

RED HILL VALLEY PARKWAY INQUIRY

TRANSCRIPT OF PROCEEDINGS
HEARD BEFORE THE HONOURABLE
HERMAN J. WILTON-SIEGEL
held via Arbitration Place Virtual
on Tuesday, September 6, 2022 at 9:31 a.m.

VOLUME 54

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1 Arbitration Place Virtual

2 --- Upon resuming on Tuesday, September 6, 2022

3 at 9:31 a.m.

4 MS. LECLAIR: Good morning,
5 Commissioner.

6 JUSTICE WILTON-SIEGEL: Good
7 morning.

8 MS. LECLAIR: I would like to
9 open this hearing by acknowledging that the City
10 of Hamilton is situated on the traditional
11 territories of the Erie, Neutral, Huron-Wendat,
12 Haudenosaunee and Mississaugas. This land is
13 covered by the Dish With One Spoon Wampum Belt
14 Covenant, which was an agreement between the
15 Haudenosaunee and Anishinaabek to share and care
16 for the resources around the Great Lakes.

17 We further acknowledge that
18 the land on which Hamilton sits is covered by the
19 Between the Lakes Purchase, 1792, between the
20 Crown and the Mississaugas of the Credit First
21 Nation.

22 Many of the counsel appearing
23 on this hearing today are in Toronto, which is on
24 the traditional land of the Huron-Wendat, the
25 Seneca and most recently the Mississaugas of the

1 Credit River. Today this meeting place is still
2 home to many indigenous people from across Turtle
3 Island and I'm grateful to have the opportunity to
4 work on this land.

5 Commissioner, our first
6 witness today is Susan Jacob. I would like to ask
7 the court reporter to please affirm Ms. Jacob.

8 AFFIRMED: SUSAN JACOB

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

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

13 EXAMINATION BY MS. LECLAIR:

14 Q. Good morning, Ms. Jacob.

15 A. Good morning.

16 Q. I would like to start
17 with some questions about your professional
18 background. You have worked at the City of
19 Hamilton since 2002. Is that correct?

20 A. Yes.

21 Q. And what is your current
22 role at the City?

23 A. I'm the acting director
24 of engineering services.

25 Q. And when did you start

1 that role?

2 A. February 2022.

3 Q. And who do you report to
4 as acting director?

5 A. At this moment, Carlyle
6 Khan. He's a general manager of public works.

7 Q. Okay. And who reports to
8 you?

9 A. I have all the managers
10 reporting to me: Manager of infrastructure,
11 (indiscernible); manager of construction, Ed
12 English; manager of geomatics and corridor
13 management, David Lamont. I do have Diana Cameron
14 as my admin assistant. And manager of design was
15 Mike Becke. He has a new position as of today.

16 Q. Thank you. And what
17 roles have you held at the City since 2002?

18 A. In 2002, I started off as
19 a waterways water technologist, and then I became
20 the project manager in the Hamilton Water master
21 plan division. And then I continued to be the
22 senior project manager in design, and then became
23 the manager of design in 2007.

24 Q. Okay. And the majority
25 of questions I'm going to ask you today are with

1 respect to your time as manager of design.

2 Regarding that role, who did you report to?

3 A. Manager of design reports
4 to the director of engineering services, and at
5 the time it was Gary Moore. And later on, after
6 he moved on, it was Gord McGuire.

7 Q. Okay. And who reported
8 to you as manager?

9 A. Manager of design has got
10 the senior project managers and there were two
11 senior project managers. One was Chris McCafferty
12 and the other one was Mike Becke.

13 Q. Okay. And if you could
14 please describe your role as manager, your
15 day-to-day tasks?

16 A. Manager of design is
17 responsible for the implementation of the capital
18 program for the City of Hamilton. When I say
19 capital program, specifically along the
20 right-of-way, which is all the linear
21 infrastructure, and that includes road, water,
22 sewer, bridges and all those which you are dealing
23 with on the right-of-way itself. So, the program
24 delivery is what my task was. This can be road
25 reconstruction or road rehabilitation, bridge

1 reconstruction and all of that. Regarding the
2 date, it will be the management of the staff as
3 the primary role in making sure that the resources
4 are allocated to the program appropriately so that
5 the program can be delivered.

6 There are times when we have
7 to do investigations, deal with permits, so do the
8 detailed design and the tendering of the projects,
9 as well as award of the projects. Once it's
10 awarded, it is given to construction for the
11 actual construction and contract administration.

12 Q. And I understand from
13 some of the evidence you've given today that there
14 are four groups or divisions within engineering
15 services at the time that you were manager, so
16 asset management, geomatics and corridor
17 management, design, and construction. Is that
18 correct?

19 A. Yes.

20 Q. Okay. And what was
21 design's role in particular?

22 A. So, I would say it is
23 more like a work flow for a capital planning and
24 implementation. The planning piece starts with
25 asset management, particularly the projects and

1 the budgets related to that. It gets approved at
2 the council as well. Once it's approved, it is
3 the implementation piece where the design starts
4 working from. So, implementation means that we
5 have to do as necessary all the investigations
6 required. In case of bridges, it is hydraulic
7 analysis and so on and geotechnical investigations
8 and things like that to understand what needs to
9 be done on a project. And we do the detailed
10 design to make sure that the program or the
11 project can be delivered.

12 I hope I answered it
13 correctly.

14 Q. That was helpful. Thank
15 you. I understand that there are other groups
16 within public works, but not within engineering
17 services, that also have responsibilities related
18 to the City's road network. What is engineering
19 services responsible for within public works with
20 regard to the Red Hill Valley Parkway and roads
21 more generally?

22 A. Engineering services was
23 putting together the capital budget program, as I
24 mentioned previously, especially for the projects
25 which are related to the linear infrastructure

1 within the right-of-way. So, engineering services
2 does a lot of project coordination from the asset
3 owners, which is Hamilton Water when it's related
4 to water and sewer. With the roads program,
5 related to all the assets within the -- which is
6 the road, the sidewalk and all of that is coming
7 from the information that is collected from the
8 other groups.

9 Transportation planning,
10 traffic operations, transit, all of them do put
11 their information in as a scope document towards
12 engineering services, who does the compiling of
13 all of that and coordinate the needs and puts
14 together the budget related to that.

15 Q. Thank you very much.
16 Could you please tell me about your educational
17 background?

18 A. Yes. I did my Bachelor's
19 in engineering from University of Kerala in 1991
20 and followed by a Master's in hydraulics
21 engineering, again from University of Kerala, in
22 1993. And I did several other courses after that
23 as continuous education.

24 Q. And as part of your
25 educational background, training or professional

1 experience, do you have any expertise related to
2 friction testing or the analysis of friction
3 testing results?

4 A. I had not done any
5 frictional analysis in my projects in the past.

6 Q. And through your
7 educational background or those courses that you
8 referred to as continuing education, did any of
9 those involve friction testing or the analysis of
10 friction testing results?

11 A. Not related to roadway.
12 It was always the physics, theoretical
13 understanding, friction does play a role. That's
14 how I understand in the engineering principles.

15 Q. Thank you. And I
16 understand you're a professional engineer. Is
17 that correct?

18 A. Yes.

19 Q. And when did you first
20 become a professional engineer in Ontario?

21 A. In 2006, May.

22 Q. Okay. And are you
23 licensed in any other jurisdictions?

24 A. No.

25 Q. Okay. So, we have

1 received some documents that indicate you had some
2 involvement in projects that Golder Associates and
3 Dr. Uzarowski in particular were retained for,
4 including certain phases of the PMTR and LINC
5 resurfacing. Prior to around 2013, had you worked
6 on or been involved in projects relating to the
7 RHVP, the LINC or roads in Hamilton more generally
8 that involved Golder and Dr. Uzarowski?

9 A. I had worked with
10 Dr. Uzarowski even before 2013, not particularly
11 for Red Hill Valley Parkway at all. That was
12 being delivered by a special projects office, so I
13 did not have any involvement in that.
14 Dr. Uzarowski was working with the engineering
15 services, probably it had a different name at the
16 time, but engineering services to look into our
17 practices related to construction of roadways and
18 things like that. So, it was a three-phased
19 program that we were with doing. One was to look
20 at the construction and then construction
21 practices, and then the second one was the design
22 practices, as well as the asset management of the
23 program in certain things.

24 Q. And I believe what you're
25 referring to is the pavement materials technology

1 review or --

2 A. That's right.

3 Q. -- PMTR. What was your
4 involvement with that project or with any
5 particular phases?

6 A. So, Dr. Uzarowski wanted
7 to have interviews with my staff and myself as
8 well including to understand the processes that we
9 were following and the practices that we had
10 within the engineering services so that he can
11 provide us recommendation on how to improve on
12 that. He also did some training for the staff at
13 the end of the review.

14 Q. And were you involved in
15 the LINC resurfacing project?

16 A. Yes. I was the manager
17 at the time.

18 Q. And did you have
19 day-to-day involvement with that project?

20 A. As I mentioned, I'm more
21 a program delivery, not project delivery, so I am
22 there in the sense that I give direction to my
23 staff and make sure that the resources are
24 allocated and the projects are getting done on a
25 timely basis.

1 Q. Okay. But there would
2 have been a project manager or a senior project
3 manager that was more directly day to day --

4 A. Yes.

5 Q. -- working on the
6 project?

7 A. Yes.

8 Q. Okay. Thank you. Moving
9 forward a bit in time to 2013, Registrar, if we
10 can go to overview document 6, image 52.

11 Hamilton experiences heavy
12 rainfall on September 21, 2013, which resulted in
13 a number of collisions. Following this, there was
14 an e-mail exchange among city staff, beginning
15 with the district roads supervisors, who noted
16 that they had received complaints from police
17 regarding the road being slippery, and this was
18 escalated up the chain and was discussed by
19 various managers and directors in public works.
20 I've summarized. I'm happy to take you through
21 the exchange, if helpful, but I've summarized it.

22 Do you recall that rain event
23 or the resulting collisions?

24 A. No, I don't.

25 Q. Okay. And you're not

1 copied on the e-mails that I just referred to.
2 Were you aware of any discussions or e-mails
3 related to slippery conditions on the RHVP at this
4 time?

5 A. No.

6 Q. Did anyone raise this
7 issue with you?

8 A. No.

9 Q. Registrar, if we can go
10 to the next image, please. Apologies. Actually,
11 if we can go to image 56. Thank you.

12 So, in one e-mail in this
13 series that I referred to previously, Mr. Mater
14 wrote that the topic should be discussed at TCC,
15 which I understand to be the transportation
16 coordinating committee. Is that correct?

17 A. Yes.

18 Q. Okay. And what is the
19 purpose of the TCC?

20 A. As I mentioned,
21 engineering services does a lot of project
22 coordination, but this particular committee was
23 formed because there were more than one group that
24 was dealing with the transportation related
25 information when coming into the project

1 organization coordination, so transit, engineering
2 services, development engineering, quite a lot of
3 different groups are involved, so it was a
4 committee formed to discuss about the
5 transportation related projects and coordinating
6 it.

7 Q. And do you know when it
8 was formed?

9 A. I don't recollect the
10 date for it or the year. I don't recollect.

11 Q. Okay. And did you
12 usually attend TCC meetings?

13 A. Yes. I used to attend
14 TCC meeting, especially because I delivered the
15 capital program.

16 Q. Okay. And how often did
17 the TCC meet?

18 A. I'm not sure whether it
19 was monthly or quarterly.

20 Q. And what was your role at
21 TCC meetings specifically?

22 A. To make sure that there
23 is coordination. If I'm doing a project on a
24 particular roadway or it's affecting transit or
25 other traffic related, if there is any traffic

1 detour or anything like that that I need to ensure
2 that the remainder of the transportation related
3 group is aware of, that's my role, in making sure
4 that information is handed over.

5 Transportation master plans,
6 when that was being done, to make sure that they
7 are aware of the projects that is getting
8 delivered through this capital program as well.

9 Q. In your experience, how
10 effective was the communication and decision
11 making between the overlapping groups that had
12 involvement in roads and transportation?

13 A. At the staff level, I
14 wouldn't say there were many issues. We were
15 communicating very regularly, so information was
16 being given back and forth at those meetings. I
17 had good relationship at the traffic coordination
18 committee.

19 Q. Okay. And did you ever
20 have or hear of any concerns relating to
21 information sharing or siloing of information?

22 A. Not particularly.

23 Q. Okay. And, Registrar, if
24 we can go to HAM41745.

25 These are minutes from a TCC

1 meeting a few days after the e-mail exchanges I
2 was referring to, so on September 24, 2013, and
3 you are listed amongst the attendees.

4 Registrar, if we can just call
5 out the text above the table, please. Thank you.

6 Ms. Jacob, do you recall
7 attending this meeting?

8 A. Yes.

9 Q. Okay. And what do you
10 recall about this meeting generally?

11 A. This meeting was
12 generally conducted at the traffic operations
13 centre in Upper Ottawa and, as I mentioned, there
14 are people in here. Christine Lee-Morrison, Al
15 Kirkpatrick were members coming from the master
16 plan side of things, so the class EA. And Sally
17 Yong-Lee was from the road management. Myself
18 and -- I was representing engineering services.
19 So, I think Gary Kirchknopf was at the time from
20 the traffic operations side and Martin White was
21 traffic operations.

22 Jim Dahms was from transit.
23 Geoff Lupton and all the others mentioned in there
24 as well from these different groups.

25 Q. Registrar, if we can

1 close this down and go to image 2 of this document
2 and if you can call out number 6, the text under
3 number 6. Thank you.

4 So, the RHVP and LINC are
5 referred to in the minutes of this meeting under
6 item 6, which is called out here, under the
7 heading Martin. I take this to refer to Martin
8 White. Is that your recollection?

9 A. Yes.

10 Q. And the minutes note:

11 "LINC and RHVP safety
12 studies to be conducted
13 on all on/off-ramps."

14 Do you recall any discussion
15 related to the RHVP and LINC safety at this
16 meeting?

17 A. Not particularly the
18 details about it. Martin would mention all the
19 safety or the studies that they are being doing,
20 so more information on things like that.

21 Q. I take it you don't
22 recall which particular studies is being referred
23 to here. Is that right?

24 A. No.

25 Q. Okay. And were you

1 involved in these discussions?

2 A. It did not go into the
3 details of the studies. It was more studies being
4 undertaken or just giving a high-level information
5 at that meeting.

6 Q. Okay. And do you recall
7 any discussion of the collisions resulting from
8 the rain event I referred to?

9 A. No.

10 Q. And who was involved in
11 the discussions relating to the LINC and RHVP
12 safety? Do you recall?

13 A. I don't think there was
14 any discussion at these meetings. It was
15 primarily they will be embarking on a study or
16 what is going on, just giving an update on things
17 like that.

18 Q. Okay. Registrar, we can
19 close that down and you can actually close this
20 document as well.

21 So, around this time, in late
22 September/early October 2013, Mr. Moore had
23 already retained Golder to conduct a study on the
24 RHVP that is sometimes referred to as the five or
25 six-year condition evaluation, which, for the

1 purpose of the inquiry, we refer to as the Golder
2 project. This is the project that resulted in a
3 draft January 2014 report that included the
4 Tradewind report as an appendix.

5 So, at this time, again, late
6 September/early October 2013, were you aware that
7 Golder had been retained for this project?

8 A. No.

9 Q. Okay. And given your
10 role as manager of design, is this the type of
11 project you would have expected to have been
12 involved in?

13 A. So, as I mentioned
14 earlier, the Red Hill Valley had a special project
15 office and any related information or studies were
16 being conducted by Gary Moore given his
17 involvement in the past with that Red Hill Valley
18 office, so in a day to day did not come up as a
19 program or a project, so I was not involved in any
20 of those studies.

21 Q. And just to make sure I
22 understand that correctly, so though the special
23 project office had closed, typically items related
24 to the Red Hill Valley were dealt with by
25 Mr. Moore as a result of his involvement in that

1 office. Is that correct?

2 A. Yes. The project office
3 was closed, but Red Hill Valley studies were
4 continued by Mr. Moore.

5 Q. Okay. And was there a
6 particular group -- other than Mr. Moore, was
7 there a particular group at the City that would
8 typically be involved in a project assessing the
9 condition of the RHVP?

10 A. I was not aware of anyone
11 else.

12 Q. Okay. I understand that
13 Mr. Moore decided to have friction testing
14 conducted on the RHVP and LINC following the
15 e-mail discussions relating to those collisions in
16 September 2013 that we spoke about a moment ago.
17 I understand it's your evidence that you were not
18 aware of those discussions at the time. Is that
19 correct?

20 A. Yes. I was not aware.

21 Q. Okay. Were you aware of
22 Mr. Moore's decision to have friction testing
23 conducted on the RHVP and LINC?

24 A. No.

25 Q. Were you aware that

1 friction testing had been conducted on the RHVP
2 and LINC on November 20, 2013?

3 A. No.

4 Q. Okay. I'll ask you some
5 questions relating to these documents a bit later
6 in the chronology, but for now, before 2017, were
7 you aware of any friction testing on the RHVP or
8 LINC at all?

9 A. No.

10 Q. And were you aware of
11 either the Tradewind report or the draft Golder
12 report at this time?

13 A. No.

14 Q. Are these the types of
15 projects or reports that would typically have been
16 discussed at the TCC, in your experience?

17 A. No.

18 Q. And did you ever discuss
19 friction or friction testing with Mr. Moore?

20 A. No.

21 Q. Did you ever discuss
22 friction or friction testing with anyone at the
23 City, again prior to 2017?

24 A. No.

25 Q. Around the same time, so

1 still in the 2013 time period, the City's traffic
2 group had retained CIMA to conduct a safety
3 assessment of a portion of the RHVP, which we
4 refer to as the 2013 CIMA report.

5 Registrar, if we can call up
6 HAM41871.

7 So, that project resulted in
8 the report that I've called up. Did you have any
9 involvement in the project that resulted in this
10 report?

11 A. No.

12 Q. Did you receive or review
13 it around the time it was presented to council, in
14 November 2013?

15 A. No.

16 Q. And would you typically
17 attend PWC meetings as a practice?

18 A. No.

19 Q. And would you typically
20 be aware of work other groups in public works
21 would present to the PWC?

22 A. No, not very much
23 involved, unless it was related to a project that
24 was up for delivery.

25 Q. Okay. Registrar, if we

1 can go to HAM23869.

2 This is an e-mail Mr. Moore
3 sent you and some others on September 4, 2013, so
4 we're now roughly a year after the collisions we
5 were just speaking about and several months after
6 the delivery of the Golder report.

7 And, Registrar, if we can go
8 to HAM23870, but in the native form.

9 I'm just calling up one of the
10 attachments to this document.

11 Okay. So, this is one of the
12 attachments to the e-mail we were just looking at.
13 It's an Excel spreadsheet and it's titled
14 2013-2014 Consultant Roster/Rotation Record of
15 Consultants Retained and Reserved. Do you recall
16 receiving that e-mail in this document?

17 A. Yes. That's a general
18 practice. Gary Moore was the roster captain for
19 the geotechnical investigation category, so he
20 would send it out the all the parties who usually
21 request the roster services to identify what are
22 the type of projects that we will be having in
23 that -- was it a two-year, 2013 to 2014? In that
24 timeframe, is there anyone who has got any
25 projects coming up. We identify that, give him

1 the name of what those will be and the rough
2 amount so that he can pencil in making sure that
3 all the consultants get an equal distribution of
4 work.

5 Q. And before I get into
6 some more specific questions, what is the City's
7 roster program? If you can just tell me about
8 that.

9 A. The roster program is a
10 group of consultants that we identify and hire for
11 a two-year term. Now it has changed to a
12 three-year term and the maximum amount is \$150,000
13 now. At that time, it used to be \$100,000 was the
14 maximum for an assignment that you can provide to
15 those consultants, making sure that in that
16 two-year window or three-year as it is now, making
17 sure that they are repeatedly provided with work,
18 so there are many different categories.
19 Geotechnical investigation is only one of them.

20 Q. Okay. And did you
21 receive this attachment? I understand from what
22 you just --

23 A. Yes.

24 Q. -- said a moment ago --

25 A. Staff names that is

1 mentioned there clearly shows you the staff from
2 where these assignments are coming from. So, ES
3 design is the design group which I was leading and
4 a few names in there actually belongs to the
5 section that I was leading.

6 Q. Okay. That was leading
7 the particular project?

8 A. Yeah, yeah.

9 Q. Okay. And why did you
10 receive this attachment, to your knowledge?

11 A. Because, again, to ensure
12 that if I've got any other projects coming up, so
13 that it can be provided to Gary so he can
14 distribute the work among the different
15 consultants.

16 Q. Okay. And, Registrar, if
17 you can scroll down to row 121, please. Great.
18 And if you're actually able to zoom in so that
19 only A through J are visible, that would be
20 helpful. Okay. Thank you.

21 So, Golder is listed in this
22 document under the heading Scope Consultants.
23 What is a scope consultant?

24 A. Scope consultant is when
25 it is -- so, there is the terms of reference when

1 we are picking the consultants for a roster
2 category. Scope consultants may not meet all the
3 requirements of the terms of reference, but they
4 have specialty work that they can provide, and
5 those specialty consultants are brought in as a
6 scope consultant. So, they don't get the regular
7 day to day, but it's more specialized work that is
8 being assigned to the scope consultants.

9 Q. And various Golder
10 projects are listed under Scope Consultants,
11 including Red Hill pavement condition
12 investigation/report and pavement skid resistance
13 performance, friction testing. And, at the time
14 you received this document, so this is
15 September 2014, were you aware of either of those
16 projects?

17 A. No. I wasn't scanning
18 through what was being given to that scope
19 consultant, and you can see that all those
20 assignments were by Gary, Gary Moore himself.

21 Q. Okay. So, if I
22 understand correctly, you would not have been
23 going through these --

24 A. No.

25 Q. -- projects to

1 determine --

2 A. Yeah.

3 Q. Okay. And would any of
4 the Golder line items relate to work you were
5 doing at the time?

6 A. No.

7 Q. Okay. Registrar, we can
8 close that and we can close this document as well.
9 Thank you.

10 So, moving forward in time to
11 2015, I asked you earlier about your involvement
12 or your recollection of the 2013 CIMA report.
13 CIMA was, again, retained in 2015 by the traffic
14 group, this time for a safety review of the entire
15 RHVP. Council directed staff to obtain the report
16 in May 2015 following a collision that resulted in
17 two fatalities and the 2015 CIMA report was
18 ultimately presented to council in December 2015.

19 Did you have any involvement
20 in that project?

21 A. No.

22 Q. Did you review it at the
23 time it was presented to council?

24 A. No.

25 Q. And were you involved

1 with the implementation of any of the
2 recommendations referenced in the report?

3 A. No.

4 Q. And up to and including
5 this time, in December 2015, do you recall being
6 involved in or hearing about any discussions
7 relating to friction testing on the RHVP or LINC?

8 A. No.

9 Q. Were you aware that
10 friction testing had been recommended in either
11 the 2013 or 2015 CIMA reports?

12 A. No.

13 Q. And do you recall hearing
14 about any safety concerns regarding the RHVP at
15 this time?

16 A. No.

17 Q. Registrar, if we can go
18 to HAM760.

19 So, this is moving forward in
20 time to April 2016. On April 15, 2016, you
21 received an e-mail from Richard Andoga, who
22 informed you that asset management programmed the
23 LINC and RHVP for rehabilitation in 2017. Was
24 this e-mail the first time that you were advised
25 of that?

1 A. Yes.

2 Q. So, I take it you were
3 not involved in any prior discussions regarding
4 the rehabilitation?

5 A. No.

6 Q. At this time, did you
7 know why the RHVP rehabilitation was programmed by
8 asset management?

9 A. I was under the
10 impression it is an asset management, life cycle
11 management related, project and that's primarily
12 what the understanding was regarding this project.

13 Q. Okay. And Mr. Andoga
14 wrote in the e-mail that the objective was to
15 improve skid resistance of the RHVP, repair
16 settlement areas as well as repair the ramps of
17 the LINC.

18 Were you aware at this time
19 that the skid resistance of the RHVP required
20 improvement?

21 A. No.

22 Q. Do you know why it was
23 included as an objective?

24 A. I'm not sure.

25 Q. And did you have any

1 discussions with anyone about why it was included
2 as an objective?

3 A. No, I did not. The scope
4 usually evolves over time, so until that scope was
5 being put together completely, I was not following
6 up on this.

7 Q. Okay. At the time you
8 received this e-mail, what was your understanding
9 of the work that was being proposed? We know that
10 later in time the RHVP is resurfaced, but is the
11 recognition referred to here something less than a
12 full resurfacing?

13 A. So, when this e-mail came
14 in, I understand it's a rehabilitation strategy
15 that they're looking at, but it does not say what
16 exactly what the rehabilitation strategy would be.
17 And it takes time to develop a scope like that, so
18 I was waiting for further investigation and
19 recommendations related to that.

20 Q. And other than what's
21 included in this e-mail, did you have an any
22 understanding of the scope that was being
23 considered?

24 A. No. As I mentioned, it
25 evolves over time, so I did not have a full

1 understanding what the scope would be ultimately.

2 Q. And in the e-mail, he
3 also noted that the Miller Group and Norjohn were
4 invited to submit proposals. Before this e-mail,
5 were you aware of that?

6 A. No.

7 Q. Registrar, if we can go
8 to HAM761.

9 Mr. Becke replied to
10 Mr. Andoga's e-mail and I note that you are not
11 copied on this, but he wrote:

12 "Interesting. Are we
13 thinking microsurfacing?"

14 Were you aware microsurfacing
15 was being considered at this time?

16 A. Not for RHVP.
17 Microsurfacing was something that we were
18 considering on other roads as well.

19 Q. Okay. So, you had some
20 familiarity with microsurfacing, but not for the
21 RHVP?

22 A. Not for RHVP.

23 Q. Okay. And were you aware
24 at this time of any prior recommendations for
25 microsurfacing of the RHVP?

1 A. No.

2 Q. Registrar, if we can take
3 this down and go to overview document 7 at
4 image 121.

5 So, a meeting was arranged
6 with Norjohn, who had submitted a proposal for the
7 use of ultrathin bonded wearing course, and the
8 meeting was on April 27, 2016. At this time, were
9 you aware of either the proposal or the meeting?

10 A. No.

11 Q. Is this typically the
12 type of meeting you would expect to have been
13 included in or made aware of?

14 A. So, the tender process is
15 usually through my group and this was not a tender
16 process. It was more a proposal being solicited,
17 so I was not aware of this process that they had
18 followed.

19 Q. And would it be unusual
20 for design not to have been involved in this
21 process?

22 A. Yeah. It was not a
23 programmed project, so yeah, I'm not sure why it
24 was being done this way.

25 Q. Okay. And do you know

1 why the proposal never went ahead or, more
2 generally, why rehabilitation did not proceed in
3 2017?

4 A. I'm not aware why.

5 Q. And were you involved in
6 any discussions regarding that decision?

7 A. No.

8 Q. Okay. So, moving forward
9 again a few months in time to February 2017,
10 Registrar, if we can go to HAM34635, and if you
11 can just call out the top part where there's text.
12 Just the whole invitation, if you could, just so
13 it's a little bigger. Thank you.

14 So, you received a calendar
15 invite for a meeting on February 6, 2017 titled
16 Repaving RHVP, so this is several months after the
17 e-mail you received from Mr. Andoga regarding RHVP
18 rehabilitation that we just discussed. Had you
19 had any discussions regarding rehabilitation or
20 resurfacing the RHVP in that intervening -- in the
21 interim period?

22 A. Not the interim period,
23 no. This is a meeting that was being held for
24 project coordination again to make operations
25 group aware of the project that is upcoming and

1 request them for looking into other scoping
2 elements that needs to be added to the project.

3 Q. Okay. And was this is
4 first time the concept of repaving the RHVP was
5 brought to your attention?

6 A. As I mentioned earlier, I
7 mean, 2016, there was an e-mail. 2017 is now
8 they're getting into the details of the RHVP. So,
9 it's an evolving process, so it's not unusual a
10 concept is brought up and then continued to
11 develop.

12 Q. Okay. So, you viewed the
13 discussions in early 2017 to have evolved from the
14 earlier discussions in 2016 about rehabilitation.
15 Is that right?

16 A. Yeah.

17 Q. And do you have any
18 insight into why there was roughly a ten-month gap
19 between discussions on rehabilitation and
20 discussions regarding repaving?

21 A. I'm not sure why.

22 Q. And do you recall this
23 meeting on February 6?

24 A. Yeah, I do.

25 Q. What do you recall about

1 that meeting?

2 A. It was held in a City
3 centre. I remember meeting with Martin White,
4 Betty and so on, as well as with our asset
5 management group at the time, Brian Hughes, as
6 well, I remember, to discuss what other things
7 need to get added to the resurfacing or repaving
8 Red Hill Valley. So, it was about, you know,
9 brainstorming the different aspects that needed to
10 get added to the project scope.

11 Q. And what do you recall
12 about the scope at this time?

13 A. So, we start off with
14 rehabilitation strategy, but then that's only one
15 piece. And then you need to talk about the other
16 aspects, like is there any catch basins that needs
17 to be replaced, any culverts, any other issues
18 that is going on that the operations group bring
19 forward during a scope discussion.

20 Q. And do you recall skid
21 resistance being raised as an objective for
22 resurfacing at this time?

23 A. No, I don't recollect
24 that. No.

25 Q. Okay. Did anyone ever

1 address why it was no longer an objective? Were
2 there any discussions about that?

3 A. No.

4 Q. Were there any
5 discussions regarding skid resistance at all?

6 A. No.

7 Q. So, a few weeks later, on
8 March 1, 2017, you were included on an e-mail
9 chain regarding the scope of resurfacing.

10 Registrar, if we can go to
11 HAM858 at image 2, please.

12 And so, in the first e-mail,
13 which you aren't copied on at the time but that
14 you receive in an e-mail later up the chain,
15 Mr. Andoga wrote to Mr. White, Mr. Ferguson,
16 Mr. Sidawi and Mr. Jazvac that they were proposing
17 the resurfacing of the LINC and RHVP over a
18 four-year period, the four years being the RHVP
19 from 2018 to 2019 and the LINC from 2020 to 2021.

20 Was this your understanding of
21 the resurfacing schedule and plans around this
22 time?

23 A. Yes.

24 Q. And do you know why
25 resurfacing was programmed for this period?

1 A. As I mentioned, it was a
2 life cycle management plan that I was under the
3 impression that this is being done. So, as part
4 of life cycle management, Red Hill Valley was due
5 for rehabilitation and then moving on to LINC.
6 LINC was done in 2012, so first was Red Hill
7 Valley and then the LINC.

8 Q. And both the RHVP and the
9 LINC are proposed to be resurfaced over two years.
10 Do you know why it was proposed over a two-year
11 period for each?

12 A. Red Hill Valley is a very
13 lengthy one and, again, the budget may also have
14 been the reason why it was split into two years.
15 I wouldn't know the exact reasoning, but there
16 were talks about doing ramp to ramp at the time or
17 doing one way at a time, so there were a lot of
18 discussions on the practicality of how we wanted
19 to handle this rehabilitation.

20 Q. Okay. And you mentioned
21 that your understanding of why resurfacing was
22 being proposed was related to the life cycle of
23 the roads. To your knowledge, was this on track
24 with the projected resurfacing schedule? Was it
25 earlier or later? Did you have a sense of that at

1 this time?

2 A. I think it was -- again,
3 they do the condition assessment, so I didn't look
4 into the condition assessment or the numbers
5 related to that, and that's something that asset
6 management does continuously. Every two years,
7 they do an OCI index to understand the condition
8 of the road, so that condition index may have
9 triggered it.

10 The other thing that I was
11 aware was traffic and the truck traffic in
12 particular had increased immensely from what was
13 originally projected, so both of this together
14 would have needed the rehabilitation to be done at
15 that time.

16 Q. Okay. And when you
17 referred to the condition assessment, are you
18 referring to the Golder project or something
19 different?

20 A. Pavement distress is
21 something that asset management does for all the
22 roads.

23 Q. Okay. So, it would have
24 been a condition assessment for the entire road
25 network --

1 A. Yeah.

2 Q. -- not something for the
3 RHVP in particular?

4 A. No.

5 Q. Okay. And for a project
6 of this nature and given the budget cycles of the
7 City, is this programming schedule typical, that a
8 project is proposed in 2017 for implementation the
9 following year?

10 A. It is a lot of work that
11 needs to be done when such a big project is coming
12 on board. One year is kind of a tight call, but
13 there's a lot of work that we can do. This one in
14 particular will require MTO coordination and so on
15 and, again, it doesn't say from where to where
16 yet, so there may be elements that I can work
17 around and make sure that it can happen in 2018.
18 So, if I'm working more from Mud Street up to
19 Greenhill valley or Greenhill Avenue, then it's a
20 different take than going from MTO, QEW up to
21 Greenhill. So, it doesn't state all that, so 2018
22 would have been doable.

23 Q. Right. So, you would
24 have needed more information?

25 A. Yeah. The scope

1 determines the type of permits that is required
2 and permits are the ones which are really taking a
3 lot more time and even the specifications related
4 to it. So, at this time, I don't see a holistic
5 scope, so 2018 is doable, yet it is something that
6 we will have to make sure that the right project
7 manager is put on.

8 Q. And did anyone tell you
9 or give you the impression that there was any
10 urgency relating to the Red Hill resurfacing
11 project?

12 A. No.

13 Q. Okay. Registrar, if we
14 can call up image 1 and image 2 side by side.

15 And following these
16 discussions, so the e-mail that you received on
17 March 1, 2017, what, from your perspective, were
18 the next steps regarding resurfacing?

19 A. So, the next steps were
20 to make sure that the rest of the scope, like do
21 you want the guide rails replaced, anything else
22 that needs to be done, culverts, and they talk
23 about dips and so on, so identifying all the
24 aspects of that scope was very important. Related
25 to the scope comes all the investigation related

1 to that, so resurfacing means we need to identify
2 what's a design mix that needs to be put on for
3 the replacement of the asphalt and so on.

4 So, depending on the scope
5 that is coming in, we will also decide whether it
6 can be done in-house or with the expertise that we
7 have internally or whether I need any consultants
8 to help me with the delivery of the project, and
9 to also make sure that the budget is in line with
10 the scope that is being delivered.

11 Q. Okay. And what was your
12 understanding at this time of when the resurfacing
13 project could be brought to tender?

14 A. Can you repeat that
15 question, please?

16 Q. Sure. So, at this time,
17 in early March of 2017, when did you expect that
18 this project would be brought to tender?

19 A. So, project of this
20 magnitude, when they're pulling together in March
21 of 2017, the idea is if the budget is not already
22 in place, the budget talks happens in
23 September/October, so pulling together all these
24 quote so that the budget is approved in through
25 the council and then getting to the award. So,

1 tender would have been towards -- the latest would
2 be March of 2018. If I go any beyond March of
3 2018, it is cutting very close regarding, you
4 know, making sure that the tender and award and
5 starting of the project will be late.

6 Q. So, for work to start in
7 2018, things needed to be in place by the latest
8 in March 2018. Is that correct?

9 A. March 2018 for the
10 tendering of the project so that the work can be
11 delivered through May 2018 onwards.

12 Q. Okay. And what was your
13 understanding of when the scope needed to be
14 finalized?

15 A. Scope needed to be
16 finalized before -- the usual practice was before
17 August of 2017.

18 Q. Okay. And at this time,
19 so February/March 2017, did you have any work
20 relating to the resurfacing of the RHVP on your
21 plate or were you waiting to receive more
22 information?

23 A. I was waiting for more
24 information.

25 Q. Okay. And would your

1 group have had any tasks before the project scope
2 was set?

3 A. I believe this is a major
4 project and I would start looking at which project
5 managers or resources I can put together towards
6 that, so making sure that the project manager, the
7 resources are primed in preparation for this. And
8 even getting the corridor management or the
9 geomatics group ready, because they do the base
10 plans for us and it has to be in place much before
11 we can get going, so as soon as the project is
12 being recommended, the limits methods and the type
13 of work methods so that geomatics and corridor
14 management, when they go out and do survey based
15 plans, they can be prepared for that.

16 So, yeah, within engineering,
17 not particularly in design, but there were active
18 things that needed to be done in preparation for
19 this project.

20 Q. Okay. Thank you.

21 And, Registrar, if we can go
22 to overview document 7, image 183. Thank you.

23 So, moving ahead in time a few
24 months, to June 2017, Councillor Conley and his
25 assistant Robert Ribaric contacted Mr. Ferguson

1 writing:

2 "Is this for Red Hill?
3 Maybe we can touch base
4 with Ludomir."

5 Stopping there for a moment,
6 why do you think you were copied on to
7 Ms. Cameron's e-mail?

8 A. Again, I'm going to make
9 an assumption that Gary was away and I probably
10 was acting on his behalf on that day.

11 Q. Okay. So, you may have
12 been the acting director in --

13 A. That's right.

14 Q. Okay. And before
15 receiving Ms. Cameron's e-mail, were you aware
16 that friction testing had been done in 2014?

17 A. No.

18 Q. And were you aware of the
19 report Ms. Cameron was referring to?

20 A. No.

21 Q. Okay. And looking at
22 Ms. Cameron's 3:52 p.m. e-mail and the e-mails
23 that preceded that, there's nothing in particular
24 that references the RHVP. The first e-mail in the
25 chain from Councillor Conley just says:

1 "On my update sheet, it
2 says that the pavement
3 friction testing is
4 completed. What were the
5 results of the testing?"

6 Did you know what update sheet
7 he was referring to?

8 A. Can you repeat that
9 question, please?

10 Q. Sure. So, looking at the
11 first e-mail in the chain -- and, Registrar, if we
12 can actually call that out, the 2:58 e-mail.

13 Thank you.

14 Councillor Conley, in writing
15 to Mr. Moore and Mr. White, copying Mr. Ribaric,
16 wrote:

17 "On my update sheet, it
18 says that the pavement
19 friction testing is
20 completed."

21 Do you know what update sheet
22 he was referring to or, rather, at the time did
23 you know what update sheet he was referring to?

24 A. No.

25 Q. Okay. Registrar. If we

1 can close that call out.

2 How did you know that this
3 request related to the RHVP?

4 A. As I mentioned, I've
5 never done a friction testing on any of my
6 projects and I was assuming here that it could be
7 related to Red Hill Valley as well as -- again,
8 that's my impression. We did not do any such
9 testing on any other projects. When I say we,
10 design had never received any friction testing
11 reports in the past on any other projects that we
12 did, so it is my assumption here if anything was
13 done, it could be for Red Hill Valley.

14 Q. Okay. So, you responded
15 to Ms. Cameron's e-mail almost immediately. And
16 just so I'm understanding your evidence correctly,
17 there was nothing in particular in this e-mail
18 that prompted you to think it was the RHVP; it was
19 just you were guessing that it might have been.
20 Is that right?

21 A. Yes, yes.

22 Q. You also wrote:

23 "Maybe we can touch base
24 with Ludomir."

25 Did you know at this time that

1 Dr. Uzarowski had been involved in friction
2 testing or an assignment regarding the RHVP?

3 A. Again, it's an assumption
4 that any time Red Hill Valley -- I know that Gary
5 had worked very closely with Dr. Uzarowski, so it
6 is again an assumption. And why I'm saying that
7 is because Ms. Cameron is saying that I do not
8 have a copy of the report, so I was suggesting to
9 her maybe you can follow up. And I don't know for
10 certain if that was Dr. Uzarowski who will be the
11 person to contact. I'm just suggesting to her.

12 Q. Okay. And what RHVP
13 related work were you aware that Golder or
14 Dr. Uzarowski had been involved in previously at
15 this time?

16 A. I was not aware of any
17 particular projects that Dr. Uzarowski and
18 Mr. Moore were doing on Red Hill Valley Parkway,
19 but I was aware that there were a lot of
20 collaborations with other organizations and so on
21 that was related to Red Hill Valley. And, again,
22 as I was not touching base with any of those day
23 to day, I had no clue of other studies or events
24 that was happening related to Red Hill Valley.

25 Q. Okay. So, you were not

1 aware of any work that Dr. Uzarowski and Golder
2 had done with respect to the RHVP, but you
3 understood that they had worked with Mr. Moore
4 previously. Am I understanding that right?

5 A. That's right.

6 Q. And Ms. Cameron replied
7 to your e-mail writing:

8 "I wouldn't give anything
9 to the councillor without
10 Gary's permission."

11 Did Ms. Cameron's response
12 surprise you?

13 A. She is mentioning that
14 she doesn't have a copy and she will follow up
15 upon Gary's return, so I feel confident that she
16 will take care of it and, as needed, work with
17 Gary to get that report and give it to Mr. Conley,
18 so I was under the impression it was being dealt
19 with as needed. I didn't see any urgency in here
20 that I needed to do anything about it, so I didn't
21 feel very surprised that she -- I thought she was
22 under control.

23 Q. Okay. And she refers to
24 "without Gary's permission." Typically, would you
25 need Mr. Moore's permission to provide a

1 councillor with documents?

2 A. Again, the working
3 relationship between Ms. Cameron and Gary, I did
4 not know about that. But I am, as an acting
5 director, assisting her to figure out what needs
6 to be done at that time.

7 Q. And did you discuss is
8 this request with Mr. Moore when he returned to
9 the office?

10 A. It is my general practice
11 when I'm acting for someone to reply or to give a
12 brief or summarize what the events were. I'm not
13 100 percent sure. It's more a verbal
14 communication that I usually do upon the person's
15 return. So, I may have done that, referred to
16 this, as there is an outstanding request, but I
17 cannot confirm this. No e-mail chain regarding
18 that.

19 Q. Okay. And you don't have
20 a specific recollection of having a verbal
21 discussion with Mr. Moore. Is that right?

22 A. No. I usually summarize
23 and that's my practice, so I'm going to assume
24 here.

25 Q. And did you ask him for

1 the results or for the report?

2 A. No, I did not.

3 Q. Why not?

4 A. I did not require it for
5 my day-to-day projects or work, so I did not ask
6 for it.

7 Q. Okay. And did
8 Ms. Cameron raise this with you again?

9 A. No, she did not.

10 Q. Did anyone?

11 A. No. So, I don't see a
12 followup from councillor's office either, if they
13 were in need of it or if they have seen that I was
14 copied as well, but there was no followup from
15 councillor's office either. So, I didn't feel
16 that they didn't receive it or there was an
17 urgency regarding that.

18 Q. Okay. And did you
19 discuss friction testing with anyone else at the
20 City after this exchange?

21 A. No, I did not.

22 Q. And I think I have your
23 answer on this, but just to be sure, after you
24 received Ms. Cameron's e-mail on June 5 at 4:30,
25 were there any next steps or any follow-up items

1 for you to do?

2 A. No. I didn't think I had
3 any followup to do because there was no urgency.
4 That is all here. And Ms. Cameron, I thought
5 Ms. Cameron was under control because she said
6 that she will reply back to the councillor's
7 office as of June 12 and there was no take back
8 from the councillor's office that they needed it
9 immediately, nor did they escalate it, so I
10 thought it was well contained and it will be taken
11 care of.

12 Q. Okay. And did you ever
13 learn whether or not the results were provided to
14 Councillor Conley?

15 A. No.

16 Q. So, not long after the
17 e-mails with Councillor Conley, the Hamilton
18 Spectator published an article regarding the RHVP
19 titled "Highway traffic tragedies: Why are there
20 so many crashes on the Red Hill?"

21 Registrar, if we can go to
22 that document, it's HAM52704. Okay.

23 And do you recall reading this
24 article when it was first published in July 2017?

25 A. No, I don't recall

1 reading it.

2 Q. So, in the article --
3 actually, maybe if we can go to that image. One
4 moment. If we can go to image 2, Registrar, 2 and
5 3, if possible, and if we can call out the last
6 sentence on image 2 and the first on image 3 so
7 it's a little bit bigger.

8 So, even if you hadn't read or
9 if you weren't aware of this article at the time,
10 did you understand that the decision to repave was
11 related to inconclusive test results?

12 A. No. That was not my
13 understanding.

14 Q. And, Registrar, if we can
15 take those down. If you can call out the third
16 line on image 3, starting with, "No one ever
17 releases."

18 So, Mr. Moore was quoted as
19 having said:

20 "No one ever releases
21 (that type of)
22 information because it's
23 the first thing anybody
24 (would use in a)
25 lawsuit."

1 Do you recall ever being
2 told -- was that something that was ever discussed
3 with you?

4 A. No.

5 Q. Okay. And do you recall
6 any discussion with anyone at the City about this
7 article, whether at this time or later in time?

8 A. No.

9 Q. Okay. Registrar, if we
10 can take that call out do you know and we can
11 actually close this document.

12 So, the inquiry has received
13 evidence indicating that discussions surrounding
14 the use of hot in-place recycling for the RHVP
15 began around November 2017 around a CTAA
16 conference in Halifax that Dr. Uzarowski and
17 Mr. Moore attended. Is this timing consistent
18 with your recollection?

19 A. Yes.

20 Q. And did you attend this
21 conference?

22 A. I did not.

23 Q. Okay. And when did you
24 first hear about the possibility of using hot
25 in-place recycling to resurface the RHVP?

1 A. So, immediately after
2 they returned from CTAA, they started talking
3 about a new technology, which was a hot in-place,
4 because, as I mentioned, 2018 is when we were
5 going out for this project and it was brought to
6 my attention that they want to look at another
7 technology and they were looking at it and this
8 discussion happened roughly around November or so.

9 Q. And when you say "when
10 they returned," who are you referring to?

11 A. So, Mike Becke from my
12 team was -- I had approved his travel for CTAA
13 and, upon his return and Gary's return as well,
14 they were starting to discuss the new technology.

15 Q. Okay. So, it was your
16 understanding that both Mr. Moore and Mr. Becke
17 attended that conference?

18 A. Yes.

19 Q. And, at the time, were
20 you familiar with hot in-place recycling?

21 A. No, I was not.

22 Q. Okay. And I take it you
23 did not have an understanding of whether or not it
24 could be used on SMA. Is that correct?

25 A. I did not know.

1 Q. Okay. And what do you
2 recall about the initial discussions? Who
3 provided you with information?

4 A. So, hot in-place
5 technology was something that was being used in BC
6 and MTO was considering to do it as well, so these
7 are the information that I was receiving from Mike
8 Becke as well as Mr. Moore regarding the use of
9 HIP. They also mentioned the pros and cons
10 regarding that, which was that it is less costly
11 plus it was a quicker job, so they were hoping
12 that both the northbound as well as the southbound
13 sections can be done with the cost or lesser than
14 what was originally budgeted for. So, there were
15 some pros towards using the HIP technology.

16 As well as they were thinking
17 about reusing the materials, which was another
18 advantage that was being recommended for the HIP
19 process.

20 Q. Okay. And you mentioned
21 that one of the advantages that was identified to
22 you was that it could be done more quickly. Was
23 it your understanding that both directions could
24 be done in one year?

25 A. That was one of the

1 considerations, yes. It can be done quicker, the
2 replacement of the surface can be done quicker,
3 less amount for letting -- before the traffic can
4 be opened up for traffic.

5 Q. And, at this time, did
6 you have a sense of whether that work was to be
7 done in 2018 or 2019?

8 A. So, I did have a concern
9 by January that because it's a new technology, you
10 need to identify what are the design mixes and so
11 on, and I, as I mentioned, if I need to put out
12 this kind of project, it has to be done by March
13 of the year. Otherwise, it's too late to put out
14 a tender and make sure that the construction can
15 start early enough. So, I was having a doubt
16 whether it can be constructed in 2018.

17 Q. Okay. And I think you
18 told me earlier that typically by August of 2017
19 the scope would be finalized so that work -- the
20 project could be tendered by March of 2018 and the
21 work could be implemented that year.

22 So, this is now November 2017.
23 For a project of this nature, was it unusual to
24 still be considering the type of resurfacing at
25 this stage?

1 A. Yes, it is. When I
2 talked about the budget and the scope, the scope
3 says road rehabilitation, so that's not changing.
4 The methodology is changing and that can still be
5 done. So, nothing changes from what was in the
6 scope or the budget.

7 What is changing is the
8 methodology of how this going to be done, is it
9 copies, is it hot in-place or what exactly, shave
10 and pave, what is going to do done. The budget
11 was done for shave and pave, so it was the highest
12 cost that was put in the budget, so there was
13 enough budget to cover for the works that needed
14 to be done.

15 Q. Okay. So, it would not
16 be unusual for changes regarding the details of
17 the scope to be done after August but before --

18 A. Right. This is a new
19 technology, so definitely it had to be brought
20 towards the council and get an approval as well
21 and look into how these things would be done. We
22 do communicate with our contractors as well
23 regarding the type of projects that we are doing
24 so that they are prepared and be ready for the
25 tenders that are coming out. So, if it's a new

1 technology, it definitely needs more announcements
2 and communication regarding that.

3 Q. Okay. So, around this
4 time, in November 2017, were you involved in any
5 analysis or any testing or any work relating to
6 the RHVP?

7 A. I am not 100 percent on
8 whether we had done any sampling by then, because
9 we were looking at dips and bumps on the parkway
10 as well. So, if any analysis or any samples were
11 taken related to that, I'm not sure, so I don't
12 recollect the actual timing.

13 Q. Okay. And, Registrar, if
14 we can go to overview document 8, image 16,
15 paragraphs 34 and 35.

16 There's an e-mail chain
17 between Mr. Andoga and Mr. Becke and you aren't
18 copied on this e-mail and we don't have any
19 documents suggesting that it was provided to you,
20 but there's some reference to core information and
21 core samples for the RHVP. This, I can tell you,
22 preceded the proposal from Golder relating to
23 testing that was ultimately done in December of
24 2017.

25 Were you involved in any core

1 sampling or any test results in mid-November of
2 2017? Is this something that you were involved
3 in?

4 A. Yeah. Mr. Becke was
5 requesting for the core sampling and it is our
6 usual practice for any resurfacing practice to
7 take some core samples to identify the depth of
8 the asphalt and things like that, so do more
9 analysis to figure out how much depth of asphalt
10 is available in the right-of-way, just not relying
11 on the as-built drawings. That's a indication,
12 but to continue with some core sampling or geotech
13 investigation is what we do on all our projects.

14 Q. But you personally, were
15 you involved in any discussions on this or was
16 this something that Mr. Becke --

17 A. No, I was not personally
18 involved with any of this. I just make sure that
19 the program is being delivered, as I mentioned
20 before. So, this is a day-to-day activity. I
21 just made sure that the project is on the go and
22 there are sufficient activities related to getting
23 the project delivered.

24 Q. Registrar, if we can go
25 to image 20 of overview document 8.

1 In late November 2017,
2 Mr. Moore received a proposal from Golder for
3 tests on the RHVP involving cores and including
4 PSV, median texture depth and British pendulum
5 testing and he circulated his response approving
6 the proposal to a few city staff members, but only
7 appeared to provide the proposal itself to
8 Mr. Becke and Mr. Andoga. And I don't see that
9 you were copied or provided a copy of that
10 proposal at the time.

11 Were you aware of this testing
12 at the time and that the City had received the
13 proposal?

14 A. Yeah. Yes, I was aware
15 of the activities that were going on.

16 Q. Okay. And what was your
17 involvement or what was your recollection of that?

18 A. So, these were samplings
19 that needed to be undertaken to figure out what is
20 the design mix of the asphalt.

21 Q. Okay. So, your
22 understanding was that it was related to the
23 resurfacing?

24 A. Yes.

25 Q. Okay. And do you recall

1 at this time if anyone indicated to you that there
2 were any concerns regarding friction or safety on
3 the RHVP?

4 A. No.

5 Q. Okay. Registrar, if we
6 can go to image 41, please.

7 So, a few months later, on
8 January 16, 2018, you e-mailed Mr. Sidawi, who is
9 the manager of asset management at the time,
10 Mr. McGuire, Mr. Moore and Mr. Becke writing that
11 the RHVP was committed for a January 24 tender.

12 Stopping there for a moment,
13 what did you mean by that?

14 A. Yeah. So, as I
15 mentioned, it's a big project and it cannot be
16 delivered at the last minute, so March is the
17 latest that I can go by for the tender of this
18 kind of project. So, by January, I still don't
19 have a strategy, I don't have a design mix, no
20 specifications related to what is going to be
21 done, so there is no way this project can be
22 delivered for 2018 implementation. So, I'm
23 raising a concern and doing my communication with
24 the director levels as well as with asset
25 management, Mr. Sidawi was the manager of asset

1 management at the time, mentioning that there will
2 be a delay and I'm going to reallocate my staff
3 member who was dedicated for this project on to
4 another project which is equally time sensitive
5 because we were getting some funding from the
6 province, and that needed to be completed, so I
7 was reallocating my resources to another time
8 sensitive project and this will not continue as of
9 January.

10 Q. Okay. So, did missing
11 the January 24 date that you indicated in your
12 e-mail, did that mean the project could not
13 proceed that year or --

14 A. Yes. So, I was
15 indicating that because I didn't have
16 specification, I didn't have a strategy of the
17 rehab, it was still being sampled and tested and
18 more investigation needed to be done before a
19 design mix can be put in place. So, January 24
20 was the predicted timeline, but even if I had put
21 together the tender by March, it would have still
22 worked, but I'm indicating that there's no way
23 we'll get to that point by then.

24 Q. Okay. And was it your
25 understanding of regardless of whether the City

1 opted to do hot in-place recycling or a
2 traditional shave and pave, was it your view that
3 if it was not confirmed by January 24, that it
4 would need to be deferred?

5 A. Yes, because as I
6 mentioned, MTO was one of the agencies from which
7 I need a permit because I'm -- the limit of my
8 project is as far as QEW, so I need to do a lot of
9 communication, I need to do a lot of coordination,
10 before this project can be out for tender. So,
11 there was no way, by January, the date that I'm
12 mentioning there, if I didn't have all that in
13 place, there was no way I was confident that I can
14 deliver this project.

15 Q. You mentioned that you
16 had some concerns regarding the timing and
17 ensuring that your resources were allocated. Did
18 you have any concerns about the resurfacing
19 project being deferred?

20 A. No. It was a very
21 high-profile in the sense it was a lot of dollars
22 attached to that project, so at the end of the day
23 one of our KPI or key performance indicator is to
24 make sure that we have delivered our projects on
25 timely fashion. So, this was going to affect the

1 KPI of the engineering services, plus I needed to
2 reallocate my resources now that there are other
3 factors that was affecting the delivery of the
4 project.

5 Q. Okay. But you didn't
6 have any concerns regarding safety or did you have
7 an understanding of any urgency relating to the
8 resurfacing?

9 A. I did not perceive there
10 was any safety issues. Had I known that, I would
11 not have allowed this investigation or delay in
12 the project to happen.

13 Q. Okay. Commissioner, I'm
14 about to move on to a different topic and I see
15 that we are a few minutes away from our 11:00
16 break. Would you like me to start on to that
17 topic or would now be a good place to take a
18 break?

19 JUSTICE WILTON-SIEGEL: This
20 would be a good place to take our break, so we'll
21 return at 11:15.

22 --- Recess taken at 10:58 a.m.

23 --- Upon resuming at 11:15 a.m.

24 MS. LECLAIR: Commissioner,
25 may I proceed?

1 JUSTICE WILTON-SIEGEL: Yes,
2 please proceed.

3 MS. LECLAIR: Thank you.

4 BY MS. LECLAIR:

5 Q. Okay. Registrar, if we
6 can go to overview document 8, image 69, and if
7 you can call out paragraph 192 of the text that's
8 indented. Perfect. Thank you.

9 So, on February 28, 2018, you
10 received a calendar invite from Mr. Becke for a
11 meeting which was ultimately scheduled for
12 March 9, 2018. Other recipients of the calendar
13 invite included Dr. Uzarowski, Mr. Oddi,
14 Mr. Perusin, Mr. Andoga, Mr. Leon, Mr. Vala and
15 Mr. Renaud. In the calendar invite, Mr. Becke
16 made a reference to a side discussion with
17 Dr. Uzarowski. We understand from others who have
18 testified that this was a side discussion with
19 Dr. Uzarowski after a presentation he gave on
20 February 23, 2018. Did you attend that
21 presentation?

22 A. I don't recall that. I'm
23 not sure which meeting is being referred to.

24 Q. Okay. Do you recall
25 having a side discussion with Dr. Uzarowski?

1 A. No, no.

2 Q. Mr. Becke also wrote:

3 "It sounds like there
4 will be some challenges
5 with this approach that
6 we need to discuss moving
7 forward."

8 At the time you got this
9 calendar invite, so February 28, 2018, were you
10 previously aware of the possible challenges
11 Mr. Becke referred to or was this --

12 A. No. No, I wasn't aware
13 of any challenges.

14 Q. Registrar, if we can
15 close this call out and if we can also call up
16 image 70. Thank you.

17 So, on March 1, 2018,
18 Dr. Uzarowski responded to Mr. Becke's calendar
19 invite. And, to be clear, you're not copied on
20 Dr. Uzarowski's response, but I would like to
21 review it and I'll ask you some questions about
22 the information you had at the time.

23 So, Registrar, if we can just
24 call out paragraph 193. It finishes at the top of
25 page 70.

1 Ms. Jacob, I just ask that you
2 review the indented text underneath paragraph 193
3 and let me know once you've read it.

4 A. Yeah, I read it.

5 Q. So, around the time of
6 this e-mail, were you aware that Mr. Wiley,
7 Dr. Uzarowski's contact regarding hot in-place
8 recycling, had expressed that hot in-place
9 recycling of SMA was perhaps not feasible?

10 A. Not at this time.

11 Q. Were you aware that MTO
12 guidelines do not allow hot in-place recycling of
13 SMA?

14 A. Not at this time.

15 Q. Okay. Registrar, we can
16 take those call outs down and if we can go to
17 overview document 8, image 75.

18 So, the meeting was ultimately
19 scheduled for March 9, 2018. Do you recall
20 attending this meeting?

21 A. Yes, I do.

22 Q. Who else attended the
23 meeting?

24 A. I pick from my memory to
25 explain who I remember was there. Mike Becke,

1 Sarath Vala, Marco Oddi, myself, probably Claudio
2 Leon. Again, I'm not 100 percent on all the
3 people. Gary Moore. I'm not sure whether Rick
4 Andoga was there at that meeting. There's a
5 possibility.

6 Q. Okay. And from the
7 invite that I showed you a moment ago that
8 included Dr. Uzarowski, Mr. Oddi, Mr. Perusin,
9 Mr. Andoga, Mr. Leon, Mr. Vala and Mr. Renaud,
10 other than Mr. Andoga, who I think you mentioned
11 you weren't sure if he attended, do you recall if
12 the others attended that meeting?

13 A. All the names that you
14 read out are possibly attending. I remember many
15 of them being in attendance. Sarath for sure,
16 Mike Becke for sure, Gary Moore, Dr. Uzarowski.
17 Claudio Leon, I think, was there as well.

18 Q. Okay.

19 A. Mr. Oddi, too. I'm not
20 sure about Dennis Perusin.

21 Q. And did you do anything
22 to prepare for this meeting? Did you have any
23 discussions with anyone?

24 A. No. I was there to
25 understand what were the challenges of HIR.

1 Q. Okay. And did you take
2 any notes from this meeting?

3 A. I don't recollect any
4 notes we have. I don't remember.

5 Q. And did you attend the
6 entirety of this meeting?

7 A. The meeting was called to
8 discuss the suitability of HIR. I did attend
9 these for sure. And, yeah, there were side
10 discussions as usual and that I didn't attend.

11 Q. Okay. So, is it your
12 evidence that you attended kind of the scheduled
13 portion of the meeting, but that others remained
14 and had a discussion and that part you did not
15 attend? Is that correct?

16 A. Yeah.

17 Q. Okay. And do you recall
18 if anyone left before the scheduled portion
19 concluded?

20 A. The discussion regarding
21 HIR was the main focus for which I remember
22 everyone was in presence. I don't recollect
23 anyone leaving before that scheduled portion.

24 Q. And in terms of the side
25 discussion that you referred to, do you recall,

1 you know, before you left, did anyone else leave
2 before that discussion?

3 A. Mr. Moore had left the
4 room before me.

5 Q. Okay. So, sometime after
6 the scheduled portion relating to hot in-place
7 recycling but before you left, Mr. Moore left?

8 A. Yes.

9 Q. Okay. So, in a moment
10 I'll take you through some notes that others took
11 at the meeting in case it helps refresh your
12 memory. But before then, what do you recall about
13 the tone of the meeting?

14 A. So, the meeting started
15 off with the information that Dr. Uzarowski had
16 regarding the challenges of the HIR. As I
17 mentioned, 2018 project is what we were hoping to
18 deliver and we were holding back to continue with
19 this investigation. So, to note that HIR is not
20 feasible, it was difficult information to handle
21 for some of the members. So, it was a rather
22 heated discussion to understand why it cannot be
23 done even though MTO is mentioning that SMA is not
24 suitable, why can it not be tested out? So, that
25 was the additional step that was being requested

1 of Dr. Uzarowski.

2 Q. Okay. So, a few things
3 on that. Do you recall Dr. Uzarowski saying it
4 was not feasible at this meeting, that hot
5 in-place recycling was not feasible for the Red
6 Hill?

7 A. The earlier information,
8 the way Dr. Uzarowski had e-mailed Mr. Becke that
9 you showed me, is the information that he was
10 presenting at the meeting as well. He mentioned
11 that he had talked to Mr. Pat Wiley and Mr. Pat
12 Wiley has never done that previously. And he also
13 mentioned that MTO does not allow SMA for HIR
14 methodology, so that's the information he was
15 providing.

16 Q. Okay. You also said that
17 the information that hot in-place recycling may
18 not be feasible was difficult information to
19 handle for some of the members. Who were you
20 referring to?

21 A. The engineering services
22 team in general was really shocked by receiving
23 that information at that meeting. When I say
24 engineering services, that includes me, because
25 this project was delayed by this time in the hope

1 that HIR is the best methodology and to understand
2 it may run into delays was difficult information.

3 Q. You also said that the
4 meeting was heated. Was anyone yelling at the
5 meeting?

6 A. No one was yelling. It
7 was more loud voice definitely, but no yelling.

8 Q. Okay. And the loud
9 voices, did you perceive that to be angry?

10 A. More than angry, I would
11 say disappointment.

12 Q. Okay. And who do you
13 recall conveying their disappointment?

14 A. Mr. Moore wanted
15 Dr. Uzarowski to look into what is the
16 beneficiating mix that can be utilized to make HIR
17 happen for Red Hill Valley.

18 Q. Okay. And was Mr. Moore
19 the loud voice or one of the loud voices that you
20 recall that you have referred to?

21 A. Yes.

22 Q. Who spoke primarily at
23 this meeting?

24 A. Can you repeat that? I
25 didn't understand.

1 Q. Sorry. Who at the
2 meeting spoke primarily?

3 A. Dr. Uzarowski was the one
4 that was conveying the message, and followed by
5 Mr. Moore who wanted to know why it cannot be
6 looked into further.

7 Q. Okay. And did you speak
8 at this meeting? Do you recall what you
9 contributed in terms of --

10 A. I was not contributing
11 because this was a new technology for me, so I was
12 listening in to the recommendations that is coming
13 in from the consultant.

14 Q. So, Dr. Uzarowski
15 testified that he presented the results from the
16 2017 Golder pavement evaluation and the testing
17 done on December 6 to 7, 2017 at the meeting.

18 Registrar, if we can go to
19 image 72 and 73 first. Okay.

20 Do you recall any discussion
21 of the results from that testing, including any
22 discussion of British pendulum testing results,
23 measured texture depth results or PSV results?

24 A. I don't recall. As I
25 mentioned earlier, in November/December timing,

1 they were still doing the testing. I had not seen
2 any results from that testing, so I don't recall
3 this being discussed in particular.

4 Q. Okay. So, you hadn't
5 seen any results and you don't recall one way or
6 another whether --

7 A. No.

8 Q. -- it was discussed. Is
9 that correct?

10 A. Yes. I don't recollect.

11 Q. Okay. Do you recall
12 Dr. Uzarowski stating that the British pendulum --
13 that he considered the British pendulum numbers to
14 be unreliable because of weather conditions? Is
15 that something that you recall?

16 A. I don't in particular
17 about those two things, no.

18 Q. Okay. Registrar, if we
19 can go to image 76, please.

20 This is a transcription of
21 some notes Mr. Becke prepared, handwritten notes
22 Mr. Becke prepared, during the March 9 meeting.
23 And I'll also call up some notes from
24 Dr. Uzarowski. To avoid some duplication, I'll
25 ask you some questions in context of both notes in

1 a moment, but first looking at these notes.

2 Registrar, if we can call out
3 the indented text itself under paragraph 207.

4 Thank you.

5 Do you recall any discussion
6 of friction or friction numbers at this meeting?

7 A. I don't recall friction
8 being discussed.

9 Q. So, there's two notes
10 here that reference friction, so "friction
11 number/weaker surface afterwards," and then a bit
12 further down, "concern with friction numbers."

13 Does that assist with your
14 recollection? Are those notes meaningful to you
15 at all, recognizing that they are not your notes?

16 A. That's not my notes and I
17 don't recollect friction number being discussed at
18 that meeting. It could be after I left, after the
19 HIR discussion.

20 Q. Okay. And, Registrar, if
21 we can go to -- we can close this call out and if
22 you can call out side by side image 75 and
23 image 78. Okay.

24 So, on the left-hand side at
25 paragraph 206, there is a transcribed entry from

1 Dr. Uzarowski's notebook that's dated March 9,
2 2018, and then the document on the right is an
3 e-mail he sent internally to his colleagues at
4 Golder just over a week later, on March 14, 2018.

5 So, again, to confirm, I
6 recognize that these are not your notes and that
7 you're not copied on that e-mail, but I would like
8 to walk you through in case they're helpful in
9 refreshing your memory.

10 Do you recall being told that
11 hot in-place recycling on SMA would have to be
12 approached with caution?

13 A. Yes. At that meeting,
14 that was a discussion as one of the challenges.

15 Q. And just to make sure I
16 understand correctly, was it at this meeting that
17 you first learned of the nature of the challenges
18 or concerns that Dr. Uzarowski had?

19 A. Yes. In the invitation
20 to the meeting, Mike had already mentioned there
21 was some challenges. He did not go into the
22 details of what challenges.

23 Q. Okay. And, Registrar, if
24 we can call out at paragraph 214 the last two
25 paragraphs, so starting with "frictional

1 characteristics."

2 So, I think I understand your
3 evidence to be that you don't recall any
4 discussion regarding friction or frictional
5 characteristics at the meeting. Is that correct?

6 A. Yeah. I don't recall the
7 discussion regarding frictional characteristics.

8 Q. Do you recall
9 Dr. Uzarowski using the name Tradewind or
10 referring to Tradewind?

11 A. I don't recall.

12 Q. Do you recall discussing
13 microsurfacing at this meeting?

14 A. Microsurfacing was
15 briefly brought up, yes.

16 Q. Okay. And brought up by
17 who?

18 A. By Dr. Uzarowski.

19 Q. And what do you recall
20 about what he discussed regarding microsurfacing?

21 A. He mentioned
22 microsurfacing can be undertaken after -- I think
23 it was before -- I think he mentioned after the
24 HIR was done, microsurfacing can be undertaken.

25 Q. Okay. So, this was

1 something you recall discussions regarding
2 microsurfacing to be applied after the hot
3 in-place recycling but not before?

4 A. I don't recollect exactly
5 before or after, but there was a discussion of
6 microsurfacing.

7 Q. Okay. And did you
8 understand Dr. Uzarowski to be recommending
9 microsurfacing?

10 A. I didn't understand why
11 he was recommending or that he was recommending
12 microsurfacing, because my understanding was we
13 were looking at HIR because of its pros and now he
14 was saying it's not feasible. But other than
15 that, why microsurfacing, I wasn't very clear on
16 that.

17 Q. Were you familiar with
18 microsurfacing at this time?

19 A. Yes.

20 Q. So, in this call out,
21 Dr. Uzarowski noted that Mr. Moore rejected the
22 idea of applying microsurfacing after hot in-place
23 recycling. Do you recall Mr. Moore rejecting
24 anything with respect to microsurfacing?

25 A. See, I don't recollect

1 anyone rejecting the idea, but it was more related
2 to HIR that the discussions were around.

3 Q. Okay. Do you recall how
4 anyone responded to microsurfacing, anyone at the
5 City?

6 A. I'm going to assume here,
7 because it did not move forward.

8 Q. But you don't have any
9 recollection of how anyone responded --

10 A. Yeah.

11 Q. -- at all? Okay. So, in
12 the same call out, do you recall Dr. Uzarowski
13 saying anything along the lines of:

14 "I then recommended using
15 skidabrader or shot
16 blasting, at least the
17 worst areas indicated in
18 the Tradewind Scientific
19 report, to include
20 friction of the current
21 surface if they delay
22 resurfacing."

23 A. I don't recollect that.
24 As I mentioned, after the HIR discussions I had
25 briefly left and I was not participating in this

1 discussion at that point.

2 Q. So, during the portion
3 that you attended, you don't recall discussion of
4 recommendations for treatment before resurfacing?

5 A. No.

6 Q. Okay. To your knowledge,
7 had any interim measures been recommended before
8 this meeting? Is this something you were aware
9 of?

10 A. No.

11 Q. In your view, who at the
12 City would have been responsible for making a
13 decision for such a recommendation, if it was
14 made?

15 A. Yeah. It does have an
16 impact on the cost and definitely on the budget,
17 so it would have been director of engineering
18 services' decision. Plus, it needed a lot of
19 communication if that was being decided.

20 Q. Okay. And Dr. Uzarowski
21 testified that he was told at this meeting that
22 the City could not implement any interim measures
23 prior to resurfacing because that would confirm
24 that there was a problem with the Red Hill Valley
25 Parkway and the public would blame the City.

1 Do you recall anything similar
2 being said at the meeting?

3 A. No.

4 Q. Okay. And Dr. Uzarowski
5 testified that he thought it was Mr. Oddi who made
6 that comment at this meeting. Do you recall
7 Mr. Oddi saying anything similar to that?

8 A. As I said, I'd already
9 left the meeting just immediately after HIR
10 discussions happened. I did not participate in
11 this frictional characteristics section that you
12 are talking about.

13 Q. Sure. When you say you
14 had already left --

15 A. I had taken a washroom
16 break and when I came back I did see that people
17 were still continuing with side discussions, in
18 which I did not participate or was in the room for
19 that.

20 Q. So, you did not rejoin
21 the meeting --

22 A. No.

23 Q. -- after you left? And
24 did you understand from anyone who was part of
25 that discussion, were you informed of what was

1 discussed after you left? Following the meeting,
2 did anyone report back?

3 A. No.

4 Q. And do you recall
5 Mr. Oddi rejecting any suggestions Dr. Uzarowski
6 made during the meeting?

7 A. No. Marco, Mr. Oddi, was
8 also very loud, but other than that, I don't
9 recollect whether he was rejecting any idea or
10 not.

11 Q. When you say Mr. Oddi was
12 also very loud, do you recall what topics or do
13 you recall what he was discussing, what his
14 involvement was at this meeting?

15 A. No. I don't recollect
16 exactly on what item he was being loud about.

17 Q. Dr. Uzarowski also
18 testified that he thought Mr. Becke might have
19 confirmed the statements made by Mr. Oddi. Do you
20 recall Mr. Becke's contributions to this meeting
21 at all?

22 A. No, not at this point.
23 HIR definitely. He had brought the meeting
24 together, so maybe in the early portion when he
25 was discussing how to move forward and taking the

1 samples and so on.

2 Q. Was Mr. Becke one of the
3 loud voices that you described?

4 A. No.

5 Q. Okay. Did Dr. Uzarowski
6 or anyone at Golder ever raise any concerns
7 relating to safety at this meeting or prior to
8 this meeting?

9 A. No.

10 Q. Did he or anyone at
11 Golder ever raise concerns regarding safety of the
12 RHVP with you?

13 A. No. Had I heard about
14 safety and HIR not a possibility, that would have
15 been a different take on it.

16 Q. But, to confirm, you did
17 not have that information? You did not have any
18 information with respect to safety?

19 A. No, no. There was no
20 safety concerns raised before or after or at this
21 meeting.

22 Q. After the meeting, do you
23 recall having any discussions regarding the
24 meeting with anyone in your group or in
25 engineering services more broadly?

1 A. The discussion was to
2 continue with the HIR possibility, so Mike Becke
3 was continuing with Dr. Uzarowski taking samples
4 to identify what would the design mix be. So,
5 that was a conversation we were having as a
6 move-forward action item.

7 Q. Okay. And I think I have
8 your answer on this, but just to be sure, after
9 the meeting, did anyone discuss implementing
10 skidabrading, shot blasting or any other remedial
11 measures pending resurfacing?

12 A. No.

13 Q. Okay. And did you have
14 any discussions with anyone regarding whether the
15 City wanted to continue to pursue hot in-place
16 recycling?

17 A. Hot in-place was given
18 the comments regarding its pros, and since we were
19 past the time for resurfacing, as I mentioned, to
20 put out a tender, there was no harm in checking
21 what makes it happen. So, I was also under the
22 impression that we should follow up on that and
23 see what takes and what beneficiating mix is
24 needed to make HIR happen. So, that was the
25 instruction given at that meeting when everyone

1 walked away from it.

2 Q. When you say instruction
3 given at the meeting, who gave that instruction?

4 A. Mr. Moore.

5 Q. Okay. And from this
6 meeting, did you get the sense that resurfacing
7 was urgent?

8 A. No.

9 Q. And following the
10 meeting, what were the next steps from your
11 perspective or on your plate regarding RHVP
12 resurfacing?

13 A. HIR was still the
14 methodology that we were persuing. Mr. Becke was
15 working closely or was required to work closely
16 with Dr. Uzarowski so that we can identify how to
17 move forward. So, sampling of the sampling from
18 Red Hill Valley at the appropriate locations,
19 making sure that they're working together to
20 identify the specification for the tender document
21 was the action item to move forward after this
22 meeting.

23 Q. Okay. Registrar, we can
24 take this document down.

25 So, after the March 9, 2018

1 meeting, when did you next become actively
2 involved in the RHVP resurfacing project?

3 A. I don't recollect the
4 chain of events. If you could help me refresh my
5 memory with any e-mails or anything that you have.

6 Q. Sure. I'll take you to a
7 document.

8 Registrar, if we can go to
9 overview document 8, page 90.

10 So, at paragraph 249 there's
11 an e-mail that you were copied on from April 25,
12 2018 regarding the installation of cat's eyes
13 reflectors on the RHVP. And in the e-mail,
14 Mr. Becke refers to a project coordination meeting
15 that occurred that day.

16 Do you recall if prior to
17 April 25, 2018 you were actively involved in
18 discussions or any work regarding resurfacing, or
19 was this the next, this project coordination
20 meeting, the next touch point for you on the
21 project?

22 A. So, project coordination
23 is something that we do on a monthly basis.
24 Engineering services does the lead of that and
25 that's a point of communicating to quite a large

1 number of stakeholders where information regarding
2 the projects are given. I'm not sure after the
3 March 9 meeting whether there was a meeting in
4 March where we communicated to the stakeholders.
5 April 25 meeting, this one, I clearly remember
6 this project coordination. Once more, there
7 was -- I think it was traffic who said they are
8 going to install the cat eyes along the Red Hill
9 Valley given that the shave and pave is being
10 delayed.

11 Q. Okay. And in Mr. Becke's
12 e-mail, he wrote:

13 "We opted to defer the
14 works to 2019."

15 Do you know who he was
16 referring to in writing "we"? Who do you consider
17 to have made that decision?

18 A. I guess we is engineering
19 services.

20 Q. Okay. And was there any
21 individual who made the decision to defer to 2019?

22 A. Well, as I mentioned, it
23 was no more a possibility to deliver that project
24 in 2018 and I'd been communicating that from
25 January onwards. So, who physically did that

1 decision making, I could not deliver any. By
2 January, I had mentioned that. So, there is no
3 evidence per se as to who had made the decision to
4 move on. I was bringing it to the attention of
5 the current director and even Mr. McGuire, who was
6 acting as well.

7 Q. So, in your view, is it
8 less of an active decision but more that a
9 decision had not been made in time to proceed in
10 2018? Am I understanding that right?

11 A. In January, I communicate
12 that, that it was taken to the higher levels, to
13 my directors, but from that, had anyone taken it
14 further and communicated with the council and so
15 on, probably not. But they could have been as
16 well, which I'm not aware of. But at these
17 coordination meetings, I'm bringing that to the
18 attention of the stakeholders that there is a
19 delay, it cannot be delivered in 2018.

20 Q. Okay. Mr. Becke also
21 wrote:

22 "I understand that there
23 is perceived safety
24 concerns on the RHVP."

25 Do you know what concerns

1 Mr. Becke was referring to?

2 A. Lighting was one of the
3 concerns that was broadly understood. There were
4 discussions regarding lighting along Red Hill
5 Valley. Mr. McGuire had still lighting in his
6 group at the time and he was tasked to look into
7 the lighting options.

8 Q. And did you have any
9 substantial involvement in projects relating to
10 lighting on the RHVP?

11 A. No.

12 Q. So, by this time, this is
13 late April 2018, I understand the City had
14 definitively decided not to begin repaving until
15 2019. Did anyone raise any of the concerns, any
16 concerns, about that delay?

17 A. No.

18 Q. And, at this time, what
19 was your involvement in the resurfacing project?

20 A. So, the program delivery
21 is still within my portfolio, so Red Hill Valley,
22 whether delivered or not, it's still sitting in
23 the design's work plan. So, that's my
24 involvement, to make sure that if 2018 is not
25 happening, which I've communicated, I am on the

1 track for 2019 delivery.

2 Q. And, Registrar, we can
3 take that document down.

4 So, the City received the
5 proposal for what we refer to as the hot in-place
6 recycling suitability study from Golder on June 6,
7 2018. It's my understanding that there was some
8 delay in receiving Golder's proposal that was, at
9 least in part, related to some contractual issues
10 being sorted out between the City and Golder. Is
11 that consistent with your recollection?

12 A. Yes.

13 Q. And the purpose of the
14 hot in-place recycling suitability study, was that
15 to determine if it was feasible or suitable to use
16 hot in-place recycling to resurface the pavement
17 of the RHVP?

18 A. Yes.

19 Q. So, proceeding with the
20 study did not mean that the City had made a
21 determination regarding what resurfacing method to
22 use, but was deciding to continue investigating
23 whether it was possible. Is that correct?

24 A. Yes.

25 Q. So, at the time the City

1 received this proposal, so this is June 2018, it
2 remained possible that the City would still
3 proceed with a traditional shave and pave should
4 Golder determine that hot in-place recycling was
5 not feasible. Is that your understanding?

6 A. That's right.

7 Q. Registrar, if we could go
8 to overview document 9A at image 27. Can you also
9 include image 28, please. Okay.

10 So, Mr. Becke provided
11 Mr. McGuire, copying you, an update on hot
12 in-place recycling on June 27, 2018, so this is
13 June 2018 and Golder is just beginning a project
14 that will determine if hot in-place recycling is a
15 suitable option. Did you or anyone considering
16 whether, given the timing, it would be best to
17 proceed with a shave and pave? I know there's
18 some discussion later in the chronology, but at
19 this time had those discussions started?

20 A. No.

21 Q. And, Registrar, if we can
22 go to image 36.

23 Okay. So, this is a few weeks
24 later, on July 19, 2018. The Spectator published
25 an article relating to the resurfacing of the RHVP

1 and asphalt testing, and I understand that
2 Mr. McGuire was interviewed for the article and
3 was quoted. At this time, were you aware of that
4 interview?

5 A. May have been. Not --

6 Q. Specifically --

7 A. -- really involved in it.

8 Q. Okay. And did you read
9 this article when it was published?

10 A. No.

11 Q. Okay. And do you recall
12 that there had been an article published relating
13 to resurfacing, even if you had not read this
14 article specifically?

15 A. I knew that Mr. McGuire
16 was being interviewed by Spectator, but I didn't
17 read it. I didn't quite know and, yeah, he would
18 have mentioned about the timing of the project
19 because I was keeping him informed and he had
20 already received the e-mail from Mr. Becke as
21 well.

22 Q. Okay. So, there are
23 references to inconclusive test results throughout
24 the article. Even if you did not at this time
25 read this article, did you have any discussions

1 regarding any inconclusive test results at this
2 time? Is that something you were aware of?

3 A. No.

4 Q. And had you ever received
5 any asphalt or friction testing results at this
6 time?

7 A. No.

8 Q. Okay. Registrar, if we
9 can call out the paragraph fourth from the bottom,
10 I believe, beginning with "In December 2015."

11 So, I asked you earlier in
12 context of the 2017 article that included similar
13 content, but now at this time, in 2018, were you
14 aware of any connection between the decision to
15 resurface and any prior inconsistent or
16 inconclusive test results that the City --

17 A. No.

18 Q. I understand, unlike with
19 a traditional shave and pave, hot in-place
20 recycling incorporates some of the existing
21 material into the mix. Is that right?

22 A. Yes.

23 Q. Would it have been
24 helpful or would you have considered it important
25 to get all test results and information relating

1 to the existing material?

2 A. Yes, and that's the
3 reason why we wanted to know or we engaged
4 Dr. Uzarowski, so that we can understand what's
5 the beneficiating mix, and also taking samples
6 from the Red Hill Valley Parkway was one of the
7 reasons why we went through that effort of picking
8 the samples.

9 Q. Okay. And I understand
10 that it's your evidence that you were not aware of
11 the Golder or Tradewind report at this time, in --

12 A. Yes. I was not aware.

13 Q. Okay. And would it have
14 been helpful to your work to have received prior
15 test results or analysis relating to the RHVP?

16 A. Not in particular when
17 the surface is being replaced with a new surface.

18 Q. But recognizing that some
19 of the material from that existing surface would
20 be used, in that context, would it have been
21 helpful to get those results? Would that have
22 been something you would have considered as part
23 of your work?

24 A. So, Dr. Uzarowski was
25 giving the direction to take the samples so that

1 we can understand whether it can be reused, so not
2 an expert in design mix and that's where we are
3 relying on the consultant to give me direction.

4 Q. Would you have expected
5 someone, if not you but someone involved in the
6 hot in-place recycling project, to be considering
7 prior data relating to the Red Hill?

8 A. When you talk about prior
9 data, the sample is the best case that we can do.
10 We get the sample from the site so that we can
11 determine or the consultants -- when I say we, it
12 is the consultant who is working on our behalf to
13 make a determination how to move forward.

14 Q. I think what I'm trying
15 to understand is whether information in either the
16 Golder report or the Tradewind report, if you had
17 known about them at the time, if there's anything
18 that would have been of use in context of the hot
19 in-place recycling project?

20 A. So, I get to see the
21 report late in September, so you can talk about
22 that. September is when I know about it. When
23 I'm reading that and reviewing it, I did not see
24 any safety concern. As I mentioned, in the March
25 meeting I did not hear about any safety concern.

1 The only difference that it
2 would have made if there was a safety concern and
3 it was brought up and there was a timing related
4 to it as an action, it would have helped me to
5 make a determination whether I should wait for HIR
6 or -- when I say I, it is City should be waiting
7 to do all this investigation of a new technology
8 or move forward. So, there was no safety concerns
9 as I understand even at this stage, in July of
10 2018.

11 Q. Okay. Registrar, we can
12 close that call out.

13 And after July 19, 2018, do
14 you recall speaking to Mr. McGuire either about
15 the interview or the article?

16 A. No.

17 Q. And I understand that
18 samples were removed from the RHVP in July and
19 August 2018 relating to the hot in-place recycling
20 suitability study. Were you actively involved in
21 that work at the time?

22 A. Mr. Becke was working
23 closely with Mr. Rob Markus [ph] in traffic
24 operations and with Dr. Uzarowski's consulting
25 team to locate the best location for the sample,

1 how it will be taken out, there will be a
2 communication through media to advise that there
3 will be lane closures where they're taking out
4 these samples and things like that, so I was in
5 the know of the proceedings of how it was being
6 undertaken.

7 Q. Okay. And, Registrar, if
8 we can go to page 41.

9 So, around the same time as
10 the article that we were just referring to, on
11 July 17, 2018 Mr. McGuire was acted by staff in
12 the City's legal department regarding a claim made
13 against the City following a collision in
14 February 2017, and the claim involved several
15 allegations relating to the design and condition
16 of the roadway. And Ms. Orgera, the law clerk who
17 e-mailed Mr. McGuire, advised that the City was
18 completing its affidavit of document and to
19 determine the appropriate City representative to
20 be examined for discovery.

21 And, Registrar, if we can open
22 image 42 as well.

23 So, Mr. McGuire replied the
24 same day and directed Ms. Orgera to contact you or
25 Mr. McCafferty for matters relating to RHVP design

1 elements. To your knowledge, why would
2 Mr. McGuire direct legal services to you or
3 Mr. McCafferty?

4 A. He was directing possibly
5 to me as the manager of design because the word
6 design is what they were looking into.
7 Mr. McCafferty was in the special projects office
8 in the past, so he was being referred to as well.
9 This was, again, my assumption of why Mr. McGuire
10 would have sent it our way.

11 Q. Thank you. And when you
12 say Mr. McCafferty was part of the special
13 projects office, that's the special projects
14 office responsible for the construction. Is that
15 right?

16 A. Yes.

17 Q. Okay. And, Registrar, if
18 you could take us to the underlying document
19 referenced in the paragraph. It's HAM61980.

20 And so, approximately a week
21 later you were contacted by Ms. Delry trying to
22 arrange a meeting between you, Mr. McCafferty and
23 Ms. Orgera on July 25, 2018 and you responded
24 advising that you were on vacation. Do you ever
25 have any discussions regarding the condition of

1 the RHVP surface for friction in context of this
2 claim?

3 A. No.

4 Q. And did you ever identify
5 any documents to be included in the City's
6 affidavit of documents?

7 A. No.

8 Q. Okay. Registrar, we can
9 close this.

10 A. I don't recall any
11 followup on that particular e-mail.

12 Q. Thank you. And,
13 Registrar, if we can go to HAM27208.

14 So, this is moving forward
15 about just over a month in time, to August 24,
16 2018. And Mr. McGuire sent an e-mail to you and
17 others regarding a value for money audit being
18 undertaken by audit services. I'll just give you
19 a moment to review that e-mail.

20 A. Can you make it a little
21 bit bigger?

22 Q. Sure. Registrar, if you
23 can call out from "Hi, all" to "Please review and
24 comment as required." Thank you.

25 A. I'm good.

1 Q. Thank you. And were you
2 aware of the value for money audit prior to
3 receiving this e-mail?

4 A. Yes.

5 Q. How did you become aware
6 of it?

7 A. The auditor had contacted
8 me directly and I had at least one interview with
9 the auditor before receiving this e-mail.

10 Q. Okay. And at that time,
11 what did you understand the scope of the audit to
12 be?

13 A. The audit was looking at
14 the processes, how we were making decisions. So,
15 I did explain to them how a rehab strategy or who
16 makes those decisions and all that, so I was
17 speaking on behalf of engineering services' work
18 flow as to how decisions are made and how projects
19 become project for implementation.

20 Q. And did you understand
21 the scope to be specifically related to the RHVP
22 at this time?

23 A. No.

24 Q. More just generally the
25 City's processes?

1 A. It was general.

2 Q. Okay. And prior to this
3 e-mail and prior to your discussions with audit,
4 had you had any experience with audit services?
5 Had you been involved in other audits --

6 A. No.

7 Q. -- prior to this? Okay.
8 So, we've received documents indicating that
9 Mr. McGuire and Mr. Sharma appear to be primarily
10 involved in responding to this value for money
11 audit. Was that your understanding?

12 A. Yes.

13 Q. Okay. And what was your
14 role regarding this audit?

15 A. So, Mr. Sharma and
16 Mr. McGuire were putting together the documents
17 related to what is required for audit, but we had
18 a joint meeting with audit services as well,
19 Mr. Charles Brown as well as Mr. Domenic
20 Pellegrini. They visited the office and we had a
21 meeting with them, along with all the documents
22 that were submitted and collected by Mr. Sharma
23 for them.

24 Q. And I'm happy to take you
25 to the documents if it's helpful, but you were

1 listed as an attendee at meetings with the auditor
2 on September 21, 2018 and December 12, 2018. Do
3 you recall attending these meetings?

4 A. Yes.

5 Q. Okay. And what was your
6 role at these meetings?

7 A. As I with mentioned,
8 again, the request was regarding processes, how we
9 make those decisions and things like that, how is
10 an asphalt mix being determined on a particular
11 job, many questions like that, so clarification to
12 the processes and the procedures that we follow
13 within design and engineering services, is what I
14 was clarifying at that meeting.

15 Q. I'm going to come to some
16 questions in the September 2018 period relating to
17 the Tradewind report and your involvement and
18 review of that report in a moment, but do you
19 recall in the context of the audit specifically
20 whether you provided the Tradewind report to the
21 auditor?

22 A. No.

23 Q. Okay. Was it your
24 responsibility to provide relevant documents to
25 the auditor?

1 A. What's the date that we
2 are discussing?

3 Q. I'm speaking more
4 generally. Was it your role as part of the audit
5 to identify relevant documents, or was that
6 someone else who was identifying relevant
7 documents?

8 A. So, again, I did not see
9 the reports until September 26 of 2018, so I did
10 not have it to start off. Plus, Mr. Sharma was
11 pulling together all the relevant documentation to
12 be handing it over to audit, so that wasn't my
13 role to pull the information together for the
14 audit.

15 Q. Okay. And moving forward
16 in time just for a moment, specifically relating
17 to the auditor, so we know that the auditor was
18 provided with a redacted copy of the Tradewind
19 report in November 2018. And did you have any
20 involvement in either the decision to provide a
21 redacted report?

22 A. I wasn't even aware that
23 something was redacted.

24 Q. Okay. So, you didn't
25 yourself redact the report or provide a redacted

1 report. You had no knowledge of that. Is that
2 correct?

3 A. No.

4 Q. And do you recall being
5 involved in any discussions after September 26 but
6 before February 6, 2019 when the report is
7 disclosed to the public that involved friction
8 testing?

9 A. Well, if you want me to
10 go through the chronology of how things happened,
11 I can do that.

12 Q. Sure. Why don't I --
13 I'll go through the chronology and I'll ask you a
14 bit more about your discussions with the auditor
15 when we get there in time.

16 Okay. Registrar, if we can go
17 to image 57 of overview document 9A, please. Can
18 you also open image 58. And if you can call out
19 paragraph 138, which starts on 57 and ends on 58,
20 please.

21 On August 27, 2018, Mr. Becke
22 received a copy of the Tradewind report from
23 Dr. Uzarowski, who copied Dr. Henderson and wrote:

24 "As requested, please
25 find attached the 2014

1 report on friction on
2 RHVP and the LINC
3 prepared by Tradewind
4 Scientific."

5 So, I note that you're not
6 copied on this e-mail, but were you aware at this
7 time or shortly thereafter that Mr. Becke received
8 the Tradewind report?

9 A. I did not. I was not
10 aware of this. Mr. Becke was working closely with
11 Dr. Uzarowski and Dr. Henderson and they were
12 taking the samples from the site moving forward,
13 so maybe it's a day-to-day discussion which led to
14 this, but I was not aware of the report.

15 Q. Okay. So, you're not
16 specifically aware of why it was sent?

17 A. Yeah. I was not aware.

18 Q. Okay. And do you recall
19 at this time if you had any discussions with
20 Mr. Becke about friction testing?

21 A. No.

22 Q. And I understand from
23 what you've said earlier that you were not aware
24 of the Tradewind report at this time. Is that
25 correct?

1 A. Yeah. I was not aware.

2 Q. When did Mr. Becke first
3 tell you that he had received a copy of the
4 Tradewind report from Golder?

5 A. So, on September 26,
6 Mr. McGuire comes to my office around 5:00 or so
7 and he shows me a copy of the Tradewind report and
8 asked me whether I was aware of this, and I said I
9 was not and he gave me that hard copy and then he
10 went back to his office. I quickly read through
11 it and I went back and gave it back to him because
12 I understood that it was his only copy.

13 After having done that, the
14 following morning I went to his office and I
15 borrowed the reports that he had in his hand,
16 which was Tradewind report and a Golder report
17 from 2014, as well as a presentation or report
18 that Mr. Ferguson was doing for the council, I
19 guess. I don't recollect what it was, but there
20 were three documents that I borrowed from
21 Mr. McGuire. I made copies and I summarized what
22 I found in those reports for him and I sent it
23 back to Mr. McGuire as an e-mail.

24 Q. Okay. And --

25 A. So, your question was

1 regarding when did I know about Mr. Becke's --

2 Q. Right. Was it before
3 your discussion with Mr. McGuire or sometime
4 after?

5 A. It was after, because I
6 went over to Mr. Becke and I was creating a
7 chronology a little later and I asked Mr. Becke,
8 please put all the correspondences related to this
9 project in the ProjectWise, which is our
10 correspondence folder which is a project folder
11 where it is accessible for everyone. So, I asked
12 him to put it in there and that's when I heard
13 about Tradewind report was received by Mr. Becke
14 in August. I did not know about it until then.

15 Q. Okay. I think we will
16 come to that chronology, so I may have a few
17 additional questions on that in a few moments.

18 Registrar, if we can go to
19 just image 58. You can close 57. Sorry, if you
20 can go to image -- thank you. If you can call out
21 paragraph 141.

22 So, this is a few days after
23 Mr. Becke received the Tradewind report and
24 Mr. McGuire e-mailed you and Mr. Becke regarding
25 the status of hot in-place recycling and RHVP

1 resurfacing. In the first e-mail, Mr. McGuire
2 wrote:

3 "Should we meet on this,
4 as it's a high priority
5 project for the
6 department?"

7 What did you understand
8 Mr. McGuire to mean by high priority project?

9 A. As I mentioned, I think I
10 used that word as well in the past and or maybe
11 later on as well. High priority was because it
12 was about \$10 million worth of project and it has
13 a lot of implication regarding the coordination
14 with MTO and having to advise the councillors and
15 many stakeholders are involved in this particular
16 project, so it was a high profile for engineering
17 services regarding its implementation and making
18 sure that the communication has happened
19 appropriately, including the external
20 stakeholders, like contractors, because it's a big
21 project that they would be interested in bidding.
22 So, definitely it was a high profile.

23 Q. And did you understand
24 high priority to mean anything in terms of
25 urgency?

1 A. No, I did not.

2 Q. And you answered

3 Mr. McGuire, providing some information relating
4 to the MTO contract. Was this information you
5 received from Mr. Becke or had you had any contact
6 from Golder directly?

7 A. It was primarily my talks
8 with Mr. Becke to see how it was progressing
9 regarding the HIR, sampling and how the design mix
10 was coming along. I kept an eye on this just to
11 make sure that we are on track for the 2019
12 delivery of the project.

13 Mr. Becke had also requested
14 whether he could visit the MTO site, which is in
15 Thunder Bay, so he was having discussions with MTO
16 representatives to see how that project was going
17 on and he had requested approval from me for
18 visiting the site and seeing the operations.

19 Q. At this time, so the end
20 of August 2018, was it your expectation that the
21 project was still on track to be delivered in
22 2019?

23 A. Yes.

24 Q. So, Mr. McGuire
25 responded:

1 "Should we consider just
2 going with a conventional
3 paving method?"

4 Did you think that the City
5 should consider this at this time?

6 A. Yes. I personally
7 thought it was time that we looked at the shave
8 and pave because the original meeting was in
9 March. It took until June to get a proposal from
10 Golder. The sampling was happening after. I
11 didn't see a good progress on this HIR methodology
12 and I did not want to lose time anymore in a major
13 project like this.

14 Q. Okay. And ultimately,
15 who would be making the decision as to whether the
16 City would proceed with hot in-place or do a
17 traditional shave and pave?

18 A. If it was a hot in-place
19 methodology that we were continuing to use, then
20 it had to go to council for approval. As I
21 mention in my e-mail here, that was not a
22 technology that the local contractors were
23 familiar with and you can see also the challenges
24 that this mentioned in my e-mail, so for that
25 particular factor, we should have gone to the

1 council and that would have been a decision or a
2 report through the engineering services director,
3 which would be Mr. McGuire.

4 Also, if HIR had all the pros
5 and could have been done, it is a big saving for
6 the City and to forego that would be beyond me to
7 make that decision, so definitely this
8 conversations with Mr. McGuire is to suggest
9 what's our move-forward decision.

10 Q. Okay. And from your
11 perspective, and there are some documents later in
12 time that I'll ask you about, but from your
13 recollection when was the decision made to proceed
14 with a traditional shave and pave?

15 A. So, later on I'm
16 preparing some chronology of events and this is
17 the first e-mail that I could find where there
18 were some positive direction from the director
19 level to look at, really look at, the conventional
20 paving method. So, I had put down August 30 as
21 the decision date, but obviously we did not get
22 back to Golder saying that we are not considering
23 HIR anymore. But the wheels of looking at
24 conventional paving methods starts rolling as of
25 this date.

1 Q. Okay. So, as of
2 August 30, you started looking into a traditional
3 shave and pave in addition --

4 A. Yes.

5 Q. Okay. And I understand
6 from your answer a few moments ago that Mr. Becke,
7 at this time, did not advise you regarding the
8 Tradewind report. Is that correct?

9 A. No, not at this stage.

10 Q. And he's included on this
11 e-mail exchange as well. Would you have expected
12 him to provide that information at this time?

13 A. Yes. So, as I mentioned,
14 he was doing the day to day, so I was not aware of
15 the discussions or the e-mails that was coming to
16 his office. I requested later on when I was
17 putting the chronology together that it has to be
18 in one location where it's easily accessible by
19 himself, myself and maybe the project manager is
20 going to dedicate on the project.

21 Q. And, Registrar, if we can
22 go to the next image, so image 59, and can you
23 call out paragraph 142, please.

24 Okay. So, this is again on
25 August 30. Mr. McGuire e-mailed you and others in

1 engineering services under the subject line RHVP
2 Road Material Testing and Reports. I'll give you
3 a moment to review the e-mail.

4 A. Yeah.

5 Q. Had you previously had
6 any discussions with Mr. McGuire or anyone in
7 public works about asphalt testing reports
8 regarding the RHVP?

9 A. No. So, when you say
10 later that afternoon, this is after August 30?

11 Q. This is still August 30,
12 yes.

13 A. Okay. No, no.

14 Q. Okay. And did you
15 discuss this e-mail with Mr. McGuire or Mr. Becke
16 or the others who are included on this e-mail?

17 A. No, I didn't.

18 Q. What was your
19 understanding of why Mr. McGuire was looking for
20 this information?

21 A. I wouldn't know. He
22 says, "Prior to asking Gary." No, I'm sorry, I
23 wouldn't know why he said that.

24 Q. Okay. Registrar, if we
25 can go to image 61 and if we can actually have 61

1 and 62, please.

2 So, this is still on
3 August 30, 2018. Later that day, Mr. McGuire
4 forwarded an e-mail originally from Dr. Uzarowski
5 to Mr. Moore from January 2014 and, on August 30,
6 2018, he forwarded that e-mail to Mr. Malone at
7 CIMA. The e-mail provided summary information of
8 friction testing conducted by the MTO in 2007 and
9 Tradewind in 2013 and attached results from the
10 MTO text as well as an article on early age
11 friction.

12 To confirm, you're not copied
13 on Mr. McGuire's e-mail from Mr. Malone. To
14 Mr. Malone, rather. Did Mr. McGuire tell you that
15 he was providing this information to Mr. Malone?

16 A. No.

17 Q. Did he provide you with
18 this information?

19 A. No.

20 Q. So, Mr. McGuire's e-mail
21 to Mr. Malone was sent on August 30, 2018 at
22 7:11 p.m. The City has also produced a copy of
23 the Tradewind report that was attached to an
24 e-mail from Dr. Uzarowski to Mr. Moore in
25 December 2015, which we understand to be saved in

1 the director's office folder within ProjectWise.

2 And when you view that e-mail

3 in its native format, there's metadata or

4 information that indicates that the e-mail was

5 forwarded on August 30, 2018. We have not

6 received a copy of an e-mail attaching the

7 Tradewind report from that date in time, so we

8 don't know who the recipient and sender, if

9 anyone, was. We only have that fragment of

10 information indicating it was forwarded.

11 So, with all of that context,

12 did you send or receive an e-mail attaching the

13 Tradewind report on August 30, 2018?

14 A. No, I didn't.

15 Q. Okay. And, Registrar, if

16 you can just call up image 62. And 63, sorry.

17 This is a screen capture of

18 the e-mail I was referring to. Did you have

19 access to the director's office folder at this

20 time?

21 A. Not at that time.

22 Q. Okay. And did anyone

23 ever tell you later in time that they sent or

24 received such an e-mail on August 30?

25 A. No.

1 Q. Registrar, we can close
2 that and if we can go to HAM35480. Okay.

3 So, on September 11, 2018,
4 Mr. McGuire forwarded an e-mail he received that
5 morning from Mr. Becke and Mr. Becke, in his
6 e-mail, wrote that he was speaking to
7 Dr. Uzarowski last week and he sent it to me then.
8 Mr. McGuire forwarded this e-mail to you writing,
9 "As discussed."

10 Do you recall having a
11 discussion with Mr. McGuire regarding this e-mail?

12 A. This was asphalt audit.
13 No. I don't recollect this discussion, asphalt
14 audit and Mr. McGuire was working closely with
15 Mr. Becke on several documents, but I'm not aware
16 of this, of any reports that Mr. Becke was sharing
17 with Mr. McGuire.

18 Q. Okay. So, when Mr. Becke
19 wrote:

20 "I was speaking to
21 Ludomir last week and he
22 sent it to me then."

23 You don't know what it refers
24 to?

25 A. No, I don't.

1 Q. Okay. And do you recall,
2 even if you don't have a recollection of the
3 content of that meeting, do you know if you did
4 meet with Mr. McGuire? He wrote, "as discussed."
5 Do you recall --

6 A. Yeah. I cannot recollect
7 what this discussion was. I know that was audit
8 was going on, so I would have thought it's about
9 that. I didn't -- I don't recollect in talking
10 about any reports or it, as you mentioned there.
11 Yeah, I don't recollect the details.

12 Q. Okay. And Mr. Becke
13 testified that he believes that he was referring
14 to the Tradewind report but was not sure if he
15 explicitly told Mr. McGuire that, that that was
16 what he was referring to. Were you aware that
17 this was referencing the Tradewind report or I
18 think I understand that you weren't aware of the
19 report at the time?

20 A. No.

21 Q. Okay. We can close this
22 document, Registrar, please.

23 Various documents produced to
24 the inquiry indicate that Mr. McGuire opened the
25 Tradewind report on September 26, 2018. Is that

1 consistent with your recollection?

2 A. That's when he came to me
3 with it, and the impression that I had was he just
4 found it.

5 Q. Okay. But he did not
6 provide you explicitly with any information as to
7 when he found it, to your recollection?

8 A. He didn't say where he
9 found it or when he found it. He brought a copy
10 to my office at 5:00 and asked me, have you ever
11 seen this? And I had never seen it, so I said no.
12 So, he gave it to me, the hard copy, and said,
13 this is my only copy. So, he gave it to me.
14 Whether he found it electronically or hard copy, I
15 had no clue at the time.

16 So, I gave it back to him
17 after reading through it quickly, so it didn't
18 take a whole lot of time for that. And, again, it
19 was, I remember, a Tradewind report alone which he
20 showed me on September 26.

21 Q. Okay. So, the copy he
22 showed you was just the Tradewind report. It was
23 not the Tradewind report as part of the larger
24 Golder report. Is that right?

25 A. No, it was just the

1 Tradewind report. It was a quick read and I took
2 it back to his office.

3 Q. Okay. And what did he
4 tell you about how he found it or where or when?
5 Did he give you any details regarding that
6 context?

7 A. He didn't. He wasn't
8 specific about any of that.

9 Q. Okay. Did he mention if
10 he was looking for reports at that time?

11 A. No. He had just gotten
12 into Mr. Moore's office, so I don't remember
13 exactly was it two weeks, three weeks, when he got
14 into the new office, so he must have been going
15 through the process. I don't know. So, I didn't
16 ask, he didn't tell, so again, I wouldn't know how
17 he got it.

18 Q. Okay. And what do you
19 recall about Mr. McGuire's response to finding the
20 reports?

21 A. He looked surprised when
22 he found or when I met with him. He was a little
23 disturbed as well when he met with me on
24 September 26.

25 Q. And what do you mean by

1 that?

2 A. That he found something
3 that was important and he had stumbled upon it.

4 Q. Okay. And did you
5 understand at the time or did he tell you anything
6 about whether or not it had been presented to
7 council or shared kind of broadly within the
8 group? Did you have an understanding of whether
9 or not anyone else was aware of that report as of
10 September 26?

11 A. No. No, not
12 understanding. I mean, the way he told me was
13 that Gary had done this report along with Golder.
14 That's about it. Whether it was shared or whether
15 it was not shared was not something that he
16 mentioned.

17 Q. Okay. You mentioned that
18 he was surprised and disturbed when you met with
19 him. Did you understand -- I'm trying to
20 understand what he was disturbed about, using your
21 words, if you had a sense of that at the time.

22 A. So, my understanding was
23 he was surprised that there was a report and no
24 one in engineering was aware of it. When I say no
25 one, that's the impression that he gave me, that

1 it was not a common knowledge.

2 Q. Okay. And so, I
3 understand you borrowed the hard copy report from
4 Mr. McGuire that evening and you read it and then
5 returned it that evening to Mr. McGuire. Is that
6 correct?

7 A. Yes.

8 Q. Okay. And did you have
9 any discussions after you read the report that
10 evening?

11 A. I myself was surprised of
12 the existence of a report, but I did not feel
13 that -- it was not referring to any provincial
14 standard, any Ontario standard, so I, in my own
15 mind, was not able to make out what this report
16 meant, so that was my impression back to
17 Mr. McGuire.

18 Q. Okay. So, when you
19 returned the report, you had a discussion with
20 Mr. McGuire in which you conveyed that
21 information. Is that right?

22 A. Yeah.

23 Q. Okay.

24 A. And, again, as I said, it
25 was a quick read that evening.

1 Q. And did he ask you on the
2 26th to do anything with the report?

3 A. He did not. He wanted to
4 keep that copy and he did not want it laying
5 around or discussed with our staff members at that
6 stage.

7 Q. Did he advise you not to
8 discuss the report with anyone else at that time?

9 A. First of all, no one was
10 around after that around that time and, yeah, it
11 was not something that I wanted to discuss or he
12 wanted me to discuss with others.

13 Q. And is that something
14 that he specifically told you or is that just the
15 impression that you had from the tone of the
16 discussion?

17 A. The tone of the
18 discussion implied.

19 Q. Okay. And, Registrar, if
20 we can go to overview document 9A, image 90.

21 We spoke about this a little
22 earlier. This is the next morning, so on
23 September 27, 2018. Around 9:30, you e-mailed
24 Mr. McGuire attaching a document, which we will go
25 to in a moment. You wrote:

1 "Please find attached.
2 Cathy is making copies of
3 the documents for me. We
4 will return all docs we
5 borrowed from you today."

6 Registrar, if we could also
7 call up that attachment. It's HAM3597. Sorry,
8 35497. That's it.

9 So, in your e-mail, you wrote:
10 "We will return all docs
11 we borrowed."

12 And then in the attachment,
13 Registrar, if you can call out the first list, so
14 three reports were analyzed and then there are
15 three documents numbered. Thank you.

16 Are those the reports that you
17 borrowed?

18 A. Yes.

19 Q. Okay. And so, this
20 includes the Golder report, the full Golder
21 report, the Tradewind report and a memo from
22 Mr. Ferguson. Did Mr. McGuire tell you anything
23 about how he found or where he found or when he
24 found the Golder report?

25 A. No.

1 Q. Okay.

2 A. So, as I mentioned,
3 September 26, the evening, I saw only the
4 Tradewind report.

5 Q. Right. And then the
6 following morning, so at some time before 9:30
7 when you sent this e-mail and this attachment, did
8 you have a discussion with Mr. McGuire in which he
9 provided you these reports? How did you
10 physically --

11 A. I went to his office and
12 had a discussion and I said I would like to read
13 it and give you my summary. So, while taking the
14 reports from him, I mentioned that I'll give him a
15 short summary of what these reports mentioned.

16 Q. Okay. So, it was at your
17 initiative to ask for the reports and also to
18 prepare a summary. It was not something that he
19 directed? He didn't ask you to prepare this?

20 A. No, he didn't ask me.

21 Q. Did he ask you to do
22 anything else with respect to these reports?

23 A. No.

24 Q. And after you --
25 Registrar, you can close the call out and if you

1 can just leave -- you can close the overview
2 document but leave up the image on the right. And
3 if you can just call out the text so that there's
4 less white space around. Thank you.

5 And did you discuss this
6 summary that you prepared with Mr. McGuire after
7 you sent it to him on the 27th?

8 A. Yes. I gave this summary
9 to him, had a quick discussion, and I was -- I
10 mentioned to him that given the status of what he
11 is saying, we are on the right track of getting
12 the resurfacing done.

13 Q. What do you mean by that,
14 the right track of getting the resurfacing done?

15 A. We were doing the
16 resurfacing in 2018, it was in 2018, but now we'll
17 be doing it 2019. So, it is showing that there
18 were some distress and the full resurfacing was
19 recommended for year '21, but because of the
20 amount of traffic, we were seeing more distress
21 and we were in the right track in the sense that
22 we are in the right timing to get the works done.

23 Q. Okay. And do you recall
24 any discussion with Mr. McGuire specifically
25 relating to friction, friction testing, friction

1 standards?

2 A. As I mentioned, I've
3 never done friction testing in any of my projects
4 in the past. This triggers me to look into
5 further on what are the different methodologies of
6 friction testing that can be undertaken, what are
7 the Ontario standards and did North America itself
8 has other standards, so there was a lot of
9 research happening just immediately after having
10 read through these reports.

11 Q. And after you sent this
12 document, did you have any other tasks to complete
13 with respect to these reports? Was there any
14 followup?

15 A. I was getting my
16 resources in the right track again, so I wanted to
17 make sure that the Sarath Vala was the project
18 manager that I had assigned to this project to
19 make sure that for the investigation, looking into
20 the drawings and all of to that, can take place as
21 soon as possible. I was given the impression that
22 Mr. McGuire has raised or escalated this finding
23 to Mr. McKinnon, who was the general manager at
24 the time, as well as Mr. Soldo, who was the
25 director of transportation operations and

1 maintenance at that time so that he's bringing
2 towards all the people who are concerned and would
3 be the right, appropriate, levels to bring forward
4 a concern, is how I understood it.

5 Q. Okay. So, you understood
6 from Mr. McGuire that he had escalated the matter
7 to Mr. McKinnon and had advised Mr. Soldo or was
8 it that he was going to?

9 A. No, that was my
10 understanding around. Just immediately after
11 this, I had discussions with him. He did not want
12 me to share the documents with any of my staff
13 yet, but he was going to take care of it by
14 escalating it further up.

15 Q. Okay. So, is it your
16 evidence that he advised you before Mr. Soldo and
17 Mr. McKinnon?

18 A. My understanding was they
19 were already on the know.

20 Q. So, at this time, so
21 September 26, 27, was the City still considering
22 hot in-place recycling?

23 A. In my earlier e-mail, you
24 can see that I mention by August 30 I had moved on
25 to thinking about shave and pave as the

1 methodology, so it was well before even this
2 finding.

3 Q. Okay. So, in your view
4 and with what you were working on, you had made
5 the shift to a shave and pave. Had Mr. McGuire or
6 anyone explicitly told you that hot in-place
7 recycling was no longer on the table?

8 A. It was the implied
9 information that I got from the e-mail exchange
10 between myself and Gord on August 30 that was
11 giving me a nod to move forward into shave and
12 pave.

13 Q. And I think you mentioned
14 this earlier, but at this time, so by late
15 September 2018, had you advised Golder that the
16 City was no longer considering hot in-place?

17 A. No, I did not.

18 Q. To your knowledge, did
19 anyone?

20 A. I don't think so.
21 Mr. Becke was -- and in that e-mail chain that was
22 already mentioned in the August 30 e-mail chain,
23 which included Mr. Becke, that we will continue to
24 work with Golder to look at the beneficiating mix
25 for the HIR methodology.

1 Q. And, Registrar, I think
2 we can close this document and if we can go to
3 HAM11303 and if you can open both images.

4 So, on October 3, 2018,
5 Ms. O'Reilly from the Spectator e-mailed
6 Ms. Graham writing that she was looking for an
7 update on the asphalt testing done on the Red Hill
8 Valley Parkway and asking about the status of
9 those tests and if the results were back yet.
10 This was forwarded by Ms. Graham to Mr. McGuire,
11 who then forwarded the e-mail to Mr. Becke,
12 copying you, and writing:

13 "Let's review this
14 today."

15 So, by this time, had you had
16 a discussion with Mr. Becke about the Tradewind
17 report?

18 A. So, I'm not sure about
19 that. I did go and speak to him about putting all
20 the documents in the ProjectWise, but I don't know
21 whether October 3, was it after that? I don't
22 recollect.

23 Q. Okay. Let me just take
24 you to that. I believe we have an e-mail on that.
25 Just give me one moment and I'll call up that

1 reference.

2 Registrar, if we can leave
3 image 1 of this document open on the left and if
4 we can open overview document 9A at page 131. If
5 can we open that on the right. Okay.

6 At paragraph 320 at the bottom
7 there, Mr. Becke e-mailed you. This is on
8 November 8, 2018. And there's a reference to the
9 correspondence folder in ProjectWise. Is this
10 what you're referring to or is this --

11 A. Yes.

12 Q. -- before?

13 A. This is what I'm
14 referring to. Whether it took one day, two days,
15 I don't remember. So, roughly around that time is
16 when I'm asking him to put all the correspondence
17 in that folder, at which time is when I recollect
18 that we had a conversation that he had received
19 the Tradewind report by August.

20 Q. Okay. So, by November 8,
21 you had had that discussion. Do you recall was it
22 shortly before this e-mail that you would have had
23 that discussion, or could it have been any time
24 after September 26, 27?

25 A. No. Roughly around this

1 time, so one or two days before maybe. I'm not
2 sure on the exact time, but roughly in this
3 timeframe because Mr. Becke didn't take a long
4 time to put all those documents once I requested
5 him to do so.

6 Q. Okay. Registrar, we can
7 close the overview document. I will have a few
8 more questions relating to the November time
9 period in a moment, but looking back at October 3,
10 if we can open image 2 of HAM11303 as well.

11 So, you responded on October 3
12 writing:

13 "We should buy some more
14 time before responding to
15 this e-mail."

16 What did you mean by that?

17 A. As you can recollect, in
18 July/August timing is when they had gone out to
19 take the samples so that they can understand the
20 beneficiating mix that will be applied for the
21 HIR. So, when they were asking the question, was
22 looking for an update regarding the asphalt
23 testing, my understanding was she was referring to
24 the sample because to take that sample we had to
25 close down some lanes and that was being

1 communicated through media that there will be some
2 lane reductions. So, at this time when I'm
3 replying back, my thought was that she's asking
4 about what have you done with those samplings that
5 you have done.

6 Q. And why would you need
7 more time to respond?

8 A. Because I had not seen
9 any reply back from the consultants regarding the
10 asphalt testing.

11 Q. And was this connected in
12 any way to the Tradewind or Golder reports? Was
13 your e-mail -- did you have that in mind when you
14 wrote this?

15 A. No.

16 Q. And Mr. McGuire had said
17 at his e-mail just at the top:

18 "Agree. That's why I
19 want to talk today."

20 Do you recall if you did speak
21 with Mr. McGuire and/or Mr. Becke on October 3?

22 A. I can't recollect that.
23 I probably did.

24 Q. But you don't have a
25 specific recollection of that?

1 A. No.

2 Q. Registrar --

3 A. Other than the e-mails,
4 we do walk around and talk as well, so there's
5 nothing that I can pinpoint saying that I had this
6 talk.

7 Q. Right. It may not have
8 been a formal meeting where you had a --

9 A. Yeah, yeah.

10 Q. Okay. Registrar, if we
11 can go to HAM64308. Perfect. And if you can go
12 to image 18 of this document. You can open 18 and
13 19 actually. Maybe 18 and 20. Thank you.

14 So, this is the following day.
15 So, I'm looking at the image on the left, the
16 e-mail at the bottom from Mr. McGuire to Debbie
17 Edwards on October 4, 2018. I understand at this
18 time that Ms. Edwards was one of the deputy City
19 solicitors in the commercial development and
20 policy.

21 So, before turning to the
22 document on the right in detail, were you aware at
23 this time, October 4, 2018, that Mr. McGuire had
24 contacted anyone in legal services about the
25 Tradewind report?

1 A. No.

2 Q. Okay. And were you
3 involved at all in the decision to contact legal?

4 A. No.

5 Q. Okay. And, Registrar, if
6 you can call out the image on the right from Draft
7 Review to before the image, so just the top
8 portion.

9 So, this was the document that
10 Mr. McGuire provided Ms. Edwards on October 4 and
11 he wrote:

12 "Dan, in summary, re:
13 The RHVP, Susan and I
14 have reviewed and I
15 provide the summary of
16 activity and applying of
17 the process around the
18 resurfacing of this
19 asset."

20 And if you can close that call
21 out just for a moment, Registrar, and could you
22 call out from the top e-mail the header that shows
23 from sent to attachments.

24 So, I'm just showing you this
25 to indicate the name of the document was Red Hill

1 Review GMC and SJ Summary. Did you assist
2 Mr. McGuire in preparing this document?

3 A. When I say assist, I
4 would say the summary that I gave previously which
5 you called out, that's the assist that I did. And
6 then Mr. McGuire himself has been reading and
7 adding to that, so that's my recollection. I did
8 not do this draft review document.

9 Q. Okay. So, I think you're
10 referring to the document that you sent
11 Mr. McGuire on September 27.

12 And, Registrar, if you can
13 just close the call out.

14 And it appears that some of
15 the content of the draft review that Mr. McGuire
16 attached is similar to the content from your
17 summary. So, is it your understanding that that's
18 what he was referring to, that you didn't have any
19 involvement in preparing this particular document
20 but that you had prepared something that he used
21 to make this document? Am I understanding that
22 right?

23 A. He added on his own
24 information or information that he collected from
25 his own understanding and reading as well to make

1 this final document.

2 Q. Okay. And he wrote:

3 "Susan and I have

4 reviewed."

5 Is he referring to your review
6 on September 26 and 27 or had you later reviewed
7 the document further?

8 A. This one is dated
9 October, so he and myself, September 26 and 27, is
10 when we are discussing.

11 Q. Okay. And even if you
12 weren't involved in preparing this document, were
13 you aware that Mr. McGuire was preparing a summary
14 document?

15 A. Mr. McGuire was
16 escalating it to Dan as well as -- to
17 Mr. McKinnon, general manager, as well as
18 Mr. Soldo, so I was aware that he was escalating
19 and they were in the know. So, I was not aware of
20 any summary and it would have been likely that he
21 was doing that.

22 Q. And the inquiry has
23 received various versions of a similar document
24 Mr. McGuire prepared over time. Did you have any
25 involvement in any later iterations of

1 Mr. McGuire's summary document?

2 A. No.

3 Q. Okay. And after

4 October 4 or 5, 2018, did you ever discuss

5 Mr. McGuire's contact with legal regarding the
6 Tradewind report?

7 A. No.

8 Q. Okay. Commissioner, I
9 see it's just after 1:00 and I'm about to move on
10 to a different topic, so I propose this might be a
11 good place to take the lunch break.

12 JUSTICE WILTON-SIEGEL: That's
13 fine. Let's take a break until 2:15. And are you
14 proposing to address with counsel before you
15 leave --

16 MS. LECLAIR: A breakout room
17 would be helpful, yes.

18 JUSTICE WILTON-SIEGEL: Okay.

19 Good. So, we'll stand adjourned until 2:15.

20 --- Luncheon recess taken at 1:02 p.m.

21 --- Upon resuming at 2:16 p.m.

22 MS. LECLAIR: Commissioner,
23 may I proceed?

24 JUSTICE WILTON-SIEGEL: Yes,
25 please proceed.

1 BY MS. LECLAIR:

2 Q. Registrar, can you please
3 call up HAM11435.

4 Ms. Jacob, just to orient you
5 in time, this is a few weeks after the documents
6 we were talking about before the lunch break, so
7 this is October 24 of 2018.

8 And, Registrar, if we can call
9 up also image 2, please.

10 So, on October 24, Mr. McGuire
11 forwarded you as well as Mr. Becke an e-mail he
12 had received from Ms. Graham and, in that original
13 e-mail, Ms. Graham wrote:

14 "Reporter does want the
15 name of the consultant -
16 Golder Associates?"

17 So, you responded to
18 Mr. McGuire, Mr. Becke and Ms. Graham later that
19 day writing:

20 "Consultant is not
21 tactful."

22 What did you mean by that?

23 A. I think I misspoke there
24 when I said tactful. I was actually trying to
25 convey something different, which was I have met

1 Dr. Uzarowski and I've worked with him very
2 closely as well and quite often the answers were
3 not direct. It's a full paragraph before you get
4 an answer, so I was trying to say that it's not a
5 direct answer really. Like, not an appropriate
6 word to use there.

7 Q. Okay. So, if I
8 understand it correctly, you were meaning that he
9 was not direct. Is that right?

10 A. Yes.

11 Q. Okay. And did you or
12 anyone at the City have any concerns with media
13 contacting Golder at this time?

14 A. What's the time here?
15 October. No, not really.

16 Q. And did your comment
17 relate to the Golder or Tradewind reports in any
18 way?

19 A. I thought this one was
20 more related to the testing that was done in
21 July/August.

22 Q. For the hot in-place
23 recycling suitability study?

24 A. Yeah.

25 Q. Okay. To your knowledge,

1 by this time, so late October 2018, had you,
2 Mr. Becke, Mr. McGuire or anyone else in public
3 works contacted Golder or Tradewind regarding the
4 discovery of the Tradewind report?

5 A. I did not. I'm not sure
6 about the others.

7 Q. But no one told you that
8 they had or that they were going to do that?

9 A. No. I wasn't aware of
10 anyone contacting Golder.

11 Q. Okay. Registrar, we can
12 take that document down, please.

13 So, around this time CIMA had
14 been retained for various studies relating to the
15 RHVP, including a lighting study and the roadside
16 safety assessment. So, I'll ask you some more
17 questions regarding the roadside safety assessment
18 in a moment, but what was your involvement, if
19 any, in the lighting study?

20 A. Lighting study was, my
21 understanding, undertaken by Mr. McGuire's group
22 when he was the manager of geomatics and corridor
23 management, because he was in charge of the street
24 lighting aspects. I was not involved in the
25 street lighting, so I was not involved in the

1 lighting study.

2 Q. Registrar, can we go to
3 overview document 9A, images 16 and -- sorry, 116
4 and 117.

5 You were invited to the
6 project kickoff meeting for the 2018 roadside
7 safety assessment that CIMA was conducting for the
8 RHVP, and that meeting, I understand, occurred on
9 November 1, 2018. Do you recall attending that
10 meeting?

11 A. Yes, I do.

12 Q. Okay. And what was your
13 role in this project? Why were you included in
14 this meeting?

15 A. Everyone was aware of the
16 road resurfacing project that engineering services
17 was leading. By this time, as of September, the
18 Tradewind report was or the reports were
19 discovered and it was brought further up. And
20 then Mr. Soldo, who was the director of traffic
21 operations and maintenance or transportation
22 operations and maintenance, was fully aware of
23 this. And by October or so, he was arranging a
24 meeting with CIMA to start up a roadside safety
25 assessment so that if there were any other scope

1 related information was going to require to be
2 added in the tender for the resurfacing, it could
3 be done.

4 So, I was there more for the
5 coordination of the -- of any input that would
6 come out of the roadside safety assessment.

7 Q. Okay. And you mentioned
8 Mr. Soldo and that he was aware of the Tradewind
9 report and that, by October, he had contacted CIMA
10 for the roadside safety assessment. Was it your
11 understanding that the roadside safety assessment
12 resulted from the discovery of the Tradewind
13 report or were those two things that occurred
14 independently of one another?

15 A. Well, I cannot for sure
16 say whether it stemmed from the discovery or
17 whether it was going to be independent.

18 Q. Okay. Do you recall in
19 the Tradewind report was raised at the November 1
20 meeting?

21 A. It was not raised at the
22 November 1 meeting.

23 Q. Okay. And did you advise
24 CIMA about the existence of the Golder or
25 Tradewind report as potentially relevant or

1 helpful documents for the work they were doing on
2 the roadside safety assessment?

3 A. I did not bring it up
4 myself. I was fully under the impression that,
5 having the CIMA leadership involved in this
6 process, that they would have provided the
7 necessary documentation. I did not feel a need
8 for myself to bring it up any further, as there
9 were no actions out of the Tradewind safety report
10 that I read.

11 Q. Okay. And is it your
12 evidence that it was not your responsibility to
13 raise relevant documents with CIMA? That wasn't
14 part of your role on this project. Am I
15 understanding --

16 A. The terms of reference
17 for the CIMA assignment were started off by
18 Mr. Soldo, and the relevant documentation was
19 already being -- there was an implication that it
20 was already being discussed with CIMA even before
21 I was attending this meeting, so I did not feel
22 that it was my role to bring that up. There was
23 an implication that it was being dealt with and
24 being brought to the technician.

25 Q. Okay. So, you understood

1 that relevant documents had already been provided
2 to CIMA?

3 A. Yes.

4 Q. And, in your view, whose
5 role was it to identify relevant documents for
6 CIMA?

7 A. Mr. Soldo is the person
8 that I can mention as the most relevant person who
9 had called in this meeting to start off the
10 roadside safety assessment and had the
11 conversation with CIMA, so I relied on his
12 expertise to have disclosed that information to
13 CIMA.

14 Q. Okay. And did you know
15 one way or the other whether it had been provided
16 to CIMA?

17 A. It was strongly implied,
18 so I -- and CIMA did not specifically say
19 Tradewind, but they kind of were -- at the meeting
20 as well, there was an implication that they are
21 aware of it.

22 Q. Was there anything in
23 particular that gave you that understanding from
24 either CIMA or from Mr. Soldo?

25 A. I don't recollect any

1 specific document or anything that I can point to
2 which would help me establish that here today, but
3 it was good understanding that Mr. McKinnon,
4 Mr. Soldo and Mr. McGuire was taking care of the
5 documents and how it has to be shared.

6 Q. Okay. Registrar, if we
7 can go to image 130, please.

8 So, on November 8, 2018, the
9 public works department was made aware of an FOI
10 request that the City received.

11 And, Registrar, if you can
12 also pull up page 131, please, and if you can call
13 out the blue text under paragraph 318.

14 So, this is the content of the
15 request. I'll just let you review for a moment.

16 A. Yes, I did.

17 Q. Okay. And when did you
18 first become aware of the FOI request?

19 A. I can't pinpoint a date.
20 Sometime in November.

21 Q. And do you recall how you
22 became aware of the FOI request or who told you
23 about it, anything?

24 A. Usually it comes from the
25 director's office or from Ms. Graham. I don't

1 recollect how I got to know about it.

2 Q. Okay. And, Registrar, if
3 you can take that call out down and can you call
4 out paragraphs 319 and 320, please.

5 So, these are some e-mails
6 that we spoke about a little bit earlier, before
7 lunch, in context of when I understand around this
8 time was when you first spoke to Mr. Becke about
9 the fact that he had received the Tradewind
10 report. Is that right?

11 A. Can you repeat that
12 question and --

13 Q. Sure. So, earlier we
14 spoke about these e-mails and I understood from
15 the evidence that you gave this morning that it
16 was around this time that you first became aware
17 that Mr. Becke had received the Tradewind report
18 from Golder. Is that right?

19 A. Yes.

20 Q. Sometime around
21 November 8?

22 A. Yes.

23 Q. Okay. And what do you
24 remember about your initial discussion with
25 Mr. Becke about the Tradewind report?

1 A. My discussion about
2 Tradewind report or about all correspondences?

3 Q. The Tradewind report,
4 when he first -- what did he tell you when you
5 first became aware that he had received the report
6 in August?

7 A. So, I wasn't aware that
8 he had received it in August. Before this
9 November 8, I had already talked to him about the
10 discovery of the report and I requested him to put
11 all correspondences related to Red Hill Valley in
12 the ProjectWise folder.

13 Q. Okay. And I think I
14 understood from this morning that it was shortly
15 before --

16 A. Yes.

17 Q. -- these e-mail that you
18 had had that discussion. Is that right?

19 A. Yes. Yeah.

20 Q. Okay. And do you recall
21 the specifics of that discussion? Do you recall
22 what Mr. Becke told you or what you --

23 A. He conceded to that
24 request. He did it right away. As many e-mails
25 as possible or all documents related to that,

1 whatever he could find in his e-mail chain or in
2 box, he moved it over to ProjectWise. Whether it
3 took one day, two-day, I'm not sure about that.

4 Q. Okay. But before you had
5 made the request to file all the documents or
6 materials he had in ProjectWise, when you first
7 discussed the Tradewind report with Mr. Becke,
8 what do you recall about that discussion?

9 A. He did mention to me on
10 his talks with Dr. Henderson that she had
11 mentioned to him about a Tradewind report. And
12 then after one day, two day or whatever, he
13 received that from Dr. Uzarowski. He did not have
14 time to look at the details of the report, so he
15 kept it away for later reference. That's my
16 understanding of what Mr. Becke told me.

17 Q. And did he give you any
18 information on when he turned back to review it?

19 A. No. We didn't discuss
20 that. He said he had put it away for later
21 reference.

22 Q. Okay. And this
23 discussion that you had with Mr. Becke, is it
24 something -- did you raise the Tradewind report
25 with him and then he told you about his earlier

1 e-mails with Golder, or did he raise the topic
2 with you?

3 A. No. I mentioned to him
4 about this report and then that's when I heard
5 about it from Mr. Becke.

6 Q. And did you ask him if he
7 had raised it with anyone else prior to your
8 discussion?

9 A. I didn't quite ask him
10 that particular question. I don't recollect if I
11 asked that.

12 Q. Did he give you an
13 indication of whether he had spoken to anyone
14 before?

15 A. I don't recollect that
16 either. I just asked him to give me all the --
17 not to give me. To put it in the correspondence
18 folder in ProjectWise so that everyone can view it
19 and see when these correspondences happened and
20 also they could use it for the project.

21 Q. Did he give you any
22 information on why he hadn't raised it with you
23 previously?

24 A. No. He didn't explain
25 that.

1 Q. At paragraph 319,

2 Mr. Becke wrote to you:

3 "I just found this going

4 through everything."

5 And is it your evidence that
6 this was following your request for him to review

7 his correspondence and file everything in that

8 folder? Is that what he means by going through

9 everything?

10 A. Yes.

11 Q. And at paragraph 320,
12 there's a reference to a correspondence folder in

13 ProjectWise. Do you know where in ProjectWise

14 that folder was located?

15 A. It was in the -- so, we

16 do have a projects listed and then within the

17 projects, Red Hill Valley had its own project

18 folder. And then within that, there is a

19 correspondence folder for all correspondences

20 related to Red Hill Valley.

21 Q. Right. And, to confirm,

22 was this in the director's office folder or

23 outside of that folder?

24 A. Outside.

25 Q. Okay.

1 A. For the day-to-day use of
2 the project managers.

3 Q. And in Mr. Becke's second
4 e-mail, at paragraph 320 he says:

5 "We can discuss further
6 regarding anything else
7 tomorrow."

8 Do you recall if you did
9 discuss it with him?

10 A. Well, we were in
11 workstations very close by to one another, so
12 there must have been. I don't recollect any
13 formal discussions.

14 Q. Okay. Were you aware of
15 the FOI request at this time?

16 A. As I mentioned, I cannot
17 pinpoint the date when it was brought to our
18 attention.

19 Q. Registrar, if we can
20 close this and go to image 144.

21 Okay. So, this is four days
22 later, on November 12, 2018, and you e-mailed
23 Mr. McGuire with a copy to Mr. Becke and Mr. Vala,
24 attaching a document titled Chronology of Events.
25 And I think you referred to this earlier this

1 morning.

2 Registrar, if we can also have
3 image 145. Thank you. I believe it actually
4 goes -- there are additional pages, but for now
5 I'll leave these two up.

6 Did you prepare this
7 chronology yourself.

8 A. Yes, I did.

9 Q. Okay. And why did you
10 prepare this chronology?

11 A. So, by this time, I've
12 been getting a lot of questions on when decisions
13 were made and it was better that I had all the
14 documents in the correspondence folder and, as I
15 mentioned previously, I went around and asked
16 Mr. Becke to put in all the information that he
17 had in his correspondences and I did myself as
18 well put all my correspondences in this so that it
19 would be useful for Mr. Vala, Mr. Becke and myself
20 or anyone else who wanted to use it. So, this
21 chronology of events was also a note for myself to
22 understand with those decisions were made and what
23 were the relevant documents in here.

24 Q. When you said you were
25 being asked questions regarding when decisions had

1 been made, who was asking you those questions?

2 A. So, Mr. McGuire would
3 come around and ask when did we start HIR process,
4 when did he decide to move on and things like
5 that, so it was relevant to look at all these
6 e-mails in one location and identify when those
7 decisions were made.

8 Q. And where did you find
9 the information that this document is based on?

10 A. ProjectWise
11 correspondence folder.

12 Q. So, in the folder where
13 you had asked Mr. Becke to file the documents?

14 A. Yes.

15 Q. Okay. And do you recall
16 when you started putting this document together?

17 A. Must be roughly around
18 that time, November 8 to November 12, because
19 that's when I'm e-mailing Mr. McGuire.

20 Q. Okay. And you included
21 Mr. Becke and Mr. Vala on your e-mail. Had you
22 discussed the Tradewind report with Mr. Vala at
23 this time?

24 A. Yes. Mr. Vala was also
25 made aware of the existence.

1 Q. Okay. And did you make
2 him aware of the Tradewind report or was that
3 someone else?

4 A. I'm not sure whether he
5 by this time has seen a copy. He was aware of the
6 existence, but I don't know whether he has
7 physically had a copy.

8 Q. Okay. And was it you
9 that provided him that information or someone
10 else?

11 A. Yes, I did.

12 Q. Okay. And in your
13 discussion with Mr. Vala, did you understand him
14 to know the Tradewind report or were you telling
15 him for the first time?

16 A. I was mentioning it to
17 him.

18 Q. Okay. Registrar, if we
19 can go to image 161, please. Okay. And if we can
20 also call up 162 as well.

21 So, you received a draft of
22 the roadside safety assessment report from CIMA on
23 November 23, 2018. Did you review the draft
24 around the time that you received it?

25 A. I am tempted to say yes.

1 Q. Okay. But you don't have
2 a specific recollection of doing that?

3 A. I don't recall exactly
4 which date, but in around that time. As soon as I
5 received it, I must have done the review.

6 Q. Okay. Registrar, if we
7 can go to that document. It's HAM3556 at
8 image 23, please.

9 So, this draft of the roadside
10 safety assessment report included a number of
11 findings regarding wet surface collision trends on
12 the RHVP, including that the wet surface
13 collisions represented 64 percent of mainline
14 collisions and 73 percent of ramp collisions. The
15 roadside safety assessment stated:

16 "These findings suggest
17 that inadequate skid
18 resistance, surface
19 polishing, bleeding,
20 contamination and
21 excessive speeds may be
22 contributing factors to
23 the collisions."

24 And CIMA subsequently prepared
25 further drafts of the roadside safety assessment,

1 an advance draft on December 14 and a final
2 version on January 17, 2019, which included
3 similar content. Do you recall reviewing CIMA's
4 findings regarding wet surface collisions and that
5 inadequate skid resistance may be a contributing
6 cause?

7 A. Yes, I did.

8 Q. And did you make any
9 connection between these findings and the findings
10 in the Tradewind report that you had discussed
11 with Mr. McGuire a few months prior?

12 A. As I mentioned earlier,
13 Tradewind report was not -- did not use a
14 provincial standard which would have connected me
15 between these two. It was more a comparison
16 between LINC and Red Hill Valley that I was
17 understanding from the Tradewind report.

18 In here, the wet surface
19 collisions is comparing, CIMA's comparing, with
20 their own findings as of 2015. Again, they are
21 not running a parallel with the Tradewind report
22 either, so I did not make a connection there.

23 And, again, these findings
24 suggest that inadequate skid resistance and these
25 may be factors that they're mentioning, not a firm

1 finding.

2 Q. Okay. And did you
3 discuss this draft or these findings with
4 Mr. McGuire or anyone else?

5 A. I don't recollect that I
6 discussed it with Mr. McGuire, but, as you can
7 see, I did review and commented back to CIMA, who
8 were the authors of this report.

9 Q. Okay. And did CIMA's
10 findings that inadequate skid resistance may be a
11 contributing factor cause you any concern
12 regarding safety on the RHVP?

13 A. The report again does not
14 state that this one contributing factor or a
15 couple of contributing factors, but they do
16 mention other places -- asphalt or the wet surface
17 collisions, so I did not have a concern because
18 the report did not say you need to shut down the
19 Red Hill Valley Parkway.

20 Q. Okay. And I've asked you
21 this question in the context of a few other points
22 in time, but at the time you received this draft,
23 so late November 2018, did the inclusion of these
24 findings suggest that inadequate skid resistance
25 and excessive speeds may be contributing factors

1 to collisions, did that prompt you to consider
2 providing CIMA with the Tradewind report or
3 enquire as to whether it had already been
4 provided?

5 A. I didn't catch that
6 question completely. If you don't mind repeating,
7 please.

8 Q. Sure. And, Registrar, if
9 you can actually call out under Overall Findings,
10 the last -- actually, if you can just call out all
11 of Overall Findings, that's probably best.

12 So, the last bullet, that the
13 findings suggest that inadequate skid resistance
14 and excessive speeds may be contributing factors
15 to collisions, both this report and the Tradewind
16 report make reference to skid resistance and I'm
17 asking if the inclusion of that bullet prompted
18 you to consider whether CIMA -- whether you should
19 provide the Tradewind report to CIMA or to ask if
20 CIMA had already received it?

21 A. When I had read the
22 Tradewind report again, it did not show me the
23 evidence or the need for connecting the two, but
24 in my own understanding Mr. Soldo had already
25 mentioned this to CIMA, of the existence of a

1 Tradewind report, so I didn't feel a need to bring
2 this forward again.

3 By this time, I had also
4 reviewed the 2015 study and that also mentions the
5 same information. Inadequate skid resistance was
6 also mentioned in the 2015 report, so I did not
7 feel that I needed to bring the Tradewind report
8 again to their attention.

9 Q. Okay. And just to make
10 sure I understand your evidence on this, you did
11 not raise this with CIMA at this time and it was
12 your understanding that Mr. Soldo had made them
13 aware of the report. Is that correct?

14 A. Yes.

15 Q. Okay.

16 A. Also, CIMA had it and the
17 same wordings were in the 2015 report as in their
18 own 2015 report. So, independent of Tradewind
19 report, I'm seeing that it is being mentioned, so
20 I did not feel a necessity to bring that up again.

21 Q. Okay. Registrar, we can
22 close this and if we can go to HAM11764.

23 So, you were invited to a
24 meeting on December 7, 2018 titled RHVP/LINC
25 Report Finalization. What was your involvement

1 with the roadside safety assessment report at this
2 time, so a few weeks after the draft we just
3 looked at?

4 A. So, as you'll see, my
5 involvement with this process started in November.
6 November 1 was our first meeting and then there
7 were continuous meetings. I was actively involved
8 with this roadside safety to understand from that
9 assessment was there any document or any aspects
10 of scope that needed to be added to the
11 resurfacing project. So, it was for the
12 coordination purposes and making sure that any
13 safety improvements needed to be incorporated in
14 the resurfacing project is the reason why I was
15 involved in this meeting.

16 Q. And do you recall
17 attending this meeting?

18 A. Yes, I do.

19 Q. Okay. Registrar, if we
20 can go to HAM11854.

21 I understand that these are
22 minutes from that meeting.

23 And I believe, Registrar, that
24 this document needs to be marked as an exhibit,
25 which I believe is number 147.

1 THE REGISTRAR: Noted,
2 counsel. Thank you.

3 EXHIBIT NO. 147: Minutes
4 from December 7, 2018
5 meeting titled RHVP/LINC
6 Report Finalization,
7 HAM11854.

8 MS. LECLAIR: Thank you.

9 BY MS. LECLAIR:

10 Q. And what was the purpose
11 of this meeting?

12 A. Second progress meeting
13 of Red Hill Valley, it is the -- I am
14 understanding this was done in traffic operations
15 centre, once again with CIMA+, so to review the
16 roadside safety components.

17 Q. Okay. And do you recall
18 if the Tradewind report or friction more generally
19 were discussed?

20 A. No.

21 Q. And there are a number of
22 other city staff members listed as attendees to
23 this meeting: Mr. Ferguson, Mr. Olszewski,
24 Mr. Vala. What was your understanding as to
25 whether they had any awareness of the Tradewind

1 report? Had you had any discussions with them
2 about the report at this time?

3 A. As I mentioned, we never
4 discussed this at that meeting.

5 Q. But other than this
6 meeting, did you know whether Mr. Ferguson or any
7 of the others were aware of the Tradewind report
8 by this time?

9 A. Mr. Ferguson and quite a
10 few of these people were reporting to Mr. Soldo,
11 so my understanding was Mr. Soldo would have
12 provided them with the relevant information.

13 Q. But you don't have a
14 specific recollection of whether or not they did.
15 Is that right?

16 A. Since I did not speak to
17 them about it, I wouldn't know whether they had
18 it.

19 Q. Okay. And were you ever
20 involved in any discussions with Mr. McGuire or
21 Mr. Soldo or anyone in public works about whether
22 or not to provide the report to CIMA?

23 A. Mr. McGuire, Mr. Soldo,
24 Mr. McKinnon, all of them were treating this on
25 their own, at a higher level. We were not -- when

1 I say we, at the manager level, we were not given
2 the go-ahead to release that information.

3 Q. When you say you weren't
4 given the go-ahead to release the information,
5 were you given a direction not to release the
6 information?

7 A. They said it will be
8 handled by them.

9 Q. And who told you that it
10 would be handled by them?

11 A. It is at the --
12 Mr. McGuire was my direct contact.

13 Q. Okay. So, you understood
14 from Mr. McGuire that discussions with CIMA
15 regarding the Tradewind report were to be handled
16 at the director level. Am I understanding that
17 correctly?

18 A. Yes. Mr. Soldo,
19 Mr. McGuire and Mr. McKinnon, they were working
20 very closely after having done this -- after the
21 discovery of the reports.

22 Q. Registrar, if we can go
23 to overview document 9A, image 287. I don't think
24 I have the right reference. Maybe I'll go to the
25 document itself. If you can call up HAM27905 and

1 then if you can also, as a side by side, call up
2 HAM12272.

3 And just before I ask you a
4 few questions on these documents, I believe
5 HAM12272 also needs to be marked as an exhibit,
6 148?

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

9 EXHIBIT NO. 148: CIMA+
10 memo document dated
11 January 16, 2019,
12 HAM12272.

13 BY MS. LECLAIR:

14 Q. So, you provided comments
15 on the December 14 advance draft of the roadside
16 safety assessment on January 7, 2019, and one of
17 your comments, it's the fourth bullet --
18 Registrar, if you can call out the fourth bullet,
19 thank you -- it relates to adequate skid
20 resistance. What did you mean by this comment?
21 What information were you hoping to obtain from
22 CIMA?

23 A. So, again, I mentioned
24 that after finding the Tradewind report, I did do
25 a lot of research myself to understand what are

1 the different ways in which the skid resistance
2 can be measured, what those numbers meant and so
3 on. So, I understood that there were so many
4 different methodologies using which you can
5 identify the skid resistance.

6 So, my question to CIMA at
7 this stage was to identify what are the methods.
8 So, they had this in their report, that the
9 slippery when wet sign can be removed only once
10 the skid resistance is adequate, wet weather skid
11 resistance is achieved, which didn't mean much to
12 me because I was not seeing an Ontario standard by
13 which I could follow or if they were referring to
14 some other standard, I was just requesting
15 information so that there's more clarity.

16 I also had asked how do we
17 determine what is the adequate skid resistance and
18 how long this should be monitored, who will be
19 doing the monitoring and also when and who is
20 installing the slippery when wet signs. So, some
21 of these things were required to make sure that
22 the tender documents were completed and there were
23 specifications as to if the monitoring was to be
24 done through the tender package or through the
25 contractor that we're hiring for resurfacing. I

1 wanted to ensure that the right wording is
2 mentioned in the tender document. So, it was more
3 for information that I was asking that.

4 Q. And was ongoing friction
5 monitoring included in the tender documents
6 ultimately?

7 A. It was not. It was
8 taken -- it was not part of the tender document.
9 It was dealt with separately. My understanding is
10 Mr. McGuire had contacted MTO to do that
11 monitoring.

12 Q. Okay. Registrar, we can
13 take these documents down and if you can go to
14 overview document 9A, image 269. If you can also
15 open up 270, please. Thank you.

16 And on December 24, 2018, you
17 were forwarded a draft copy of Golder's hot
18 in-place recycling suitability study report that
19 Mr. Becke had received a few days prior. Do you
20 recall if you read it around the time that you
21 received it?

22 A. I do remember reading
23 that report.

24 Q. Okay. And around this
25 time, Mr. McGuire had also received a draft report

1 from Golder, this draft relating to what we refer
2 to as the 2017 Golder pavement evaluation, so the
3 testing that was conducted in December 2017. Do
4 you have any involvement with either the hot
5 in-place recycling suitability study or the Golder
6 pavement evaluation at this time, in
7 December 2018?

8 A. So, the HIR suitability
9 study was being undertaken through Mr. Becke with
10 Dr. Uzarowski, so I was aware of that. I'm not
11 very sure about the other piece that you just
12 asked.

13 Q. Okay. So, you don't
14 recall if you had any involvement with the report
15 resulting from the testing Golder had conducted in
16 December 2017?

17 A. No. Can you show me
18 where that is, 2017?

19 Q. Sure. I can show you
20 that document. Just give me one moment.

21 Registrar, if we can go to
22 images 265 and 266.

23 At paragraph 623, the draft
24 report is extracted.

25 A. I don't recall seeing

1 this.

2 Q. Okay. And, Registrar, if
3 we can go back to 269 and 270, please. Thank you.

4 So, this is late December 2018
5 and I understand that this was long after the City
6 had concluded it was not going to use hot in-place
7 recycling on the RHVP. Is that correct?

8 A. Yes.

9 Q. Okay. And what was the
10 purpose of receiving the draft report at this
11 time?

12 A. So, we had embarked on
13 this study to identify what would be the design
14 mix if we were going ahead with the HIR
15 methodology. HIR was understood to have a lot of
16 pros, which is less -- it was cost effective, the
17 time taken would be minimal compared to the
18 traditional shave and pave, as well as there was a
19 possibility of reusing the material. And all of
20 these were some of the factors that was going
21 towards HIR as a preferred rehabilitation
22 strategy. So, if not for Red Hill Valley, we
23 wanted to see if it was feasible to use the HIR
24 methodology for any other similar projects within
25 the City, for any other roads.

1 Q. And did the draft report
2 affect the work that you were doing at the time
3 regarding the RHVP resurfacing?

4 A. It confirmed that the
5 beneficiating mix would be not cost effective in
6 this particular case.

7 Q. And I'm going to move on
8 in a moment to January 2019, but just before I
9 leave December 2018, I had asked you a few
10 questions earlier relating to audit services and
11 your involvement with the value for money audit
12 and we had discussed that you attended a meeting
13 on December 12, 2018 with audit services.

14 So, at this time, you had
15 received a copy of the Tradewind report. Do you
16 recall if, in December 2018 or any time after
17 September 2018, if you had any discussions with
18 the auditor about friction testing or the
19 Tradewind report?

20 A. No, I did not talk to
21 auditor about the Tradewind report. All of the
22 reports were being collected through Mr. McGuire's
23 office, with the assistance of Mr. Sharma and
24 Ms. Cameron, so I did not have to. I was just
25 replying back to all the questions that the

1 auditor had.

2 Q. Okay. Thank you.

3 Registrar, if we can go to HAM28014 and 28015 as a
4 side by side, please.

5 So, on January 14, 2019, you
6 circulated a draft report to Mr. Becke,
7 Mr. Perusin, Mr. Vala, Mr. Olszewski and
8 Mr. Andoga, and the attachment is the document on
9 the right. What was the purpose of this report?

10 A. Okay. So, yeah, it rings
11 a bell now. So, as was mentioned in my e-mail
12 here, it is regarding the scope document itself.
13 The Hamilton Police request for crossover, that is
14 not being implemented. We were also looking at
15 the detour for the resurfacing project itself.
16 So, it was bringing the information. It was an
17 information report to the council to tell them
18 that the resurfacing is happening and what's the
19 timing for that and what's the impact because of
20 the road closure that is needed to undertake this
21 resurfacing.

22 Q. And were you involved in
23 any of the reports around this time that related
24 to what was or was not to be disclosed to council
25 in terms of the RHVP?

1 A. No.

2 Q. Was your involvement
3 limited to discussions of the future repaving?

4 A. Yes.

5 Q. And we know that the
6 Tradewind report was ultimately presented to
7 council and released to the public on February 6,
8 2019 at a GIC meeting. Did you attend that
9 meeting?

10 A. No, I did not.

11 Q. Registrar, can you go to
12 HAM35805 and you can take down -- thank you. On
13 the same day, January 14, 2019, Mr. McGuire
14 e-mailed you, Mr. Andoga, Mr. Oddi and Mr. Becke
15 writing:

16 "Can you please respond
17 to this e-mail and reply
18 yes or no to the
19 following question:

20 Prior to this year, have
21 you received a copy or
22 seen a copy of the 2013
23 Golder/Tradewind report
24 on the RHVP asphalt
25 testing? If yes, please

1 arrange a time with Diana
2 to assemble materials."

3 And you responded no.

4 Recognizing that this is January 2019, did you
5 mean by your answer that you had not received or
6 seen a copy of the Golder/Tradewind report prior
7 to 2018 or prior to 2019?

8 A. So, my answer this year
9 was misleading. Yes, it was early January of
10 2019, so my answer no is I have not seen it before
11 2018, not 2019, yeah.

12 Q. And did you have any
13 discussions with Mr. Andoga or Mr. Oddi or
14 Mr. Becke about the Golder or Tradewind reports
15 after you received this e-mail?

16 A. No.

17 Q. Did they or did anyone in
18 public works tell you that they had received those
19 reports or seen them prior to 2018?

20 A. No.

21 Q. And, Registrar, if we can
22 go to HAM28917. Great.

23 So, this is now February 21,
24 2019 and it's after the Tradewind report had been
25 presented at GIC and publicly released. So, you

1 e-mailed Mr. Vala, Mr. Becke and Mr. Butt writing:

2 "Please see attached
3 summary of CIMA
4 recommendations so we can
5 ensure nothing is being
6 missed. Include in your
7 discussions."

8 And, Registrar, if we can also
9 go to HAM28918, the attachment to this document.

10 And did you prepare this
11 attachment?

12 A. I think so. I don't
13 recollect it either way.

14 Q. Okay. And what was the
15 purpose of sending this document to those on the
16 e-mail?

17 A. Sending it to Gord --

18 Q. Sorry, I'm referring to
19 the first e-mail in the chain, the February 21,
20 12:49 e-mail?

21 A. Oh, okay. So,
22 Sarath Vala and Tashfeen Butt, they are the
23 project team and Mike Becke is the senior PM and
24 involved in the project was being notified of what
25 the summary of CIMA recommendations were. So, it

1 was mentioned in CIMA report that the LINC mix had
2 sufficient friction.

3 So, I think particularly what
4 I was trying to refer to in that e-mail, I'm just
5 looking at the dates, so it was regarding the type
6 of resurfacing that we needed to do, so it is
7 asking for a high-friction material and they were
8 okay with what was applied on LINC. So, I was
9 suggesting that that is the friction material that
10 we need to use.

11 Q. So, in your e-mail to
12 Mr. McGuire, you note:

13 "Per CIMA memo dated
14 February 4, 2019."

15 I think that's what you're
16 referring to. The document that you're referring
17 to -- Registrar, if we can call out HAM12842 --
18 was that this memo, the February 4 memo that was
19 attached to the press release along with the
20 Tradewind report? Is that the February 4 memo
21 that you were referring to in your e-mail?

22 A. I'm trying to read here.
23 Was there any subsequent pages to this?

24 Q. Yes. Registrar, if you
25 can -- I believe there are eight pages in total,

1 so if you want us to continue to flip through,
2 just --

3 A. I am going to assume this
4 is the memo that I'm referring to.

5 Q. Okay. And were you
6 involved in the preparation of this document in
7 any way?

8 A. You mean this memo from
9 CIMA?

10 Q. Correct.

11 A. No, I was not.

12 Q. Okay. And, Registrar, if
13 you can go back to the e-mail, so that's HAM28917,
14 you wrote:

15 "Will need further
16 investigation on this."

17 What further investigation
18 were you contemplating?

19 A. Can you show me where I
20 said that?

21 Q. It's the last sentence of
22 your e-mail to Mr. McGuire, right before "please
23 discuss."

24 A. Oh, okay. So, as I
25 mentioned, I was doing a lot of research to find

1 out what are the other friction materials that was
2 available, and there was a HFST mix that was
3 mentioned in one of the articles. To procure that
4 mix from U.S. was almost impossible, so I was
5 saying that CIMA report had already mentioned that
6 the mix that was used on LINC had sufficient
7 friction, and so let's continue the use of that
8 mix. And if it is HFST or any other mix, the new
9 mix that needed to be looked into, it will need
10 further investigation.

11 Q. Registrar, if we can go
12 to overview document 10A at images 157 and 158.

13 So, on March 5, 2019, you
14 received a revised letter on the selection of HMA
15 for the RHVP resurfacing from Christopher Norris
16 of AME. AME had previously provided a draft
17 letter recommending that the City place SMA 12.5
18 for the resurfacing. The revised letter also
19 included SP12.5 FC2. Do you recall receiving
20 this?

21 A. Yes, I do.

22 Q. All right. The same day
23 you forwarded the letter to Mr. McGuire writing:
24 "FYI, AME has recommended
25 SMA and, as an alternate,

1 recommended 12.5 FC2 with
2 reduced life. Would like
3 your direction with the
4 tender."

5 Mr. McGuire responded writing:

6 "AME notes a lower
7 initial cost with the SP
8 mix. Given the
9 challenges we've had with
10 the SMA on the RHVP, I
11 can't consider going back
12 with that mix. As well,
13 Golder has ruled out HIP
14 on the SMAs, so we can't
15 potentially reuse this
16 material in the next
17 cycle. I'm supportive of
18 the FC2 mix as spec'd."

19 What did you understand

20 Mr. McGuire to mean by, "Given the challenges
21 we've had with SMA on the RHVP, I can't consider
22 going back with that mix"?

23 A. So, by this time, we have
24 a better understanding of SMA and the challenges
25 in the sense that it is a gap graded mix with

1 possibly less friction than when we originally put
2 that down, so we did not want to use the same mix
3 which was being mentioned again. The SMA is good
4 when it is high traffic and truck traffic volume,
5 and that's one of the reasons why AME was
6 recommending SMA, but 12.5 FC2 was also be
7 recommended as an alternate with a reduced life,
8 but that's also in the same category as CIMA+'s
9 report regarding the friction. The adequate
10 friction characteristics of LINC was the reason
11 why SP12.5 FC2 was being -- even though it's a
12 reduced life, we wanted to try that.

13 Q. Okay. And Mr. McGuire
14 wrote that he was supportive of the SP FC2 mix.
15 Were you also supportive? Did you agree with that
16 decision?

17 A. Yes.

18 Q. And, Registrar, if we can
19 go to RHV890.

20 And we've been provided a copy
21 of an anonymous letter sent to Charles Brown, the
22 City's auditor general, which copied Mayor
23 Eisenberger and some media outlets. Were you
24 aware of this letter at the time, so around
25 March 2019?

1 A. No, I was not aware of
2 this at that time.

3 Q. Did you ever see the
4 letter?

5 A. No, not in the
6 preparation for this.

7 Q. Okay. And I understand
8 from your or I expect from your answer that you
9 did not write the letter. Is that correct?

10 A. No, I did not.

11 Q. And do you know who did
12 write it?

13 A. I don't know.

14 Q. Commissioner, subject to
15 any questions that you have, those are my
16 questions for Ms. Jacob.

17 JUSTICE WILTON-SIEGEL: No, I
18 don't have any questions.

19 MS. LECLAIR: Okay.

20 JUSTICE WILTON-SIEGEL: What
21 time are we? We're at 3:20, so perhaps we should
22 take our afternoon break at this point and then
23 we'll return for the questions of participants'
24 counsel. So, we'll stand adjourned until 25 to
25 4:00.

1 --- Recess taken at 3:19 p.m.

2 --- Upon resuming at 3:36 p.m.

3 MS. LECLAIR: Commissioner, I
4 have spoken to counsel for the participants and I
5 understand that counsel for the MTO does not have
6 any questions for Ms. Jacob, and I believe counsel
7 for Golder has approximately 15 to 20 minutes.

8 MS. JENNIFER ROBERTS: I do.

9 JUSTICE WILTON-SIEGEL: Okay.

10 MS. JENNIFER ROBERTS:

11 Commissioner, may I proceed?

12 JUSTICE WILTON-SIEGEL: Please
13 proceed.

14 EXAMINATION BY MS. JENNIFER ROBERTS:

15 Q. Hello, Ms. Jacob. I'm
16 Jennifer Roberts and I'm counsel for Golder. I
17 have a number of questions. I'm going to skip
18 around a little bit in terms of the evidence and,
19 if that becomes unclear for you, just let me know
20 and I'll try and ground my question to a
21 particular paragraph to give you some background.

22 I want to go first to some of
23 your evidence from this morning. You were asked
24 whether if you had known about the Golder report,
25 whether that would have been of use to you in your

1 assessment of whether to proceed with the
2 investigation of hot in-place or proceed directly
3 to a shave and pave. Do you remember that?

4 A. Yes.

5 Q. Okay. And you said when
6 you later read the Golder report that you didn't
7 see a safety concern. Do you remember that?

8 A. Yes.

9 Q. And you said that if
10 there had been a safety concern, that would have
11 helped you determine whether it was appropriate to
12 wait for the entire investigation or proceed
13 directly to a shave and pave. Do you remember?

14 A. Yes.

15 Q. You also -- you were
16 asked in relation to some of the Hamilton evidence
17 about accidents on the Red Hill that I want to
18 talk briefly about. So, commission counsel took
19 you to the question of whether, in September of
20 2013, you are aware of discussion about the Red
21 Hill being slippery. Do you remember that?

22 A. Yes.

23 Q. And you said you weren't
24 aware?

25 A. Yes.

1 Q. Okay. And you were asked
2 whether you had any involvement in the 2015 CIMA
3 report and you said that you didn't. Do you
4 remember?

5 A. Yes.

6 Q. And you didn't read the
7 Spectator articles about accidents on the Red
8 Hill. That's true, too?

9 A. Yes.

10 Q. Okay. And you weren't
11 taken to it, but was any of the internal reporting
12 conducted by traffic engineering about collisions,
13 their location, conditions, kind of collisions,
14 none of that reporting was provided to you?

15 A. No.

16 Q. Okay. And when, in 2015,
17 CIMA provided a detailed analysis of the number of
18 accidents, locations, none of that information was
19 provided to you in 2015?

20 A. No.

21 Q. Okay. And so, when you
22 were asked by commission counsel whether or not
23 you were aware whether there was a safety concern,
24 you'll agree that you were not a recipient of any
25 information that Hamilton had that would have

1 given you any insight into whether there was or
2 was not a safety concern. That's true, isn't it?

3 A. That's right. I was not
4 made aware of any of those.

5 Q. Thank you. I want to go
6 to a different topic now.

7 Registrar, can you please pull
8 up for me overview 9A, images 90 and 91,
9 paragraph 230.

10 This goes back to your
11 evidence this morning, Ms. Jacob, or this
12 afternoon as well where you were taken to the
13 events following the finding of the Tradewind and
14 Golder report, and your evidence as I understood
15 it was that you were given the reports and in fact
16 went back and read them and then prepared a
17 summary. That's the case?

18 A. Yes.

19 Q. Okay. And on page 90 and
20 91, I think your evidence is this is the summary
21 you prepared?

22 A. Yes.

23 Q. Okay. And I want to --
24 so, first of all, if we can pull up the top of 91,
25 that indent, Registrar, for me. Thank you. Okay.

1 So, talk about the cracking on
2 the top and the increased volume of traffic and
3 the full resurfacing recommended for year 21. And
4 then in the fourth bullet here, you say:

5 "New surface course
6 should incorporate
7 aggregates that have a
8 good polished stone
9 value. The samples that
10 were taken from the RHVP
11 in July and August 2018
12 will be assessed for the
13 PSV and its suitability
14 to be reused."

15 And just staying on this point
16 for a second, when you talk about the assessment
17 of PSV, I take it here that you're not remembering
18 here that the PSV testing was in fact done in
19 December/January, that's 2017/2018, and reported
20 on March 9?

21 A. Yes. I know that some
22 samples were taken during that time. I have not
23 seen the exact information back regarding this
24 PSV.

25 Q. And your evidence is you

1 didn't remember that that was something that was
2 discussed in the March 9, 2018 meeting?

3 A. That's right. I don't
4 recollect the numbers.

5 Q. Okay. Thank you. I want
6 to go more generally to bullet 4 there.

7 Is it possible, Registrar, to
8 also pull up overview document 6, page 97,
9 paragraph 252. Can we do both or not? Yes, okay.
10 Thank you. Okay.

11 So, in your summary, you've
12 got the summary here and I do not see anywhere in
13 your summary the Golder recommendations about the
14 rehabilitation of the Red Hill to address cracking
15 as well as the relatively low friction numbers.
16 That's something that you didn't include in your
17 summary?

18 Registrar, let me just take
19 you to it. In section 6 of the Golder report,
20 which is at paragraph 253, those are the
21 recommendations. It talks about the remediation
22 for the top-down cracking, milling and paving the
23 top, and then in the second paragraph it says:

24 "In the remaining portion
25 of the Red Hill, the

1 existing cracks in the
2 surface should be routed
3 and sealed to prevent the
4 ingress of water and
5 incompressible material
6 into the pavement
7 structure, and following
8 the routing and sealing,
9 it is recommended that a
10 singular layer of
11 microsurfacing be applied
12 by carrying out the mill
13 and overlay where
14 required and applying
15 microsurfacing, the issue
16 of the relatively low FN
17 on the Red Hill Valley
18 Parkway would also be
19 addressed."

20 Do you see that in the
21 recommendations?

22 A. Yes, I do see that.

23 Q. And that's not something
24 you included in your summary, is it?

25 A. I did not include that in

1 the summary.

2 Q. I suggest to you,
3 Ms. Jacob, that the recommendation for remediation
4 and the fact that there was a recommendation to
5 treat friction in 2014 was an important element in
6 the Golder report, an important element of the
7 summary, and you didn't include it.

8 A. I'm reading the report in
9 September of 2018 and the microsurfacing was
10 discussed in March of 2018 and the decision was
11 resurfacing to continue by this time, in
12 September, when I was writing the summary.

13 Q. So, do I take it that
14 your point at this stage, Ms. Jacob, is that the
15 recommendation to treat, remediate and treat, the
16 relatively low surface was, in your view,
17 redundant because of the resurfacing. Is that
18 what you're saying?

19 A. Resurfacing was already
20 determined as a move forward as of August 30 that
21 I mention there previously, so I did not see the
22 same relevance when I was doing the summary here.

23 Q. Thank you. I take it
24 also it would be an embarrassing point for
25 engineering services to discuss a point in a

1 recommendation to do something about friction that
2 hadn't been actioned?

3 A. Can you repeat that? Was
4 there a question?

5 Q. It was. I take it that
6 it would have been an embarrassment at the very
7 least to engineering services to have the Golder
8 recommendation summarized here which would show
9 that it hadn't implemented the recommendation.
10 Isn't that right?

11 A. The microsurfacing is
12 being recommended, as you're calling out here, but
13 it does not state a time by which it has to be
14 undertaken. I did not see that correlation
15 here --

16 Q. Okay.

17 A. -- that it had to be
18 undertaken.

19 Q. So, you're disagreeing
20 with me that it would have been an embarrassment.
21 It was just redundant?

22 A. The resurfacing was being
23 done for the asset management, life cycle
24 management. The microsurfacing is being
25 recommended in 2013, did not put a timeline to it,

1 did not show that it's an emergency, so I did not
2 understand how -- I don't know how to explain
3 this. I mean, the consultant hasn't put an
4 emergency on it.

5 Q. So, I think you're saying
6 you're disagreeing with my proposition that it
7 wasn't included because it was an embarrassment.
8 You're saying to me, you're saying to the inquiry,
9 that it wasn't included because at this point you
10 were resurfacing and that recommendation was
11 redundant. Do I have that right?

12 A. Resurfacing was already
13 putting down the new surface course that was being
14 recommended.

15 Q. Right. So, I think I'm
16 understanding you that it wasn't important that
17 there was a recommendation in 2014 because at this
18 point Hamilton has made the decision to resurface.
19 That's correct?

20 A. Resurfacing was being
21 done and I did not see the relevance of
22 microsurfacing on resurfacing.

23 Q. Thank you. I want to go
24 briefly to another point. We talked and you were
25 taken to the pavement and materials technology

1 review this morning briefly.

2 A. Yes.

3 Q. You were aware that
4 Hamilton had retained Golder to prepare the
5 pavement and materials technology review?

6 A. Yes.

7 Q. And I think you said this
8 morning that was three phases. And when you were
9 aware of the -- so, first of all, let me just
10 characterize the PMTR. PMTR 1 and 2 in particular
11 is an evaluation of the Hamilton roads, an
12 assessment largely as to whether they're holding
13 up in accordance to what Hamilton expected they
14 would. Do I understand that correctly?

15 A. Yes.

16 Q. Okay. And the second one
17 in particular goes into some detail as to what
18 specifications and what quality assurance should
19 be implemented to facilitate Hamilton's actually
20 getting what it's paying for. Is that a fair
21 characterization?

22 A. Yes.

23 Q. Okay. And when you
24 became aware of the roads value for money audit,
25 is that something that you raised with the

1 auditor, that this work had already at least been
2 done in part in 2009 and 2011? Did you raise
3 that?

4 A. So, as I mentioned, the
5 document collection was not by me. It was being
6 done through Mr. McGuire's office, along with
7 Mr. Sharma, as well as Ms. Cameron. That document
8 regarding the PMTR was provided to the auditor.

9 Q. They struggled to find it
10 and I'm going to draw your attention to overview
11 document 9A, image 286, paragraph 664. Registrar,
12 can you take us there. Hopefully I've got this
13 right. Sorry, I don't have the correct reference.
14 Forgive me. Forgive me. I don't have the
15 reference. So, Registrar, you can take that down.

16 Ms. Jacob, there's reference
17 in the overview document to the fact they're
18 having difficulty in finding it. You had the
19 three reports? They had been provided to you?

20 A. Engineering services did
21 have the three reports.

22 Q. And is this an example of
23 a document, these three reports, that were a
24 survey of Hamilton roads and intended to be
25 actioned on, is this an example of or are these

1 examples of reports that should have been filed in
2 ProjectWise so that they would have been available
3 as a resource?

4 A. In 2009, these reports
5 were given in hard copies. There were some
6 digital version as well. It was in the P-drive,
7 so it was made available to the auditor.

8 Q. Yes. I know it was later
9 and there's a whole back and forth as to trying to
10 find PMTR 1. My question was slightly different.

11 My question is: Are these
12 examples of reports that should have been filed
13 within ProjectWise so that they would have been
14 available to Hamilton?

15 A. I don't recollect when
16 ProjectWise was being formed and how the transfer
17 of information from one drive over to the other
18 was happening. The specifications were being
19 changed. The recommendations were being met.
20 There could be that the document was in the
21 P-drive still that was being transferred over to
22 ProjectWise.

23 Q. So, they may --

24 A. It's a slow transfer over
25 to ProjectWise.

1 Q. So, do I understand from
2 that they should have been transferred? Is that
3 what you're saying?

4 A. ProjectWise keeps the
5 documents in a central location, so definitely it
6 would help.

7 Q. Thank you. Those are my
8 questions.

9 JUSTICE WILTON-SIEGEL: Okay.
10 Ms. Leclair, who else has questions?

11 MR. MISHRA: I don't know if
12 we can hear Ms. Leclair, but I believe it's the
13 City who is next. May we proceed,
14 Mr. Commissioner?

15 JUSTICE WILTON-SIEGEL: Yes,
16 please proceed.

17 MR. MISHRA: Thank you.

18 EXAMINATION BY MR. MISHRA:

19 Q. Ms. Jacob, commission
20 counsel had previously taken you to Mr. Rick
21 Andoga's e-mail dated April 15, 2016 and I would
22 like to ask you some follow-up questions on this
23 e-mail.

24 So, Mr. Registrar, do you mind
25 pulling up OD 7, page 119 at paragraphs 382 to

1 383, please. Perfect. Thank you.

2 At this time, so April 2016,
3 did you have any concerns regarding skid
4 resistance on the Red Hill Valley Parkway?

5 A. Can you point to the
6 e-mail that you're referring to?

7 Q. Yes, of course.

8 Mr. Registrar, do you mind pulling out the text
9 from 382 and 383.

10 A. Can you repeat your
11 question, please?

12 Q. Of course. So, at this
13 time, as of April 2016, did you have any concerns
14 regarding skid resistance on the Red Hill Valley
15 Parkway?

16 A. I don't see that I was
17 CC'd in this e-mail.

18 Q. Sorry, Ms. Jacob. I
19 believe it's the e-mail on April 15, 2016 at
20 paragraph 383.

21 A. Oh, okay. Okay. No, I
22 was not aware of any issues on Red Hill Valley
23 Parkway.

24 Q. Okay. At this time, were
25 you aware of any concerns that other public works

1 staff had regarding skid resistance on the Red
2 Hill Valley Parkway?

3 A. I was not aware.

4 Q. Okay. At this time, had
5 you ever heard of microsurfacing?

6 A. Yes. I was aware of
7 microsurfacing.

8 Q. Okay. Had you used
9 microsurfacing on any other projects in or around
10 this time?

11 A. I don't recollect the
12 actual date, but I have used microsurfacing on
13 another project.

14 Q. What was that project?

15 A. It was related to Upper
16 James. The road surface itself was in good
17 condition but it was to put a surface coat so that
18 the penetration of water is minimized into
19 further -- layers further down so that the road
20 doesn't deteriorate any further.

21 Q. Okay. Did you have any
22 understanding at this time of this project or at
23 the time of this correspondence in April 2016
24 about microsurfacing being used to improve the
25 frictional properties of a roadway?

1 A. No, especially not in an
2 expressway kind of situation or a parkway where
3 the traffic volumes are very high. The
4 microsurfacing, it's a very thin layer and I was
5 not very certain that it will hold up to that kind
6 of traffic.

7 Q. Mr. Registrar, you can
8 remove that call out and you can take down the OD.

9 Ms. Jacob, what was design's
10 typical role, if any, during discussions regarding
11 the scope of a project?

12 A. Regarding the scope of
13 the project, it is to identify what they're
14 requesting in a scope, is the budget in line with
15 the scope, is it holistic and is there any permits
16 that is required based on the scope that is being
17 received and the implementability of the scope as
18 well as the timing, whether the timing that is
19 predicted is achievable or not.

20 Q. Did design usually have
21 input into a particular project scope?

22 A. When there are conflicts,
23 we suggest changes to the scope. When there are
24 times that cannot be achieved, we have requested
25 for changes to that, and these are all done in

1 coordination meetings, making sure that everyone
2 is aware of the impacts of what is going to be
3 done.

4 Q. Okay. Are there any
5 other circumstances where you provide your views
6 on scope as a member of the design section?

7 A. Primarily we look at the
8 suitability of the strategies that we are
9 developing to ensure that we can achieve what is
10 being recommended. So, if there is a flooding
11 related to a place, is a sewer being sized, where
12 is it going to be sent to, all those kind of
13 information. If there are permits required, we
14 talk about that and see if it is even achievable.
15 And in this particular case, MTO coordination was
16 a big piece, as well as communications with all
17 the stakeholders, which were many in this
18 particular case, so those were the things that we
19 would look at.

20 Q. Okay. And would you
21 raise any concerns you may have about the use or
22 availability of public funds?

23 A. Can you repeat that
24 question?

25 Q. Sure. So, would you

1 raise any concerns you may have about the use or
2 availability of public funds?

3 A. We always look at cost
4 effective solutions, so definitely we make sure
5 that if you can do a better or if we can suggest a
6 better solution, we do suggest that.

7 Q. Perfect. Thank you.
8 Now, moving on to another area, you told
9 commission counsel earlier about the purpose and
10 role of the design section. Would you have
11 expected to receive previous reports with respect
12 to skid resistance on the Red Hill Valley Parkway?

13 A. If it is relevant to the
14 project, yes, it is good to have previous
15 documents.

16 Q. Okay. And would you have
17 expected anyone else in the design section to
18 receive previous reports with respect to skid
19 resistance on the Red Hill?

20 A. Again, I didn't get that
21 question clearly.

22 Q. Sorry. I can repeat that
23 again. Would you have expected anyone else in the
24 design section to receive previous reports with
25 respect to skid resistance on the Red Hill?

1 A. Design section works
2 together as a team, again, so it includes manager,
3 senior project manager, as well as the project
4 manager and the technologist and finally whatever
5 specification is being put together goes through a
6 contract group as well, so we work together as a
7 team, so the whole team. It's not just few
8 individuals who should be receiving the documents.

9 Q. You had noted that you
10 expect to have received skid resistance reports on
11 the Red Hill if it was relevant. In what
12 circumstances would it be relevant to the design
13 section?

14 A. If the skid resistance
15 reports were indicating that there was any safety
16 concern, it is important for us to know that and
17 understand that it was a local issue, whether it
18 was throughout the project limits that it was
19 being a concern.

20 Q. Okay. Does asset
21 management typically provide you with any
22 consultant reports relied to items within the
23 scope of a project?

24 A. They provide the core
25 samples of any investigations that they have

1 conducted. Asset management sometimes does the WD
2 testing for falling weight deflectometer testing.
3 Any testing that they have done related to a
4 pavement condition is usually passed on to the
5 design.

6 Q. Okay. At what point
7 during the Red Hill Valley Parkway repaving
8 project, if at all, would you have expected to be
9 advised about the results of a skid resistance
10 study?

11 A. So, a skid resistance
12 study, if it was available, it would have been
13 better for design to be aware of it, and
14 especially if there was a safety concern related
15 to it, to be aware of it as early in the process
16 as possible.

17 Q. Okay. And I appreciate I
18 asked that question in the broad sense of any skid
19 resistance study. Having now seen the Tradewind
20 report, at what point during the Red Hill Valley
21 Parkway repaving project would you have expected
22 to be advised about the results of the Tradewind
23 report?

24 A. The Tradewind report as I
25 read in September did not bring up any concerns or

1 did not have a date specific to when things have
2 to be undertaken, so I did not see -- Tradewind
3 report on itself did not bring up an issue as to
4 when or what needs to be done.

5 Q. Okay. At what point
6 during the repaving project would you have
7 expected to be advised of an urgent safety issue
8 concerning the surface conditions of the Red Hill?

9 A. My understanding of Red
10 Hill project for resurfacing was based on the life
11 cycle management and not regarding the safety
12 issue at all. Had it been a safety issue, it
13 should have been mentioned right upfront and we
14 should not have delayed the project and it would
15 have been given a different priority because of
16 that. The priority that was or the high profile
17 that was put on the Red Hill Valley was not
18 because of safety issue, but because of the high
19 dollar value as well as the amount of coordination
20 that was needed.

21 Q. I see. So, if I'm
22 understanding your evidence correctly, you did not
23 need to see the Tradewind report because it did
24 not disclose a safety issue. Is that right?

25 A. I personally did not see

1 safety issue loud and clear in that report. The
2 report was done in 2013. We are talking 2018 and
3 if there was a safety issue identified in 2013,
4 that was not very clearly communicated through
5 that report.

6 Q. Okay. And what would you
7 have done if you were advised of an urgent safety
8 issue?

9 A. It would have been
10 handled differently, as I understand, by
11 engineering services as a whole, not only by
12 design. It would have been given much higher
13 priority, maybe an earlier project on its own, the
14 timing of the project may have changed and the
15 implication regarding the safety is a huge concern
16 for the City, so I would have thought that it
17 would have had a different take on it had I
18 clearly understood that there was a safety concern
19 and it had to be dealt with right away.

20 Q. Okay. So, other than
21 potentially flagging a safety concern, what use
22 could you have made on the results of any skid
23 resistance tests?

24 A. Other than the PSV test
25 value, I didn't see anything about the aggregate

1 being any different. So, the resurfacing removes
2 the existing surface and replaces it with a new
3 surface, so as long as the surface is removed, the
4 skid resistance doesn't have a new implication on
5 the new surface as long as we are not repeating
6 the same as before.

7 Q. Understood. Thank you.
8 Now, shifting gears to discuss the hot in-place
9 recycling, in your view, are there any benefits to
10 hot in-place recycling over a traditional shave
11 and pave?

12 A. So, as I mentioned, the
13 hot in-place recycling method was completely new
14 to me, so I was relying heavily on the expertise
15 that was being provided by the consultants in
16 undertaking that project. So, HIR, as was being
17 mentioned, was going to reutilize the materials
18 and it was going to be cost effective as well as
19 more time wise. You can put the traffic back on
20 quicker than in a shave and pave situation. So,
21 we were of the understanding that going to HIR
22 would have helped the City by achieving the
23 project, both directions, in one year, because
24 it's now easy to handle the traffic as well as
25 manageable in the timeframe and it will be within

1 the budget or much lesser than the budget that was
2 originally provided for that project.

3 Q. Understood. In your
4 answer you provided a number of benefits to the
5 City with respect to hot in-place. To your
6 understanding, why did the City ultimately delay
7 repaving the Red Hill Valley Parkway and the LINC
8 from 2018 to 2019?

9 A. So, as you can see, 2017
10 number is when the new HIR methodology was being
11 considered and the discussions were going as far
12 as March of 2018 regarding the suitability of HIR.
13 After that meeting in March, we were looking at
14 the design mix and all of that. So, HIR, if I was
15 supposed to do a shave and pave, and I had
16 mentioned that in my e-mails previously, I should
17 have made a decision by January 24 of 2018, but
18 HIR was still being looked into, so I could not
19 have gone out for tender to see if there were
20 permits needed and finish my coordination to make
21 that project happen. So, the benefits of HIR or
22 the way it was understood by the City was the
23 reason why the project was delayed from 2018 to
24 2019, giving it a chance because it was cost
25 effective and timely as well. We did not perceive

1 that there was any safety issue, so there was no
2 need for concern by -- the project being delayed
3 was not a concern by that point.

4 Q. Understood. And as of
5 January 2018, did you agree with the City's
6 decision to delay the repave to investigate hot
7 in-place recycling?

8 A. Given the benefits that
9 was being mentioned, yes, I did believe that it
10 was good to wait and understand how best to
11 utilize the taxpayers' dollars.

12 Q. Understood. So, I
13 understand that the City ultimately opted to
14 perform a conventional shave and pave over the hot
15 in-place recycling. To your knowledge, why did
16 the City ultimately opt to perform a conventional
17 shave and pave?

18 A. So, again, from my e-mail
19 chain you can see that that decision is coming
20 around August 30 of 2018. Now, after the
21 discussions in March of 2018, we received a
22 proposal from Golder only by June of 2018 and we
23 were looking into HIR, picking up more samples
24 from the Red Hill Valley to understand what is the
25 design mix that we need to go ahead with.

1 By August of 2018, we were
2 also hoping to go and visit the MTO site in
3 Thunder Bay that they were going to implement the
4 HIR. Having something closer in Ontario was a big
5 thing to see if it was going to be applicable
6 here. From previous discussion, this methodology
7 was more popular in BC but not actually in
8 Ontario, so we were hoping to identify how it was
9 being done by MTO and then go from there.

10 So, for all those good
11 reasons, we were waiting until August and when, in
12 August, we were told that they did not perform it
13 on MTO project because MECP, which is the Ministry
14 of the Environment, had shut down the request for
15 using an asphalt plant onsite was also indicative
16 of how things could be for us as well.

17 And the other thing is this
18 was a new technology, which meant that not a lot
19 of local -- I didn't know if any local contractors
20 were going to be able to utilize or bid on this
21 project, which could have meant it was an
22 outsource thing, which would mean that I need to
23 go to council to get the approval. For all those
24 good reasons, I didn't feel that it was going to
25 happen even in 2019 by this time of August 30.

1 Q. Perfect. Thank you,
2 Ms. Jacob.

3 Mr. Commissioner, can I just
4 have a minute to review my notes?

5 JUSTICE WILTON-SIEGEL: Fair
6 enough.

7 MR. MISHRA: Thank you,
8 Mr. Commissioner. Thank you, Ms. Jacob. Those
9 are all of my questions.

10 JUSTICE WILTON-SIEGEL: Okay.
11 Ms. Leclair?

12 MS. LECLAIR: Commissioner, I
13 just have one brief question in re-exam.

14 FURTHER EXAMINATION BY MS. LECLAIR:

15 Q. Ms. Jacob, we spoke
16 earlier about the hot in-place recycling
17 suitability study draft report you received in
18 late December 2018 and I asked you about what was
19 the purpose of that report, given the City had
20 already decided against using hot in-place
21 recycling for the RHVP.

22 I understand your answer to be
23 that there were many benefits to hot in-place
24 recycling, so even if the City wasn't going to use
25 that method to resurface the RHVP, the City wanted

1 to understand if it was feasible to use hot
2 in-place recycling for any other similar projects
3 of the City or any other roads.

4 Did I understand that
5 correctly?

6 A. Yes.

7 Q. Okay. And did the City
8 have any other SMA roads that the report would be
9 applicable to?

10 A. I don't recollect there
11 was another SMA road. This was more the motion of
12 how to -- the process related to how to identify a
13 design mix was the purpose. The sample that was
14 taken for that particular project was from Red
15 Hill Valley and the design mix that would have
16 come from that report would have been only for Red
17 Hill Valley asphalt, but the methodology of how it
18 will be undertaken was something of interest to
19 the City, so we continued to complete that quote.

20 Q. So, is it right that it
21 was more of a theoretical understanding of hot
22 in-place recycling rather than a practical
23 application to any particular road?

24 A. Yes, and also to confirm
25 that we were in the right track of resurfacing or

1 shave and pave to make a final decision whether
2 there was a beneficiating mix that would have been
3 cost effective, even for Red Hill Valley using the
4 HIR methodology.

5 Q. Okay. If I understand
6 that last answer, was it had the report identified
7 that there would have been a cost effective
8 beneficiating mix, would that have had any impact
9 on the City's decision to resurface or, again, was
10 that more just for the City's knowledge of what
11 could have been possible?

12 A. We had moved on with the
13 resurfacing. Because the report came in December,
14 it would have delayed the project in 2019 asphalt.
15 It was too late for the actual applicability of
16 HIR on Red Hill Valley project.

17 Q. Okay. Thank you.
18 Commissioner, those are my questions.

19 JUSTICE WILTON-SIEGEL: Thank
20 you. So, Ms. Jacob, thank you very much for
21 attending today. You're excused.

22 I believe that then the
23 inquiry will now stand adjourned until next Monday
24 at 9:30. Is that correct? The next witness
25 appears at that time?

1 MS. LECLAIR: I believe so,
2 yes.

3 JUSTICE WILTON-SIEGEL: So,
4 we'll stand adjourned until Monday at 9:30. Thank
5 you, all.

6 --- Whereupon the proceedings adjourned at
7 4:18 p.m. until Monday, September 12, 2022 at
8 9:30 a.m.

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