16 and Ss being exchanged at the meeting?

17 A. No.

18 Q. Okay. So, in the third
19 paragraph of his summary, Dr. Uzarowski says that
20 he suggested microsurfacing on SMA if hot in-place
21 recycling was used on the Red Hill Valley Parkway,
22 and he says Gary rejected this idea. Do you
23 recall Mr. Moore rejecting an idea for the use of
24 microsurfacing after the hot in-place recycling on
25 the Red Hill Valley Parkway?

1 A. I do not.

2 Q. You just don't recall if
3 it happened one way or the other?

4 A. Yeah, I don't.

5 Q. Dr. Uzarowski goes on to
6 say that he recommended shot blasting or
7 microsurfacing on the existing surface of the Red
8 Hill Valley Parkway. Do you recall what
9 information he provided about friction or the
10 status of the Red Hill Valley Parkway when he made
11 that recommendation?

12 A. No. Sorry, I don't.

13 Q. Do you remember reference
14 to the term skidabrading or shot blasting at this
15 meeting at all?

16 A. I do not.

17 Q. Do you remember anyone at
18 the meeting mentioning the Tradewind Scientific
19 report?

20 A. No.

21 Q. Dr. Uzarowski gave
22 evidence to the inquiry that he presented the
23 results of the Tradewind friction testing at this
24 meeting. Do you have any recollection one way or
25 the other as to whether he did that?

1 A. No, I don't. I don't
2 recall this at all.

3 Q. As of March 2018, would
4 the name Tradewind Scientific have meant anything
5 to you if you heard it?

6 A. No.

7 Q. You didn't have any
8 familiarity with that company?

9 A. No.

10 Q. Had you heard the name
11 mentioned by anyone else at the City previously?

12 A. I don't recall so. I
13 don't think we ever used them or anything on our
14 roster or anything like that.

15 Q. As of March 2018, did you
16 have any knowledge as to whether or not friction
17 testing had ever been conducted on the Red Hill
18 Valley Parkway?

19 A. At that time, no.

20 Q. Okay. Do you recall
21 Dr. Uzarowski making any comments at the meeting
22 about possible safety concerns if the resurfacing
23 of the Red Hill Valley Parkway was delayed?

24 A. No.

25 Q. You just don't recall one

1 way or another?

2 A. I don't recall one way or
3 another, sorry, no.

4 Q. Do you recall any
5 discussions after this meeting among engineering
6 service staff about skidabrading, shot blasting or
7 otherwise improving friction on the Red Hill
8 Valley Parkway?

9 A. No.

10 Q. Do you recall if you had
11 any conversation with anyone at Golder about
12 friction testing or the frictional properties of
13 the roadway after this meeting?

14 A. No. I wouldn't have, no.

15 Q. Registrar, could you
16 please take us to OD 8, image 90, paragraph 449.

17 So, this is an e-mail that
18 Mr. Becke sends to you, copying Ms. Jacob and
19 Mr. Vala, on April 25, 2018, which is primarily
20 about the first paragraph or, sorry, he says:

21 "I was concerned to hear
22 that the traffic
23 department would be
24 putting out a contract to
25 replace and install new

1 cat's eyes reflectors
2 this year, 2018, when we
3 will be resurfacing the
4 Red Hill Valley Parkway
5 in both directions next
6 year, 2019."

7 A. Yes.

8 Q. Do you recall if you
9 attended the project coordination meeting that
10 Mr. Becke references in this e-mail?

11 A. I probably did. I can't
12 confirm 100 percent, but I probably did.

13 Q. Okay. Do you have any
14 recollection of the meeting?

15 A. No. No. These are
16 monthly meetings, 30 people in the room.

17 Q. Do you know why Mr. Becke
18 would be concerned about the installation of cat's
19 eyes in 2018?

20 A. Because the install would
21 be ripped up. Once we did a mill and pave or we
22 did anything out there, those cat's eyes would be
23 in the way and they would have to go or they would
24 go. So, it was all about efficiencies. It
25 doesn't look good in the public eye if we go out

1 there and put \$300,000 or \$100,000 worth of cat's
2 eyes down and we rip them up four months later.

3 Q. So, at paragraph 2 of
4 this e-mail, Mr. Becke says:

5 "As you are aware, the
6 Red Hill Valley Parkway
7 was originally intended
8 to be resurfaced this
9 year by a conventional
10 shave and pave, however,
11 a new technology has come
12 to light that will
13 provide the City with
14 faster, cheaper and more
15 environmentally friendly
16 way of resurfacing the
17 road while having less
18 impact to traffic during
19 construction."

20 And he says:

21 "We opted to defer the
22 works to 2019 in order to
23 complete further review
24 of this technology."

25 A. Okay.

1 Q. Do you recall who made
2 the decision to defer the resurfacing to 2019?

3 A. I do not.

4 Q. Okay. Is that a decision
5 that would have been made engineering services as
6 a whole or by a specific individual?

7 A. No, it would be done by a
8 whole.

9 Q. Okay. So, another
10 meeting --

11 A. Yeah. There's ongoing
12 meetings. This could have been a, you know, maybe
13 we didn't have all the scope in place to go in
14 2018. By the sounds of it, we didn't, because
15 then we had the new technologies coming in, so...

16 Q. Which groups would have
17 been involved in that decision to defer the
18 resurfacing?

19 A. It's a combined effort
20 again. You have everybody there and you stand up
21 and say it's going next year, so if there's no
22 objection to it, it's going next year.

23 Q. So, would there have been
24 representatives from all of the engineering
25 services department --

1 A. It would be brought
2 through our project coordination meetings.

3 Q. Okay. So, Mr. Becke also
4 says:

5 "I understand there is
6 perceived safety concerns
7 on the Red Hill Valley
8 Parkway."

9 Do you know which safety
10 concerns he's referencing in that e-mail?

11 A. I do not.

12 Q. At this point in time, so
13 this is April 2018, have you heard any safety
14 concerns expressed about the Red Hill Valley
15 Parkway?

16 A. Unless the only ones he's
17 referring to being perceived is those brought
18 forward through the media.

19 Q. So, Dr. Uzarowski
20 indicates in his version of the March 9 meeting,
21 so his notes on it, that he raised concerns about
22 safety on the Red Hill Valley Parkway and
23 recommended in turn skidabrading or shot blasting.
24 Did anyone raise comments that Dr. Uzarowski had
25 made at the March 9, 2018 meeting in response to

1 the idea that resurfacing should be delayed to
2 2019?

3 A. Sorry, you have to repeat
4 that one. Sorry.

5 Q. So, in the e-mail that we
6 were looking at from Dr. Uzarowski summarizing the
7 March 9, 2018 meeting, he had indicated that he
8 advised that the City should consider in turn
9 skidabrading or shot blasting to improve skid
10 resistance in the worst areas of the Red Hill
11 Valley Parkway if resurfacing or repaving of the
12 roadway was delayed. Do you recall if
13 Dr. Uzarowski's comments from the March 9, 2018
14 meeting were raised in response to discussions
15 around delaying the resurfacing of the Red Hill
16 Valley Parkway?

17 A. No, I don't recall that
18 at all.

19 Q. Okay. You don't recall
20 one way or the other or --

21 A. One way or the other.
22 Sorry.

23 Q. Okay. Registrar, could
24 you please take us to OD 8, image 91,
25 paragraph 252.

1 So, on April 9, 2018, you
2 circulate a draft 2018 roads capital reports
3 document to Ms. Matthews-Malone and you copy
4 Mr. McGuire, Ms. Waite and Mr. Sidawi. Do you
5 recall why Ms. Matthews-Malone was looking for
6 information about the roads deficit?

7 A. I don't know if it was
8 for a paper or something or her -- I think it was
9 for her budget presentation.

10 Q. Okay. Registrar, could
11 you please take us to HAM53031.

12 So, just for your reference as
13 the registrar is pulling that up, this is document
14 that you sent to Ms. Matthews-Malone in response.

15 A. Okay.

16 Q. And you'll see that there
17 are references there to the Red Hill Valley
18 Parkway, so the very bottom paragraph there says:

19 "Due to the high priority
20 and importance about the
21 Red Hill Valley Parkway
22 and LINC, these roads
23 remained fully funded for
24 capital renewal and
25 therefore maintained

1 service levels. The
2 service level of our
3 remaining road classes
4 will continue to decline
5 given the annual funding
6 shortfall of
7 approximately \$95
8 million."

9 There's also a Now Needs
10 section up above which again indicates that:

11 "There are roads in the
12 City's network that have
13 OCI ratings below 60 and
14 require some form of
15 rehabilitation and
16 reconstruction."

17 A. Yeah.

18 Q. And can I take from your
19 earlier evidence about the OCI levels and the
20 importance of the Red Hill Valley Parkway that the
21 City decided to continue prioritizing the Red Hill
22 Valley Parkway and LINC above those roads --

23 A. Yes.

24 Q. -- because of traffic
25 volume and importance?

1 A. Yes.

2 Q. Okay. Registrar, you can
3 close this out. Thank you very much. Registrar,
4 could you take us to OD 9, image 54,
5 paragraph 129.

6 And so, on August 30, 2019,
7 Mr. McGuire e-mails you, Ms. Jacob, Mr. Oddi and
8 Erika Waite and he's looking for asphalt testing
9 reports that review the material on the Red Hill
10 Valley Parkway. At the end of August 2018, did
11 you have copies of any of the asphalt testing
12 reports for the Red Hill Valley Parkway?

13 A. No.

14 Q. Did you take steps to try
15 to locate any asphalt testing reports in response
16 to this is e-mail from Mr. McGuire?

17 A. No.

18 Q. Had you wanted to take
19 those steps, would you have known where to look to
20 find asphalt testing reports for the Red Hill
21 Valley Parkway?

22 A. I wouldn't know where
23 they would be found. Probably in the, I would
24 guess, somewhere in the -- on the servers,
25 somewhere within the document resources that we

1 had, somewhere in the design section.

2 Q. Okay. So, you would have
3 expected that someone in design would have those
4 reports?

5 A. Yeah.

6 Q. Registrar, you can close
7 this down and if you could please take us to OD 9,
8 image 127, paragraph 304.

9 So, Ms. Jacob sends
10 Mr. McGuire a chronology of events on November 12,
11 2018. And just for your reference, Mr. Andoga,
12 you're not copied on this exchange. She copies
13 Mr. Becke and Sarath Vala. And do you recall if
14 you were involved in the preparation of this
15 chronology?

16 A. No.

17 Q. Okay. Do you know why
18 this chronology was prepared?

19 A. No.

20 Q. So, you'll see that in
21 this chronology there's a reference to April 2016,
22 investigate improvement of skid resistance by
23 asset management. Do you know what that refers
24 to?

25 A. No idea.

1 Q. Okay. If someone were to
2 suggest that it was a reference to your
3 conversations with Norjohn in 2016, would you
4 disagree with that statement?

5 A. Yeah. That's not what we
6 were talking about, no.

7 Q. Okay. Could you take us
8 to image 29, Registrar. Sorry, Registrar, that
9 was my fault. Image 129. Thank you.

10 So, this is a continuation of
11 the chart and you'll see that there is a reference
12 under August 27, 2018 that says:

13 "Vimy forwarded Mike
14 friction analysis by
15 Tradewind Scientific."

16 And I understand that that's a
17 reference to Mike Becke. Did Mike Becke forward
18 the Tradewind report to you after he received it
19 in August 2018?

20 A. Not to my knowledge, no.

21 Q. Do you recall ever
22 discussing the Tradewind report with Mr. Becke at
23 the end of the August or early September 2018?

24 A. I don't believe so. I
25 couldn't tell you what that report looks like.

1 Q. At this time, as of
2 November 2018, did you have any knowledge of the
3 Tradewind report?

4 A. I don't believe so.

5 Q. When did you become aware
6 of the Tradewind report?

7 A. I couldn't give you a
8 date.

9 Q. Was it before or after it
10 was disclosed to the public?

11 A. When was it disclosed to
12 the public?

13 Q. In 2019.

14 A. I can't recall if that's
15 when I heard from it again through the media.

16 Q. Did you learn about it
17 through the media?

18 A. Yes, so I'm saying I
19 don't recall either way. Sorry.

20 Q. So, there's another
21 reference here that says, August 30, 2018, that
22 there was a direction or decision to revert to
23 shave and pave rather than use hot in-place
24 recycling on the Red Hill Valley Parkway. Is that
25 consistent with your recollection of when the

1 decision to stop exploring hot in-place for the
2 Red Hill Valley Parkway was made?

3 A. I couldn't argue the fact
4 that it's probably the timeline, it's probably
5 around there, yes. I'm sorry, because I was kind
6 of pulled out of this a little bit during the last
7 years of my existence with the City of Hamilton,
8 so...

9 Q. When you say pulled out
10 of this, what do you mean by that?

11 A. I think my duties were
12 like a little bit pulled back.

13 Q. You had reduced duties
14 for a period of time?

15 A. Sort of, yes. My
16 responsibilities were reduced. Put it that way.
17 Yes.

18 Q. Okay. What did that mean
19 in terms of your practical day-to-day work at the
20 City?

21 A. Geez. It was probably
22 reduced workload.

23 Q. Okay. Did it impact the
24 number of projects that you were involved in
25 working on?

1 A. The depth, I think, the
2 overall depth of the projects that I was working
3 on.

4 Q. Did it reduce the number
5 of projects that you were working on in connection
6 with the Red Hill Valley Parkway?

7 A. The Red Hill Valley was
8 only one of those projects. Like, again, if I
9 look at this timeline and look at the decision was
10 made by Gord, you know, that's the direction we
11 got from our director, so away we go.

12 Q. Why were your
13 responsibilities reduced towards the end of your
14 time with the City?

15 A. It was a change of
16 management strategy, I think.

17 Q. Okay. So, a result,
18 then, of Mr. Moore's retirement and Mr. McGuire
19 coming on as director of engineering services?

20 A. Yes.

21 Q. Registrar, could you take
22 us to HAM48492 and if you could pull up image 1
23 and 2, please.

24 So, this is an e-mail exchange
25 between yourself, Alan Jazvac, who I believe was

1 reporting to you, and Mr. McGuire.

2 The first image in this chain,
3 Registrar, if you could pull out the January 9,
4 2019 e-mail on image 2.

5 And so, you'll see that Alan
6 e-mails you asking or advising you about
7 discussions of resurfacing on the Red Hill Valley
8 Parkway and LINC expressway ramps proposed as part
9 of a 2017 program and about widening from four to
10 six lanes. And then he goes on to say:

11 "But it wasn't until
12 March of 2017 when
13 projects for the full
14 resurfacing of the Red
15 Hill Valley Parkway and
16 LINC truly became active
17 projects being proposed
18 as part of the 2018
19 budget as upcoming
20 short-term projects."

21 And then he goes on to say:

22 "The funding was proposed
23 as part of the 2018
24 budget as follows and
25 remain the same for the

1 2019 budget."

2 Registrar, if you could close
3 out that call out.

4 Do you remember this e-mail
5 exchange with Mr. Jazvac?

6 A. Sort of. A little bit.
7 Yeah.

8 Q. Okay. Do you recall why
9 you were looking for this information about the
10 project planning and programming for the Red Hill
11 Valley Parkway and LINC resurfacing?

12 A. Yeah. Gord was asking
13 for it. Right?

14 Q. Okay. So, I see at the
15 top and it's a little bit cut off but you send
16 this e-mail to Mr. McGuire and you say:

17 "Sorry, Gord. Didn't
18 find much. Again, as
19 discussed, if I recall
20 correctly, it was a
21 compilation of a number
22 of issues such as -- "

23 And then you list the
24 condition of the roadway and the need to protect
25 the perpetual pavement structure, the programming

1 the needs of the mounting accesses, the LRT
2 timing, which I think we've discussed already
3 today, the opportunity to coordinate/address
4 safety needs, and then you say:

5 "The above would also be
6 key factors to address
7 the needs of the LINC."

8 Can I understand from this
9 that Mr. McGuire was particularly interested in
10 the timing and budgeting for the Red Hill Valley
11 Parkway resurfacing?

12 A. I think that's a safe
13 assumption, yes.

14 Q. Okay. Do you know why he
15 was interested in that?

16 A. I do not.

17 Q. So, this e-mail, the
18 factors that I've just read out, are those the
19 compilation of issues that led to the repaving of
20 the Red Hill Valley Parkway?

21 A. The timing of such, yes.

22 Q. Okay. So, this specific
23 to the timing of the project?

24 A. And the urgency being
25 that perpetual pavement structure, yeah.

1 Q. Is this the basis by
2 which the Red Hill Valley Parkway resurfacing was
3 accelerated?

4 A. If we were -- yeah. Part
5 of that was the impact of other projects, too,
6 right, and their demands. So, like I said, the
7 LRT played a role, mountain accesses are very
8 important, that kind of thing. And I said earlier
9 about impact to the City and shutting down the
10 transportation network of the City. So, yeah, we
11 were well aware and that would give us the
12 timeline of the rehabilitation.

13 Q. Okay. And then last
14 point there is:

15 "Opportunity to
16 coordinate/address safety
17 needs."

18 What does that mean?

19 A. I would believe at that
20 time we already knew about the transportation
21 safety needs. If the timeline recalls correctly.
22 I can't remember. We're in 2019, 2018?

23 Q. Well, right now we're in
24 2019.

25 A. Yeah, so we would already

1 know about traffic's needs.

2 Q. It look likes to me,
3 though, that this is about the decision to advance
4 the repaving program in March of 2017. What
5 safety needs would have been addressed or were
6 part of the considerations for advancing the Red
7 Hill Valley Parkway resurfacing?

8 A. The previous ones
9 identified by Mr. Ferguson.

10 Q. So, the safety concerns
11 that had been identified by traffic operations and
12 engineering?

13 A. Yes.

14 Q. So, those were the safety
15 concerns for the Red Hill Valley Parkway that
16 impacted the resurfacing decision?

17 A. I'm not sure if they
18 impacted, but yes. They were still up for
19 coordination, I guess, or I don't know if we had a
20 project at this time finalized or scope were still
21 outstanding or -- but that was the idea behind it.

22 Q. Okay. And so, you'll see
23 over on the next page Mr. McGuire says:

24 "Can you tell me if this
25 was programmed in 2016?"

1 Why did Mr. McGuire want to
2 know if the repaving for the Red Hill Valley
3 Parkway was programmed in 2016?

4 A. You will have to ask
5 Mr. McGuire.

6 Q. Okay. But you didn't
7 have any --

8 A. No idea.

9 Q. And you didn't have any
10 discussions with him about why he was looking for
11 that information?

12 A. I wouldn't ask him why.
13 I would provide the information that he had asked
14 for.

15 Q. Okay. So, Mr. Jazvac
16 responds with the e-mail that's at the top there
17 and he says, "Technically, yes," and he goes on to
18 reference that there was a project submitted for
19 LINC rehabilitation in the year 2024 in 2016.
20 Then he says:

21 "However, as part of the
22 2017 capital budget
23 submission, the same
24 project was deferred to
25 year 2030. It currently

1 exists in future program
2 with funding now spread
3 over two years."

4 And he explains how that is
5 broken up:

6 "The project is being
7 maintained for the future
8 as a placeholder for when
9 we have to return to
10 resurface the LINC
11 again."

12 A. Yeah.

13 Q. Then he goes on to say:

14 "As part of the 2018
15 capital budget
16 submission, we created
17 two new details
18 sheets/projects for the
19 LINC and the Red Hill
20 Valley Parkway projects
21 that are currently in
22 years 2018 through 2021
23 so those two can be
24 considered to be new
25 projects."

1 A. Yeah.

2 Q. So, it's my understanding
3 from that e-mail, then, that the resurfacing
4 projects for that Red Hill Valley Parkway and LINC
5 first showed up in the 2018 capital budget
6 program?

7 A. I would say that's
8 another safe assumption, yes, according to Al's
9 e-mail, yeah.

10 Q. It look likes to me,
11 though, from this e-mail that the LINC
12 rehabilitation project at least had a
13 placeholder --

14 A. Yeah.

15 Q. -- for 2024, so there was
16 some planning for that about eight years in
17 advance?

18 A. Mm-hmm.

19 Q. I don't see a reference
20 to a placeholder for the Red Hill Valley Parkway
21 repaving as of the 2016 capital budget. Was the
22 Red Hill Valley Parkway repaving not planned in
23 advance in the same way that the LINC was?

24 A. No, probably not.

25 Q. Okay. Do you know why

1 that would be?

2 A. No.

3 Q. Okay. Is that out of the
4 ordinary for a major repaving project?

5 A. No. If it was beyond ten
6 years, it wouldn't be a concern. It's when you
7 start bringing it closer to a ten-year program and
8 bringing it in tighter.

9 Q. Sorry, so we're talking
10 about a project that was put in to be done in 2019
11 in the 2018 capital budget. Isn't that within ten
12 years or am I missing --

13 A. No, you got it. So, in
14 2018 we had both roads in there. So, if that's
15 the first time for the LINC or the Red Hill,
16 that's fine. That would be fine.

17 Q. It's fine. Is it
18 uncommon for it to pop up and then be done the
19 next year or is that --

20 A. No, that's not that bad
21 of a process for us to go through. I think with
22 the Red Hill and the way it did, so I'll say,
23 popped up, it was just that top-down cracking that
24 would be a new pavement structure. We weren't
25 too, from my perspective anyway, wasn't too aware

1 of what degree, how bad that can get, before it
2 does start damaging that lower levels. So, that's
3 why, as the City, we decided to act upon it quite
4 aggressively and to get it in place. The planning
5 was going on before and if we're not going to
6 throw money at it if we don't know the actual
7 value of what we're actually dealing with, right,
8 because the way we move money around.

9 Q. Okay. Registrar, could
10 you please take us to OD 9, image 247,
11 paragraph 599 to 600.

12 So, in January 14, 2019,
13 Mr. McGuire asks you to confirm whether you've
14 seen or received a copy of the 2013
15 Golder/Tradewind report on the Red Hill Valley
16 Parkway asphalt testing prior to 2019 and you
17 reply:

18 "Never seen any report of
19 this nature."

20 Did this e-mail from
21 Mr. McGuire come out of the blue for you or did
22 you have some context for why he was asking?

23 A. I believe this is out of
24 the blue. This is probably the first time I heard
25 about any such report.

1 Q. Okay. And so, as of your
2 receipt of this e-mail, you had never seen the
3 Tradewind report or the 2014 Golder report that
4 attached it?

5 A. No.

6 Q. As of January 14, 2019,
7 had you had any discussion of or participated in
8 any discussion of the Tradewind report?

9 A. No.

10 Q. But you don't recall
11 whether or not it was referenced at that March 9,
12 2018 meeting by Dr. Uzarowski?

13 A. Yeah, I don't recall if
14 it was or it was not.

15 Q. Registrar, could you
16 please take us to OD 9, image 319, paragraph 768.
17 Thank you.

18 So, on January 31, 2019,
19 Mr. Moore has a meeting with Mike Zegarac, Dan
20 McKinnon and Ms. Laura Fontana from the City and
21 Ms. Fontana and Mr. McKinnon both take notes at
22 this meeting, so that's just for context for you.

23 Registrar, could you please
24 take us to HAM35944.

25 So, these are the notes that

1 Mr. McKinnon takes at this meeting and I know
2 they're a little bit tough to work through but
3 there's a reference.

4 Registrar, it's about halfway
5 through the second paragraph. And you'll see
6 Mr. Andoga's name. Maybe call out just the bottom
7 half of that paragraph. A little higher. One
8 line up. And then, yes, thank you.

9 So, you'll see it's a little
10 bit condensed in terms of the text, but there's a
11 note there in these notes that says:

12 "Did he share the Golders
13 2014? He said probably
14 Sam Sidawi and Rick
15 Andoga."

16 And so, that seems to be an
17 accounting of Mr. Moore's statements at this
18 meeting. Does this help to refresh your memory at
19 all about whether or not you saw the 2014 Golder
20 report that appended the Tradewind report?

21 A. Not at all.

22 Q. Okay. If Mr. Moore were
23 to say that he did give the 2014 Golder report
24 appending the Tradewind report to you, would you
25 disagree with that statement?

1 A. I couldn't say yes or no.

2 Q. Why not?

3 A. I don't recall the
4 report. I don't know what it looked like.

5 Q. Okay. I can show you
6 what it looked like.

7 Registrar, could you take us
8 to GOL2981.

9 So, this is the cover page of
10 a 2014 Golder report?

11 A. No, never seen that.

12 Q. Okay. Registrar, just
13 for due diligence, can you take us to image 101 of
14 this document and scroll down one image over.

15 So, this is the cover page of
16 the Tradewind report?

17 A. No.

18 Q. So, if Mr. Moore were to
19 say that he shared the 2014 Golder report
20 appending the Tradewind report with you, would you
21 disagree with that statement?

22 A. Yeah. I couldn't say
23 I've seen it. I don't know why I would even get
24 it.

25 Q. Okay. It's not something

1 that would have been relevant to you in your role
2 in asset management?

3 A. All I've seen was the
4 cover. I'm sorry, but yeah, within that document,
5 if there's -- I don't know what's inside, so I
6 wouldn't know.

7 Q. If the objective of the
8 rehabilitation on the Red Hill Valley Parkway
9 discussed in 2016 was to improve skid resistance,
10 would it have been relevant for you to be provided
11 with the Tradewind report in dealing with or
12 planning that work?

13 A. No.

14 Q. Why not?

15 A. This has come to my
16 director. My director would make that an urgency
17 to me, would explain it to me and we would move on
18 from there. I wouldn't even have to see the
19 report.

20 Q. Okay. Did you ever have
21 any conversations with Mr. Moore about friction
22 levels or the Tradewind or Golder report?

23 A. No.

24 Q. Did you ever have any
25 conversations with Mr. Sidawi about friction

1 levels on the Red Hill Valley Parkway or about the
2 Tradewind report or the 2014 Golder report?

3 A. The only time probably
4 would have been when the councillor asked because
5 he would have asked me if I had a report.

6 Q. In hindsight, did you
7 have any conversations with Mr. Sidawi or
8 Mr. Moore that might have been about the Tradewind
9 report or Golder report, even if those names
10 weren't used to describe the report?

11 A. Again, no.

12 Q. So, nothing ever about
13 friction levels on the --

14 A. Yeah. It's not my -- it
15 wouldn't be under me. It wouldn't be my thing,
16 so...

17 Q. Okay. So, Mr. Worrton,
18 who we discussed briefly a little bit earlier and
19 you indicated that you worked with from time to
20 time --

21 A. Yeah.

22 Q. -- gave evidence to the
23 inquiry that sometime prior to December 2015 he
24 reached out to someone in engineering services to
25 request a report on friction testing for the Red

1 Hill Valley Parkway and he was advised that
2 traffic engineering didn't need to see it and
3 wouldn't be provided with a copy of the report.

4 A. Okay.

5 Q. He couldn't recall who he
6 spoke to within engineering services, but he did
7 not think that it would have been Mr. Moore. He
8 further indicated that there were certain
9 individuals that he worked with on a regular basis
10 and you were one of those people.

11 Did Mr. Worrone ask you for
12 friction testing results for the Red Hill Valley
13 Parkway in 2015?

14 A. I don't believe so.

15 Q. Do you recall him ever
16 asking you for friction testing results from the
17 Red Hill Valley Parkway?

18 A. Not at all.

19 Q. Were you aware of
20 requests from traffic operations and engineering
21 staff for friction testing results in that time
22 period, so 2015 through to 2017?

23 A. Again, no. I didn't
24 hear -- I didn't know anything about friction
25 testing until, like, Gord brought that forward.

1 Q. Okay. Did anyone ever
2 discuss a request from Mr. Worrton or anyone else
3 in traffic operations and engineering for friction
4 testing results for the Red Hill Valley Parkway
5 with you?

6 A. No.

7 Q. If you had received such
8 a request, what would you have done?

9 A. The request for?

10 Q. Friction testing results
11 from the Red Hill Valley Parkway.

12 A. I don't have them. I
13 don't even know if they were ever done.

14 Q. Okay. Would you have
15 taken steps to try and obtain them?

16 A. Obtain what? I don't
17 even know they exist.

18 Q. If someone from traffic
19 operations and engineering approached you and
20 said, can I have a copy of the friction testing
21 results --

22 A. I would have pointed them
23 back to traffic engineering and said, you guys
24 have got it somewhere. If they were done, you
25 guys would have done it. So, my only resource

1 would be Gary knowing the history of the roadway.

2 Q. Okay. If they had said
3 that they didn't have the reports and they thought
4 that engineering services did, would you have
5 approached Mr. Moore looking for them?

6 A. Possibly.

7 Q. Okay. But you don't have
8 any recollection of ever having done that?

9 A. Nobody has ever asked me
10 for them, no.

11 Q. Okay. Registrar, could
12 you please take us to RHV890.

13 So, while the registrar is
14 pulling this up, Mr. Andoga, this is an anonymous
15 letter that is sent to the City's auditor after
16 the Tradewind report is disclosed to the public.
17 Have you ever seen this letter before?

18 A. Through this inquiry.

19 Q. Do you know who the
20 author of the letter is?

21 A. I do not.

22 Q. So, you'll see that there
23 is an allegation made against you on this letter
24 that I just want to give you a chance to respond
25 to.

1 Registrar, could you pull out
2 the content under Mr. Andoga's name there. Thank
3 you.

4 So, the allegation here is
5 that Rick Andoga, a current senior project manager
6 in the asset management section, absolutely knew
7 that Mr. Moore had hired a consultant to do
8 investigation on the asphalt quality and Mr. Moore
9 told him not to pursue the matter any further as
10 there was other more important projects to spend
11 capital funds on?

12 A. Yeah. Well, asphalt
13 quality, hired a consultant for asphalt quality,
14 asphalt quality for what? You know, that's
15 open-ended. And the second part is a total --
16 somebody doesn't know what they're talking about.

17 Q. Okay. So, in your view,
18 there's no element of truth to this?

19 A. No. It's an outright
20 lie.

21 Q. Okay. You weren't aware
22 that Mr. Moore had hired a consultant to
23 investigate friction testing on the Red Hill
24 Valley Parkway?

25 A. No.

1 Q. And you never approached
2 Mr. Moore and were directed not to pursue the
3 matter?

4 A. No.

5 Q. Registrar, you can close
6 this out and if you could take us over to image 2.

7 So, there are some references
8 here to eight examples of statements that the
9 author attributes to Mr. Moore. And I'm not going
10 to call out those statements for you, but you can
11 see them. They're the italicized text in the
12 letter?

13 A. Yeah.

14 Q. Did Mr. Moore ever speak
15 to you or members of your team in this manner in
16 connection with projects related to the Red Hill
17 Valley Parkway?

18 A. No.

19 Q. To your recollection, at
20 the March 9, 2018 meeting, did he speak to
21 Dr. Uzarowski or Mr. Oddi or any of the other
22 attendees in the manner described in this letter?

23 A. I don't recall, no. They
24 don't sound like Gary.

25 Q. You don't recall one way

1 or the other?

2 A. One way or the other.

3 What I'm reading here, there's too many F-bombs
4 for Gary. That's not Gary talking.

5 Q. Okay. Understood.

6 Registrar, you can close this out for us. Thank
7 you.

8 So, those are all of my
9 questions and I see we're right about time for a
10 break, if that's agreeable.

11 JUSTICE WILTON-SIEGEL: We
12 should take our break for 15 minutes. Do you need
13 to caucus with counsel for the other participants?

14 MS. BRUCKNER: That would be
15 perfect. Thank you very much.

16 JUSTICE WILTON-SIEGEL: I'll
17 leave that to the Registrar to arrange. We'll
18 stand adjourned until quarter to 4:00.

19 --- Recess taken at 3:31 p.m.

20 --- Upon resuming at 3:45 p.m.

21 EXAMINATION BY MS. JENNIFER ROBERTS:

22 Q. Mr. Andoga, I'm Jennifer
23 Roberts.

24 JUSTICE WILTON-SIEGEL: Please
25 proceed.

1 MS. JENNIFER ROBERTS: Thank
2 you.

3 BY MS. JENNIFER ROBERTS:

4 Q. I'm counsel for Golder
5 and I've got a couple questions to ask you.

6 A. Okay.

7 Q. I want to go back to your
8 evidence in relation to the back and forth in
9 early 2016. You have given evidence that you were
10 investigating how to address the pavement
11 condition and specifically one of the defects you
12 identified was top-down cracking.

13 I'll get back to top-down
14 cracking in a minute, but the other defect,
15 surface defect, that you identified that you
16 wanted to address were the bumps and dips. Do you
17 remember that?

18 A. Yeah.

19 Q. So, Registrar, can you
20 please turn up overview document 7, image 85, 278.
21 I'm corrected. It's image 87. Thank you.

22 So, if you can please look at
23 paragraph 278, this is April 27, 2017. You write
24 to Dr. Uzarowski to request the drawings that
25 accompany the bump and dip analysis. You copy

1 Michael Becke and some others. Do you remember
2 that?

3 A. Vaguely, yeah.

4 Q. Okay. And he said he
5 replies and he sends you -- and there's an e-mail
6 and he sends you a connection to a secured file
7 because it's so big?

8 A. Okay.

9 Q. And do you remember this?
10 So, he's sending you the location where the bumps
11 and dips are?

12 A. Yeah. I remember us
13 asking for it, yeah.

14 Q. Okay. And so, I take it
15 when you're asking for the location, you have the
16 bump and dip analysis. You have that inertial
17 profile report, it's actually a spreadsheet?

18 A. I may have at that given
19 time. I can't confirm if I did or not.

20 Q. That's what I want to get
21 to, actually. So, in March 4 of 2016,
22 Dr. Uzarowski provides the bump and dip analysis
23 and the form of a spreadsheet and attached
24 drawings to Mr. Moore, and then they had a meeting
25 about it. And here we are a year later and you're

1 asking for the drawings, and I suggest to you that
2 you had received some of this information through
3 sharing of information from the engineering
4 department?

5 A. No. If I'm copying
6 everybody on this, we didn't have it. So, I'm
7 thinking what the disconnect was one report to
8 actually where it is on the field.

9 Q. Right. So, I'm
10 suggesting to you you had the inertial profile
11 spreadsheet but not the mapping?

12 A. Well, yes. Obviously we
13 didn't have the mapping because I'm asking --

14 Q. Because you're asking for
15 it?

16 A. Yes.

17 Q. Okay. And did you have
18 access to the inertial profile spreadsheet because
19 that was information that you had access to or had
20 somebody specifically given it to you?

21 A. I'm sorry, ask that
22 again? Sorry.

23 Q. What I'm asking is
24 whether -- well, let me ask you the question a
25 different way. How did you know that information

1 existed?

2 A. I can't answer that. It
3 was probably through discussions within the group.

4 Q. So you knew that there
5 was inertial profiling investigation done?

6 A. Yeah.

7 Q. And here you're following
8 up to get the mapping?

9 A. Yes.

10 Q. And so, somebody told you
11 that Dr. Uzarowski had done the mapping and you're
12 following up to get it?

13 A. Somebody -- yeah.
14 Somebody is telling me I need a map.

15 Q. Okay. Thank you. I want
16 to go back to the issue of the top-down cracking.
17 So, you can take that down, Registrar. Thank you.

18 So, you've given evidence of
19 this purpose of that surface treatment that you
20 were investigating in 2016, that it was to prolong
21 the life of the pavement and specifically said
22 that you knew the Red Hill Valley Parkway was
23 perpetual pavement and you were looking for a
24 sealing operation to address the top-down cracking
25 that was occurring. Do you remember giving that

1 evidence?

2 A. Yes, I do.

3 Q. Okay. And then you spoke
4 with Derek Nunn of Norjohn and you speak with
5 Mr. Cifelli from Miller Paving. And if I'm
6 understanding your reasoning, you understood that
7 if the top-down cracking was not sealed in some
8 way, that that would allow water to infiltrate the
9 deeper layers within the pavement structure and
10 potentially damage the perpetual pavement. Did I
11 understand that correctly?

12 A. We wanted to stop the
13 cracking.

14 Q. And the cracking that's
15 observed at the top of pavement, it's not possible
16 to determine just from observation whether it's
17 top-down cracking or the more commonly seen
18 cracking from failure, fatigue failure, at the
19 bottom of the pavement, is it?

20 A. Is it easier? Sorry.

21 Q. I'm saying it's not
22 possible to determine whether the cracking is
23 top-down or a form of fatigue failure from the
24 bottom just by looking at the cracks at the top?

25 A. That's beyond my

1 knowledge base. I would not be able to answer
2 that.

3 Q. Okay. Are you aware that
4 where the cracking begins has to be verified by
5 looking at cores?

6 A. Yes. We've done that
7 before. Yes.

8 Q. Okay. Because you
9 mentioned cores in your evidence, so I take it you
10 understand that in order to verify what kind of
11 cracking you're dealing with, you would have to
12 look at core samples?

13 A. Yes.

14 Q. Okay. Thank you. Okay.
15 I want to turn, please, Registrar, to Golder 2981,
16 but image 51 first, please. There.

17 So, this is an appendix to the
18 Golder report that counsel for the Commission took
19 you to. Is this something that, in the course of
20 your work, you will have looked at pavement cores
21 before?

22 A. No.

23 Q. No. Okay. So, you don't
24 actually look at the evidence; you would look to
25 whatever the consultant's analysis and findings

1 were?

2 A. Depends on which stage of
3 the game we're at here. Like, if the cores are
4 taken, that typically goes to the design section.
5 We facilitate the cores and log that the cores
6 have been completed, so they go through a little
7 process on our end, but that gets forwarded to
8 design for design's use.

9 Q. Okay. And so, you're not
10 able to look at this and verify that, yeah, that
11 shows top-down cracking. That's not your
12 bailiwick. That's what you're telling me?

13 A. Yeah.

14 Q. If we can please go to
15 the Golder report, image 6.

16 So, image 6 shows us
17 paragraph 3.2, which is the asphalt coring, the
18 analysis provided by Golder. And if you look
19 at -- and, Registrar, can you call out that last
20 paragraph. No, just on the bottom, as shown in
21 table 1.

22 So, here are the findings of
23 the consultant:

24 "As shown in table 1, the
25 cracks were found to be

1 within the top of maximum
2 top two layers of
3 asphalt. The top asphalt
4 layer and second were
5 often debonded from the
6 deeper layers of the
7 asphalt. While core 4
8 was being drilled, water
9 from the drilling was
10 coming up from the
11 pavement surface through
12 surrounding voids."

13 So, I understand that this is
14 confirming that that in fact was, just as you've
15 said to us, what was there on the Red Hill was
16 top-down cracking?

17 A. Okay.

18 Q. And you've said that you
19 hadn't seen the Golder report before and I take it
20 you hadn't seen this page of it before?

21 A. No.

22 Q. Okay. But somebody told
23 you that what was found on the Red Hill was
24 top-down cracking. Isn't that correct?

25 A. Yes.

1 Q. And was that someone from
2 engineering services?

3 A. Well, we saw cracks on
4 the road. We assumed because of the pavement
5 structure, it was cracked down because that's what
6 would be expected through a perpetual pavement.

7 Q. Right, but what I'm
8 showing you, sir, is in fact that's verified.
9 Somebody --

10 A. That's 2014.

11 Q. Right.

12 A. So, I would not think
13 that we would rely on 2014 data to confirm that.

14 Q. In 2016?

15 A. Or 2018, yeah.

16 Q. Okay. We can go forward
17 in time. I want to go please to --

18 A. I'm just not sure.

19 Q. You're not sure. So, you
20 don't remember, just to be clear, who told you
21 that there was top-down cracking on the Red Hill?

22 A. No, I do not.

23 Q. Okay. Let's go to
24 image 10 and then 11, please.

25 So, these are the analysis and

1 recommendations and I just want to go to the
2 paragraphs beginning, "In order to remedy the
3 longitudinal top-down cracking," which is on
4 image 11. Registrar, can you please call out --
5 yeah. Down, please. There we go. Thank you.
6 Okay.

7 And I recognize that your
8 evidence is that you haven't seen it, but I'm
9 going to suggest to you that Golder in 2014 is
10 providing a recommendation to do a number of
11 things, including microsurfacing of the Red Hill.
12 Do you see that? And I'll just read it to you:

13 "On the remaining portion
14 of the Red Hill Valley
15 Parkway, the existing
16 cracks in the surface
17 course should be routed
18 and sealed to prevent the
19 ingress of water and
20 incompressible material
21 into the pavement
22 structure. Following the
23 routing and sealing, it
24 is recommended that a
25 single layer of

1 microsurfacing be
2 applied."

3 Do you see that?

4 A. Yeah.

5 Q. Okay. And, as you've
6 said, you've given evidence that you haven't seen
7 the report, but I take it somebody told you that
8 Golder had recommended a treatment for the
9 surface, which included microsurfacing?

10 A. Okay.

11 Q. Would you disagree with
12 that or do you agree with it?

13 A. It says right here,
14 recommended single layer of microsurfacing be
15 applied.

16 Q. You said you didn't read
17 it, so --

18 A. Yeah. I'm just reading
19 it now.

20 Q. Okay. Let's go forward
21 into 2016 and where you -- let's just go to it.
22 Where you are -- let's go to OD 7, 117, 118.

23 THE REGISTRAR: Sorry,
24 counsel. What was the image for --

25 MS. JENNIFER ROBERTS: It's

1 OD 7, please, 117 to 118. It's the wrong
2 reference, sorry. Sorry. You can take down the
3 call out, please.

4 BY MS. JENNIFER ROBERTS:

5 Q. So, I just want to go
6 back to the recommendations that you -- sorry.
7 Let me rephrase. Go back to the evidence you
8 testified on earlier this morning about the
9 investigation with Norjohn and with Miller Paving
10 about different surface treatments.

11 So, we have in 2014 Golder
12 providing a recommendation to do microsurfacing,
13 and then in 2016 you're investigating it. I'm
14 suggesting to you that someone within engineering
15 had suggested to proceed to investigate
16 microsurfacing? Mr. Andoga?

17 A. Yes. Yeah. Okay.

18 Q. Are you agreeing with
19 that or are you disagreeing?

20 A. I don't know.

21 Q. You don't know, okay.

22 And are you saying that -- are you suggesting that
23 when you undertook this investigation with Norjohn
24 and with Miller Paving, that you weren't aware at
25 all about the recommendations in the Golder

1 report?

2 A. I've never seen the
3 Golder report.

4 Q. And is the outcome of
5 your evidence that none of the investigation, none
6 of the analysis, none of the recommendations
7 obtained by engineering from the Golder report was
8 shared with you and with asset management? Is
9 that what you're suggesting?

10 A. I do not have the report.
11 I've never seen the report.

12 JUSTICE WILTON-SIEGEL: I'm
13 just going to interject for a second, which I
14 don't normally do. That is not the question. The
15 question is whether the recommendations, as they
16 have been described, namely microsurfacing in
17 particular, were communicated to you, not that
18 they were communicated necessarily as the
19 recommendations of a report called the Golder
20 report or anything else. Were you aware that
21 somebody told you to investigate microsurfacing?
22 Were you aware there was some basis for that in
23 some report or some suggestion from someone in
24 engineering services, whether or not related to
25 the Golder report, that indicated that you should

1 conduct such an investigation?

2 THE WITNESS: Okay. Sorry for
3 misunderstanding the question.

4 JUSTICE WILTON-SIEGEL: I
5 think that's the question Ms. Roberts is putting.
6 Would that be correct, Ms. Roberts?

7 MS. JENNIFER ROBERTS: Well,
8 it's the second one I was getting to. The first
9 one is Golder. But you're absolutely right,
10 Commissioner.

11 BY MS. JENNIFER ROBERTS:

12 Q. Was that advice ever
13 communicated to you?

14 A. We pursued a surface
15 treatment as it was identified within, from my
16 understanding, it was identified within the
17 sustainability report as a first rehabilitation
18 strategy. It was a preferred strategy on our end
19 because it would be of low cost as opposed to
20 traditional shave and pave. That's why we pursued
21 that option first. It would be less disruptive to
22 the public, we could get it done fairly easy and
23 inexpensive.

24 Q. So, the sole
25 recommendation you're operating under was what was

1 in the feasibility report that goes back to --

2 A. No, no. I'm saying based
3 on the condition of the existing roadway, from
4 what we saw on that roadway, that's what we were
5 acting on.

6 Q. Okay. Okay. So, it just
7 seems to me that if you know about the bumps and
8 dips report, if that analysis is shared, you're
9 saying that you have no knowledge of
10 recommendations from anyone to use microsurfacing
11 to repair the surface condition of the Red Hill.
12 Do I have that right?

13 A. I believe so. I believe
14 you're right. I did not have any recollection of
15 anybody telling me about any such report, telling
16 me to surface treat, provide surface treatment.
17 That was a consortium. Now, whether others within
18 that group knew, I don't know, but that's what we
19 were moving forward on.

20 Q. Okay. Thank you. I just
21 want to cover off something just as part of that
22 same part of evidence. You said one of the
23 reasons that you identified surface treatment that
24 had to improve skid resistance was because you
25 were aware of the alignment. And you described

1 the curvature of the road and the speed and the
2 fact that the road was over its capacity at
3 certain points in the day. Do you remember that?

4 A. Yeah.

5 Q. Okay. So, when you say
6 that you were aware of the alignment, were you or
7 your colleagues within asset management ever
8 provided with drawings of the Red Hill Valley
9 Parkway?

10 A. I believe so, yes.

11 Q. Okay. So, you had an
12 appreciation for the radius of turns and how tight
13 they were?

14 A. I wouldn't look at it
15 that way, no.

16 Q. So, how would you look at
17 it?

18 A. I'm asset management. I
19 was taking off quantity takeoffs.

20 Q. So, you were aware that
21 it was curvilinear, but you didn't put your mind
22 to how tight the radius of turns actually were?

23 A. I did not find them
24 tight.

25 Q. So, I'm asking an

1 objective question, not whether you found them
2 tight. I'm asking objectively whether you were
3 aware of the radius of the turns and you've told
4 me that you weren't?

5 A. No, I was not.

6 Q. Okay. So, apart from
7 identifying that it was a curvilinear alignment,
8 you didn't consider and nor was it part of your
9 work to consider how tight the radius of the turns
10 actually was?

11 A. No.

12 Q. Okay. And I take it that
13 your reference to the need to improve skid
14 resistance because of the curvature of the
15 alignment at a high speed was because you were
16 aware that curvature and speed would affect the
17 need for friction. That's the case?

18 A. Yes. We didn't want to
19 make it slippery.

20 Q. Okay. Thank you. Those
21 are my questions.

22 JUSTICE WILTON-SIEGEL: Okay.
23 Thank you. Mr. Mishra.

24 MR. MISHRA: Good afternoon,
25 Mr. Commissioner. May I proceed?

1 JUSTICE WILTON-SIEGEL: Yes,
2 please proceed.

3 EXAMINATION BY MR. MISHRA:

4 Q. Hello, Mr. Andoga. I
5 just have a couple questions for you on behalf of
6 the City. First, I would like to take you back to
7 the sustainability plan.

8 Mr. Registrar, can you put up
9 HAM320, image 4, please. Thank you. If you can
10 call out the third paragraph.

11 So, this is the sustainability
12 plan that we had previously looked at. You'll see
13 in the first two lines that says:

14 "This report is a
15 tactical document and
16 forms the basis for
17 development of standard
18 operating best practices
19 in conjunction with a
20 sustainable budget. It
21 offers a range of options
22 in terms of maintenance,
23 rehabilitation and
24 reconstruction as well as
25 preliminary budgetary

1 issues."

2 Did you understand the best
3 practices and range of options included in this
4 report to be mandatory?

5 A. Not by any means, no.

6 Q. In your answers to
7 questions by commission counsel, you had noted
8 that the sustainability plan was innovative. Are
9 you aware of similar types of sustainability plans
10 in other municipalities at this time?

11 A. At this time being when
12 this report was done?

13 Q. That's right.

14 A. No. I'm not sure if this
15 logic came from Australia or where it actually
16 came from. Maybe down in the States somewhere,
17 but no. This was innovative.

18 Q. And as you had noted, the
19 sustainability plan for the Red Hill Valley
20 Parkway was not adopted by council. When that
21 happened, were you directed to ensure the options
22 suggested in the sustainability plan be
23 implemented?

24 A. No.

25 Q. So, next I want to turn

1 your attention to the state of the infrastructure
2 reports. We've previously looked at the report in
3 2016.

4 If you want to --
5 Mr. Registrar, if you could call up HAM45368.
6 This is the 2016 state of the infrastructure
7 report. And if you can turn to image 27, please.
8 And can you also include image 28. If you can put
9 both of those pages up, that would be appreciated.
10 Thank you. Can you call out the section that
11 starts with condition and performance, that entire
12 paragraph, including the bullets. Yes, perfect.
13 Thanks.

14 So, here you'll see for
15 condition and performance, it indicates that this
16 criteria characterizes the current physical
17 condition of the infrastructure. And under the
18 letter grade, C indicates that it's fair, some
19 deterioration or defects are evident, but function
20 is not significantly affected. This was the
21 overall grade for the roads in this report, a
22 grade of C.

23 Is it fair to say that in this
24 context of condition and performance, C means that
25 a roadway is fair with some deterioration or

1 defects, but function is not significantly
2 affected?

3 A. Correct.

4 Q. Okay. If you can get rid
5 of that call out and then go to the -- sorry, and
6 for the Red Hill Valley Parkway, is it fair to say
7 that this deterioration or defects includes that
8 top-down cracking that you had referenced?

9 A. It would, yes.

10 Q. So, then for the capacity
11 versus need, if you can call out that section,
12 including the bullets as well.

13 You'll see here that a C grade
14 means that roads can support 88 to 89 percent of
15 the demand. Is that correct in terms of how this
16 should be interpreted in considering roadways and
17 the capacity versus need of a roadway?

18 A. Yeah. Yeah, as defined.

19 Q. Okay. And is it correct
20 to say that in the case of a roadway, this
21 references the traffic volume?

22 A. Correct.

23 Q. And then lastly, if you
24 can remove this call out and then go to the for
25 Funding Versus Need section, please. Perfect.

1 Thank you.

2 And here, as it pertains to
3 the funding portion of this criteria, it reflects
4 the status of funding dedicated to the roadway if
5 we're considering roads. Is that correct?

6 A. Yeah. You're correct.

7 Q. So, if we can then just
8 jump to image 68 in this document and then call
9 out the top portion of the chart where it includes
10 the title Expressway. Perfect.

11 So, here you'll note that
12 expressway has a conditions and performance of a B
13 minus, capacity versus need of a D, and then
14 funding versus need of a C with the overall rating
15 of C. Is it fair to say, then, that the
16 expressway would include the Red Hill Valley
17 Parkway and the LINC?

18 A. Yes.

19 Q. And is it also fair to
20 say that if a dedicated funding source was
21 identified, whether in the sustainability plan or
22 otherwise, that the letter grade would increase
23 for the funding versus need section?

24 A. Definitely, yes.

25 Q. And then the overall

1 rating would increase as well?

2 A. Correct.

3 Q. And as it pertains to
4 roadways, a letter grade of C is still indicative
5 of a fair quality road with some defects but no
6 functional concerns?

7 A. It could, yeah. It
8 could.

9 Q. Okay. So, we can take
10 down this call out and we can take down this
11 document as well. Thank you.

12 So, I want to ask you some
13 questions about the top-down cracking seen on the
14 Red Hill. If you can turn to overview document
15 chapter 7, page 122. And then if you can call out
16 paragraph 391 all the way to the bottom, please,
17 that would be great.

18 So, you'll see here that this
19 is an e-mail from Mr. Cifelli from Miller Paving
20 and this e-mail was sent on May 2, 2016. In this
21 e-mail, he indicates that he drove the LINC and
22 the Red Hill the week prior and described his
23 team's observations from that drive. If you want
24 to take a second to review his observations, let
25 me know when you're done reviewing the e-mail.

1 A. Okay.

2 Q. Looking at the
3 observations from Mr. Cifelli, is it fair to say
4 that his observations are consistent with your
5 view and your understanding of the Red Hill at
6 this time, the Red Hill and the LINC at this time,
7 as it pertains to the surface and more
8 specifically the top-down cracking?

9 A. Okay. Yeah, I would
10 agree with what he's saying. Yes.

11 Q. Okay. So, under your
12 observations, you had noted that there was wheel
13 path cracking or other such cracking on the
14 roadway. Is that right?

15 A. Cracking. I don't think
16 I got into the specifics of the defects.

17 Q. Okay. And so, is it fair
18 that you didn't have an appreciation of, kind of,
19 the specific type of cracking. You just knew that
20 there was cracking on the roadway?

21 A. Yeah. I knew the road
22 was starting to fail or we knew the road was
23 starting to fail. Yeah, we moved from that point.

24 Q. Okay. Now, Ms. Roberts
25 had asked you about whether you had knowledge

1 about the recommendations from the Golder report
2 for microsurfacing to repair the surface of the
3 Red Hill. You had said that you didn't personally
4 see the report, but you don't know whether others
5 within the group making decisions on the surface
6 of the Red Hill were aware of the report. Is that
7 fair to say?

8 A. Correct.

9 Q. Okay. And do you know
10 who the other people in the group were that you
11 were referencing?

12 A. Within our group, the key
13 players within our group were the asset management
14 design and construction. You're talking about
15 senior managers and up or senior project managers
16 and up, so there would be myself, Mike Becke,
17 there's the construction group, Marco Oddi, you
18 know, Susan Jacob, Gary Moore.

19 Q. Were you responsible in
20 any way for conducting microsurfacing or related
21 investigations on the roadway?

22 A. No.

23 Q. Can we take down this
24 call out and take down this document, please.

25 You were asked generally about

1 your understanding of friction testing and you had
2 advised that it would be hieroglyphics to you. Is
3 it fair to say that you don't have any expertise
4 in friction testing?

5 A. No. I have nothing at
6 all.

7 Q. So, next I want to turn
8 to ask you some questions about the shave and pave
9 and the objectives around the shave and pave. So,
10 you were asked a number of questions about the
11 timing of the rehabilitation work on the Red Hill
12 Valley Parkway. You had indicated that the
13 rehabilitation had been accelerated to some degree
14 based on the volume that the roadway delivered.

15 Did you understand that the
16 rehabilitation had been accelerated due to the
17 top-down cracking that was attributed to a higher
18 volume of traffic on the roadway than expected?

19 A. Yeah. I think the
20 top-down cracking was premature from what we
21 expected as a result of the loading that was on
22 that road, so the timing alteration was justified
23 that way.

24 Q. I see. Any other
25 reasons, to your knowledge?

1 A. No.

2 Q. And if we can turn to
3 HAM33919, thank you, Registrar, and can you call
4 out the e-mail from -- sorry, can you actually
5 show the next page as well and if you can call out
6 the e-mail from Mr. Andoga on the second page.
7 Perfect. Thank you.

8 So, you'll see here in the
9 second line you had noted that the objective is to
10 improve skid resistance of the RHVE, seal the
11 existing pavement for ramps to the LINC and extend
12 pavement life as well as increase the service
13 levels the roadway provides.

14 In your experience, do slurry
15 seals and other types of seals sometimes have low
16 frictional properties?

17 A. I believe so. They may.

18 Q. And was including the
19 reference to improving skid resistance directed in
20 any way at ensuring that the slurry seals and
21 other types of seals don't have low frictional
22 properties?

23 A. Again, I believe yes.
24 That would be -- we wanted something more with a
25 texture to it.

1 Q. And at this point in
2 time, did you have any understanding regarding the
3 frictional properties of the Red Hill Valley
4 Parkway?

5 A. No.

6 Q. Okay. So, next I want to
7 talk to you about the scope of the repavement on
8 the RHVP and the items from traffic engineering.
9 You were asked a number of questions on the
10 inclusion of illumination and median barriers for
11 the repave. Just for your context, I don't
12 believe this is provided, both the illumination
13 and median barriers were long-term countermeasures
14 identified in the CIMA 2015 report.

15 At this time, so when you were
16 corresponding with Mr. Ferguson and Mr. Worrton in
17 2017, were you aware that illumination and median
18 barriers were long-term countermeasures?

19 A. No.

20 Q. So, I take it, then, to
21 your knowledge, the fact that there were long-term
22 countermeasures, they had no impact or to your
23 knowledge no impact on whether these items were
24 included in the scope of the repave?

25 A. I have no knowledge of

1 why they were not included at all, no.

2 Q. Okay. Mr. Registrar, if
3 you can turn up OD chapter 7 and page 162, please,
4 and then if you can call out paragraph 483.

5 I believe you were asked some
6 questions about the back and forth with
7 Mr. Worrton, Mr. Ferguson, but I don't believe you
8 were shown the last two e-mails in this
9 correspondence, which I want to direct you to.

10 So, the first one is an e-mail
11 from Mr. Mater to Mr. Ferguson. You are not
12 copied on this e-mail, but in this e-mail he
13 indicates that:

14 "I thought barriers were
15 suggested in the CIMA
16 report to be done in
17 conjunction with the
18 widening."

19 And he also notes that the
20 question of lighting is restricted by
21 environmental conditions and notes, "Let's discuss
22 before we respond." Were you aware that Mr. Mater
23 had this conversation or sent this e-mail to
24 Mr. Ferguson at this time, in 2017?

25 A. I wish I did know, but

1 no, I did not.

2 Q. Okay. And then if we can
3 turn to the same page but paragraph 485 and if we
4 can actually pull up the next page as well, that
5 would be appreciated. Thank you. And if you can
6 then call out the e-mail both on this page and the
7 next, that would be appreciated.

8 And then you'll see at the top
9 of the e-mail, and this is an e-mail from
10 Mr. Worrton to Mr. Sidawi on July 26, 2017, he
11 notes:

12 "As discussed, at this
13 morning's project
14 coordination meeting, I'm
15 following up on the final
16 scope for traffic. I met
17 with John to confirm."

18 And then the traffic scope is
19 listed out on the second page. And you'll note
20 that in this scope, there is no reference to
21 illumination and the median barriers as well.

22 Do you recall if you attended
23 this project coordination meeting?

24 A. I probably would have,
25 yes.

1 Q. To your recollection, did
2 traffic speak to illumination or median barriers
3 at this meeting?

4 A. I don't recall.

5 Q. Based on this e-mail,
6 though, it seems like Mr. Mater and the group had
7 ultimately come to a landing on what was in scope
8 and what was out of scope for the purpose of this
9 repave. Is that fair to say?

10 A. Yeah, I think that's fair
11 to say.

12 Q. Can we take this document
13 down, please.

14 So, next I want to jump
15 forward in time to June 2017. So, you were asked
16 a couple questions by commission counsel regarding
17 Councillor Connelly and his assistant's request
18 for friction testing results and this request was
19 made to Mr. Moore and a number of individuals in
20 traffic engineering and engineering services were
21 included on the e-mail either in the to or the CC
22 line.

23 You were asked specifically by
24 commission counsel if you were curious about the
25 friction testing results and you advised that you

1 were not curious. At this point in time, did you
2 have any concerns regarding the frictional
3 properties or safety of the Red Hill Valley
4 Parkway?

5 A. No.

6 Q. Is that why you weren't
7 curious about the friction testing results?

8 A. I don't even know if
9 there was friction testing done on the roadway at
10 this time.

11 Q. Okay. Thank you. So,
12 next I want to jump forward in time to the
13 March 9, 2018 meeting where commission counsel had
14 asked you various questions about the meeting with
15 the City and Golder and they had brought you to a
16 copy of notes prepared by Dr. Uzarowski.

17 You were not shown a copy of
18 notes that were prepared by Mr. Becke, who also
19 attended that meeting, so just in fairness to you,
20 I want to make sure you have an opportunity to
21 review those as well.

22 Mr. Registrar, do you mind
23 pulling up HAM61788 at page 60, please. Thank
24 you. If you can just zoom in to the top half, I
25 think it might be a little bit easier to read that

1 way.

2 So, you'll see here that the
3 date is the March 9, 2018 meeting and then the
4 notes read "RHVP Meeting - Re: Hot in-place."
5 And then in terms of the dashes, you'll see it
6 notes:

7 "- the process of SMA
8 HIP -- "

9 Which is presumably hot
10 in-place:

11 " -- will change the SMA
12 that the gradation
13 will/may change."

14 There's:

15 "- possible longer
16 process to heat the mix,
17 longer to do the HIP.
18 - change/add more
19 aggregate to the mix -
20 add a beneficiary mix to
21 the process.
22 - Gary - no to
23 microsurfacing.
24 - sample for HIP to go to
25 BC?"

1 Presumably Pat Wiley from BC:
2 "Do it as a section of
3 the repairs to the 'dips'
4 in RHVP."

5 And then there's a note that:
6 "- friction
7 numbers/weaker surface
8 afterwards?"

9 And then at the bottom you'll
10 see there is a note that says:

11 "40 mm SMA surface on
12 (existing) RHVP."

13 And then lastly:
14 "- sample - Ludomir needs
15 to provide a size, etc.
16 - concern with friction
17 numbers."

18 I'll note that these notes
19 make no reference specifically to the word
20 Tradewind report and they also don't specifically
21 reference skid abrasion or shot blasting.

22 Reviewing these notes, does this refresh your
23 memory in any way on whether the Tradewind report
24 was discussed at this meeting.

25 A. No, it does not.

1 Q. Okay. Mr. Commissioner,
2 I'm just going to consult my notes.

3 JUSTICE WILTON-SIEGEL: Sure.

4 MR. MISHRA: Thank you.

5 BY MR. MISHRA:

6 Q. Thank you, Mr. Andoga.
7 Those are all of my questions.

8 JUSTICE WILTON-SIEGEL: Okay.

9 And, Ms. Bruckner, I think you've advised that or
10 I understand that neither the MTO nor Dufferin
11 have any questions?

12 MS. BRUCKNER: That's my
13 understanding, though perhaps their counsel can
14 confirm on the record.

15 JUSTICE WILTON-SIEGEL: Okay.

16 MS. LAURION: Good afternoon,
17 Commissioner.

18 JUSTICE WILTON-SIEGEL: Yes,
19 Ms. Laurion.

20 MS. LAURION: No questions on
21 behalf of Dufferin. Thank you.

22 JUSTICE WILTON-SIEGEL: Okay.

23 MR. BOURRIER: Good afternoon.

24 No questions on behalf of MTO either,
25 Commissioner.

1 JUSTICE WILTON-SIEGEL: Thank
2 you, Mr. Bourrier.

3 So, that being the case,
4 Ms. Bruckner, do you have any further questions
5 for Mr. Andoga?

6 MS. BRUCKNER: I don't have
7 any further questions for Mr. Andoga. Thank you,
8 Commissioner.

9 JUSTICE WILTON-SIEGEL: Okay.
10 Well then, Mr. Andoga, you're dismissed. Thank
11 you for attending today at the inquiry.

12 THE WITNESS: Thank you, sir.

13 JUSTICE WILTON-SIEGEL: And
14 for counsel, unless there's anything further we
15 have to discuss or address, which I don't think
16 there is this evening, we'll stand adjourned until
17 9:30 tomorrow morning. Thank you.

18 --- Whereupon the proceedings adjourned at
19 4:30 p.m. until Tuesday, June 28, 2022 at 9:30
20 a.m.

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