

RED HILL VALLEY PARKWAY INQUIRY

TRANSCRIPT OF PROCEEDINGS
HEARD BEFORE THE HONOURABLE
HERMAN J. WILTON-SIEGEL
held via Arbitration Place Virtual
on Wednesday, September 28, 2022 at 9:32 a.m.

VOLUME 59

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1 Arbitration Place Virtual

2 --- Upon resuming on Wednesday, September 28, 2022

3 at 9:32 a.m.

4 MS. BRUCKNER: Commissioner,
5 may I proceed?

6 JUSTICE WILTON-SIEGEL: Yes,
7 please proceed.

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

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

23 Many of the counsel appearing
24 on this hearing today are in Toronto, which is on
25 the traditional land of the Huron-Wendat, the

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

6 AFFIRMED: JASMINE GRAHAM

7 EXAMINATION BY MS. BRUCKNER:

8 1 Q. Good morning, Ms. Graham.
9 Thank you for joining us this morning. I am going
10 to start off with some questions about your
11 background. Can you tell me a little bit about
12 your professional qualifications?

13 A. Yes. I'm a
14 communications professional. I've been working in
15 communications for about 12 or 13 years. I'm
16 currently working at the Niagara Health System.
17 Before that, I worked for City of Hamilton for
18 about six years as a senior communications officer
19 and communications officer.

20 2 Q. Okay. Do you have a
21 degree in communications?

22 A. I have a degree in public
23 relations and English.

24 3 Q. Okay. And you were
25 employed by the City of Hamilton from July 2016

1 until March 2022. Is that right?

2 A. That's right.

3 4 Q. It's my understanding
4 that you were a senior communications officer,
5 communications and strategy initiatives, with the
6 City from August 2019 to March 2022?

7 A. That's right.

8 5 Q. And before that, you were
9 a communications officer, strategic partnerships
10 and communications, with the City from July 2016
11 to August 2019?

12 A. That's right.

13 6 Q. And what was your
14 experience before joining the City?

15 A. I worked in
16 communications roles for the Ontario College of
17 Pharmacists and for the University of Waterloo.

18 7 Q. Can you describe the day
19 to day of your role as a communications officer,
20 strategic partnership and communications, so this
21 would be the role from July 2016 to August 2019?

22 A. Yes. I was assigned to
23 support the public works department for both of my
24 positions in Hamilton. I was with the public
25 works department. As a communications officer, I

1 was responsible for media relations, media
2 training, communications planning, issues
3 management and overall my role was really to be a
4 communications advisor to provide advice to the
5 public works department on any big issues or
6 things that were -- we needed to communicate to
7 the community or to council.

8 8 Q. Who did you report to in
9 your role as communications officer, strategic
10 partnerships and communications?

11 A. Jen Racine, who was the
12 manager of communications.

13 9 Q. Okay. Did you report to
14 the general manager of public works at all?

15 A. I had an informal
16 reporting relationship with the general manager of
17 public works.

18 10 Q. Who did Ms. Racine report
19 to?

20 A. John Hertel, I believe,
21 during that time.

22 11 Q. And he was the director,
23 strategic partnerships and communications. Is
24 that right?

25 A. I believe so.

1 12 Q. You were assigned
2 specifically to the public works department as a
3 communications officer?

4 A. I was.

5 13 Q. Did you do work for any
6 other departments within the City?

7 A. On a very ad hoc basis if
8 they needed support if somebody was away or
9 something like that, but I largely worked just for
10 public works.

11 14 Q. Okay. And you were also
12 assigned to the public works department when you
13 were a senior communications officer?

14 A. Yes.

15 15 Q. Did your portfolio with
16 the public works department include roadway
17 safety?

18 A. It did.

19 16 Q. Did you have any direct
20 or indirect reports before August 2019 when you
21 came into the senior communications officer role?

22 A. I had two direct reports.
23 I'm sorry, I can't remember exactly when they
24 started being my direct reports, but there were
25 two, yes.

1 17 Q. Okay. Did you have those
2 direct reports when you were communications
3 officer or after you were promoted to senior
4 communications officer?

5 A. I think for a very brief
6 time I had one. I think it was from about May
7 until I was promoted in August, so it was a short
8 time.

9 18 Q. Okay. So, that's May of
10 2019?

11 A. I think so.

12 19 Q. Okay. Who was that
13 person?

14 A. Emily Trotta.

15 20 Q. What was the role of the
16 strategic partnerships and communications
17 department generally within the City?

18 A. We were responsible for
19 providing advice to the organization on issues
20 relating to communications of all sorts, so
21 everything from media relations to issues
22 management, like I said, communicating important
23 projects or issues to the community. It's a very
24 broad role, but at the end of the day it's about
25 providing communications advice.

1 21 Q. Were you familiar with
2 the Red Hill Valley Parkway before you started
3 your role at the City in 2016?

4 A. I'm from Hamilton, so I
5 was familiar with the parkway, yes.

6 22 Q. Okay. From driving on
7 it?

8 A. Yes.

9 23 Q. What were you told, if
10 anything, about the Red Hill Valley Parkway when
11 you started with the City?

12 A. I don't think I can
13 recall anything really specific. I started in a
14 role that somebody had vacated for a little while,
15 so I did a lot of learning on my own at the
16 beginning. I don't think there was any, sort of,
17 specific training specific to the Red Hill.

18 24 Q. When you say that you
19 started in a role that someone else had vacated a
20 little while ago, can you expand on that a little
21 bit for me?

22 A. Yeah. The person that
23 was in my role before had left in February and I
24 didn't start until July, and so there was a period
25 of time when there wasn't anyone in that position.

1 She was still with the City, so she was able to
2 sort of help onboard me and bring me up to speed,
3 but she was in a new position, so...

4 25 Q. And who was that that had
5 been in the role before you?

6 A. That was Kelly Anderson.

7 26 Q. So, you said that you did
8 a little bit of learning on your own to get up to
9 speed. Did you review any past media reports
10 about the Red Hill Valley Parkway to orient
11 yourself to potential communications issue?

12 A. Yeah. I definitely would
13 have done that with all -- everything related to
14 public works, I spent quite a bit of time reading
15 media reports on lots of different issues.

16 27 Q. Okay. In the context of
17 your review of Red Hill Valley Parkway media
18 reports, did anything stand out to you about the
19 roadway?

20 A. I was certainly aware of
21 some public perception of the roadway at that
22 point, yes.

23 28 Q. And what was that public
24 perception?

25 A. I know there had been

1 some higher profile collisions and, yeah. I don't
2 know that I knew anything, had any specific idea,
3 but I knew that there had been some higher profile
4 collisions and unfortunately some deaths on the
5 highway as well before I started.

6 29 Q. Okay. From your review
7 when you did start, were you aware of any public
8 concerns about slipperiness or lighting on the Red
9 Hill Valley Parkway?

10 A. I don't think I was aware
11 of those things, no.

12 30 Q. Okay. And you weren't
13 after you did your media review?

14 A. I do recall reading
15 articles about lighting and slipperiness, but I
16 don't know if that was -- it was probably after I
17 started. I'm not sure if it was before or after,
18 but...

19 31 Q. Were you told anything
20 about safety concerns on the Red Hill Valley
21 Parkway when you started in your role?

22 A. I don't remember being
23 told that.

24 32 Q. As part of your role as
25 communications officer, did you review staff

1 reports that were either presented to council or
2 had previously been presented to council?

3 A. I tried to review staff
4 reports that were going forward to public works
5 committee specifically since that was my
6 portfolio. I don't think I could have -- I
7 wouldn't say I reviewed every single one because
8 it was quite a large portfolio, but I did make an
9 effort to try to review reports where I could.

10 33 Q. Okay. Did you review
11 historical staff reports when you started in your
12 role as communications officer?

13 A. It wasn't part of my,
14 sort of, onboarding, I guess, to go back and read
15 reports, but as sort of issues maybe came across
16 my desk, I may have looked back on specific
17 reports if somebody had pointed me in the right
18 direction, but I didn't go back and read
19 historically.

20 34 Q. As part of your role as
21 communications officer, did you review consultant
22 reports that were prepared for public works?

23 A. No.

24 35 Q. When you first started in
25 your role, did you -- were you made aware of the

1 2013 or 2015 CIMA reports?

2 A. I don't think so.

3 36 Q. When you said you did
4 media training for City individuals, were you
5 referencing to specific media spokespersons?

6 A. Yes, I was responsible
7 for delivering media training for identified
8 spokespeople within public works. And so, in
9 public works, that would include directors and
10 managers and then some very specific folks, for
11 example, like superintendents or senior project
12 managers on certain occasions, so I would do
13 training with one of my colleagues or people who
14 had been identified as spokespeople.

15 37 Q. Did the City have
16 approved media spokespersons for a specific
17 department within public works or division within
18 public works?

19 A. We have approved
20 spokespeople, yes.

21 38 Q. For each division?

22 A. Yes.

23 39 Q. How many approved
24 spokespersons would be within each division?

25 A. It would really depend on

1 the division and also the director in the division
2 who would really we would go to for advice on who
3 the best spokespeople in their division would be.
4 But typically I would say it would typically be
5 the director and then managers for the most part.

6 40 Q. Okay. So, then is it the
7 director who selects the spokespersons?

8 A. On a usual media enquiry,
9 I would try to connect with the director and then
10 work with them to determine if they would like to
11 do the interview, if they would be most
12 appropriate, or if they would like to ask one
13 their managers or in some cases another member of
14 their team to do it, but usually I would work with
15 the director to determine who the best person was.

16 41 Q. Okay. Who were the
17 approved media spokesperson in engineering
18 services while you were a communications officer,
19 so from 2016 to about 2019?

20 A. Did you want their roles
21 or names?

22 42 Q. Names and roles if you
23 can give them, but either/or is fine.

24 A. Okay. So, I know Gary,
25 when Gary was director, and Gord, when Gord was

1 director, certainly did media interviews and were
2 spokespeople. And then their managers, so I don't
3 have a list in front of me, but off the top of my
4 head like Marco, Susan, yeah. I can't remember
5 the specific managers, sorry, but I do recall that
6 we did media training with the managers and
7 engineering services, so if there was an interview
8 request, it would be one of them.

9 43 Q. Okay. Do you know who
10 the approved media spokespersons were in traffic
11 operations and engineering for that same time
12 period?

13 A. I'm not sure who the
14 director then. I'm assuming it was Edward.

15 44 Q. I think it was John
16 Mater.

17 A. Thank you for helping me
18 with that. So, John and then I know Geoff Lupton
19 sometimes did media as well and traffic as well
20 Dave Ferguson and Martin also had media training
21 and did media interviews. I can't remember if
22 there were other spokespeople at that time.

23 45 Q. Thank you very much.
24 Registrar, could you please take us to OD 7,
25 image 165, paragraph 490.

1 Just for context, Ms. Graham,
2 I'm stepping a little bit forward in time and
3 we're going into February of 2017. So, this is,
4 on February 22, 2017, Mr. White e-mails Mr. Mater,
5 Mr. Lupton and Mr. Ferguson about a fatal
6 crossover collision on the Red Hill Valley
7 Parkway. And, for your reference, you're not
8 copied on this e-mail.

9 As the communications officer
10 for public works, did you generally receive
11 information about fatal collisions on Hamilton's
12 roadways?

13 A. Sometimes I think I would
14 have, yes, or I would have received a media
15 enquiry sometimes about them and then asked for
16 more information myself.

17 46 Q. Okay. So, there wasn't
18 necessarily a process by which you were advised
19 when a fatal collision occurred?

20 A. I don't think there's
21 necessarily, like, a formal process, no.

22 47 Q. Was it typical for
23 collisions on Hamilton roadways to receive media
24 attention?

25 A. Definitely possible and

1 if we received a media inquiry from somebody about
2 a fatal collision, we would certainly respond with
3 information that we had, if we were able to.

4 48 Q. Compared to other City of
5 Hamilton roadways, did the Red Hill Valley Parkway
6 receive more media attention?

7 A. I'm not sure. I think we
8 also had a lot of media attention on other
9 roadways, like for other reasons. For example,
10 like Burlington Street has lots of potholes or
11 used to have lots of potholes, so that would get
12 lots of attention as well. It's hard to answer
13 that question.

14 49 Q. When you say for other
15 reasons, was there a specific reason that you
16 typically got media enquiries about the Red Hill?

17 A. No. I just -- I don't
18 know if there was a specific reason, but like we
19 said before there were enquiries around or stories
20 covering lighting and collisions and things like
21 that, so...

22 50 Q. Okay. So, in this
23 e-mail, the first paragraph, Mr. White says:

24 "Just a heads up, there
25 was another crossover

1 fatality on the Red Hill
2 Valley Parkway last
3 night. We need to review
4 the CIMA report on
5 barriers, as these fatals
6 can likely be mitigated
7 with a barrier system.
8 Vision Zero is about
9 reducing fatalities and
10 serious injuries."

11 Do you recall discussions
12 about a barrier system on the Red Hill Valley
13 Parkway in connection with collisions?

14 A. I recall, like, that
15 being, sort of, a theme of discussions, but I
16 can't remember any specific conversations that I
17 was a part of.

18 51 Q. Okay. Registrar, you can
19 take this down and if you could take us to OD 7
20 images 166 to 167, paragraph 493.

21 So, on February 22, 2017 you
22 e-mailed Mr. Ferguson under the subject line "CHML
23 is at 12:30" and you copy Mr. White on the e-mail.
24 If you want to take a moment and review, just let
25 me know when you're done.

1 A. Okay.

2 52 Q. Is this e-mail about an
3 interview that Mr. Ferguson was doing?

4 A. It looks that way.

5 53 Q. So, I think you said
6 earlier that Mr. Ferguson was an approved City
7 spokesperson. Right?

8 A. Yes.

9 54 Q. Did you generally attend
10 interviews with City spokespersons?

11 A. It would depend on if I
12 was available or what the City spokesperson's
13 comfort level was. It's an option for them to ask
14 a communications officer to join them.

15 55 Q. Okay. So, was it
16 typically by their initiative that you would
17 attend?

18 A. If I was available, I
19 would typically offer and leave it up to them.

20 56 Q. Do you recall if you
21 attended the interview that he did with CHML?

22 A. I don't recall the
23 specific interview, no.

24 57 Q. So, this is flowing from
25 the crossover collision. What was your typical

1 practice following a collision or major event in
2 terms of developing a communications strategy?

3 A. For, like, if there was a
4 major collision? Is that what you said?

5 58 Q. Yeah.

6 A. I don't know that I would
7 necessarily have a proactive communications
8 strategy for a collision, so largely it would be a
9 reactive situation. So, if we had media enquiries
10 about the location or the collision, the collision
11 itself we would typically refer to Hamilton
12 Police. But we would or I would, in collaboration
13 with traffic operations or traffic engineering,
14 work up some key messages to respond to any media
15 enquiries, so things like collision statistics at
16 the location or if we have done any improvements,
17 safety improvements or otherwise, to the area, and
18 things like that. Or, if there were specific
19 questions from the media, I would work on trying
20 to collect answers in collaboration with the
21 spokespeople, but I wouldn't typically do anything
22 like proactive in terms of like sending a media
23 release or anything like that.

24 59 Q. So, the first sentence of
25 this e-mail says:

1 "Martin says stick to the
2 short, medium and
3 long-term strategies from
4 the report."

5 And I read that as a reference
6 to the 2015 CIMA report. Did you review the 2015
7 CIMA report in connection with the media coverage
8 around this collision or the information provided
9 in this e-mail?

10 A. I didn't; however, I
11 think that might be referring to a council report,
12 not the CIMA report.

13 60 Q. Do you know which council
14 report it's referring to?

15 A. I think, I'm not
16 100 percent sure, but I think it's the one with
17 the appendix at the back that has like a chart
18 that has the short, medium and long-term measures.
19 I want to say it's 18008, but I don't know for
20 sure.

21 61 Q. Okay. I think that what
22 you're referring to is the December 2015 report
23 covering the 2015 CIMA report?

24 A. Okay.

25 62 Q. So, I think that that is

1 right. Did you review that specific staff report
2 in connection with this?

3 A. I would have pulled the
4 information from that report.

5 63 Q. Okay. Registrar, could
6 you take us to OD -- actually, it's right on the
7 other, so it's up there, it's paragraph 494, which
8 is on 167 and I think you may need to pull up 168
9 as well as it goes a little bit on to the next
10 page.

11 So, on February 22, 2017 you
12 e-mailed Andrea McKinney and Jen Racine under the
13 subject line "Heads Up, Red Hill Valley Parkway."
14 Just stopping there, who is Andrea McKinney?

15 A. Andrea McKinney was the
16 director of communications and corporate
17 initiatives when I first started with the City,
18 and she moved into a different role and John
19 Hertel took that position at some point.

20 64 Q. Did you have any
21 reporting obligations to Andrea?

22 A. So, I reported to Jen and
23 Jen reported to Andrea.

24 65 Q. Okay. In the first
25 paragraph of this e-mail, you say:

1 "Another accident on the
2 RHVP last night is
3 resulting in a lot of
4 media enquiries this
5 morning about the safety
6 of the Red Hill and LINC.
7 Many councillors' offices
8 have also been engaged
9 and many are asking
10 traffic safety section
11 about messaging, et
12 cetera."

13 How did you generally receive
14 media enquiries? Would it be by phone, e-mail,
15 some combination of the two?

16 A. Both, yes. Some
17 combination of the two.

18 66 Q. So, in this e-mail you
19 have again listed safety improvements on the Red
20 Hill Valley Parkway and LINC to date and then some
21 things in the future, so there are two lists
22 there. Where did you get that information from?

23 A. I think -- I don't
24 remember this specific e-mail. I'll just start by
25 saying that. If I had to guess, I would say that

1 it was probably at the same list as the previous
2 e-mail that I pulled from the councillor report
3 through direction from Martin.

4 67 Q. Martin White?

5 A. Yes.

6 68 Q. Did you generally rely on
7 the information provided to you by public works
8 staff about safety or safety improvements and
9 countermeasures?

10 A. Absolutely. I'm not an
11 expert in anything related to public works, so I
12 would rely on staff, like, a lot, for sure.

13 69 Q. And did you make any
14 other enquiries at this time of public works staff
15 about safety initiatives or safety on the Red Hill
16 Valley Parkway, given that you were receiving
17 media enquiries along those lines?

18 A. I'm not sure. This was
19 quite a long time ago, so I can't remember exactly
20 what happened in 2017.

21 70 Q. Okay. Would it have
22 generally been your practice to make further
23 enquiries?

24 A. I would be focused on
25 what the media was looking for and being the

1 liaison between the media and the spokespeople in
2 Hamilton, so I wouldn't have been investigating a
3 lot further beyond what they were asking for, for
4 the most part.

5 71 Q. What concerns were raised
6 in the media enquiries that you had received about
7 the safety of the Red Hill Valley Parkway and
8 LINC?

9 A. I don't know if I can
10 remember specifically, Hailey, but I know that
11 there were questions around the changes that we
12 were making from, like, a traffic engineering
13 perspective, and I know later there were questions
14 around, like, the pavement. I'm not sure if was
15 happening at this point or not, but it's quite a
16 long time ago, so it is hard to remember exactly.

17 72 Q. When you say "the changes
18 that we were making," are you referring to the
19 safety improvements?

20 A. Yes.

21 73 Q. How common was it for the
22 City to receive media enquiries about the safety
23 of the Red Hill?

24 A. I'm not sure. I couldn't
25 answer that.

1 74 Q. During your tenure as a
2 communications officer with the City, were the
3 media enquiries that you received about the Red
4 Hill generally connected to an incident, for
5 example, like this crossover collision, or did you
6 find they were unrelated to a particular event?

7 A. I would say both
8 actually. I think that there were -- like, an
9 incident would sometimes spur enquiries for sure,
10 but I can recall and I know that we will talk
11 about at some point today some reporters looking
12 for things that aren't related to a specific
13 event.

14 75 Q. Okay. When reporters
15 were looking for things that weren't related to a
16 specific event, did their enquiries have a common
17 theme?

18 A. Again, so I know that
19 there is a reporter who asked several times for
20 friction testing results, so that would be an
21 example of a theme. I can't recall if there were
22 other themes at this minute, but there may have
23 been.

24 76 Q. In responding to media
25 requests, did you work primarily with traffic

1 engineering and operations staff?

2 A. Can you be a little bit
3 more specific on your question? Sorry.

4 77 Q. Sorry. Let me rephrase
5 it a little bit. When you were responding to
6 media enquiries about the Red Hill Valley Parkway,
7 were you dealing primarily with traffic
8 engineering and operations staff or with staff
9 from other public works departments as well?

10 A. Yeah. I think in the
11 case of the Red Hill, also with staff from
12 engineering services as well.

13 78 Q. When you received an
14 enquiry, how did you know who to reach out to?

15 A. So, I learned by trial
16 and error at the beginning for sure. And then if
17 I asked somebody that wasn't the right person,
18 they could typically redirect me to somebody who
19 was more appropriate. Some enquiries are more
20 obvious than others, traffic safety, and we have a
21 section called traffic safety, but in some cases I
22 wouldn't know who to ask, and so I would depend on
23 staff to redirect me to the most appropriate
24 spokesperson.

25 79 Q. Do you recall if in

1 February 2017, around this inquiry, you reached
2 out to anyone in engineering services in addition
3 to Mr. White?

4 A. I really couldn't recall.

5 80 Q. So, back to the first
6 paragraph of this e-mail, you say:

7 "Many councillors'
8 offices have also been
9 engaged and several were
10 asking traffic safety
11 section about messaging."

12 What did you mean by that?

13 A. So, I don't remember this
14 specific incident; however, I can say that
15 typically we would have often councillors' offices
16 reaching out to admins or project managers or
17 managers even to ask for details on projects or
18 issues, and so those people would typically let me
19 know so we could create, you know, consistent
20 messaging so everybody would know what the latest
21 information was and could share all the same
22 information with councillors as we would share
23 with the public, being transparent and consistent.

24 81 Q. Do you recall what
25 counsellors were told about messaging in this

1 particular instance?

2 A. I mean, I don't recall in
3 this particular instance, but we would probably
4 very likely have shared the same list that is
5 here.

6 82 Q. Okay. When you say the
7 list, you mean the safety improvements and the
8 things that would be done in the future?

9 A. Like, as I said, I can't
10 remember exactly, but that would be our typical
11 practice.

12 83 Q. Okay. Registrar, could
13 you take us to OD 7, image 168, paragraph 495,
14 which of course is already up on the screen.

15 So, on February 22, 2017,
16 Mr. Ferguson forwarded your e-mail about the CHML
17 interview to Mr. McKinnon, copying Mr. Mater and
18 Mr. White. Again, just for your reference, you're
19 not copied on this exchange. Mr. Ferguson says:

20 "I just got off the phone
21 with Collins and Conley
22 asking questions about
23 the barriers and the
24 recent incident. I
25 believe they also talked

1 to Gary."

2 In your experience, was it
3 common for councillors to interact directly with
4 public works staff on issues around the Red Hill
5 Valley Parkway?

6 A. I would say it would be
7 common for them to call and ask questions about
8 anything they wanted to know about.

9 84 Q. Okay. As part of your
10 role supporting the public works department, did
11 you deal with councillors?

12 A. On rare occasions.

13 85 Q. And in what circumstances
14 would you be dealing with a councillor?

15 A. I think if they were
16 looking for messaging that we had shared on a
17 specific topic, they may call and ask for it.
18 They don't typically ask for anything out of the
19 ordinary, things we already have most of the time.

20 86 Q. Okay. Is the audience
21 for communications messaging that you put together
22 for the public works department sometimes city
23 councillors?

24 A. Is the audience, like, am
25 I creating things specifically for council?

1 87 Q. Is the messaging
2 sometimes directed at them?

3 A. Certainly sometimes we
4 have communications that we need to share with
5 them. Yes, of course.

6 88 Q. So, Mr. Ferguson says in
7 this e-mail:

8 "I believe they also
9 talked to Gary."

10 In your experience, was it
11 common for councillors to direct questions about
12 the Red Hill Valley Parkway to Mr. Moore?

13 A. I think so, yes.

14 89 Q. Did you view Mr. Moore as
15 a person with familiarity or expertise on the Red
16 Hill Valley Parkway?

17 A. I did.

18 90 Q. Okay. Can you expand a
19 little bit on why you felt that way?

20 A. I thought Gary was very
21 knowledgeable engineer and he was included in, you
22 know, building the parkway and I just viewed him
23 as somebody with a lot of knowledge about it.

24 91 Q. When you received media
25 enquiries about the Red Hill Valley Parkway, did

1 you often go to Mr. Moore?

2 A. If -- yes, I think so.

3 92 Q. Okay. Do you recall if
4 in February 2016 you spoke to Mr. Moore in
5 relation to the media enquiries that you received
6 about safety concerns on the Red Hill?

7 A. I can't remember. Sorry.

8 93 Q. So, in the last paragraph
9 of this e-mail, Mr. Ferguson says:

10 "In my discussion with
11 councillor, Chad did
12 start to get onto a bit
13 of a rant about these
14 issues occurring as a
15 result of driver
16 behaviour and that the
17 action of the motorists
18 isn't being made public.
19 I suggested to them they
20 may not want to go that
21 route as it goes against
22 the principles of Vision
23 Zero and they may get
24 some public backlash. I
25 think they understood

1 what I was trying to say."

2 So, stopping there, was
3 Vision Zero part of your portfolio in terms of
4 communications around traffic safety?

5 A. It was part of my
6 portfolio. I will say, though, that I did share
7 that piece of work with Emily that I mentioned
8 before and I don't know that I'm an expert on
9 Vision Zero.

10 94 Q. Okay. What did you
11 understand Vision Zero generally to be?

12 A. About, you know, using
13 different techniques to improve roadway safety, so
14 everything from engineering and education,
15 enforcement. I know there's 5Es. If I could
16 remember that, that would be great, but that was
17 my thought.

18 95 Q. Okay. To your knowledge,
19 as of February 2017, was it a commonly held view
20 amongst councillors that collisions on the Red
21 Hill were as a result of driver behaviour?

22 A. I wouldn't know.

23 96 Q. As of 2017, was it your
24 impression that city staff held the view that
25 collisions on the Red Hill Valley Parkway were

1 primarily the result of driver behaviour?

2 A. I don't think I know that
3 either, sorry.

4 97 Q. As of February 2017, had
5 you had any discussions with public works staff
6 about the cause of collisions on the Red Hill
7 Valley Parkway?

8 A. I can't remember any
9 specific conversations.

10 98 Q. Do you remember any
11 generalities?

12 A. I don't think I do.
13 Sorry.

14 99 Q. Were you ever asked to
15 prepare communications messaging that focused on
16 driver behaviour as the underlying cause for
17 collisions on the Red Hill?

18 A. I don't recall any
19 specific to the Red Hill. I do recall doing some
20 campaigns around speeding and texting. We had a
21 budget for a lot of road safety initiatives, and
22 so there would have been lots around driver
23 behaviour, but not specific to the Red Hill.

24 100 Q. Okay. Registrar, could
25 you please take us to OD 7, images 182 and 183,

1 paragraph 528. So, it's just on the bottom of
2 that page and it goes over a little bit onto the
3 top of 183.

4 On May 26, 2017, you e-mailed
5 Mr. Moore under the subject line "Reporter
6 Questions" and you say:

7 "Martin and Dave Ferguson
8 met with a reporter from
9 the Spec yesterday to go
10 over safety improvements
11 along the LINC and Red
12 Hill. They did not
13 answer some questions
14 relating to lighting and
15 pavement and have
16 referred to reporter to
17 you. Do we have anything
18 we could provide her
19 (council updates?) about
20 lighting/pavement?"

21 And then on the next page, the
22 e-mail continues:

23 "She also asked for a
24 copy of the pavement
25 friction testing done on

1 the Red Hill Valley
2 Parkway. I had not heard
3 of this before. Is it a
4 public document?"

5 Stopping there, is the
6 reporter that you reference in your e-mail
7 Nicole O'Reilly from the Hamilton Spectator?

8 A. Yes.

9 101 Q. Did you speak to
10 Ms. O'Reilly directly about this enquiry?

11 A. I can't remember.

12 102 Q. Do you know if you would
13 have obtained this information from Mr. White or
14 Mr. Ferguson?

15 A. I'm not sure how it came
16 to me. Sorry.

17 103 Q. Do you recall if you were
18 with Mr. Ferguson and Mr. White when they spoke to
19 Ms. O'Reilly?

20 A. I don't believe I was.

21 104 Q. Between May and
22 July 2017, did you attend any interviews between
23 city staff and Spectator reporters at which the
24 Red Hill was discussed?

25 A. Can you just tell me the

1 date frame again, please?

2 105 Q. Yes. So, this is the end
3 of May, so I'm asking between May and July 2017.

4 A. I can't remember. I may
5 have, but I can't remember specifically.

6 106 Q. So, you say:
7 "They did not answer some
8 questions related to
9 lighting and pavement and
10 have referred the
11 reporter to you. Do we
12 have anything that we
13 could provide her
14 (council updates?) about
15 lighting/pavement?"

16 Which questions were
17 Mr. Ferguson and Mr. White unable to answer about
18 lighting and pavement?

19 A. I can't remember, so I
20 couldn't say.

21 107 Q. Okay. Do you know if you
22 actually were informed about the specific
23 questions?

24 A. I don't know.

25 108 Q. So, you go on to say:

1 "She has also asked for a
2 copy of the pavement
3 friction testing done on
4 the Red Hill Valley
5 Parkway."

6 To your knowledge, had
7 Ms. O'Reilly asked Mr. White and Mr. Ferguson
8 questions about friction testing results for the
9 Red Hill Valley Parkway?

10 A. I don't know.

11 109 Q. Do you know if she had
12 asked them directly for friction testing results?

13 A. I don't know.

14 110 Q. Did she reach out to you
15 specifically with this request for friction
16 testing results?

17 A. She may have.

18 111 Q. But you don't have a
19 specific recollection one way or another?

20 A. I don't. I would deal
21 with five media enquiries every day, and so it's
22 hard to remember this long ago with that volume.

23 112 Q. Okay. So, you go on to
24 say, after asking about the friction testing
25 results:

1 "I have not heard of this
2 before. Is it a public
3 document?"

4 What did you mean by that?

5 A. I would have been
6 wondering if it had been shared with council, if
7 we had a link for it or something like that that
8 goes on the website in any place so I could send
9 the link to Nicole if it was available.

10 113 Q. Okay. So, you would have
11 sent it to her had you been advised it was a
12 public document?

13 A. Yeah.

14 114 Q. And had you been advised
15 that it wasn't a public document, what would your
16 general practice have been?

17 A. If -- I'm not sure. I'm
18 not sure if I encountered that.

19 115 Q. You're not sure if there
20 was ever a situation in which somebody requested
21 something that wasn't a public documenter?

22 A. Sorry, I'm certain that
23 has happened. I'm not sure what my response would
24 be. I would see if it was possible to share it
25 and, if it wasn't, then I would definitely take

1 advice from a director or manager, GM, on what to
2 do.

3 116 Q. Okay. So, would it
4 generally then or is it fair to say that your
5 general practice would be to ask the director that
6 you were working with if it could be shared or
7 what could be done?

8 A. Definitely, yes.

9 117 Q. So, we haven't been
10 provided with a document indicating that Mr. Moore
11 ever responded to this e-mail. Did you have any
12 discussions with Mr. Moore about this e-mail or
13 the questions you put to him in it?

14 A. I don't remember any
15 discussions about this specific enquiry. I will
16 say, though, that we sat very close to each other.
17 My desk was very close to Gary's door, and so we
18 often spoke to each other in person, so that may
19 have been the case here. I can't remember,
20 though.

21 118 Q. When you say it was just
22 outside of his door, like, your desk was right
23 around the corner or a couple steps from his door?

24 A. Yes. So, right outside
25 his door directly if you walked outside his door

1 was Diana's desk, and my desk was right beside
2 Diana's desk.

3 119 Q. Did Mr. Moore ever tell
4 you anything about friction testing on the Red
5 Hill Valley Parkway?

6 A. Not that I can remember.

7 120 Q. Did he ever provide you
8 with any documents, reports, test results or
9 information in response to this e-mail?

10 A. I don't believe so.

11 121 Q. Did you follow up with
12 Mr. Moore when he didn't provide you with a
13 response to this e-mail?

14 A. It would be my typical
15 practice to follow up, yes.

16 122 Q. Okay. But you don't
17 recall one way or another if you did in this case?

18 A. I can't remember this
19 circumstance.

20 123 Q. So, Ms. O'Reilly asked
21 specifically for pavement friction testing done on
22 the Red Hill Valley Parkway. Did you take any
23 steps beyond this e-mail to Mr. Moore to try to
24 locate information about Red Hill Valley Parkway
25 pavement friction testing to provide to her?

1 A. I know that I definitely
2 took additional steps in the future. I had asked
3 for this document a number of times. As you go
4 forward, you'll probably ask me about those. So,
5 I know I definitely asked for it a lot of times,
6 but it wouldn't be my typical practice to
7 investigate for a document if it wasn't provided
8 to me.

9 124 Q. Did you try to obtain
10 information about friction testing on the Red Hill
11 Valley Parkway from other city staff to provide to
12 Ms. O'Reilly, aside from Mr. Moore?

13 A. I can't recall doing
14 that. I'm not sure.

15 125 Q. So, I haven't seen
16 e-mails along those lines. Would it be your
17 practice to do that in person?

18 A. Sometimes I would follow
19 up with staff in person if I didn't get a response
20 via e-mail, especially engineering because I sat
21 on the same floor as them, so if they were ducking
22 my e-mails, I might go down, find them and say --
23 let them know that I was looking for something and
24 see if they could help me. But, like I said, I
25 can't remember back to 2017. It is hard to

1 remember where I was walking.

2 126 Q. Did Mr. Moore tell you

3 that he didn't have anything to give you in

4 response to Ms. O'Reilly's questions?

5 A. I can't recall what Gary

6 told me.

7 127 Q. Okay. Do you recall if

8 he advised you that he wasn't going to give you

9 the information that you had requested?

10 A. I can't recall what he

11 told me.

12 128 Q. Do you recall if he told

13 you that the information you requested should not

14 be provided to Ms. O'Reilly?

15 A. Again, I can't remember

16 what he said.

17 129 Q. Registrar, could you

18 please take us to a split screen and pull up

19 HAM25869 on one side and HAM25870 on the other

20 side.

21 THE REGISTRAR: Sorry,

22 counsel, can you repeat the first document ID for

23 me?

24 MS. BRUCKNER: HAM25869.

25 THE REGISTRAR: And, sorry,

1 the second one now?

2 MS. BRUCKNER: HAM25870 at

3 image 1.

4 THE REGISTRAR: Thank you.

5 BY MS. BRUCKNER:

6 130 Q. So, on March 24, 2017,

7 Mr. White submitted an information report, an

8 information update, apologies, about safety

9 improvements for the LINC and the Red Hill Valley

10 Parkway approved in December 2015 to the mayors

11 and members of council, and the e-mail that we

12 have up is the circulation e-mail for this

13 information update and you are copied on it at the

14 top.

15 Registrar, do you mind just

16 pulling out the CC on that e-mail.

17 So, you're copied as a

18 recipient on this information update that goes

19 around March 24, 2017. Do you recall receiving

20 this information update?

21 A. I don't. I would have

22 received a lot of things like this on the regular.

23 131 Q. Registrar, you can take

24 down the call out.

25 Would you have reviewed this

1 information update on receiving it?

2 A. It would be my practice

3 to look at documents like this, yes.

4 132 Q. Registrar, on the
5 information report or update, apologies, could you
6 please take us to image 3.

7 So, Appendix B to this
8 information update sets out the medium and
9 long-term safety improvements for the Red Hill and
10 LINC, and you'll see that conduct pavement
11 friction testing is a medium term option and it's
12 listed as completed in this information update.

13 Did you note that this
14 medium-term safety option had been listed as
15 completed in March 2017?

16 A. I don't remember
17 reviewing this one specifically.

18 133 Q. Okay. To your knowledge,
19 did Ms. O'Reilly's request for pavement friction
20 testing results in May 2017 relate to this
21 publicly disclosed document?

22 A. I couldn't say.

23 134 Q. As of May 2017, what, if
24 anything, had you been told about whether
25 engineering services had done any friction testing

1 on the Red Hill Valley Parkway in 2016?

2 A. Beyond what you've shown
3 me, I can't really recall anything else.

4 135 Q. Okay. When you say that,
5 are you fairly certain that there weren't any
6 discussions or you just don't recall one way or
7 another?

8 A. I just can't recall.

9 136 Q. Registrar, you can take
10 this down and if you could take us to OD 7,
11 page 183, paragraph 529.

12 On May 30, 2017, Ms. O'Reilly
13 e-mailed Councillor Conley and requested
14 information on pavement friction testing conducted
15 on the Red Hill Valley Parkway. Were you aware
16 that Ms. O'Reilly had reached out to Councillor
17 Conley for this information?

18 A. I was not.

19 137 Q. Registrar, you can take
20 this down and if you can call out paragraphs 530
21 to 532.

22 So, Councillor Conley and his
23 assistant engage in some back and forth with city
24 staff looking for friction testing results in
25 June 2017. As of June 2017, were you aware that

1 Councillor Conley had reached out to city staff to
2 try to obtain friction testing results for the Red
3 Hill Valley Parkway?

4 A. I was not.

5 138 Q. Did Mr. Moore or any
6 other city staff discuss a request for friction
7 testing results from the Red Hill Valley Parkway
8 from Councillor Conley with you in June or
9 July 2017?

10 A. I don't believe so.

11 139 Q. Did you take any steps
12 between late May, when you received Ms. O'Reilly's
13 e-mail, and July 2017 to obtain friction testing
14 results for the Red Hill Valley Parkway from any
15 city staff person?

16 A. Between May and July? I
17 can't really recall. Sorry.

18 140 Q. And, again, when you say
19 you can't recall, you can't recall one way or the
20 other?

21 A. No.

22 141 Q. Registrar, you can take
23 this down and if you could take us to HAM52704.

24 So, on July 15, 2017,
25 Ms. O'Reilly's article, "Highway traffic

1 tragedies: Why are there so many crashes on the
2 Red Hill?" is published in the Hamilton Spectator.

3 Did you review this article after it was
4 published?

5 A. I would have, yes.

6 142 Q. Would you have been
7 reviewing it as part of your role as
8 communications officer for the public works
9 department?

10 A. It was my practice to
11 read the media reports from the day before or in
12 the morning when I started work each day.

13 143 Q. Okay. And is that
14 something that you were doing as part of your role
15 as communications officer?

16 A. I think that's an
17 expectation of me and my job, yes.

18 144 Q. So, Mr. Moore and
19 Mr. Ferguson are quoted in this article. Were you
20 involved in preparing any city staff person for
21 interviews with Ms. O'Reilly in connection with
22 this article?

23 A. It would have been my
24 practice to connect with spokespeople before they
25 did an interview with a member of the media just

1 to maybe run through some key messages or practice
2 some tough questions. That said, I don't remember
3 if I did that in this case.

4 145 Q. Do you recall if you
5 attended interviews connected with this article?

6 A. I'm not sure.

7 146 Q. Were you involved in any
8 fact checking processes engaged in by the
9 Spectator in connection with this article?

10 A. I don't believe so.

11 147 Q. Did the Spectator call or
12 e-mail you to confirm quotes from city staff that
13 were going to be used in this article?

14 A. Did they call me to
15 confirm if the quotes were correct?

16 148 Q. Mm-hmm.

17 A. I don't think so.

18 149 Q. Okay. Do you know if
19 that's a practice that the Spectator usually
20 employs?

21 A. I have not experienced
22 that with the Spectator, except for maybe a few
23 occasions that I couldn't even quote what they
24 would be about, but I don't think they were about
25 this.

1 150 Q. To your knowledge, did
2 the Spectator call or e-mail city staff to confirm
3 quotes from them that would be included in this
4 article?

5 A. I don't think so, but I
6 couldn't say for sure.

7 151 Q. Was it part of your role
8 to follow up with city staff after a media
9 interview in which they have been quoted?

10 A. If I was able to do that,
11 I would. Like I said before, public works was, at
12 this period of time prior to the pandemic for
13 sure, getting a lot of media enquiries every day,
14 and so it was difficult to manage that all the
15 time, but if possible, I would have followed up
16 with them if it was relevant.

17 152 Q. In a circumstance in
18 which a city staff person felt they had been
19 misquoted or an article contained inaccurate
20 information, would they come to you about that?

21 A. That would be my
22 expectation, that they would be the subject matter
23 expert. If they were misquoted or there was
24 inaccurate information, I wouldn't be able to tell
25 that, so I would rely on them to let me know. And

1 if that was the case, I would follow up with the
2 media outlet to let them know, if it was something
3 significant.

4 153 Q. And were staff generally
5 aware that you relied on them to let you know if
6 there was something inaccurate in a media article?

7 A. That would be part of our
8 media training, so yes.

9 154 Q. Did either Mr. Ferguson
10 or Mr. Moore reach out to you to express concerns
11 about being misquoted in this article after it was
12 published?

13 A. I don't recall that.

14 155 Q. Okay. You don't recall
15 one way or the other or you're fairly certain it
16 didn't happen?

17 A. I don't recall one way or
18 the other.

19 156 Q. Do you recall if
20 Mr. Ferguson or Mr. Moore expressed any other
21 concerns to you to you about this article?

22 A. I don't recall them
23 sharing any concerns with me about it.

24 157 Q. Registrar, could you
25 please take us to image 2 of this document, and if

1 you can call out the last quarter of the page
2 under, "The Red Hill Valley Parkway was
3 originally," so it's, I think, five paragraphs up
4 from the bottom of the page. Thank you.

5 So, the article says:

6 "The Red Hill Valley
7 Parkway was originally
8 paved with stone mastic
9 asphalt, a more expensive
10 mix that's supposed to
11 last longer. It is known
12 to be slightly more
13 slippery, though still
14 meeting provincial
15 standards in the first
16 few months, but typically
17 it has -- "

18 --- (Technical interference)

19 THE REGISTRAR:

20 Mr. Commissioner, I think counsel is just frozen.

21 JUSTICE WILTON-SIEGEL: Yes.

22 I was wondering whether others had the same
23 situation.

24 MS. TALEBI: Yes, she's frozen
25 for us as well.

1 THE REGISTRAR: Okay. Hi,
2 Ms. Bruckner. Can you hear us okay?

3 MS. BRUCKNER: Yes. We just
4 dropped out of the Zoom.

5 THE REGISTRAR: You didn't
6 leave the call, but you were just frozen for us.
7 If you're okay to continue.

8 BY MS. BRUCKNER:

9 158 Q. Ms. Graham, where were we
10 when we froze?

11 A. I think you were just
12 reading the first paragraph.

13 159 Q. So, the first paragraph
14 here says:

15 "The Red Hill Valley
16 Parkway was originally
17 paved with stone mastic
18 asphalt, a more expensive
19 mix that's supposed to
20 last longer. It is known
21 to be slightly more
22 slippery, though still
23 meeting provincial
24 standard in the first few
25 months, but typically has

1 better friction once the
2 road is worn down."

3 Stopping there, in July 2017,
4 were you aware that the Red Hill Valley Parkway
5 had been paved with SMA?

6 A. I was aware from reading
7 an article like this, but I didn't have any
8 additional knowledge about what that was.

9 160 Q. So, the article
10 continues:

11 "Yet that 2015
12 engineering report found
13 crashes when the road is
14 wet are inexplicably
15 going up, not down, and
16 recommended the City
17 study friction and the
18 City did test friction
19 later that year, the
20 Spectator has learned,
21 but the results were
22 never made public. And
23 there's no official
24 report, Moore said, only
25 an informal chart sent in

1 an e-mail in
2 December 2015. The
3 friction testing was not
4 fulsome and the results
5 were inconclusive, he
6 said."

7 So, you had asked for friction
8 testing results from Mr. Moore on May 26, 2017.
9 Did you note Mr. Moore's comment about an informal
10 chart from December 2015 recording friction
11 testing results for the Red Hill Valley Parkway
12 when you reviewed this article?

13 A. I really can't remember.
14 I know I would have read this article. I can't
15 remember if I made note of that or not.

16 161 Q. Did Mr. Moore tell you
17 about or give you an informal chart of friction
18 testing results from December 2015 in response to
19 your request in May 2017?

20 A. I don't think so.

21 162 Q. Did you follow up with
22 Mr. Moore after reviewing this article to request
23 a copy of the informal chart?

24 A. I don't remember doing
25 that.

1 163 Q. Would it be your general
2 practice to follow up on learning that something
3 that you had been previously asked for by a member
4 of the media existed?

5 A. I would have expected
6 myself to follow up in this situation. I just
7 can't remember if I did or not.

8 164 Q. So, I haven't seen an
9 e-mail follow up. Is this something that you
10 potentially would have done in person?

11 A. Like I said, I did speak
12 with Gary in person because our desks were very
13 close to each other, but I don't recall this
14 instance.

15 165 Q. Did Mr. Moore ever tell
16 you that friction testing results for the Red Hill
17 Valley Parkway were inconclusive?

18 A. I don't remember if he
19 said that to me or not.

20 166 Q. Did Mr. Moore ever tell
21 you anything about there not being an official
22 report on friction testing, but only an informal
23 chart?

24 A. I just remember that from
25 this article.

1 167 Q. Did Mr. Moore ever give
2 you the informal chart referenced in this article?

3 A. I don't believe he did.

4 168 Q. To your knowledge, does
5 the informal chart exist?

6 A. I think I did see an
7 informal chart as part of our document review,
8 like fast-forward into 2019, but I don't know for
9 sure. I think so.

10 169 Q. Okay. To your knowledge,
11 had engineering services done friction testing on
12 the Red Hill Valley Parkway in late 2015 or 2016?

13 A. Did I know if they did it
14 or not?

15 170 Q. To your knowledge, had
16 engineering services done friction testing on the
17 Red Hill Valley Parkway in late 2015 or 2016?

18 A. I didn't know, I don't
19 think.

20 171 Q. Okay. Do you know now if
21 friction testing was performed on the Red Hill
22 Valley Parkway in 2015 or 2016?

23 A. I'm not sure if I follow
24 the dates that you're asking about. Sorry.

25 172 Q. Sorry. So, just to

1 confirm, you're not sure if engineering services
2 performed friction testing on the Red Hill Valley
3 Parkway in 2015 or 2016?

4 MS. TALEBI: Sorry,
5 Mr. Commissioner. I don't mean to interrupt. I'm
6 just not sure if I got the timeframe. I'm not
7 sure if counsel is asking sitting here today if
8 Ms. Graham is aware of any friction testing being
9 done at that time period or if she's referring to
10 this time period in 2017.

11 MS. BRUCKNER: I think we've
12 established that she didn't know at the time and
13 I'm now asking at any point.

14 JUSTICE WILTON-SIEGEL: Right.
15 I think the question is does she know now whether
16 testing was done in late 2016 or 2017. Is that
17 correct?

18 MS. BRUCKNER: Late 2015 or
19 2016, but yes.

20 JUSTICE WILTON-SIEGEL: Late
21 2015 or 2016.

22 MS. TALEBI: And so, to the
23 extent that's the question, Mr. Commissioner, I'm
24 not sure that's relevant to anything, whether
25 Ms. Graham now, obviously having reviewed all of

1 the information in relation to this enquiry, is
2 aware of that, whether friction testing was done
3 at that time period.

4 JUSTICE WILTON-SIEGEL: Well,
5 it might be relevant to questions with respect to
6 a subsequent period, so I would allow the
7 question. Is there clarity, Ms. Graham, around
8 the question that's being asked?

9 THE WITNESS: I'm just not
10 sure if I remember when the dates are of all the
11 friction testing. I'm sorry.

12 JUSTICE WILTON-SIEGEL: Okay.

13 BY MS. BRUCKNER:

14 173 Q. So, the article goes on:
15 "But instead of doing
16 further testing as was
17 recommended, the City has
18 decided to repave."

19 As of July 2017, was it your
20 understanding that the City's decision to repave
21 was related to inconclusive friction testing on
22 the Red Hill Valley Parkway?

23 A. My understanding that it
24 was related to maintenance, upcoming maintenance,
25 regular, like, planned maintenance.

1 174 Q. Okay. Who advised you
2 that it was related to regular planned
3 maintenance?

4 A. I couldn't say for sure.
5 I would have been advised for a member of likely
6 engineering services.

7 175 Q. At the time that you
8 reviewed this article and saw the reference to
9 repaving being connected to potentially
10 inconclusive friction testing results, did you
11 reach out to Mr. Moore to ask him about that?

12 A. I can't remember the
13 conversations back this far.

14 176 Q. Registrar, could you take
15 us over to image 3 and just pull out the first
16 paragraph at the top of that page.

17 So, the article continues on
18 the next page:

19 "All we got was an
20 indication that we should
21 do further work, Moore
22 said. It was moot when
23 we decided to go ahead
24 with repaving."

25 Did Mr. Moore or any other

1 city staff advise you that friction testing on the
2 Red Hill Valley Parkway had given an indication
3 that the City should do further work?

4 A. I don't believe so.

5 177 Q. When you reviewed this
6 article, did you follow up on that statement with
7 Mr. Moore?

8 A. I can't remember.

9 178 Q. Did you have any
10 discussions with Mr. Moore about this article or
11 the friction testing referenced in it?

12 A. I can't remember.

13 179 Q. Do you recall if you had
14 any discussions with Dave Ferguson or Martin White
15 about the content of the article after it was
16 published?

17 A. I can't recall talking to
18 David or Martin.

19 180 Q. Would understanding the
20 information provided by Mr. Moore in this article
21 have assisted you in your role as public works
22 communication officer?

23 A. Would understanding the
24 information? I would have relied on Gary to help
25 me understand. As I said, I'm not a professional

1 engineer, so -- does that answer your question?

2 181 Q. So, let me reframe it a
3 little bit. It's my understanding from your
4 evidence that you're not certain whether or not
5 you approached Mr. Moore to follow up with him
6 about the comments that were made to the Spectator
7 in this article. Would having more details about
8 those comments have assisted you going forward in
9 your role as communications officer?

10 A. Likely. It's likely that
11 I would have asked for more information about it.

12 182 Q. Okay. Would it have been
13 your general practice to approach him on reading
14 an article like this?

15 A. It would have been my
16 general practice to approach a spokesperson if
17 there was an article like this one that, kind of,
18 points out inconsistent messaging like in this
19 way. I would have followed up, yes.

20 183 Q. Okay. Do you have any
21 recollection as to how Mr. Moore responded, if you
22 did indeed follow up?

23 A. I just don't remember
24 having that conversation with him.

25 184 Q. Registrar, could you pull

1 out the next couple of paragraphs. Yes, that's
2 fine. Thank you.

3 So, the article goes on and
4 says:

5 "The City refused to
6 share the chart with the
7 Spectator. No one ever
8 releases that type of
9 information because it's
10 the first thing anybody
11 would use in a lawsuit,
12 Moore said."

13 Were you involved in the
14 City's decision not to share the informal chart
15 with the Spectator?

16 A. No. That would have been
17 a decision made by a director, somebody above me.

18 185 Q. Do you have any knowledge
19 about who made that decision?

20 A. I don't know.

21 186 Q. Do you know who would
22 have been consulted in making the decision not to
23 share the chart with the Spectator, if anyone?

24 A. I couldn't say.

25 187 Q. When you read this

1 article, would you have taken steps to determine
2 who made the decision not to share the chart with
3 the Spectator and why?

4 A. I likely would have maybe
5 asked more questions to Gary, but like I said, I
6 just don't remember having that conversation.

7 188 Q. Aside from Mr. Moore, is
8 there anyone else that you would have approached
9 to speak to about the decision not to provide the
10 informal chart to the Spectator?

11 A. I'm not sure. I mean,
12 potentially the general manager maybe. I'm not
13 sure.

14 189 Q. But you don't have any
15 recollection of approaching anyone else?

16 A. I don't.

17 190 Q. Did you take any steps to
18 obtain the informal chart yourself?

19 A. I think I am asking for
20 it and I asked for it again in the future, so I
21 think those are steps I was taking.

22 191 Q. Okay. Aside from those
23 steps, did you do anything else to try and obtain
24 the informal chart?

25 A. Besides asking for it a

1 bunch of times, I didn't take any other steps, no.

2 192 Q. Okay. Did you develop

3 any communications messaging or strategy in

4 response to the publication of this article?

5 A. I don't believe I did.

6 193 Q. Registrar, you can take

7 this down and if you can take us into OD 9A,

8 image 16, paragraph 26. Thank you.

9 So, Ms. Graham, we're jumping

10 ahead a little bit in time just for your context.

11 On May 25, 2018, Nicole O'Reilly e-mails Mr. Moore

12 regarding an updated contact for Red Hill Valley

13 Parkway enquiries. She says:

14 "I was looking for an
15 update on the asphalt
16 testing on the Red Hill
17 Valley Parkway and what's
18 happening with plans to
19 shave and pave. Hoping
20 you can connect me with
21 the right person to
22 answer questions about
23 this. Thanks and good
24 luck in your new
25 position."

1 Registrar, could you take this
2 down and pull out paragraph 27. So, this is the
3 period of time where Mr. Moore is moving to the
4 LRT. He forwards this e-mail to you and says:

5 "Nicole is following up
6 on the pavement condition
7 investigation and what we
8 are going to do. I'll
9 let you run with this."

10 Did you have any discussions
11 with Mr. Moore about this e-mail either before or
12 after he sent it to you in terms of how you were
13 going to run with it?

14 A. I don't remember
15 specifically any conversations.

16 194 Q. What asphalt testing on
17 the Red Hill Valley Parkway was Ms. O'Reilly
18 referring to in this e-mail?

19 A. I believe she's referring
20 to the testing that was done for the hot in-place
21 work that was -- we were investigating.

22 195 Q. Did you have discussions
23 with her about this request?

24 A. I don't recall. It looks
25 to me like she went straight to Gary.

1 196 Q. So, just pausing here for
2 a moment, between July 2017 when Ms. O'Reilly's
3 article that we were just looking at was published
4 and May 2018 when this exchange was occurring, had
5 you taken any further steps to locate friction
6 testing results for the Red Hill Valley Parkway?

7 A. I don't think so.

8 197 Q. Had Ms. O'Reilly followed
9 up in this period of time about the pavement
10 friction testing results for the Red Hill Valley
11 Parkway?

12 A. She may have. She may
13 have phoned me. I don't know for sure.

14 198 Q. Had she phoned you, how
15 would you have responded to that request?

16 A. Like, in what format
17 would I have responded?

18 199 Q. What would your answer
19 have been if she had asked you for the friction
20 testing results again during this time period?

21 A. I would have asked Gary,
22 I guess, the director, whoever is in the director
23 chair, for it. It's not my responsibility or my
24 role to be an investigator, but I would have tried
25 to be a liaison between the media and our

1 spokespeople to get them the information that they
2 needed.

3 200 Q. If you hadn't been able
4 to obtain information about friction testing
5 results from city staff, what would you have told
6 Ms. O'Reilly?

7 A. It's hard to say for sure
8 what I would have said. I'm not sure.

9 201 Q. Registrar, could you
10 please call out paragraphs 28 and 29.

11 So, this is just the
12 continuation of this exchange. So, you reply to
13 Mr. Moore:

14 "Do you know who has this
15 intel now?"

16 What did you mean by that?

17 A. Well, I think this is
18 during the period, as you said, where Gary is
19 transitioning into the LRT role, and so I think I
20 was asking does he know, like, who I should ask.
21 Like I said before, if I did know who to direct a
22 media inquiry to, I would ask for direction, so I
23 think that's what I was doing here.

24 202 Q. Did Mr. Moore direct you
25 to someone else to obtain information about the

1 Red Hill Valley Parkway pavement or the asphalt
2 testing?

3 A. I don't remember how he
4 responded.

5 203 Q. So, I haven't seen an
6 e-mail response to this. Do you recall if he
7 responded at all?

8 A. I can't recall.

9 204 Q. Registrar, could you take
10 this down and take us to HAM53162 at image 3, and
11 if you don't mind just calling out the very bottom
12 e-mail there. That's great. Thank you.

13 On May 29, 2018, you e-mail
14 Mr. McGuire about the shave and pave for the Red
15 Hill Valley Parkway and LINC. You write:

16 "Hi, Gord. Do you know
17 who would have
18 information about
19 upcoming Red Hill Valley
20 Parkway/LINC shave and
21 pave for 2019? Spec is
22 asking for some info, but
23 I would have typically
24 asked Gary."

25 And then a little bit further

1 up the chain, Mr. McGuire responds:

2 "I'm not sure where that
3 landed. We are waiting
4 for new technology called
5 hot in-place. Marco Oddi
6 may have some insights."

7 And just continuing up this
8 chain, Registrar, could you please take us to
9 image 2 and call out the blue e-mail that's
10 just -- yes, right there.

11 So, there's a bit more back
12 and forth and then Mr. Oddi responds:

13 "We, asset management,
14 design, construction and
15 the geotechnical
16 consultant are reviewing
17 the hot in-place
18 recycling asphalt
19 technology to see if it
20 is an option for the Red
21 Hill Valley Parkway
22 mainline resurfacing.
23 The ramps will be
24 resurfaced using the
25 traditional mill and pave

1 option."

2 So, when Mr. Oddi referenced
3 hot in-place here, did you take steps to educate
4 yourself about hot in-place recycling at this
5 point?

6 A. I do recall asking some
7 questions. I think I had a conversation with
8 Michael Becke who explained to me what hot
9 in-place was, just so I had an understanding of
10 what that meant.

11 205 Q. Registrar, could you pull
12 down the call out and take us over on to image 1
13 and 2, like, so that we have both images up since
14 we're going to go through the rest of the chain.

15 So, you respond to Mr. Oddi's
16 e-mail, which is just above on the second
17 image that we have. You say:

18 "Thank you, Marco. Would
19 you be able to provide
20 this info to the Spec?"

21 And Mr. Oddi responds at the
22 very bottom of the next page -- Registrar, would
23 you mind just pulling out the blue text there --
24 and he says:

25 "We should probably

1 respond that the Red Hill
2 Valley Parkway
3 resurfacing is planned
4 for 2019 and that more
5 information should be
6 available later this
7 fall. This would avoid
8 questions regarding the
9 hot in-place technology
10 and its use/not use."

11 At this point in time, was the
12 City trying to avoid raising hot in-place
13 recycling with the media?

14 A. I don't think that's
15 necessarily true, no. I don't know but I don't
16 think so.

17 206 Q. Okay. Did you have any
18 discussions with Mr. Oddi about why he wanted to
19 avoid questions regarding the hot in-place
20 technology and its use/not use?

21 A. Not that I can remember.

22 207 Q. Registrar, could you pull
23 this down and go to the next e-mail, May 30, 2018.

24 So, on May 30, 2018, you send
25 an e-mail in this e-mail chain and say:

1 "The reporter is also
2 looking for the results
3 of asphalt testing."

4 Registrar, you can close this
5 down.

6 So, you are not copied on the
7 subsequent e-mails that occur in this e-mail
8 chain. Did you ever receive a response to your
9 e-mail about the reporter looking for the results
10 of asphalt testing for the Red Hill Valley
11 Parkway?

12 A. I don't know for sure. I
13 don't think so.

14 208 Q. So, at this point in
15 time, Ms. O'Reilly has asked for the Red Hill
16 Valley Parkway asphalt testing. She's also asked
17 for friction testing. What steps had you taken to
18 try to get information to answer questions about
19 the pavement on the Red Hill Valley Parkway?

20 A. I think beyond asking the
21 spokespeople for the information, I don't think
22 that I was really able to take many other steps
23 beyond what I did.

24 209 Q. Okay. So, I think you
25 said that you didn't think that you got a response

1 to this e-mail. When you didn't get a response to
2 the e-mail asking about the asphalt tests, did you
3 take any further steps to try and get this
4 information from someone else?

5 A. Like I said, I'm not
6 sure. I can't remember back this far. It would
7 be my typical practice to try to walk down the
8 hall and see if I could get a response, like, in
9 person. I may have done that. I don't know for
10 sure.

11 210 Q. Okay. And you don't have
12 any recollection of how staff approached, if you
13 did reach out to them in person? Let me rephrase
14 that.

15 You don't have any
16 recollection of how staff responded if you did
17 reach out to them in person for this?

18 A. I don't.

19 211 Q. So, this e-mail chain
20 continues. Ms. Cameron -- Registrar, can you just
21 pull out the top couple of e-mails there, so the
22 first half of image 1.

23 So, Ms. Cameron removes you
24 from this e-mail chain and writes to Mr. Oddi and
25 Mr. McGuire:

1 "Gary uploaded a lot of
2 Red Hill files in
3 ProjectWise under the
4 director's office,
5 engineering services.
6 I'm not sure if the
7 pavement testing was
8 there, but I know it was
9 Golder who did it."

10 And then she sends a
11 subsequent e-mail in which she sends what I
12 believe is a link to an S-drive folder. As of
13 May 2018, did you have access to ProjectWise?

14 A. I don't think so.

15 212 Q. Did you ever get access
16 to ProjectWise?

17 A. I did get access to it,
18 but I never knew how to use it, so I think it was
19 later, though.

20 213 Q. Do you have any sense of
21 when it was that you would have received access to
22 ProjectWise?

23 A. Probably in 2019 or 2020,
24 something like that.

25 214 Q. Okay. At this point in

1 time, in May 2018, did you have access to the
2 S-drive?

3 A. Yeah, yeah.

4 215 Q. Were you ever advised
5 that Ms. Cameron had provided information to
6 Mr. McGuire and Mr. Oddi that might have been
7 responsive to your e-mail asking about Red Hill
8 Valley Parkway asphalt testing results?

9 A. I don't remember.

10 216 Q. Were you sent the S-drive
11 link that's set out in Ms. Cameron's e-mail?

12 A. I don't remember. I
13 don't think so.

14 217 Q. Okay. Were you ever
15 provided with any documents to review in response
16 to that request for asphalt testing?

17 A. I don't think so.

18 218 Q. Do you recall if you
19 responded to Ms. O'Reilly's request?

20 A. I don't recall.

21 219 Q. What information, if any,
22 did you convey to Ms. O'Reilly in response to her
23 request about asphalt testing?

24 A. I don't recall if I spoke
25 with her or not.

1 220 Q. Would it generally have
2 been your practice not to respond to a request
3 from a member of the media?

4 A. It certainly would not be
5 my preference. As an organization, we would never
6 want a media story that says we weren't available
7 for comment or that we didn't provide information
8 whenever we could, so it wouldn't have been my
9 preference to do that.

10 221 Q. Okay. But there were
11 circumstances when it occurred?

12 A. Certainly if I couldn't
13 get information from a spokesperson or wasn't able
14 to access something, yes.

15 222 Q. Okay. And do you recall
16 if this was one of those circumstances?

17 A. I don't recall.

18 223 Q. Okay. As of May 2018,
19 what was your understanding as to whether or what
20 pavement friction testing had been conducted on
21 the Red Hill Valley Parkway, if you had any?

22 A. I don't think I had an
23 understanding. I knew that there was testing
24 happening as it, like, related to the hot in-place
25 investigation, but that was it, I think, that I

1 knew about, I believe.

2 224 Q. Registrar, could you
3 please take us to overview document 9A, image 35,
4 paragraphs 87 and 88.

5 So, on July 17, 2018, Mr.
6 McGuire sent you and Mr. Moore a calendar
7 invitation for the following day, which was
8 July 18, under the subject line "Discuss Red Hill
9 Valley Parkway Asphalt Testing." Ms. Cameron then
10 responds to Mr. Moore on this e-mail and she says:

11 "Jasmine needs this
12 meeting to take place
13 tomorrow morning and this
14 seems to be the only time
15 you are all available."

16 Why did Mr. McGuire want to
17 meet with you and Mr. Moore about the Red Hill
18 Valley Parkway asphalt testing on July 18, 2018?

19 A. So, I don't recall this
20 meeting specifically; however, in reviewing the
21 other documents that are around this same time, I
22 believe this was in preparation for an interview
23 with Nicole from the Spectator. And I think also
24 this was around the time that Gord and Gary were
25 kind of transitioning information still, I

1 believe, and so my role in this meeting would have
2 been -- I would only have been there if we were
3 doing, preparing, for a media interview or
4 something like that, so I'm only assuming that
5 this is related to preparing for that.

6 225 Q. Okay. Registrar, could
7 you take us to overview document 9A, images 36 and
8 37, paragraph 89.

9 So, on July 19, 2018,
10 Ms. O'Reilly's article titled "City testing
11 asphalt on Red Hill Valley Parkway" is published
12 in the Spectator. Is that the media article that
13 you were referencing?

14 A. It is, yes.

15 226 Q. And so, Mr. McGuire is
16 quoted in this article. Do you believe that your
17 meeting with Mr. McGuire and Mr. Moore was in
18 connection with preparing Mr. McGuire for this
19 interview?

20 A. I'll just clarify that I
21 don't remember that meeting. I'm not actually
22 confident it ever happened with the three of us,
23 but I do think that the calendar invite was to
24 prepare for this.

25 227 Q. Okay. Do you recall if

1 you met with Mr. McGuire without Mr. Moore being
2 present to prepare him for this interview?

3 A. I think I did, yes.

4 228 Q. But you don't recall if
5 there was then a subsequent meeting that included
6 Mr. Moore as well?

7 A. (Inaudible).

8 229 Q. Did you attend
9 Mr. McGuire's interview or discussion with
10 Ms. O'Reilly for this article?

11 A. I'm not sure.

12 230 Q. Did you review this
13 article in July 2018 when it was published?

14 A. I don't remember, but it
15 would have been my practice to do so.

16 231 Q. Okay. Registrar, could
17 you please call out paragraph 7 from the top, so
18 it starts, "Last December."

19 THE STENOGRAPHER: I'm sorry
20 to interrupt, Ms. Bruckner. Can I just clarify an
21 answer that I didn't catch?

22 MS. BRUCKNER: Of course.

23 THE STENOGRAPHER: The
24 question was: But you don't recall if there was
25 then a subsequent meeting that included Mr. Moore

1 as well?

2 MS. BRUCKNER: Yes.

3 THE WITNESS: Do you want me

4 to answer it again?

5 THE STENOGRAPHER: Yes,

6 please.

7 THE WITNESS: I don't remember

8 that.

9 BY MS. BRUCKNER:

10 232 Q. So, this article states:

11 "Last December, the City

12 took smaller samples of

13 the asphalt to test the

14 viability of recycling.

15 At the time, the City's

16 former engineering

17 director said they were

18 aware some people felt

19 the Red Hill Valley

20 Parkway was slippery.

21 That was part of the

22 motivation for testing

23 the asphalt."

24 Registrar, could you close

25 this and call out a couple more paragraphs or all

1 the way down to the bottom of the page is fine.

2 So, Mr. McGuire said:

3 "Those test results came
4 back inconclusive, but
5 the City believes hot
6 in-place is possible."

7 Did you discuss December 2017
8 asphalt testing on the Red Hill Valley Parkway
9 with Mr. McGuire or Mr. Moore prior to this
10 interview that Mr. McGuire gave?

11 A. I don't remember.

12 233 Q. So, the article goes on
13 to say:

14 "In December 2015,
15 friction testing on the
16 Red Hill Valley Parkway
17 also came back as
18 inconclusive with a
19 consultant recommending
20 further testing.
21 Instead, the City opted
22 to move ahead with
23 repaving ahead of
24 schedule."

25 Did you discuss inconclusive

1 December 2015 friction testing results for the Red
2 Hill Valley Parkway with Mr. McGuire or Mr. Moore
3 before this article was published?

4 A. I really can't remember.

5 234 Q. Did you speak to either
6 Mr. McGuire or Mr. Moore about this content from
7 this article after the article was published?

8 A. I mean, certainly at some
9 point we did go back to this article. I don't
10 remember at this time if we did or not.

11 235 Q. At what point do you
12 recall going back to this article?

13 A. This was definitely in my
14 review once, like, fast-forward to 2018, the end
15 of 2018. I went back and looked at this for sure.

16 236 Q. Did the article stand out
17 to you when you went back and looked at it in
18 2019?

19 A. Well, it certainly was
20 related to friction testing, so yes.

21 237 Q. Do you recall if either
22 Mr. Moore or Mr. McGuire brought friction testing
23 results to meetings in July of 2018 to prep for
24 this interview?

25 A. I don't think they did.

1 238 Q. After this article was
2 published, did you reach out to Mr. Moore or
3 Mr. McGuire about asphalt or friction testing
4 results for the Red Hill Valley Parkway referenced
5 in the article?

6 A. I don't believe so.

7 239 Q. So, there's a reference
8 here to the City opting to move ahead with
9 repaving ahead of schedule, which appears to
10 connect it again to the inconclusive friction
11 testing results. I think you had indicated that
12 it was your understanding that the repaving was
13 part of scheduled maintenance work. Did you reach
14 out to Mr. Moore or Mr. McGuire about the purpose
15 of the repaving when you reviewed this article?

16 A. I don't think so. I
17 don't think the difference was on my radar at that
18 point.

19 240 Q. Okay. Was Ms. O'Reilly
20 still looking for asphalt testing and/or friction
21 testing results from the Red Hill Valley Parkway
22 at the time this article was published, in
23 July 2018?

24 A. I couldn't say what she
25 was looking for then.

1 241 Q. Do you know if you had
2 received further requests from her for friction
3 testing results or asphalt testing results as of
4 July 2018?

5 A. I don't remember anything
6 specific.

7 242 Q. Okay. Did either
8 Mr. McGuire or Mr. Moore approach you to express
9 concerns about the accuracy of the information
10 about asphalt or friction testing on the Red Hill
11 Valley Parkway in this article?

12 A. I don't remember that, if
13 that happened or not.

14 243 Q. So, I see that it is
15 10:58 and I'm about to move on to a new topic.
16 Would this be a good time to take our morning
17 break?

18 JUSTICE WILTON-SIEGEL: Sounds
19 like it. Let's take our usual 15-minute break and
20 return at 11:15.

21 --- Recess taken at 10:59 a.m.

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

23 MS. BRUCKNER: Commissioner,
24 may I proceed?

25 JUSTICE WILTON-SIEGEL: Yes,

1 please proceed, Ms. Bruckner.

2 BY MS. BRUCKNER:

3 244 Q. Registrar, could you take
4 us to overview document 9A, image 97,
5 paragraphs 247 and 248.

6 On October 3, 2018,

7 Ms. O'Reilly e-mails you, writing:

8 "I was looking for an
9 update on the asphalt
10 testing done on the Red
11 Hill Valley Parkway. Is
12 there someone I can talk
13 to about the status of
14 those tests, results back
15 yet? Does the City have
16 a repaving plan set yet?"

17 And you forward this e-mail to
18 Mr. McGuire writing:

19 "See below. This is the
20 same reporter you spoke
21 to a while back. Do you
22 have any additional info
23 you're prepared to
24 provide?"

25 Pausing there, between

1 May 2018, Ms. O'Reilly's last request for asphalt
2 testing that we were just looking at, and
3 October 2018, did you take any steps to try to
4 locate asphalt or friction testing results from
5 the Red Hill Valley Parkway, aside from the
6 e-mails that we were looking at before the break?

7 A. Unless I had a media
8 enquiry from somebody else during that period of
9 time, I wouldn't have taken any additional steps.

10 245 Q. Okay. So, Mr. McGuire
11 has not yet given evidence to the inquiry, so it's
12 my understanding from the documents that we have
13 received that as of October 2018, he had found the
14 2014 Golder report and Tradewind report.

15 At this time, were you aware
16 of the 2014 Golder report or Tradewind report?
17 And I'm happy to call them up if you want to
18 refresh your memory as to what they look like.

19 A. I'm aware of what they
20 look like. Thank you, though, for offering. And
21 I was not aware of them.

22 246 Q. Did you have any
23 discussions with Mr. McGuire about the Tradewind
24 report or 2014 Golder report in connection with
25 Ms. O'Reilly's October 2018 request for asphalt

1 friction testing results on the Red Hill Valley
2 Parkway?

3 A. No.

4 247 Q. Around this time, did
5 Mr. McGuire mention that he had reviewed reports
6 about asphalt or friction testing on the Red Hill
7 Valley Parkway more generally in connection with
8 this request?

9 A. I don't believe so.

10 248 Q. Registrar, could you
11 please take us to paragraph 249, which is on
12 image 97. I think it's just the next one down.

13 So, Mr. McGuire forwards this
14 e-mail to Mr. Becke and Ms. Jacob and he doesn't
15 copy you on this forward. And he says:

16 "Let's review today."

17 Susan Jacob responds:

18 "We should buy some more
19 time before responding to
20 this e-mail."

21 To which Mr. McGuire responds:

22 "Agreed. That's why I
23 want to talk today.

24 Between the Red Hill
25 Valley Parkway and the

1 LINC, we have over 55
2 million scheduled in the
3 next three years.
4 Replying piecemeal will
5 just cause us to scramble
6 for answers. Let's sit
7 down this week if today
8 doesn't work to review
9 our messaging."

10 He lists test results need
11 AADT impact, schedules, upgrades, question mark,
12 et cetera, and then he says:

13 "I won't reply."

14 So, just in reference to that
15 last point, "I won't reply," did Mr. McGuire
16 respond to your e-mail asking about the asphalt
17 testing?

18 A. I'm not sure.

19 249 Q. Did he tell you that he
20 didn't want you to respond to Ms. O'Reilly's
21 request?

22 A. I can't remember.

23 250 Q. Did you have any
24 discussions with Mr. McGuire about Ms. O'Reilly's
25 request?

1 A. It's likely that I did.

2 I don't remember the conversations, though.

3 251 Q. Okay. Did you have any
4 discussions with Ms. Jacob, Mr. McGuire or
5 Mr. Becke about Ms. Jacob's comment about buying
6 more time to respond to this request from the
7 Spectator?

8 A. I don't remember. Often
9 our spokespeople ask for more time if they need to
10 prepare detailed information, which this looks
11 like that, so they may have asked. They may have
12 said, hey, we need a couple more days or something
13 like that, but I don't remember exactly.

14 252 Q. Okay. Do you have a
15 general practice about how you deal with a request
16 for more time from a spokesperson?

17 A. Yeah. If a spokesperson
18 said to me that they need a few more days, I would
19 just ask the reporter if it was possible, what
20 deadline they were working towards, so if they
21 really were writing for today or if they could
22 wait a few more days, and for the most part
23 they're very accommodating. If they have a
24 detailed request, they're good to wait if we
25 needed more time.

1 253 Q. Do you recall if you did
2 that in this instance?

3 A. I don't recall.

4 254 Q. Okay. Registrar, could
5 you take us to HAM11419.

6 So, on October 23, 2018, you
7 forward an e-mail from Ms. O'Reilly to
8 Mr. McGuire.

9 Registrar, can you call that
10 out just so that the text is more apparent.

11 So, you say:

12 "A couple followups from
13 the Spec reporter."

14 And then I believe this is
15 Ms. O'Reilly's article in the black text and she
16 says:

17 "There are a couple more
18 things Gord said he would
19 have to get back to me
20 with."

21 And just in reference to that
22 comment, does this assist you at all in terms of
23 how you responded to that request from
24 Ms. O'Reilly earlier in October about asphalt
25 testing?

1 A. I must have set up an
2 interview with her to speak with Gord, if that's
3 what you're asking.

4 255 Q. I was wondering if seeing
5 this helps to refresh your memory about your
6 interactions around that request with Mr. McGuire
7 or Ms. O'Reilly.

8 A. It doesn't. Sorry.

9 256 Q. Registrar, could you take
10 this down and take us to HAM53716 at image 1 and
11 maybe call up image 2 for context as well.

12 So, this is the request that
13 you had sent to Mr. McGuire from Ms. O'Reilly and
14 you'll see there are some annotations in it.
15 Mr. McGuire flips the e-mail to Mr. Becke, who
16 responds on image 1 and you'll see it's the blue
17 text over here. He says:

18 "I got a call from the
19 MTO today. The Spectator
20 contacted them about HIP.
21 The MTO provided them
22 with information
23 regarding HIP but also
24 included the fact that
25 they do not allow it on

1 SMA. They did not go
2 through my contact and
3 the information was
4 provided by their
5 communications
6 department. I'm not sure
7 how the Spec will use
8 that information."

9 And you're not copied on this
10 response. Did Mr. Becke tell you that he had
11 received a call from the MTO about information
12 provided to the Spectator in connection with hot
13 in-place recycling?

14 A. I'm not sure.

15 257 Q. Did he advise you that
16 the MTO had provided information to the Spectator
17 about SMA?

18 A. He may have. I don't
19 remember the conversation, though.

20 258 Q. Okay. You don't recall
21 one way or the other if he did?

22 A. I don't.

23 259 Q. Did Mr. Becke,
24 Mr. McGuire or Ms. Jacob express any concerns to
25 you about how the Spectator might use information

1 on hot in-place and SMA provided by the MTO?

2 A. I don't recall that.

3 260 Q. Registrar, you can take
4 this down and if you could take us to overview
5 document 9A, page 102, paragraph 260.

6 So, on October 24, 2018, you
7 e-mailed Mr. McGuire and Mr. Becke under the
8 subject line, "I was right, consultant name," and
9 you write:

10 "Reporter does want the
11 name of the consultants.
12 Golder & Associates?
13 Mike, can you please give
14 them a heads up and let
15 them know they can speak
16 in general about the work
17 they complete, but not
18 specifically on behalf of
19 the City or particulars
20 about the project."

21 Which reporter was looking for
22 the name of the City consultant in this instance?

23 A. I'm assuming it was
24 Nicole.

25 261 Q. Do you recall why she

1 wanted to speak to the consultant?

2 A. I'm not sure if I ever
3 knew why.

4 262 Q. Okay. Do you know what
5 project she was looking for information about?

6 A. I'm just assuming it was,
7 like, the hot in-place initiative.

8 263 Q. Okay. But you don't know
9 for sure one way or the other?

10 A. I don't.

11 264 Q. So, you say that the
12 consultant could speak in general about the work
13 they completed but not particulars about the
14 project. Could you expand a little bit on what
15 that means?

16 A. So, this was something --
17 I'm not sure it was a policy per se, but it was
18 our practice, our general practice, if a reporter
19 was interested in speaking to one of our
20 consultants, that we would ask the consultant to
21 speak generally about what they do, like what kind
22 of services they offer, and that to allow City's
23 spokespeople to talk about City projects so that
24 we had a City spokesperson as the lead
25 spokesperson for our projects.

1 265 Q. How is that preference
2 generally conveyed to consultants working for the
3 City?

4 A. Generally, just as I'm
5 doing it in this e-mail, we just ask their main
6 contact, whoever that is within the City, to let
7 them know that they can talk about what kind of
8 services they offer to the -- depends what they're
9 doing, but yeah, we just ask our staff to let them
10 know.

11 266 Q. Registrar, could you take
12 this down and call out paragraph 261. It's just
13 the next one down.

14 So, Mr. McGuire adds Ms. Jacob
15 to this e-mail chain and there's a bit of back and
16 forth. He sends the e-mail to Ms. Jacob. She
17 responds:

18 "The consultant is not
19 tactful."

20 And you respond:

21 "LOL. What does that
22 mean?"

23 Do you recall this e-mail
24 exchange?

25 A. I have seen it recently.

1 I don't recall it necessarily from that time.

2 267 Q. Okay. Do you know which
3 consultant is being referenced in this e-mail
4 chain?

5 A. I believe that they're
6 talking about Ludomir.

7 268 Q. Dr. Uzarowski from
8 Golder?

9 A. Mm-hmm.

10 269 Q. Do you remember having
11 any concerns at the time about messaging that
12 might come from Dr. Uzarowski or Golder?

13 A. I did not have an
14 impression of him. I didn't know him. That's why
15 I asked, what does this mean?

16 270 Q. Okay. Did you get a
17 response?

18 A. I don't remember.

19 271 Q. Did you have any further
20 discussions with Ms. Jacob or Mr. McGuire about
21 concerns about the messaging that might come from
22 Dr. Uzarowski or Golder?

23 A. Not that I can remember.

24 272 Q. So, at this point, were
25 you aware of the existence of the Tradewind

1 report?

2 A. No.

3 273 Q. Were you aware that
4 Golder had been involved in friction testing on
5 the Red Hill Valley Parkway in 2013 at this time?

6 A. No.

7 274 Q. Registrar, you can take
8 this down and if you can take us to overview
9 document 9A, image 103, paragraph 263.
10 So, on October 24, 2018,
11 Ms. O'Reilly wrote to Michelle Shantz, who I
12 believe is the communications and media relations
13 advisor within the mayor's office, asking to speak
14 to the mayor about the resurfacing of the Red Hill
15 Valley Parkway. You're not copied on this e-mail.
16 Were you advised that Ms. O'Reilly had reached out
17 to the mayor about plans to resurface the Red Hill
18 Valley Parkway?

19 A. I can't remember.

20 275 Q. So, the first paragraph
21 of this e-mail says:
22 "According to engineering
23 director Gord McGuire,
24 recent testing showed
25 significant cracking from

1 the top down, and so
2 staff are expediting
3 plans to resurface the
4 entire parkway next year
5 for \$50 million, split
6 between this year and
7 next year's budgets."

8 At this time, in October 2018,
9 were you aware that Mr. McGuire had advised
10 Ms. O'Reilly that recent testing on the Red Hill
11 Valley Parkway showed significant top-down
12 cracking and staff were expediting resurfacing
13 plans for the Red Hill Valley Parkway as a result?

14 A. I'm not sure. Sorry.

15 276 Q. As of October 24, 2018,
16 were you advised that staff were expediting the
17 resurfacing of the Red Hill Valley Parkway due to
18 top-down cracking?

19 A. I do remember the concept
20 of, like, talking about top-down cracking, but I
21 don't remember any specific conversations or
22 anything like that.

23 277 Q. Okay. Do you remember if
24 it was ever discussed in connection with the
25 resurfacing?

1 A. I can't recall.

2 278 Q. Do you remember what was
3 said about top-down cracking?

4 A. I can't. Sorry.

5 279 Q. Registrar, could you
6 please take us to overview document 9A, image 103,
7 262, which is already up on the page. Its just
8 the paragraph up from the one we were looking at.

9 So, this is on October 25,
10 2018. Mr. Becke e-mails you under the subject
11 line, I knew I wasn't crazy, and he writes:

12 "Just checking the Spec
13 before I leave today.

14 This is the title now."

15 Registrar, could you take this
16 down so we can see the image of the Spectator. If
17 you don't mind calling out the image there.

18 And so, he attaches this
19 screen capture with the Spectator with the title,
20 "Is something wrong with the asphalt on the Red
21 Hill Valley Parkway? We may never know." And the
22 biline is "City is not using cost saving recycling
23 technology, didn't test for quality of asphalt."

24 When did you learn that the
25 City had decided not to use hot in-place recycling

1 on the Red Hill Valley Parkway?

2 A. I'm not sure. Somewhere
3 in this period.

4 280 Q. Do you recall if it was
5 before or after you received this e-mail from
6 Mr. Becke?

7 A. I don't. I don't recall.

8 281 Q. What was your
9 understanding as to why the City was no longer
10 persuing hot in-place recycling on the Red Hill
11 Valley Parkway?

12 A. Somebody had described
13 hot in-place to me as, like, mixing a cake and
14 that one of the ingredients would be something
15 that was already on the road and that the
16 ingredients wouldn't come up with a good mix after
17 we did it, so it wasn't an appropriate use of --
18 it wouldn't have been a good result, so that's
19 what I knew. Very basic.

20 282 Q. Okay. Do you recall what
21 this exchange with Mr. Becke was actually about
22 when he said "I knew I wasn't crazy" and sent you
23 this image?

24 A. Yeah. I talked to Mike I
25 think in the lunch room that day or earlier that

1 day, and he had told me something and I remember
2 not understanding it at the time. And so, I don't
3 remember the details of the conversation, so I
4 don't know if I'll be very helpful on that one.

5 283 Q. Okay. You don't recall
6 what he said, but this is connected with a
7 conversation you had had earlier with him that
8 day?

9 A. Yes.

10 284 Q. Registrar, could you take
11 us to HAM11413.

12 So, it's my understanding that
13 you prepared this document, which is titled "Red
14 Hill Valley Parkway repaving project key messages,
15 October 22, 2018." Is that right?

16 A. Yes.

17 285 Q. So, we were just looking
18 at an e-mail exchange from October 25 and this
19 document is dated October 22. Does this assist at
20 all with your recollection about how or when you
21 learned that the City was using conventional
22 technology instead of hot in-place on the Red Hill
23 Valley Parkway?

24 A. It does. Thank you. You
25 said this is a few days before. Right?

1 286 Q. Well, the title is
2 October 22, 2018.

3 A. Thank you. This
4 document, I know this is from a conversation I had
5 with Gord in preparing him for an interview with
6 Nicole, which I assume was the article that Mike
7 had shared with me in that e-mail. And this
8 document is an example of one that I would create
9 for a spokesperson who was doing an interview with
10 any member of the media just as a preparation
11 document. So, typically I would have a discussion
12 with them, talk about what they felt was important
13 to share, talk about some of the -- if I knew what
14 was media was going to be asking and create some
15 key messages for that person to, kind of,
16 reference and practice. And then they would be
17 able to use it if it was relevant during their
18 interview or not, if it wasn't.

19 287 Q. So, then the information
20 about hot in-place and resurfacing on this sheet,
21 is Mr. McGuire the source of that information?

22 A. I would -- I believe so.

23 288 Q. So, there are four bullet
24 points and then there are two more that aren't
25 numbered under "if required." What does if

1 required mean?

2 A. So, sometimes we include
3 some messages for our spokespeople just in case
4 they're asked, kind of, like, tougher questions or
5 if they need a little bit of extra support that
6 aren't really necessarily key messages but that
7 could be useful to them in the interview if
8 needed. And so, this wouldn't be something that
9 was would necessarily offer up proactively, but
10 instead if they are asked a question that they
11 aren't necessarily expecting, this is just, kind
12 of, back-pocket information for them to use if
13 needed.

14 289 Q. So, one of the if
15 required points, the second one -- sorry, the
16 first one is:

17 "We have heard reports of
18 poor performance in wet
19 weather. One of the
20 reasons we are working to
21 expedite the repaving of
22 the roadway to happen
23 next summer."

24 Were you told around the time
25 that you prepared this document that one of the

1 reasons the City was expediting the repaving of
2 the Red Hill Valley Parkway was due to reports of
3 poor performance in wet weather?

4 A. I don't think so
5 necessarily. I wasn't necessarily told that. I
6 think my general understanding was that the road
7 was coming up for regular maintenance and that it
8 was being planned to be repaved. I would suggest
9 that the wording of this bullet is a bit of an
10 issues management communications technique maybe,
11 just, sort of, saying, like, you know, we've heard
12 reports from the public on such an issue and this
13 is what we're doing. And sometimes we would
14 create a list if we had a list or, you know, share
15 this is what the City is doing to help address
16 those issues, so I think that is the way that that
17 is meant to be.

18 290 Q. So, then was the repaving
19 connected at all to reports of poor performance in
20 wet weather?

21 A. I couldn't say. I'm not
22 an engineer or a traffic expert.

23 291 Q. Okay. So, you had
24 indicated that you thought that this was
25 responsive to information that had been received

1 from the public. Can you provide any details
2 about what those informations or concerns were?

3 A. No, I don't think I can
4 provide anything specific. Certainly just media
5 coverage and perhaps some chatter on social media.
6 I don't have specific examples.

7 292 Q. Registrar, could you take
8 us to HAM11496 at image 1.

9 So, on October 30, 2018, you
10 send Mr. McGuire draft responses to a media
11 enquiry from the Daily Commercial News and one of
12 the questions asked is: Was the quality of the
13 asphalt originally compromised?

14 Registrar, if you don't mind
15 pulling that out. It's the first question with
16 the red text under it.

17 And just stopping there, I
18 think that the red text is your draft response.
19 Is that correct?

20 A. It's my draft, yes.

21 293 Q. So, your draft response
22 is:

23 "The asphalt is at the
24 end of its expected life
25 cycle originally from

1 2007. This resurfacing
 2 project is falls under
 3 the regular maintenance
 4 work."

5 So, the information that the
 6 repaving fell under regular maintenance work,
 7 where were you getting that information from?

8 A. I would have been getting
 9 information from just spokespeople in engineering
 10 services.

11 294 Q. Did you consult anyone
 12 apart from Mr. McGuire about this?

13 A. So, I would rely on
 14 Mr. McGuire to circulate. These are just drafts
 15 as a starting point answers. This is our -- well,
 16 this is my general practice, whenever I can start
 17 an answer for a spokesperson to do that, and then
 18 I would expect for them as the director or as the
 19 lead in their area to circulate and confirm the
 20 accuracy or any details with people in their area.

21 295 Q. So, we just looked at a
 22 document that indicated that poor performance in
 23 wet weather was a reason for repaving as part of
 24 your if required communication responses, but here
 25 you've drafted it as regular maintenance. What

1 was the primary messaging from the City to the
2 public about the reason for the resurfacing of the
3 Red Hill Valley Parkway?

4 A. My understanding is that
5 the primary message was around upcoming regular
6 maintenance and that, as I said, the secondary,
7 sort of, if required message was sort of, you
8 know, that we understand that there are issues and
9 here is what we are doing to address those,
10 including repaving.

11 296 Q. So, the draft response
12 here doesn't strike me as a direct answer to the
13 question about whether the asphalt was originally
14 compromised. Is that a fair answer of that
15 response? A fair assessment of that response?

16 A. I don't think it's my
17 role really to ensure a fulsome response on a
18 draft to a director. I think it was really meant
19 as a starting point to get the ball rolling or to,
20 you know, get started for Gord.

21 297 Q. Why didn't you draft a
22 more fulsome answer to this particular question?

23 A. I mean, I don't know
24 exactly. I may not have known the answer myself
25 and would have relied on Gord. Also, if we're

1 asked a question that we have a really hard time
2 answering, sometimes it's helpful to provide
3 context on another, like, related issue, so I
4 might have just been providing additional
5 information here with the hopes that he would fill
6 in what I wasn't able to, given I'm not an expert
7 in this area.

8 298 Q. Do you recall if you
9 asked Mr. McGuire or anyone else in public works
10 directly if the quality of the asphalt on the Red
11 Hill Valley Parkway had been compromised?

12 A. I can't recall asking
13 that.

14 299 Q. Registrar, you can take
15 this down and if you can take us to overview
16 document 9A, image 131, paragraph 318.

17 On November 8, 2018,
18 Mr. McGuire e-mailed you and Debbie Edwards about
19 FOI request 18189. Pausing there for a moment,
20 who is Ms. Edwards?

21 A. She was a member of the
22 legal team for the City and I don't know what her
23 title was.

24 300 Q. So, I'm going to ask you
25 some questions about this FOI request, but before

1 I get into that, was it generally part of your
2 role as a communications officer to participate or
3 be involved in responses to FOI requests?

4 A. I think I was just
5 involved in FOI requests if a director or somebody
6 senior in the organization felt that there might
7 be information in the FOI request that was
8 potentially contentious and my role would not have
9 been to influence what was in the FOI or not, but
10 to create a plan, communications or issues
11 management plan, for what the City's response
12 would be when that information was released and I
13 think it's shown that's what I did here.

14 301 Q. Okay. So, here in the
15 e-mail, Mr. McGuire says:

16 "See attached for test
17 results on the Red Hill
18 Valley Parkway. I have
19 the last two years data.
20 Can we discuss this today
21 if possible?"

22 And he sent out the request:

23 "Access to any reports,
24 memos, drafts,
25 correspondence, about

1 friction testing on the
2 Red Hill Valley Parkway
3 in the last five years
4 and any reports, memos,
5 including drafts or
6 correspondence about
7 asphalt and/or pavement
8 testing assessments,
9 plans on the Red Hill
10 Valley Parkway in the
11 last two years."

12 When Mr. McGuire sent this FOI
13 request to you, did you know who the requester
14 was?

15 A. I did not.

16 302 Q. Did you have any
17 assumptions or guesses about who the requester
18 was?

19 A. I think I later made a
20 guess, but I don't think at this time that I knew
21 who it was.

22 303 Q. Okay. Who did you later
23 think can might have been the requester?

24 A. If I really had to guess,
25 I would guess that it was Nicole O'Reilly, but

1 again at this time I didn't know and I didn't want
2 to make an assumption.

3 304 Q. Okay. Do you recall at
4 what time you came to suspect that it was
5 Ms. O'Reilly?

6 A. I don't.

7 305 Q. Did you have any
8 discussions or interactions with Ms. O'Reilly that
9 confirmed or clarified your guess that she may
10 have been the requester?

11 A. I didn't. And I just
12 wanted to add I would have treated it the same way
13 if it was a member of the media or not, because
14 it's still releasing the information publicly in
15 my mind, so I didn't have any discussions with her
16 but I don't think it would have influenced my
17 reaction.

18 306 Q. Okay. Did you advise
19 other city staff that you thought the FOI request
20 might have come from the Spectator?

21 A. I don't recall doing
22 that. I think I may have said we need to treat it
23 as though it came from the Spectator, because I
24 think, like I just said, I wouldn't have treated
25 it any differently. It's the same in my mind.

1 307 Q. Okay. Do you recall who
2 you made that comment to?

3 A. I don't.

4 308 Q. Did you discuss this FOI
5 request with Mr. McGuire and/or Ms. Edwards on
6 November 8, 2018?

7 A. I did.

8 309 Q. What did you discuss?

9 A. I don't recall having any
10 discussions directly with Debbie. I do know that
11 this was the day that I learned of the Tradewind
12 report, and so I don't remember exactly the
13 conversation on this day. It's a bit of a
14 whirlwind, but I know that was this day.

15 310 Q. I'm going to ask you some
16 follow-up questions about learning about the
17 Tradewind report on the day, but before I do that,
18 a couple more questions just on the FOI.

19 Did Mr. McGuire tell you why
20 he included you in this particular FOI request
21 along with Ms. Edwards?

22 A. I'm not sure if he did
23 that or not.

24 311 Q. Did he explain what he
25 meant when he said I have the last two years data?

1 A. I don't know. I don't
2 think so.

3 312 Q. Okay. Was it your
4 understanding at any point that information
5 responsive to the FOI was missing or couldn't be
6 found?

7 A. Was it my understanding
8 that there was something missing?

9 313 Q. Mm-hmm.

10 A. I don't think so.

11 314 Q. So, you indicated that it
12 was on November 8, 2018 that Mr. McGuire told you
13 about the Tradewind report?

14 A. I believe it was, yes.

15 315 Q. What in particular did he
16 tell you about the Tradewind report?

17 A. That he had found a
18 document that I had been asking for through media
19 enquiries, yeah.

20 316 Q. What do you remember
21 about the circumstances under which Mr. McGuire
22 advised you about the Tradewind report? For
23 example, was it in person? On the phone?

24 A. I believe it was in
25 person. As I had mentioned, our offices were very

1 close together. Gord took over Gary's old office,
2 and so it was very close to mine. It was easy to
3 speak in person, so...

4 317 Q. Okay. Do you know where
5 you were when you learned about the Tradewind
6 report?

7 A. The best of my memory is
8 that we were chatting in his office.

9 318 Q. Okay. Was anyone else
10 present for that conversation?

11 A. I don't recall that.

12 319 Q. What was the nature of
13 the discussions when you were first told about the
14 Tradewind report?

15 A. What do you mean by
16 nature?

17 320 Q. Sure. Can you tell me
18 anything about the content of the discussion or
19 the tone of the discussion?

20 A. I don't remember the
21 details. I must be honest.

22 321 Q. Okay. What, if anything,
23 were you told about how or when the Tradewind
24 report had been found?

25 A. I don't remember knowing

1 how it was found.

2 322 Q. Okay. At this point in
3 time, you don't remember knowing how it was found?

4 A. No.

5 323 Q. Were you later advised
6 about how the Tradewind report was found?

7 A. I think somebody said
8 they found it in a file, in a file left from Gary,
9 I think.

10 324 Q. Okay. When you said
11 "they," who were you referencing in that
12 statement?

13 A. I couldn't say for sure.

14 325 Q. At this point, did
15 Mr. McGuire advise you that he had any concerns
16 about the Tradewind report?

17 A. I believe so, but I don't
18 remember the conversation exactly.

19 326 Q. Okay. Do you recall
20 anything about what he said to you about the
21 Tradewind report or concerns that he might have
22 had about the Tradewind report?

23 A. I don't remember what he
24 said exactly.

25 327 Q. Okay. Did he explain the

1 substance of the Tradewind report to you?

2 A. I recall that he showed
3 me the graphs in the back or I don't know where
4 they are. It was an appendix, so that was why I
5 said back. I remember he showed me the graphs and
6 the differences between the LINC and the Red Hill,
7 and I remember looking at that from my perspective
8 thinking that could be concerning from a public
9 perception perspective if somebody was looking at
10 that.

11 328 Q. When you said he showed
12 it to you, how did he show it to you? For
13 example, was it on his computer? Was it in a
14 binder?

15 A. I think it was printed.

16 329 Q. Did he give you a copy of
17 the Tradewind report at this point?

18 A. I'm pretty sure he sent
19 it to me in the e-mail that you're showing right
20 on the screen.

21 330 Q. I don't think so. This
22 one is about the FOI request. There is a much
23 later e-mail that I'll take you to where you're
24 sent an electronic copy.

25 A. Oh, when I asked for it

1 for the graphs. I remember, sorry. I
2 misunderstood.

3 331 Q. Do you recall if you
4 received an electronic copy of before you asked
5 for it for the graphs much later?

6 A. I don't think so.

7 332 Q. At this meeting with
8 Mr. McGuire about the Tradewind report, was there
9 any urgency to deal with the report or to develop
10 a plan to deal with the report?

11 A. I remember advising Gord
12 that it would be a good idea to let others know to
13 make sure that we pass it up the chain, because I
14 thought there would be certainly a public
15 perception concern around that, given that we had
16 a -- a reporter had been asking for it a number of
17 times that I was aware of, so I said I think you
18 should tell -- raise it up.

19 333 Q. At this point in time,
20 did you have any sense of who, aside from
21 Mr. McGuire, if anyone, knew about the Tradewind
22 report?

23 A. I did not.

24 334 Q. Did he advise you that he
25 had informed anyone, for example, Mr. McKinnon or

1 anyone, you know, higher up about the Tradewind
2 report at this point?

3 A. I can't remember.

4 335 Q. Did you have any
5 discussions with Mr. McGuire about this
6 information being on a need-to-know basis or
7 keeping the group of individuals with knowledge
8 about the Tradewind report relatively limited?

9 A. I don't recall that
10 conversation; however, I would say that I often
11 have confidential conversations with directors, so
12 that wouldn't be unusual.

13 336 Q. Generally when you're
14 dealing with a director, do you view those
15 conversations as confidential unless indicated
16 otherwise?

17 A. I would say so, yes, save
18 for that I would share with Jen and in this case
19 John if I felt it was relevant.

20 337 Q. Do you recall if after
21 this conversation with Mr. McGuire you approached
22 Mr. Hertel or Ms. Racine?

23 A. I remember talking to
24 Jen, yeah.

25 338 Q. Okay. What did you tell

1 her about the Tradewind report at this point in
2 time?

3 A. I remember it was a
4 verbal conversation in her office, but I don't
5 remember the details of what I shared.

6 339 Q. Okay. And you said that
7 you had indicated or encouraged Mr. McGuire to
8 escalate the Tradewind report. Is there anyone in
9 particular that you wanted him to take the
10 Tradewind report to?

11 A. I don't know if there was
12 anyone in particular, but just people more senior
13 than me.

14 340 Q. I'm just going to briefly
15 return to this FOI request that we have up before
16 moving a little bit further in time. Byrdena
17 MacNeil from legal services comes in to assist
18 Mr. McGuire with the response to this FOI. Were
19 you aware that legal became involved in dealing
20 with this FOI request?

21 A. Gord let me know that,
22 yes.

23 341 Q. Did you participate in
24 any discussions with Ms. MacNeil or anyone else
25 from legal about the FOI request?

1 A. I did not. I did not at
2 this point. I should just clarify. Later on,
3 later in 2018, we discussed this with Nicole and I
4 think Ron as well. But at this point, no.

5 342 Q. Okay. And when you say
6 you discussed it with Nicole and Ron, was that in
7 connection with disclosing the Tradewind report
8 and taking it to council?

9 A. Yes.

10 343 Q. To your knowledge, who
11 was primarily responsible for collecting documents
12 that would be responsive to this FOI request?

13 A. Like, actually, like,
14 administratively collecting them or are you asking
15 a different --

16 344 Q. No, administratively
17 collecting them, like putting together the batch
18 of documents for this.

19 A. Yeah. I believe Diana
20 Cameron did this one.

21 345 Q. Okay. So, Ms. Cameron
22 has given evidence to the inquiry and she
23 indicated that she thought that it might have been
24 you who was in charge of collecting documents
25 responding to this FOI request. I take from your

1 answer you're fairly certain she's mistaken in
2 that?

3 A. I thought that she did
4 this one. You have a USB from her and I don't
5 have it now, but I remember seeing a USB with
6 18189 on it. I did not create that, so I thought
7 that she did it, but if -- I might be mistaken.
8 Apologize if I am.

9 346 Q. Do you have any
10 recollection of assisting in compile or collecting
11 documents for this FOI?

12 A. I know I supported
13 with -- there were additional FOIs that came in
14 after this one, and I know I supported creating
15 some binders and getting some photocopies and
16 stuff like that for the other ones, but I don't
17 recall this. I could be wrong. I'm sorry if I'm
18 wrong.

19 347 Q. That's okay. I'm just
20 looking for your best recollection. So, we can
21 move forward a bit in time.

22 Registrar, could you please
23 take us to overview document 9A, image 193,
24 paragraph 438 and just pull that out.

25 So, the City has produced a

1 copy of the Tradewind report, which is located
2 within documents that have been -- to which you,
3 Mr. Moore, Mr. Soldo and a City share folder have
4 been identified as custodians.

5 A. Okay.

6 348 Q. Do you recall receiving
7 or creating a copy of the Tradewind report on
8 December 4, 2018?

9 A. December 4? I'm not
10 sure. I'm not sure what the date of the e-mail
11 that I asked for it was on, like, for the graphs,
12 but I don't recall anything other than that.

13 349 Q. So, I can give you a bit
14 of context for that. I believe that you send the
15 e-mail to Mr. McGuire on January 8, so this would
16 have been before that, but you don't have any
17 sense of if you created or scanned a copy of the
18 document around December 4?

19 A. I think I may have had a
20 paper version of it in my possession after --
21 like, as the FOI was coming together, so therefore
22 I may have scanned it, but I don't think I had an
23 electronic version of it because that's why I
24 asked for it later.

25 350 Q. Okay. And just to make

1 sure that I'm clear on that, you don't have a
2 specific recollection of actually scanning the
3 document in early December?

4 A. I don't.

5 351 Q. Okay. When Mr. McGuire
6 showed you the Tradewind report, did he also show
7 you a copy of the 2014 Golder report?

8 A. I can't recall that.

9 352 Q. Was the version of the
10 Tradewind report that he showed you an appendix to
11 another report?

12 A. I remember knowing that
13 it was an appendix. I don't know if I saw the
14 full report or not at that time.

15 353 Q. Okay. Registrar, could
16 you please take us to HAM27911.

17 And so, I believe that this is
18 the e-mail to that we've discussed now a couple of
19 times. On January 8, 2019, you e-mailed
20 Mr. McGuire to request an electronic copy of the
21 Tradewind report and you say:

22 "Can I have an electronic
23 copy of the 2013 report?
24 I would like to pick up
25 some of the graphs."

1 And Mr. McGuire responds "FYI"
2 and he sent you back a copy of the Tradewind
3 report. To your knowledge and recollection, is
4 this the first time that you received an
5 electronic copy of the Tradewind report?

6 A. I believe it is.

7 354 Q. What did you want to use
8 the graphs for?

9 A. I think at this point I
10 was starting to put together some communications
11 plans and maybe a presentation, things that we
12 could potentially share with council, and we're
13 also starting to have a number of meetings with
14 that group, broader group, that I thought this
15 could be relevant for, you know, some of those
16 meetings. I was often the person in that room
17 sharing my screen, and so I thought it would be
18 useful to have it if it was needed.

19 355 Q. Okay. Registrar, you can
20 take this down and if you can take us to overview
21 document 9A, image 258 and 259 to start,
22 paragraph 609.

23 So, this continues on to the
24 next page, but on December 16, 2018 Ms. MacNeil
25 e-mails Mr. McGuire, Ms. Auty, Mr. Sabo and

1 Mr. McLennan and about including the 2013 CIMA
2 report in the FOI 18189 response. And then
3 Mr. McGuire e-mails staff reports that may have
4 been responsive to the FOI request to the same
5 group of recipients.

6 Ms. MacNeil responds that all
7 committee and council reports on friction of the
8 Red Hill Valley Parkway, 2013 to 2018, and/or
9 asphalt or pavement of the Red Hill Valley Parkway
10 should be collected, 2016 to 2018, and she gives
11 those dates in her response. She goes on to
12 discuss the responsiveness of documents that have
13 already been requested, and this is just a bit of
14 background for you.

15 Registrar, can you take us
16 over on to image 260, which is the continuation of
17 this, at paragraph 612.

18 You'll see that Mr. McGuire
19 forwards this e-mail from Ms. MacNeil to you and
20 he writes:

21 "As discussed, can we add
22 a timeline to this file?"

23 Why were you preparing a
24 timeline for this file?

25 A. I believe Dan asked me to

1 create a chronology of events, because of the
2 pieces of this story, this puzzle, are very
3 complicated, as we all know, so this was the
4 initial direction from Dan for me and from Gord, I
5 guess, to create a chronology to sort of help us
6 understand what was going on, what had happened
7 and what would be happening.

8 356 Q. What process did you
9 follow to put together the timeline?

10 A. So I, not probably being
11 the best person to do this job, I did the best I
12 could. I started with -- I believe I started with
13 an Excel document just capturing dates and
14 documents and what had happened, just the best
15 that I could. I'm not sure it was a very
16 scientific process, but I was just taking
17 direction and information from those that were
18 involved to collect the -- to start up the
19 timeline.

20 357 Q. How did you acquire or
21 identify information for inclusion in the
22 timeline?

23 A. From a variety of
24 sources, so sometimes it would be from Gord or
25 Edward or Dan that would have said, like, can you

1 include this? I also got a whole bunch of council
2 reports and other information from Martin, who had
3 collected a bunch of things on his own. I'm not
4 sure if there were other sources. It was
5 certainly just trying to piece the story together
6 at this stage.

7 358 Q. Okay. Was anyone
8 assisting you in putting together this timeline?

9 A. So, at this stage I don't
10 believe so; however, Diana did help me a little
11 bit later.

12 359 Q. Okay. And how did
13 Ms. Cameron assist you?

14 A. I believe she was doing
15 some, sort of, like, entry into the timeline, so I
16 would give her the information. I recall having a
17 meeting with Gord and Edward where we took some
18 handwritten notes and then Diana put them into the
19 document for us, yeah.

20 360 Q. Registrar, could you
21 please take us to overview document 9A, images 280
22 and 281 at paragraph 655.

23 So, on January 4, 2019,
24 Mr. Hertel circulated an invitation for a meeting
25 in the City manager's office on January 7, 2019

1 titled "Confidential Agenda," and it says in the
2 body of the invitation, and you're on the list of
3 attendees, along with Jen Racine, Mr. Zegarac,
4 Mr. McKinnon, Mr. McGuire, Karen Gordon and
5 Ms. Auty.

6 And just stopping there, who
7 is Karen Gordon?

8 A. Karen Gordon is a
9 communications strategist, I think is what she is
10 called, and she -- we asked her to come and be a
11 bit of a consultant for us to make sure that we
12 had a good communications plan prepared for when
13 we were going to share this with council and the
14 public, given it was potentially a very
15 contentious issue. And so, Karen was -- part of
16 her role helping to, kind of, review the materials
17 that we were putting together and the messaging
18 that we were creating as a group, and then --
19 yeah, so she was just a bit of a communications,
20 crisis communications consultant, strategist for
21 us.

22 361 Q. Was it common for the
23 City to work with external communications
24 consultants?

25 A. It wasn't common in my

1 practice, but I can't speak to other departments
2 or John or Jen's practice. Like, I'm not sure.

3 362 Q. Do you recall roughly how
4 many meetings about the Red Hill Valley Parkway
5 you attended at which Ms. Gordon was also present?

6 A. Not exactly. Probably
7 less than five.

8 363 Q. Okay. As of
9 January 2019, what strategy, if any, was in place
10 about how to address the Tradewind report?

11 A. I'm not sure if I can
12 answer that question.

13 364 Q. Okay. Was there a
14 strategy in place?

15 A. I believe I was in the
16 process of developing like a document, a plan, to
17 outline what we were hoping to do and I think we
18 were still trying to put together all of the
19 pieces at this point about how we were going to
20 tell council and the public. And I'm not sure if
21 I remember exactly on this day what the strategy
22 was, because it did kind of morph over the next
23 few weeks.

24 365 Q. Do you recall what the
25 starting point was, then, for that strategy or

1 what your initial instinct about how to address
2 the Tradewind report that then later morphed?

3 A. I recall knowing that we
4 had some inconsistencies in messaging in the media
5 reports and that my gut instinct was to just, kind
6 of, be honest with council and the public and say,
7 this is what we have, and just be upfront about
8 sharing the report.

9 366 Q. When you say that you
10 knew there were inconsistencies in the media
11 articles, are you referring to anything specific?

12 A. I'm thinking back to the
13 2017 article that we reviewed earlier where we
14 said there was an informal chart and that the
15 results were inconclusive specifically, because
16 just looking at the Tradewind report on its own
17 without having a lot of technical knowledge, it
18 doesn't necessarily look that way to me from my
19 public relations perspective.

20 367 Q. And so, as a
21 communications officer, that was something that
22 stuck out to you as concerning?

23 A. Yes.

24 368 Q. Registrar, could you
25 please take us to HAM12007 at image 1.

1 So, it's my understanding that
2 these are notes that were taken by you at the
3 January 7, 2019 meeting. Is that correct?

4 A. It is.

5 369 Q. Do you recall what the
6 purpose of this specific meeting was?

7 A. I don't recall the
8 specific meeting, I don't think.

9 370 Q. So, taking a look at
10 these notes, do they help to refresh your memory
11 about whether this was a situation in which there
12 was one person leading the discussion and
13 providing information or if this was more of a Q&A
14 between various attendees?

15 A. It doesn't refresh my
16 memory. I will just say, though, that my
17 note-taking practices are not exceptional and I
18 don't think that I would -- it's titled minutes.
19 I certainly wouldn't call these minutes. I would
20 call them more like chicken scratch notes to
21 myself. So, sometimes I would capture what others
22 are saying. Sometimes I might not do a very good
23 job of that. And sometimes I would just capture
24 my own ideas of things that I need to do when I
25 walk away in terms of, like, updating the

1 communications plan or messaging or anything like
2 that, so I just wanted to say that about this
3 document.

4 371 Q. Understood. I'm going to
5 take you to a couple points in these notes and
6 just see if it helps to refresh your memory about
7 anything that was discussed at the meeting.

8 So, the first title under the
9 minutes is "Red Hill Valley Parkway Introduction
10 and Summary," and there are a number of points
11 about friction under that heading. Do you recall
12 who primarily provided this information at the
13 meeting?

14 A. I'm not sure who it was.

15 372 Q. So, there's one note that
16 says:

17 "A number of parameters
18 that indicates
19 performance of facility,
20 geometry, elevation on
21 curves, roadside safety
22 and friction. We don't
23 have other concerns
24 except during friction."

25 Do you recall what comment or

1 discussion led you to make that note?

2 A. I don't.

3 373 Q. Do you recall discussions
4 about geometry, elevation on curves or other
5 things that might contribute to roadside safety at
6 this meeting?

7 A. I remember those being
8 themes that we had discussed at multiple meetings,
9 but I don't know about this specific meeting.

10 374 Q. Okay. And in what
11 context were those themes discussed at other
12 meetings?

13 A. Those were issues that
14 were referenced as challenges with the Red Hill.

15 375 Q. Okay.

16 A. That were different, for
17 example, than other highways, like the LINC,
18 being, sort of, a flat straight and then the Red
19 Hill being, sort of, an uphill, downhill curvy
20 road.

21 376 Q. Okay. So, then there's
22 another entry that says:

23 "Friction 2013/2014.

24 Used methodology not
25 widely recognized in

1 North America and head of
2 engineering felt it was
3 engineering."

4 Do you recall what comments or
5 discussions led you to make that note?

6 A. It looks to me like that
7 is a half thought and I don't recall.

8 377 Q. So, there's another
9 comment that says:

10 "Feels like the
11 information developed."

12 Do you have any sense of why
13 you made that note?

14 A. I don't.

15 378 Q. So, there's a subsequent
16 note that says:

17 "We don't think he shared
18 the results with anyone
19 internally on staff."

20 Do you recall if that's a
21 reference to Mr. Moore?

22 A. I don't recall, but I
23 would -- if I had to guess, it would be a yes.

24 379 Q. Do you recall discussions
25 around whether or not Mr. Moore had shared

1 information with other staff members at this
2 meeting?

3 A. I don't recall this
4 meeting.

5 380 Q. Do you recall where that
6 information came from, "We don't think he shared
7 the results internally with anyone on staff"?

8 A. I don't.

9 381 Q. Registrar, could you take
10 us to image 2.

11 So, under "crisis comms plan"
12 in the middle of the page, there are some notes.
13 Does this reflect you or your colleagues providing
14 a crisis comms plan and then getting feedback on
15 it from Ms. Gordon?

16 A. I can't say for sure.

17 382 Q. Okay. Do you recall if
18 you came into this meeting with a sense of what
19 you wanted to do in terms of crisis communication
20 that you wanted to discuss with the group or with
21 Ms. Gordon?

22 A. I believe I had a plan
23 developed at this point, yes.

24 383 Q. Okay. Registrar, can you
25 take this down and pull out the content under

1 "Karen."

2 So, the first note under Karen

3 is:

4 "Come at it and confess
5 it."

6 Was that Ms. Gordon's advice
7 to the internal team about how to approach to
8 communications strategy?

9 A. I'm not sure if those
10 were her exact words. Like I said, I don't
11 remember, but that was generally her advice, was
12 in align with what we had internally suggested as
13 well.

14 384 Q. Okay. So, then in this
15 case Ms. Gordon's advice at the highest level was
16 consistent with your intended approach when you
17 came into the meeting?

18 A. Yes.

19 385 Q. At the time of this
20 meeting, in early January 2019, was there any
21 consideration or discussion around closing the Red
22 Hill Valley Parkway in light of the Tradewind
23 report?

24 A. Not that I was aware of.

25 386 Q. Do you recall if there

1 was any discussion about whether the roadway
2 needed to be closed as a matter of safety?

3 A. I'm not aware of any
4 conversations like that at this point.

5 387 Q. Do you recall when city
6 staff decided that the road could be left open, if
7 they did indeed make that decision?

8 A. I believe that was later,
9 early February, after a note from CIMA.

10 388 Q. Do you recall who was
11 involved in making that decision?

12 A. No.

13 389 Q. Was the consensus coming
14 out of this meeting in early January 2019 to
15 proceed with your proposed approach and
16 Ms. Gordon's advice to be transparent about the
17 existence of the Tradewind report?

18 A. Like I said, I don't
19 remember this specific meeting, so it's hard to
20 say, but I think so.

21 390 Q. Okay. Registrar, could
22 you take this down and take us over to image 3 of
23 this document, please.

24 So, you'll see towards the top
25 of the page under "Options For Updating" it says:

1 "GIC, Jan 2016 (goal)
2 council, Jan 23 (plan
3 B)."

4 So, it reads to me like the
5 plan as of January 7 was to go to GIC on
6 January 16, and that's not the process that ends
7 up being followed. Do you know why that didn't
8 happen?

9 A. I don't.

10 391 Q. Were you involved in any
11 discussions about delaying the reporting to
12 council or GIC?

13 A. I was involved in
14 discussions about the timeline and what we would
15 be doing, but not the decisions around it and I
16 don't know if I can speak to it further.

17 392 Q. Okay. Registrar, could
18 you take this down and take us into HAM35769 at
19 image 1, please.

20 So, we've been advised that
21 these notes are dated January 9, 2019 and that
22 you're the author. Is that correct?

23 A. I think so, yes.

24 393 Q. Okay. So, on review of
25 this note, these notes, it looks like this is a

1 discussion about the discovery potentially of the
2 Tradewind report. Do you remember having a
3 conversation with Mr. McGuire in early
4 January 2019 about the discovery of the Tradewind
5 reports?

6 A. I had lots of discussions
7 with him around this time. I think I have a
8 recollection of this meeting, yes.

9 394 Q. Okay. Do you recall what
10 the purpose of this meeting was?

11 A. I think this was around
12 helping to inform the timeline that we talked
13 about before.

14 395 Q. Were you trying to get
15 clarity on when and how Mr. McGuire discovered the
16 Tradewind report in this meeting?

17 A. I believe that was the
18 goal of this meeting, yes.

19 396 Q. So, about just a little
20 more than halfway down the page, it says "joint
21 with Edward." What does that indicate?

22 A. I believe I was having a
23 meeting with Gord and then Edward walked by and
24 joined us.

25 397 Q. Did he join to contribute

1 on the discovery of the Tradewind report or for
2 another purpose?

3 A. No. I think he was
4 joining for the same purpose.

5 398 Q. Okay. So, there's a
6 point under "joint with Edward," the second
7 paragraph down, that says:

8 "Improving process.
9 Joint work on the
10 projects to ensure gaps
11 are closed and addressed,
12 work more appropriately
13 together so we don't get
14 into position where
15 information is not shared
16 with each other going
17 forward."

18 Are you able to expand a bit
19 on the discussion that led you to make that note?

20 A. I think that that is a
21 note, just I can't speak to it specifically, but I
22 can speak to the sort of theme of that bullet
23 because it did kind of stay with us for a while,
24 was the idea that information needed to flow more
25 freely between engineering services and

1 transportation operations and maintenance in both
2 directions so that, you know, they both were
3 informed about what the others were doing so that
4 they could be more aware.

5 399 Q. Were you involved in the
6 development of any new practices or policies to
7 address that concern about information sharing?

8 A. No. That would be
9 outside of my job description.

10 400 Q. Registrar, you can take
11 this down and if you can take us to HAM12124 at
12 image 1.

13 So, this note is titled "AM's
14 Feedback" and it's dated January 10, 2019 or we've
15 been advised that's when it dates to. Did you
16 prepare this note?

17 A. I think so, yes.

18 401 Q. Do you recall in what
19 context you prepared this note?

20 A. I don't.

21 402 Q. So, when it says "AM's
22 Feedback" at the top, do you know if that
23 indications AM as a person, indicates AM as in
24 morning or means something else entirely?

25 A. I don't remember, and my

1 best guess is it's just, like, the morning's
2 feedback.

3 403 Q. Okay. So, there's a note
4 after the first list of pavement concerns on the
5 Red Hill Valley Parkway that says:

6 "More conversational."

7 Then it says underneath:

8 "Less hot."

9 Do you recall what led you to
10 make that note?

11 A. I don't.

12 404 Q. Registrar, could you take
13 us to image 2 of this document.

14 So, halfway down the page
15 you'll see that there's a heading that says "Media
16 Version" and then under that a point that says:

17 "Call up the Spec and say
18 we know you asked us.

19 We've been digitizing old
20 reports you asked us for.

21 We realize you might need
22 some context to review

23 and just wanted to share
24 proactively."

25 Are you able to tell me a

1 little bit about what led you to make that note?

2 A. So, I don't remember the
3 exact circumstances of this note. I think we were
4 just probably brainstorming ideas and I don't
5 think this was seriously considered. I think
6 somebody tossed it out as an idea. It doesn't
7 seem to be very accurate to me, and so I don't
8 think it was seriously considered. I don't know
9 beyond that much about that.

10 405 Q. Just circling back on
11 that, is this note in reference to a method of
12 potentially providing the Tradewind report to the
13 Spectator?

14 A. I think that is the case,
15 yes, but as I said, I don't think it was seriously
16 considered.

17 406 Q. Do you recall who
18 suggested this option in terms of providing the
19 Tradewind report to the Spectator?

20 A. I don't.

21 407 Q. Do you recall who was
22 involved in discussions about how potentially this
23 might be used as a way to provide the Tradewind
24 report to the Spectator?

25 A. I don't remember this

1 discussion, like, specific to this, like,
2 approach. I know that we did talk about other
3 approaches on how to communicate the information
4 with the Spectator, with the public, with council,
5 with that broader group, which would have included
6 Dan, Gordon, Edward, John, Jen, Nicole, Ron, that
7 group.

8 408 Q. Aside from this note
9 setting out a potential way of sharing the
10 Tradewind report with the Spectator and the
11 process that you ended up following, what were the
12 other options that were considered in terms of
13 sharing the report?

14 A. Well, I think we talked
15 about what we landed on doing, which was letting
16 council know first, because that's our preferred
17 approach at all times whenever we can, because we
18 don't want them to be surprised. I don't remember
19 any other approaches. Our goal is always to make
20 sure council is aware first, so...

21 409 Q. And just for clarity, to
22 your knowledge, the Tradewind report was not
23 discovered as part of a process of digitizing old
24 reports. Is that right?

25 A. I don't think that's

1 accurate. Like, the note, I don't think the note
2 there is accurate.

3 410 Q. You said that this option
4 wasn't given much serious consideration. Do you
5 recall who made the decision that this would not
6 be the process that was followed?

7 A. I don't, no.

8 411 Q. Registrar, could you
9 please take us to overview document 9A, image 294,
10 paragraph 685, so it's the very last paragraph on
11 this page.

12 You organized a meeting
13 scheduled for January 11, 2019 with the subject
14 "Confidential Discussion." The attendees are
15 listed as Mr. McKinnon, Mr. McGuire, Ms. Racine,
16 Ms. Auty, Mr. Hertel and Ms. Gordon, Mr. Soldo and
17 Mr. Sabo. Do you recall what the purpose of this
18 meeting was?

19 A. I don't recall the
20 specific meeting.

21 412 Q. Registrar, could you
22 please take us to overview document 9A, images 295
23 and 296 at paragraph 685.

24 So, Mr. Sabo took notes of a
25 call on January 11, 2019 and one of them

1 references you. You'll see that under "call"
2 about halfway down the first page, it says:

3 "Jasmine, John H., Gord,
4 Dan, Karen, consultant."

5 And then a little bit further
6 on towards the bottom of this page and over onto
7 the top of the next page, it says:

8 "Jasmine has drafted
9 messaging but needs
10 improvements plus
11 timelines clarified."

12 Does this assist your
13 recollection at all about what was discussed on
14 January 11, 2019?

15 A. I'm not sure if that
16 specific meeting -- I don't have an independent
17 recollection of that meeting.

18 413 Q. Do you recall what
19 aspects of the timeline you needed clarified at
20 this point in time, January 11?

21 A. I don't.

22 414 Q. Registrar, you can take
23 this down and if you can take us to overview
24 document 9A, image 297, paragraph 687.

25 So, on January 11, 2019, you

1 send an invitation for another meeting under the
2 subject line "Confidential Discussion, Red Hill
3 Valley Parkway," and that meeting is for
4 January 17, 2019. Do you recall if you sent this
5 as a followup or continuation to the January 11,
6 2019 meeting?

7 A. I don't recall; however,
8 I do recall sending a couple invitations while I
9 was in the room with this group of people for the
10 next meeting, so it's very likely that it could
11 have been that.

12 415 Q. And would you have done
13 that at the direction of those in the room?

14 A. I would have, yes.

15 416 Q. Do you recall if they
16 gave you a stated purpose for the subsequent
17 meeting?

18 A. I don't.

19 417 Q. Registrar, could you take
20 us to overview document 9A, image 293,
21 paragraph 681.

22 So, this is in reference to a
23 meeting that Ms. Gordon is included in on
24 January 14, 2019. Do you recall this meeting?

25 A. I'm not sure if I can

1 recall this specific meeting.

2 418 Q. I'm going to ask you a
3 couple of questions that may help to refresh your
4 memory.

5 Registrar, could you take us
6 to HAM54237.

7 So, this is a crisis
8 communication plan, a draft, which is dated
9 January 14, 2019. Were you the primary author of
10 this document?

11 A. Yes.

12 419 Q. Do you recall if you
13 would have prepared this document for discussion
14 at the January 14, 2019 meeting with Ms. Gordon?

15 A. I believe this document
16 was already in preparation at that point, but this
17 could very well have been an item of discussion.

18 420 Q. Registrar, could you take
19 us over to image 2 of this document.

20 So, you'll see that there's a
21 heading at the bottom of this page that says
22 "General Strategy/Approach" and one of the points
23 under this strategy is:

24 "Do not speculate on or
25 judge the professional

1 decisions of previous
2 staff."

3 Can you expand a little bit on
4 what you meant by that?

5 A. Yeah. I think at this
6 period of time we were really in a fact-finding
7 mode and really trying to figure out what had
8 happened, and it wasn't about -- at least our
9 communication strategy was not meant to be about
10 anybody's opinions, current or former opinions,
11 and we were really trying to not to sort of be
12 judgmental about anything. We were just trying to
13 be factual and base all of our communication
14 strategy that way so that we were sharing what we
15 knew to be true at the time.

16 421 Q. Okay. Were there
17 specific judgments of previous staff you were
18 directing city staff not to speculate about or
19 judge?

20 A. I'm not sure if there was
21 specific judgments. I think that the overall
22 approach was just meant to be more factual than
23 speculative.

24 422 Q. In the discussions that
25 you had had leading up to the preparation of this

1 communications plan, did city staff criticize,
2 speculate about or judge the professional
3 decisions of any other city staff person in
4 connection with the Tradewind report?

5 A. I'm not sure. I mean, I
6 think that there was certainly questioning of
7 decisions that maybe Gary had made, but I don't
8 think that it was part of our communications
9 approach, which is what this is about. This
10 document was about that.

11 423 Q. Okay. Speaking more
12 generally and separated from the communications
13 approach, do you recall what the nature of the
14 questioning that was being directed at Mr. Moore's
15 decisions was?

16 A. I don't think so.

17 424 Q. Do you recall who was
18 doing the questioning?

19 A. I can recall that
20 Dan McKinnon and Laura Fontana had planned to have
21 a meeting with Gary to understand more about what
22 he had known and what the situation was from his
23 perspective, but I don't know beyond that.

24 425 Q. Okay. Around this time,
25 do you recall other city staff expressing views

1 about Mr. Moore's professional decisions around
2 the Tradewind report or friction testing on the
3 Red Hill Valley Parkway generally?

4 A. I don't know if I have a
5 specific example of that. I think that generally
6 people were curious about maybe why Gary hadn't
7 shared the report. I'm not sure that anybody was
8 really judging that necessarily in a negative way,
9 but they were more so wondering why, I think.

10 426 Q. So, at this point in
11 time, in your experience, other city staff members
12 weren't critical of Mr. Moore's decisions around
13 the Tradewind report?

14 A. I think it's fair to say
15 that not everybody necessarily personally agreed,
16 but my perspective was really around
17 communications, and so that's where I was trying
18 to stay focused on.

19 427 Q. Okay. Do you recall if
20 there was someone in particular that had expressed
21 their view that they didn't agree with Mr. Moore's
22 actions or decisions?

23 A. I don't think -- I'm not
24 sure that I can remember, like, specific examples
25 of that. I do recall, sort of, having discussions

1 with Gord, Dan and Edward together where there was
2 questioning around maybe why it wasn't shared. I
3 don't know that I would call it critical
4 necessarily, but maybe just a bit of a lack of
5 understanding. That's my perspective.

6 428 Q. In the discussions that
7 you had with city staff, were there any other
8 professional decisions by city staff that were
9 criticized, judged or subject to questioning apart
10 from the decisions from Mr. Moore that we were
11 just talking about?

12 A. Not that I can remember.

13 429 Q. So, we were talking about
14 January 2019 in the context of that questioning.
15 Was there a later point where city staff did
16 express judgment or criticism about professional
17 decisions that had been made around the Tradewind
18 report?

19 A. I think I would keep my
20 same answer going forward. From my perspective,
21 it was really around just sort of questioning
22 and -- I do remember conversations, sort of,
23 saying, you know, that's your professional
24 judgment. Maybe it's not the same as someone
25 else's, but --

1 430 Q. Okay.

2 A. Yeah.

3 431 Q. So, you had indicated
4 earlier that you were concerned about
5 inconsistency in some of the comments that had
6 been made to the media, in particular, that
7 July 2017 article that we had talked about and the
8 comments about the friction testing results there?

9 A. Yes.

10 432 Q. Do you recall if you had
11 discussions with city staff in which you or others
12 were critical of Mr. Moore's comments to the media
13 about friction testing on the Red Hill Valley
14 Parkway?

15 A. I'm not sure if I or
16 others were critical, except for that to say that
17 they were not consistent, not necessarily the
18 content of them, like not necessarily taking the
19 results were inconclusive, just saying that, you
20 know, there was only an informal chart or things
21 like that, more the inconsistencies.

22 433 Q. Were public works staff
23 concerned about the apparent inconsistencies in
24 that media reporting and in Mr. Moore's comments
25 to the press?

1 A. I can't speak to that. I
2 know I was concerned about it and I shared my
3 concerns with them, but I'm not sure if they
4 shared them or not.

5 434 Q. Okay. Do you recall who
6 you spoke to about the inconsistencies in the
7 media reporting?

8 A. I do remember speaking
9 about them in that broader group that I had
10 mentioned before with Gord, Dan and Edward, John,
11 Jen, Mike, Nicole, Ron.

12 435 Q. Do you recall how they
13 reacted to learning about those inconsistencies?

14 A. I don't think I have a
15 specific recollection of a reaction, no.

16 436 Q. Do you recall if anyone
17 suggested that those inconsistent media quotes
18 from Mr. Moore needed to be addressed as part of
19 the communications plan or in reporting about the
20 Tradewind report to council?

21 A. I know I had, like,
22 recommended that it be part of our strategy to
23 ensure that we were able to -- like, not to
24 address, like, this was an informal chart or
25 anything like that, but just to make sure that we

1 were able to set the story and share what we knew
2 at the time.

3 437 Q. Okay. Registrar, could
4 you please take us to images 3 and 4 of this
5 document and take us over. I think 4 and 5
6 actually is probably a better example.

7 Is this messaging that you
8 prepared for City spokespeople in response to the
9 Tradewind report?

10 A. It is, yes.

11 438 Q. So, there are two
12 columns. There's the proactive messages and then
13 there's "only if prompted" in the second column.
14 Can you expand a little bit about the only if
15 prompted column and what that represents?

16 A. Yeah. This is the same
17 as the same kind of -- it's a different format
18 obviously but it's the same concept as before
19 those notes that we looked at where there was the
20 few key messages and then there was a couple
21 additional things so that they're really just
22 meant to ensure our spokespeople to have something
23 in their back pocket if they need to talk to those
24 more, like, the harder questions. They're not
25 meant as proactive messages that they would just

1 share. They're just meant as helpful pieces if
2 needed.

3 439 Q. Registrar, could you
4 please take us to image 13 of this document.

5 So, under the last question
6 that's in bold there, which is:

7 "Is the Red Hill Valley
8 Parkway safe to drive
9 on?"

10 It says:

11 "If drivers follow posted
12 speed limits and drive to
13 conditions."

14 And then it also says:

15 "Talk to legal and Karen
16 on this particularly."

17 Are you able to expand a
18 little bit on why you needed to talk to Karen, who
19 I'm assuming is Karen Gordon, and legal about
20 whether it was safe to drive on the Red Hill?

21 A. I can't remember writing
22 these two bullets. It's possible that I put these
23 notes in during a meeting, like at the direction
24 of somebody else. I don't recall the
25 circumstances of writing these.

1 440 Q. Do you have any sense of
2 a subsequent discussion with Karen or legal about
3 the safety of the Red Hill?

4 A. Not at this point.

5 441 Q. You said "not at this
6 point." Was there a later conversation?

7 A. I know that we started --
8 like, I recall starting to talk about the safety
9 aspects of things more so towards, like, February,
10 that CIMA memo in, I think, it's February 4 maybe.
11 That's where that is really like on my radar a
12 little bit more.

13 442 Q. Registrar, could you
14 please take us to image 16 of this document.

15 So, under "Karen's General
16 Thoughts," the last point there is:

17 "Need a Gary plan."

18 Are you able to expand on what
19 that note references?

20 A. I'm not. I don't
21 remember that.

22 443 Q. Do you remember any
23 general discussions about a Gary plan or what that
24 might mean?

25 A. I really don't. I'm

1 sorry.

2 444 Q. Okay. Did you consider

3 Mr. Moore in the context of preparing the

4 communications plan?

5 A. In what sense?

6 445 Q. How he might be involved

7 in it or interact with it.

8 A. So, I didn't. I know

9 that there was a plan to make sure that Gary was

10 aware when we were going to share with council.

11 Like, I know there was a plan to make sure that he

12 was given a heads up that the information was

13 going to be shared, but I don't know if I had

14 necessarily thought about him as like a key

15 stakeholder or anything like that.

16 446 Q. Do you know who was

17 responsible for speaking to Mr. Moore about the

18 information being shared?

19 A. I don't know. Not me.

20 447 Q. Registrar, could you

21 please take us to overview document 9A, image 315,

22 paragraphs 738 and 739.

23 So, on January 17, you send a

24 version of the crisis communications plan, which

25 is dated -- so, this is an updated version from

1 the one we were just looking at. It's dated a
2 couple days later, January 16, and I can pull that
3 up if you would like to take a quick look at it,
4 but you send this to Nicole Auty on January 17,
5 2019 and write:

6 "Please see attached the
7 confidential internal
8 document for your review
9 for the 1:00 p.m.
10 meeting. FYI, Karen is
11 not phoning into this
12 meeting."

13 And just so that you have that
14 in mind, Registrar, can you take us to that
15 version. It's HAM61607.

16 THE REGISTRAR: Sorry,
17 counsel. I think I missed the last couple
18 numbers.

19 MS. BRUCKNER: HAM61607.

20 BY MS. BRUCKNER:

21 448 Q. So, this is the version
22 dated January 16, 2019.

23 Registrar, could you please
24 take us to image 16 of this document.

25 So, the City has produced a

1 version of this crisis communications plan draft
2 that has handwritten notes on it. Are these your
3 notes?

4 A. Yes.

5 449 Q. And we actually have a
6 typed version of these in the overview document.

7 Registrar, if you don't mind
8 taking us to 9A, image 301, paragraph 697.

9 I believe that's just a
10 typed-out version of the notes that we have here.
11 Do these notes reflect comments on the
12 communications plan from Ms. Auty on January 17,
13 2019?

14 A. It appears that way. I
15 couldn't say for sure.

16 450 Q. Okay. Do you recall the
17 discussion with Ms. Auty at all?

18 A. I recall the bullet
19 around, like, using some wording, like, some
20 different words, like around "was discovered." I
21 recall Nicole recommending that we say, like,
22 "became aware of" instead. I do remember that.
23 I'm not sure if I remember the rest of it, though.

24 451 Q. So, it looks to me like
25 the reading of that is proactive. "Was

1 discovered" instead became "aware of." Do you
2 recall which, if she was suggesting "was
3 discovered" instead of "became aware of"?

4 A. I think she was
5 recommending "became aware of" instead.

6 452 Q. Okay. Do you know why
7 she was making that recommendation?

8 A. I couldn't say.

9 453 Q. So, there's another note
10 that says -- under Nicole's crisis concerns:

11 "How much we say about
12 the past. Not
13 comfortable going this
14 far. Avoid judgment."

15 Do you recall what led you to
16 make that note?

17 A. I don't.

18 454 Q. And so, there's another
19 entry at the very bottom:

20 "Litigation point of
21 view. We need to have
22 him on board."

23 Do you recall who that's a
24 reference to?

25 A. I don't.

1 455 Q. Is it a reference to
2 Mr. Moore?

3 A. I don't know.

4 456 Q. Do you recall what
5 comments led you to make that note?

6 A. I don't know.

7 457 Q. Registrar, you can take
8 this down and if you could take us to overview
9 document 9A, image 320, at paragraph 747.

10 On January 18, 2018, Ms. Auty
11 e-mailed you requesting a media history of RHVE
12 issues. You replied the same day writing:

13 "For sure. How broad do
14 you want me to go?
15 Specific to pavement,
16 broader to safety or just
17 everything?"

18 And Ms. Auty replies:

19 "Pavement and safety, but
20 really looking for the
21 comments by staff that
22 you had mentioned."

23 Is that a reference --
24 actually, let me ask it more broadly. What
25 comments about the Red Hill Valley Parkway by

1 staff had you mentioned to Ms. Auty?

2 A. Right. As I mentioned
3 here also, I was concerned about the
4 inconsistencies that we had shared previously in
5 the Spectator article, 2017 Spectator article, and
6 then forward to additional articles that said that
7 we had only informal charts and that, you know,
8 from my perspective that the results are
9 inconclusive. Whether they are or not, when we
10 have charts that people can look at independently
11 of being a professional engineer, to me, that's
12 concerning, so I had shared that information in a
13 meeting, I don't know which meeting, so that's
14 what Nicole is talking about here.

15 458 Q. Okay. And you provided
16 that information to her?

17 A. I believe so.

18 459 Q. Registrar, could you
19 please take us to overview document 9A, image 359,
20 paragraph 856.

21 So, you organize a meeting
22 scheduled for January 30, 2019 with the subject
23 "Road Issues Update" and the attendees at that
24 meeting include Mr. Zegarac, Mr. McKinnon,
25 Mr. Hertel, Ms. Racine, Ms. Gordon, Mr. McGuire,

1 Mr. Soldo, Ms. Fontana, Ms. Auty and Mr. Sabo.

2 The body of the invitation that is sent around

3 says:

4 "This meeting will be a
5 check in and update on
6 the current road issues."

7 What current road issue is
8 being referenced in that meeting appointment?

9 A. I can't say for sure, but
10 I assume it was a Red Hill update meeting.

11 460 Q. Do you recall if this
12 meeting included Brian Malone from CIMA or Dave
13 (audio disruption), external legal counsel for the
14 City?

15 A. I do recall being in a
16 meeting with both of those folks. I'm not sure if
17 this is the same one.

18 461 Q. Okay. Registrar, can you
19 take us over on to the next page and leave up the
20 page that we were just on.

21 So, you'll see that there are
22 notes from Mr. Malone referencing a call with
23 Mr. Boghosian and various city staff on
24 January 30, 2019. Also excerpted in the overview
25 document are some notes from Mr. Sabo and

1 Mr. Boghosian about calls and meetings that took
2 place on January 30. If you could take a moment
3 to just review Mr. Malone's notes as a starting
4 point. Let me know when you have had a chance to
5 do that.

6 A. Okay.

7 462 Q. So, you'll see that your
8 name is referenced about halfway down the second
9 page of these notes from Mr. Malone and we also
10 have some other notes. Does this help to refresh
11 your memory at all about discussions that occurred
12 on January 30, what the nature of them was, what
13 the general topics of discussion were?

14 A. It doesn't. I'm sorry.

15 463 Q. Okay. You said that you
16 did remember a meeting at which Mr. Boghosian and
17 Mr. Malone were both present. Do you recall what
18 the purpose of that meeting was?

19 A. I don't. I'm sorry.

20 464 Q. Do you recall anything
21 about the discussions that occurred at that
22 meeting?

23 A. No.

24 465 Q. Okay. So, this may
25 assist. Registrar, could you please take us to

1 HAM62328. Actually, if you could take us to
2 image 5 of this document.

3 So, the City has produced
4 undated handwritten notes for a meeting that,
5 based on the list there, was with David, Gord,
6 Jasmine, Brian and Dan. Are these your
7 handwritten notes?

8 A. They are.

9 466 Q. And so, I've started us
10 off at image 5 because I think this might actually
11 be the first page of the notes. Is that correct?

12 A. I believe it is.

13 467 Q. So, the list of attendees
14 there, who are David, Gord, Brian and Dan in the
15 context of this meeting?

16 A. So, I can't be
17 100 percent sure. I think it's David Boghosian
18 and then Gord McGuire, myself. I believe it's
19 Brian Malone and Dan McKinnon.

20 468 Q. Okay. Do you have any
21 sense of when this meeting occurred?

22 A. I don't.

23 469 Q. Looking at the meeting
24 notes, and I'm happy to have the Registrar flip
25 through the pages for you, does this help to

1 refresh your memory at all about what was
2 discussed at this meeting or what the purpose was?

3 A. I don't remember this one
4 specifically unfortunately.

5 470 Q. Okay. Do you have any
6 sense of what your role at this meeting would have
7 been?

8 A. I think I was just
9 listening to see if there were anything that
10 needed to go into our timeline or that would be
11 relevant for our communications plan.

12 471 Q. Do you recall if coming
13 out of this meeting there were items that needed
14 to go into the timeline or things that needed to
15 be addressed in the communications plan?

16 A. I don't know. I assume
17 there would be something relevant in terms of the
18 communications plan, whether it was like the Q&A
19 at the end or anything like that, but I can't say
20 for sure.

21 472 Q. Registrar, could you take
22 us to 9A, page 387 and 389, paragraph 900.

23 So, we've a received a
24 document dated January 31, 2019 titled "Info with
25 Mike/Nicole from this morning." Did you prepare

1 these notes?

2 A. Sorry, I'm not sure where
3 I'm looking.

4 473 Q. Registrar, could you
5 actually leave up 397 and call up 396 beside it.
6 You can take down 398, just for context.

7 So, you'll see this is a
8 fairly lengthy page of notes.

9 Actually, Registrar, could you
10 try taking us to OD 9A, 387 and 389.

11 So, I think that maybe we
12 actually have the wrong set of notes up. Yes, we
13 do. That's my apologies, Ms. Graham. Yes. That
14 was where I was trying to take us.

15 So, paragraph 900, you'll see
16 these are notes from a January 31, 2019 meeting
17 titled "Info with Mike/Nicole from this morning,"
18 and this is an excerpt of those notes. Are you
19 the author of these notes?

20 A. It looks like it, yes.

21 474 Q. Do you recall in what
22 context you prepared these notes?

23 A. I am not 100 percent
24 sure.

25 475 Q. Do you have a best guess?

1 A. My best guess is that
2 this is a debrief with Dan, whereas Dan is re --
3 like, recounting to me what happened with Mike and
4 Nicole.

5 476 Q. Okay. So, you don't
6 think that this was a meeting with Mike and
7 Nicole?

8 A. I don't. This is only my
9 best guess.

10 477 Q. Okay. And the reference
11 to Mike and Nicole, is that to Mike Zegarac and
12 Nicole Auty?

13 A. Yes.

14 478 Q. So, you'll see towards
15 the beginning there are a couple little points
16 that say:

17 "- Notwithstanding
18 - Gary's actions over the
19 last five years."

20 And then it says:

21 "- Martin White's as two
22 different swim lanes."

23 Do you recall what comments
24 led you to make that note or what that means?

25 A. I don't.

1 479 Q. Registrar, I'm going to
2 ask you to take us into the actual notes. If you
3 can take us into HAM62129, just because I believe
4 what's in the OD is just an excerpt. Can you take
5 us to image 3 of this document.

6 So, you'll see there are a
7 couple of points here and the first one is:

8 "Why did he hide the
9 results?"

10 Who is the "he" being
11 referenced there?

12 A. I can't say for sure.

13 480 Q. Do you have a best guess?

14 A. My best guess is Gary.

15 481 Q. Do you recall what
16 discussion or conversation led you to make that
17 note, "Why did he hide the results?"

18 A. My best guess is that Dan
19 is asking me about creating a timeline or not
20 creating but adding to this timeline that we have
21 been developing and that he's asking to get these
22 things into the timeline to see if we can fill in
23 the blanks of the story.

24 482 Q. Okay. So, you think that
25 Mr. McKinnon was asking you to address why he had

1 hid results as part of the timeline?

2 A. I think Dan was trying to
3 help understand all of the pieces of the story.
4 And I'm not sure if those were my words or his, so
5 I don't think what the context of them is.

6 483 Q. So, in reference to the
7 use of the term "hid" there, was there a view
8 within public works at this time, so this is end
9 of January 2019, is that Mr. Moore had hid the
10 Tradewind reports?

11 A. I think there was an
12 overarching view that he did not share them.

13 484 Q. Okay. But you wouldn't
14 generally have used the term used here, "hid," in
15 reference to that?

16 A. I wouldn't.

17 485 Q. Okay. Did you hear
18 others use that terminology?

19 A. I'm not sure.

20 486 Q. Okay. So, there's
21 another point that says:

22 "Should have been
23 resurfaced or treated
24 sooner (shot abrade
25 treated surface/grip

1 coat."

2 Do you recall what led you to
3 make that note?

4 A. I don't.

5 487 Q. At this time, so again
6 end of January 2019, was there a view within
7 public works that the Red Hill Valley Parkway
8 should have been resurfaced or treated earlier in
9 light of the Tradewind report?

10 A. I'm not sure.

11 488 Q. Did you have any
12 discussions with anyone within public works about
13 whether or not the Red Hill should have been
14 resurfaced or treated earlier?

15 A. I remember discussions
16 about the whole idea of like the shot abrasion and
17 treating the surface or doing a grip coat and all
18 that sort of stuff, but not in the context that it
19 should have happened. It was just that it was a
20 recommendation from the consultant in that report.

21 489 Q. What information, if any,
22 were you given about whether resurfacing or
23 surface treatments would have been effective in
24 dealing with frictional issues on a roadway?

25 A. I don't remember any.

1 490 Q. As of January 2019, what
2 was the City's communications plan to deal with a
3 question if one was received about whether or not
4 the Red Hill Valley Parkway should have been
5 resurfaced or treated earlier in light of the
6 Tradewind report?

7 A. I'm not sure if I know
8 the answer. Sorry.

9 491 Q. Do you know if there was
10 a plan in place?

11 A. To know if it should have
12 been repaved earlier?

13 492 Q. If someone asked you that
14 question as the communications officer for public
15 works, was there a plan in place about how that
16 question would be addressed?

17 A. I don't think so. I
18 think I would have relied on Gord or Edward or Dan
19 to answer it.

20 493 Q. Okay. So, I see that it
21 is 1:00 and I'm coming up to a new topic. I
22 wonder if now would be a good time to take our
23 lunch break.

24 JUSTICE WILTON-SIEGEL: That
25 would be fine. It's 1:00 exactly, so we'll return

1 at 2:15.

2 --- Luncheon recess taken at 1:00 p.m.

3 --- Upon resuming at 2:15 p.m.

4 MS. BRUCKNER: Commissioner,
5 may I proceed?

6 JUSTICE WILTON-SIEGEL: Yes,
7 please proceed, Ms. Bruckner.

8 BY MS. BRUCKNER:

9 494 Q. Registrar, could you take
10 us to overview document 9A, image 412,
11 paragraph 943. On February 3, 2019, you e-mailed
12 Ms. Auty, copying Mr. McKinnon, Mr. Hertel,
13 Ms. Racine and Mr. Sabo. You attached a
14 communications plan, a timeline and presentation
15 slides, all of which were in draft. Do you recall
16 sending that e-mail?

17 A. I recall the e-mail,
18 yeah.

19 495 Q. Registrar, could you
20 please take us over to the next image,
21 paragraph 944.

22 This e-mail was later added to
23 a calendar invitation for Red Hill Valley Parkway
24 GIC brief, which was scheduled for February 4,
25 2019.

1 Registrar, could you pull up
2 HAM62160.

3 I'm just going to take you
4 through the attachments to this e-mail. So, this
5 is the PowerPoint presentation that was attached
6 to the e-mail. Are you the primary drafter?

7 A. Not the entire thing, but
8 most of it. Some of the slides I believe came
9 right from Nicole, and if you forward to the
10 agenda slide I would be able to tell you better.
11 Yeah, I don't think the risk assessment was from
12 me, but I do think I was a primary drafter, yes.

13 496 Q. Okay. Registrar, could
14 you please take us to image 7.

15 So, this slide is titled
16 "Suggested Key Messages For Staff to Convey
17 Publicly," and you'll see that there is an entry
18 that says:

19 "The results of the 2013
20 friction testing do not
21 breach any kind of
22 minimum standard for
23 friction values."

24 Why did you include that point
25 under suggested key messages for public staff to

1 convey?

2 A. It would have been at the
3 direction of somebody else for sure. I can't say
4 who or why.

5 497 Q. Okay. So, a revised
6 version of this presentation is circulated on
7 February 5, 2019 by Ms. Racine.

8 Registrar, could you please
9 pull up HAM62193 and split screen with HAM62194.

10 So, just for your reference,
11 this is the e-mail by which Ms. Racine circulates
12 the updated version and on the other side we have
13 the updated version of the PowerPoint
14 presentation.

15 Registrar, could you take us
16 that the PowerPoint presentation to image 7.

17 So, as far as I can tell, the
18 point that we were just looking at a moment ago
19 about the results of the 2013 friction testing not
20 breaching any kind of minimum standard for
21 friction values has been removed from this
22 subsequent version of the PowerPoint presentation.
23 Are you able to provide me with any information
24 about how or why that bullet point was removed as
25 a key message?

1 A. Again, I'm sure it would
2 have been at the direction of somebody more senior
3 than me, but I don't have any recollection of how
4 or why.

5 498 Q. Did you have any
6 discussions with anyone about that particular key
7 message?

8 A. I do recall discussing
9 the key messages, but I can't remember the details
10 of why we would have removed that or why that
11 would have been changed or taken out.

12 499 Q. What other types of
13 discussions did you have about that messaging?

14 A. I don't recall, like, any
15 of the specifics. I just know that we had
16 discussed the messaging. Unfortunately, I don't
17 remember what exactly we talked about.

18 500 Q. Registrar, you can take
19 this down and if you can take us into HAM62161,
20 please. Perfect. Thank you.

21 So, this is the timeline that
22 was attached to that e-mail that we were looking
23 at. Is this a version of the timeline that you
24 had been working on to put the chronology in
25 order?

1 A. It is, yes.

2 501 Q. How did you confirm that
3 the information in this timeline was accurate?

4 A. So, the information came
5 to me from a variety of sources. As I said
6 before, I would trust -- if a senior member of the
7 public works team asked me to add something in it,
8 I would just trust that it was accurate.

9 In terms of approval of the
10 timeline, it was reviewed by that broader group
11 that I have mentioned before a few times. I don't
12 know that any one of those people was in a
13 position to approve every line of this, because it
14 is such a complicated and long story.

15 502 Q. When city staff provided
16 you with a recollection or information for
17 inclusion in the timeline, was it your practice to
18 ask them for documents or e-mails or anything to
19 try and confirm that their recollection was
20 accurate?

21 A. So, later on there's
22 another version of this same timeline in an Excel
23 document where I tried to do that, where I tried
24 to include documents that, kind of, back up the
25 entries in here, but at the beginning I don't

1 think that -- it wasn't -- I didn't have that
2 practice. But I did try to, sort of, get better
3 as I went along, as we figured out how complicated
4 things were in this story.

5 503 Q. So, was that practice of
6 looking for additional documents developed after
7 the Tradewind report was presented to the GIC or
8 before?

9 A. I'm not sure. Sorry.
10 I'm not sure when we tried to do that.

11 504 Q. Okay.

12 A. As far as including them
13 in the timeline. I know that there were lots of
14 documents being collected, but in terms of, like,
15 linking them directly from this chronology
16 timeline document, I'm not sure when that
17 happened.

18 505 Q. Okay. Who, if anyone,
19 signed off on the accuracy of the final version of
20 this timeline that was eventually presented to the
21 GIC?

22 A. I don't think -- like, I
23 think I would say everyone and nobody at the same
24 time, because everybody did have an opportunity to
25 look at it and make changes and additions, but I

1 don't think anybody was in the position to approve
2 everything. So, we did look at it at that broader
3 group, as I said, but I don't think any one of
4 those one people, no one of those one people would
5 have been in the position to approve it.

6 506 Q. Okay. And when you say
7 the broader group, are you referring to the
8 individuals that were copied on that e-mail that
9 we were looking at where you circulated this
10 document?

11 A. Yes.

12 507 Q. Okay. So, there are a
13 number of different categories listed at the top
14 of this presentation to be shared and
15 themes/categories and you'll see there are six
16 categories listed. Did you include these six
17 categories at someone's direction or at your own
18 initiative?

19 A. It was at someone --
20 well, my best recollection is that it was at Dan's
21 request and I don't know if he requested these
22 specific categories or if he just requested
23 categories, but it was at his request.

24 508 Q. So, the very first
25 category there, there's labelling called "Gary's

1 Involvement" and I see that on the first page here
2 we have a number of events that are identified as
3 Gary's involvement and also what looks like an MTO
4 category.

5 What did you understand the
6 Gary's Involvement category to signify when you
7 were preparing this document?

8 A. I'm not sure if I know
9 now.

10 509 Q. Do you recall the purpose
11 of including a Gary's Involvement category?

12 A. I think the purpose of
13 the categories were just to, sort of, chunk the
14 information in ways that we could better and
15 easily understand. The Gary's Involvement
16 category looks fairly broad to me. In hindsight
17 looking back at this now, I can't say the purpose
18 what I thought it was at the time.

19 510 Q. Okay. Registrar, could
20 you take us to image 7 of this document, please.
21 So, I'm jumping forward a bit in this timeline.
22 You'll see that we actually may have to go over on
23 to image 8 as well, but we'll start here with
24 image 7 and then flip over.

25 So, you'll see at the very

1 bottom here there's an entry under "Late
2 August 2018" that says:

3 "While searching in
4 document management
5 system, Gord McGuire
6 finds an e-mail leading
7 to the 2013 Red Hill
8 Valley Parkway evaluation
9 report from Golder."

10 Registrar, could you take us
11 over on to image 8.

12 And so, this column continues
13 with:

14 "Attached 2013 Tradewind
15 report on friction
16 testing. Document is
17 marked as being loaded
18 into the system on
19 May 15, 2018 by Gary
20 Moore."

21 And then there are two more
22 entries for late August 2018:

23 "Gord McGuire notifies
24 Dan McKinnon about the
25 2013/2014 friction

1 testing, including
2 consultant's concerns and
3 recommendations for
4 action. Gord also checks
5 with some key staff in
6 engineering services to
7 see if they were aware."

8 And then next entry is:

9 "Gord McGuire and
10 Dan McKinnon make the
11 decision to stop pursuing
12 hot in-place recycling
13 technology to resurface
14 the Red Hill Valley
15 Parkway. Adjust capital
16 budget request to ensure
17 new high quality asphalt
18 can be used for the 2019
19 resurfacing project."

20 Where did you obtain the
21 information that these events happened in late
22 August of 2018?

23 A. I can't say for sure. I
24 can say, though, that this timeline, I created it
25 based on information from Gord and Dan and Edward

1 and documents that were shared with me.

2 511 Q. Registrar, could you take
3 us to HAM58892, please.

4 So, I'm jumping forward a
5 little bit in time. This is an e-mail from
6 Mr. Zegarac to you in which he asks you on
7 February 12, 2019 to send him the chronology that
8 you had prepared the week before, and you respond
9 and you sent him another version of this document
10 that we were just looking at that's a little bit
11 later dated, so February 12, 2019. And I'm going
12 to have that pulled up.

13 Registrar, could you take us
14 into HAM58893, please. Thank you.

15 So, this is the version that's
16 attached by you to that e-mail back to
17 Mr. Zegarac.

18 Registrar, could you take us
19 to image 4 of this document.

20 So, you'll see that there is,
21 in the third row there down under
22 August/September 2018, it says:

23 "Gord McGuire becomes
24 aware of an e-mail
25 leading to the 2013 Red

1 Hill Valley Parkway
2 evaluation report from
3 Golders with attached
4 2013 Tradewind report on
5 friction testing. Gord
6 notifies Dan about the
7 2013/2014 friction
8 testing, including
9 consultant's concerns and
10 recommendations for
11 action. Gord McGuire and
12 Dan McKinnon make the
13 decision to stop pursuing
14 hot in-place recycling
15 technology to resurface
16 the Red Hill Valley
17 Parkway. Adjust capital
18 budget request to ensure
19 now high quality asphalt
20 can be used for the 2019
21 resurfacing project."

22 So, these are or are very
23 similar to the events that were listed under late
24 August in the prior version of the draft timeline
25 that we were looking and now they're listed as

1 September/August 2018. Why did the stated
2 timeline for these events change?

3 A. I can't say for sure. I
4 can say that somebody would have asked me to
5 change the dates. I don't know who it was. I
6 know that there was some uncertainty around this
7 time of some of these dates, and so I think it's
8 my opinion only that somebody was trying to
9 broaden the scope so that it wasn't incorrect.

10 512 Q. Okay. Do you recall if
11 the person who asked you to broaden the scope was
12 Mr. McGuire or Mr. McKinnon? And I ask because
13 these points seem to be in reference to them
14 specifically.

15 A. I don't think I would
16 have changed this if it was anybody else or I
17 would have at least asked them to confirm, so I
18 don't know who it was, but...

19 513 Q. But you expect that if it
20 had been someone other than Mr. McGuire or
21 Mr. McKinnon, you would have taken this to them
22 before making the change?

23 A. I would have. I expect
24 that's what I would have done.

25 514 Q. So, you said there was

1 some uncertainty around some of these events. Are
2 you able to expand on that at all for me in terms
3 of what the nature of the uncertainty was or where
4 it was coming from?

5 A. I think -- I'm not sure
6 if I know exactly. I think just generally the
7 idea of what day people found the report exactly
8 was hard at the beginning for some people to
9 pinpoint, and so I think that was just what I was
10 referencing.

11 515 Q. Were you ever advised
12 that the reference to late August in terms of the
13 discovery of the Tradewind report was incorrect?

14 A. I'm not -- I don't think
15 so, but I'm not sure.

16 516 Q. Generally, your sense was
17 that there was uncertainty rather than there had
18 been an error in the previous timeline that you
19 had put together?

20 A. That's accurate.

21 517 Q. Were you aware as you
22 were preparing the preliminary reconstruction
23 timeline for the GIC meeting that Michael Becke
24 had received a copy of the Tradewind report from
25 Dr. Uzarowski in August 2018?

1 A. I wasn't. I was not.

2 518 Q. Do you recall when you
3 became aware of that?

4 A. I think I read that in a
5 news article, fast-forward a while.

6 519 Q. After the Tradewind
7 report had been presented to GIC?

8 A. Yes.

9 520 Q. Okay. Registrar, you can
10 take this down and if you could take us to
11 overview document 9A, image 439, paragraph 1028,
12 please. Thank you.

13 So, on February 5, Ms. Auty
14 e-mailed you, Mr. McKinnon, Mr. McGuire,
15 Mr. Soldo, Mr. Sabo, Mr. Hertel, Ms. Graham and
16 Ms. Racine, copying Mr. Zegarac, and attaching the
17 February 4 memorandum from CIMA, which I will call
18 up for you in a minute, but I know that you have
19 referenced it a couple of times today. What was
20 your understanding of this purpose of the CIMA
21 memo?

22 A. My understanding was
23 there was a few questions that the public works
24 staff wanted CIMA as a consultant to review and
25 provide their opinion on, and then that was the

1 response to those couple questions.

2 521 Q. What role, if any, did
3 the memo have in the City's communication strategy
4 particularly?

5 A. I don't know if there was
6 a role for the memo. I know that later it did
7 play a role in terms of communicating with
8 council, but at this moment I'm not sure if there
9 was a role up our communications strategy.

10 Actually, I'm going to add to
11 that, if that's okay. I do remember some
12 messaging around working with traffic experts in
13 terms of the upgrades that had been made to the
14 road, and so we did reference the fact that we had
15 traffic safety experts in the communications plan.

16 522 Q. Okay. Registrar, can you
17 take us into HAM54382, please.

18 So, this is the CIMA
19 memorandum.

20 Registrar, can you take us to
21 image 2.

22 So, you'll see that there are
23 questions that are identified for CIMA, and the
24 first one is:

25 "In light of the

1 information in the 2014
2 Golder report, are any
3 changes needed to the
4 recommendations in the
5 previous CIMA reports to
6 the City regarding safety
7 on the Red Hill Valley
8 Parkway?"

9 Do you recall if this question
10 had been discussed amongst city staff before you
11 received the CIMA report or, sorry, the CIMA
12 memorandum?

13 A. I don't remember this
14 one.

15 523 Q. Okay. So, then the
16 second question is:

17 "In light of the
18 information in the 2014
19 Golder report, are any
20 additional safety
21 measures recommended to
22 the City recognizing that
23 the Red Hill Valley
24 Parkway is scheduled to
25 be resurfaced in the late

1 spring of the 2019?"

2 Do you recall if there had

3 been internal discussions about this question

4 before you received the CIMA memo?

5 A. I don't recall any that I

6 was involved in.

7 524 Q. Okay. Registrar, can you

8 take us over on to the next image.

9 So, there's a third question:

10 "In light of the

11 information in the 2014

12 Golder report, should the

13 Red Hill Valley Parkway

14 be closed to vehicular

15 traffic in whole or in

16 part until the completion

17 of the resurfacing work?"

18 Do you recall if city staff

19 had raised this question before you received the

20 CIMA memorandum?

21 A. I don't think I was a

22 part of any of those conversations, if they were

23 happening.

24 525 Q. Okay. In terms of this

25 third question, at the time that you or just prior

1 to receiving this memorandum from CIMA, do you
2 have any sense as to whether or not the City had a
3 plan in terms of whether they would keep the Red
4 Hill Valley Parkway open or close it?

5 A. Not that I was aware of
6 at that time. I mean, I think if I was involved
7 in those conversations, it would have been from
8 more of a communications perspective, so I'm not
9 aware of any.

10 526 Q. Okay. And so, from late
11 2018 to February 2019, just before you were copied
12 on the memorandum that we're looking at, were you
13 involved in any discussion with public works staff
14 about whether the Red Hill Valley Parkway might
15 need to be closed?

16 A. Not that I can remember.

17 527 Q. Okay. Did anyone ask you
18 to prepare a communications plan in the event that
19 it was determined that the road needed to be
20 closed?

21 A. No.

22 528 Q. To your knowledge, had
23 city staff already decided to keep the Red Hill
24 Valley Parkway open as of February 4, 2019?

25 A. I don't know.

1 529 Q. Okay. Registrar, you can
2 take this down and if you can take us into
3 overview document 10A, image 8, paragraph 15,
4 please. Thank you.

5 So, this is in reference to
6 the GIC meeting on February 6, 2019. Did you
7 attend the GIC meeting on February 6, 2019?

8 A. I did, yes.

9 530 Q. Were you present for both
10 the open and closed session?

11 A. Yes.

12 531 Q. It's my understanding --

13 A. Sorry, Hailey. I'm not
14 sure if I was present for the entire closed
15 session. I think I was, but I'm not sure if it
16 was for the whole thing or not, so I just wanted
17 to clarify.

18 532 Q. Okay. Do you think you
19 might have left early or for some other reason?

20 A. I didn't leave early, but
21 sometimes I was not included. Sometimes I would
22 just go in to, sort of, do something, like help
23 with a media release or something, after the
24 discussion, so I can't remember in this case if it
25 was the full in camera or if it was just a

1 portion, so I just wanted to clarify that.

2 533 Q. So, it's possible that
3 you were being called in and out of the room as
4 needed?

5 A. It's possible, yes.

6 534 Q. Okay. It's my
7 understanding that Mr. Hertel presented the
8 presentation that we were looking at in draft for
9 the communication strategy. Is that right?

10 A. I think so, yes.

11 535 Q. Were you involved in
12 presenting information during the GIC meeting at
13 all?

14 A. No.

15 536 Q. Did you have any
16 discussions with Mr. Moore, either before or after
17 the GIC meeting?

18 A. No. No. I think not
19 before. I think after he sent me a media enquiry
20 just letting me know that he wasn't going to be
21 responding to it, but just to let me know because
22 that's a standard practice that we would have.

23 537 Q. How would you describe
24 the tone of the GIC meeting?

25 A. I would say it was a very

1 serious, serious and maybe a bit somber.

2 538 Q. Okay. What was the
3 nature of the conversation? Was it more of a Q&A
4 or were staff doing most of the talking?

5 A. I recall it being a bit
6 of both. I remember there was the presentation
7 portion and then there was questions from council
8 and committee members about various things, just
9 to help them understand a little bit more.

10 539 Q. Do you recall if
11 Mr. Hertel and other presenting city staff made it
12 through their planned presentations?

13 A. I don't think that John
14 made it through his. In my memory as we're
15 sitting here, I feel like he did not make it all
16 the way through his.

17 540 Q. Okay. Do you recall what
18 happened and why he didn't make it all the way
19 through?

20 A. I don't.

21 541 Q. Was it interrupted by
22 questions from councillors?

23 A. It's very possible.

24 542 Q. Okay. But you don't
25 recall one way or the other?

1 A. No.

2 543 Q. How did the councillors
3 respond to the information that staff shared with
4 them at the GIC meeting?

5 A. I think they were very --
6 they were disappointed that they didn't have the
7 information before.

8 544 Q. Okay. Did the reactions
9 of any councillors in particular stand out to you
10 at the meeting?

11 A. I don't know if I
12 remember any. I'm trying to think. I don't think
13 I remember any specific reactions.

14 545 Q. Was the safety of the Red
15 Hill Valley Parkway, actual or perceived safety
16 issues, in light of the findings and content of
17 the Tradewind report discussed at the GIC meeting?

18 A. I don't remember, but I'm
19 assuming it was. Like, I couldn't speak to it,
20 though.

21 546 Q. Do you recall at a high
22 level what councillors were told about the safety
23 of the Red Hill at the meeting?

24 A. I don't.

25 547 Q. Registrar, could you take

1 us into HAM54399.

2 So, it's my understanding that
3 this is the final version of the in camera
4 presentation.

5 Registrar, could you take us
6 to images 43 and 44.

7 So, I understand from this
8 slide that the proposed plan going into the
9 February 6 meeting was to issue a media release on
10 February 13 following the council meeting, but a
11 press release was issued on February 6 at the end
12 of the in camera session.

13 Why wasn't the recommendation
14 here about the timing of the public release
15 followed?

16 A. So, it would be our
17 typical practice to release a media release on
18 really anything after council ratifies something,
19 and so we were following that typical process, so
20 going to GIC and then the following week later is
21 council ratification and then we had a media
22 release. But council preferred that we share the
23 information as soon as we could, and so we acted
24 quickly and we had a draft of a media release, so
25 we just kind of quickly edited it together and

1 then we were able to put that statement out that
2 day instead of waiting another week.

3 548 Q. Okay. So, I understand
4 from your comment that you edited the draft that
5 you had originally prepared. Was that done at the
6 GIC meeting?

7 A. It was, yes.

8 549 Q. Did council approve the
9 final version of the press release?

10 A. They reviewed it. I'm
11 not sure if the word "approved" is -- they
12 definitely reviewed it.

13 550 Q. Okay. Are you the one
14 who did the revisions to the press release at the
15 meeting?

16 A. I am.

17 551 Q. And did you do that on
18 your own or with input from others?

19 A. No. My fingers did it,
20 but there was group of people standing around me
21 with ideas and edits coming in quickly, so it was
22 definitely a group effort.

23 552 Q. And when was that done?
24 For example, was it done during the meeting? On a
25 break from the meeting?

1 A. It was during, I think it
2 was called an informal break from the meeting, so
3 staff just went into the anteroom and we revised
4 the release in there and then brought a copy back
5 out to GIC.

6 553 Q. And so, I can take you
7 into this if you would like to take a look at it,
8 but there's a formal apology from staff to council
9 and the public in the press release that goes out
10 on February 6. Why was that included in the press
11 release?

12 A. I believe it was included
13 because council wanted to have that included.

14 554 Q. Okay. Was that something
15 that had been in the original draft that you had
16 prepared before the meeting?

17 A. It was not.

18 555 Q. To your knowledge, after
19 the press release went out, how did City staff
20 respond to it?

21 A. What do you mean by City
22 staff?

23 556 Q. I can narrow it a little
24 bit. Staff within the public works department who
25 maybe weren't present at the GIC meeting.

1 A. I'm not sure that I even
2 really know the answer, because I wasn't really
3 sitting with public works staff over the next few
4 days, so I'm not sure if I was able to really
5 perceive their reactions.

6 557 Q. Okay. Registrar, could
7 you please take us to overview document 10A,
8 images -- let's start at image 23 and 24,
9 paragraph 38.

10 So, we've received an undated
11 note that you have been identified as the author
12 of, and the notes are reproduced over a number of
13 pages in the overview document. Are you the
14 author of these notes?

15 A. Do you have, like, the
16 original version of these?

17 558 Q. I think that I do. Let
18 me give it a try.

19 Registrar, can you take us
20 into HAM62867.

21 So, I think that this is the
22 original version.

23 A. This is my handwriting,
24 yeah.

25 559 Q. Okay. Registrar, can you

1 take us back into the typed-out version of it.

2 Do you recall when you took
3 these notes?

4 A. I don't.

5 560 Q. Do you know if it was
6 during the GIC meeting?

7 A. I don't know.

8 561 Q. Registrar, could you
9 please take us into image 25.

10 Ms. Graham, for your context,
11 it's just another page of the notes. So, you'll
12 see image 25, there's a reference that says -- I'm
13 trying to pinpoint it on the page for you.
14 There's a reference that says:

15 "It may have been prudent
16 to have been downplayed."

17 Do you have any sense of what
18 that is a reference to? It's in the little box up
19 there that the Registrar has just highlighted for
20 us.

21 A. I'm sorry, I don't, no.

22 562 Q. Okay. Do you know if it
23 has any connection to the reference kind of in
24 proximity to it about 2015 serious wet road
25 history?

1 A. I don't. I'm sorry.

2 563 Q. Okay. And then at the
3 bottom of image 25 there's another point and it's
4 at the very bottom and it says:

5 "Council lied, public
6 misled. Council
7 apology."

8 Do you have any recollection
9 as to why you made that note or what it's in
10 reference to?

11 A. I really don't.

12 564 Q. Okay. Registrar, you can
13 take this down and if you can take us into
14 HAM28680 at image 1, please.

15 So, on February 12, 2019,
16 Matthew Van Dongen, who is a reporter at the
17 Hamilton Spectator, e-mails you and Mr. McKinnon
18 under the subject line "Forward MTO friction
19 testing results" and he attaches four graphs
20 summarizing the MTO's friction testing results on
21 the Red Hill Valley Parkway from 2007 to 2014 in
22 his e-mail, and he writes:

23 "Hi, folks. Just
24 received these. Did the
25 City already have access

1 to this info and, if so,
2 any concerns?"

3 Do you recall receiving this
4 e-mail from Mr. Van Dongen?

5 A. I do.

6 565 Q. So, you forward this
7 e-mail to Mr. McGuire and Mr. Soldo, copying
8 Mr. McKinnon, and you say:

9 "See below and please let
10 us know if you have seen
11 this is before. I'm not
12 in the office, so can't
13 check the file, but this
14 format doesn't look
15 familiar to me."

16 And then I believe what
17 follows is some suggestions about how you would
18 respond to the e-mail. To your knowledge, did the
19 City learn about these MTO friction testing from
20 2008 to 2014, so excluding 2007, basically at the
21 same time as the Hamilton Spectator?

22 A. To my knowledge, yes.

23 566 Q. Were you aware of any
24 debate within the City about whether the MTO test
25 results were consistent with the results of the

1 Tradewind testing?

2 A. I don't think so, no.

3 567 Q. Okay. Registrar, can you
4 take us into overview document 10A, image 65,
5 paragraph 149.

6 So, on February 14, 2019, Andy
7 Zimmerman, who is a senior communications officer,
8 social media and marketing, with the City sent you
9 a tweet forwarded from Twitter and he says:

10 "This is the worst I've
11 seen yet. In the clip
12 starting at the one hour,
13 27 minutes, 30 second
14 mark, Councillor Merulla
15 specifically orders Gary
16 (I think it's engineering
17 services head Gary Moore)
18 to say that the surface
19 of the Red Hill Valley
20 Parkway is high quality
21 and Mr. Moore
22 specifically cites 2013
23 friction testing to do
24 so."

25 And he attaches a link and a

1 link to the original tweet. What was
2 Mr. Zimmerman's role in respect of the Red Hill
3 Valley Parkway or the Tradewind report, if any?

4 A. I don't think he had any
5 real role within the Red Hill or the Tradewind
6 report. He was, though, responsible for and
7 monitoring social media and then flagging anything
8 that might be concerning to any communications
9 officer that it was relevant to, so that's what he
10 is doing here.

11 568 Q. Okay. So, he sends you
12 this tweet, which included a clip from a public
13 works meeting on December 7, 2015. Did you click
14 through this and watch the video recording from
15 that public works committee meeting?

16 A. I did not watch the whole
17 thing, but I did watch this clip, yeah.

18 569 Q. Okay. Registrar, could
19 you take us briefly into OD 7, images 73 and 74,
20 paragraphs 231 to 235.

21 So, this is the overview
22 document with respect to the public works
23 committee meeting on December 7, 2015, and you'll
24 see at paragraph 232 there's a reference to
25 Councillor Merulla asking Mr. Ferguson some

1 comments about the asphalt on the Red Hill Valley
2 Parkway, and this is then, these questions are
3 then, advanced to Mr. Moore.

4 Mr. Moore, who was present at
5 the meeting, is asked to elaborate on the quality
6 of the asphalt used. Councillor Merulla asked
7 whether the City used low-grade asphalt in
8 comparison to that used by the MTO in constructing
9 the Red Hill Valley Parkway. Mr. Moore replies
10 that the City had used SMA in the construction of
11 the Red Hill Valley Parkway, which was the MTO's
12 top mix for high-speed freeway-type roadways.

13 Mr. Moore informed the public
14 works committee that the MTO had prepared initial
15 friction testing and received results at or above
16 what the MTO typically expected from high-grade
17 friction mixes. He also informed the public works
18 committee that they had performed subsequent
19 testing five years after, in approximately 2012 to
20 2013, finding that the road was holding up
21 exceptionally well. He stated:

22 "We have no concerns
23 about the surface mix."

24 Is that the section of the
25 meeting that you watched?

1 A. That's correct, yes.

2 570 Q. Were you aware before
3 receiving the e-mail from Mr. Zimmerman that
4 Mr. Moore had addressed the Red Hill pavement and
5 friction testing at a public works committee
6 meeting in December of 2015?

7 A. I was not.

8 571 Q. What was your reaction to
9 learning that Mr. Moore had informed the public
10 works committee in 2015 that the City had
11 completed friction testing in 2013?

12 A. I'm not sure if I had a
13 reaction about the friction testing itself. I
14 was, though, in my head thinking this is
15 additional mixed messaging that we've -- here
16 saying that there are no concerns and then
17 fast-forward to the 2017 article in the Spectator
18 saying that the results are inconclusive. So,
19 just from a communications perspective, my
20 reaction was more about the inconsistent messaging
21 and the public perception side of things.

22 572 Q. What did you do, if
23 anything, after receiving this e-mail from
24 Mr. Zimmerman and reviewing the recording of the
25 public works committee meeting?

1 A. I believe I shared it. I
2 don't know exactly who I shared it with, but I
3 would have shared it with some of the leadership
4 in public works, I assume.

5 573 Q. Do you recall what their
6 reaction was to this video?

7 A. I believe I shared the
8 tweet over e-mail, so I wouldn't have really been
9 able to perceive their reaction.

10 574 Q. Okay. Did you receive
11 any responses when you shared this? Just for your
12 reference, I haven't actually seen an e-mail where
13 you shared this tweet by e-mail.

14 A. Okay. I could be
15 remembering it incorrectly. I really don't
16 remember their reactions.

17 575 Q. Okay. And you don't
18 recall who you approached about this recording?

19 A. I don't.

20 576 Q. Did you reach out to
21 Mr. Ferguson or anyone else who was identified as
22 being present at the public works committee
23 meeting to ask them about it?

24 A. Not that I recall.

25 577 Q. And so, in his e-mail,

1 Mr. Zimmerman says:

2 "It's the worst I have
3 seen yet."

4 Had Mr. Zimmerman advised you
5 of other prior comments about the Tradewind
6 testing or friction testing on the Red Hill Valley
7 Parkway?

8 A. Are you sure that's not
9 the tweet itself?

10 578 Q. I think that it's
11 Mr. Zimmerman, but let's go back and make sure
12 that I'm right about that.

13 Registrar, could you take us
14 to overview document 10A, image 65, paragraph 149.
15 It's entirely possible that I'm reading it wrong.

16 So, he starts it with:

17 "This is the worst I've
18 seen yet."

19 So, I think that's coming from
20 Mr. Zimmerman, but I suppose it could be a
21 reproduction of the tweet?

22 A. His practice was to
23 reproduce the tweet right in the e-mail, so I'm
24 not sure if that's his words or the tweet itself.

25 579 Q. Okay. Fair enough. So,

1 omitting that reference to the worst I've seen
2 yet, had he sent you anything else in terms of
3 prior inconsistent statements about the Red Hill
4 or friction testing?

5 A. He may have. It was,
6 like I said, his practice to share things from
7 social media with the communications officers if
8 he felt that it was warranted to do so, so he may
9 have. I can't recall one way or the other.

10 580 Q. Okay. Registrar, you can
11 take this down and if you can take us into RHV890,
12 please.

13 So, this is an anonymous
14 letter sent to the City auditor and a number of
15 other recipients in March 2019. Did you ever see
16 this document while working as communications
17 officer for the City?

18 A. No.

19 581 Q. Did you know that it
20 existed?

21 A. Just from my preparation
22 for this meeting.

23 582 Q. Okay. Are you the author
24 of this letter?

25 A. No.

1 583 Q. Do you know who wrote it?

2 A. I don't.

3 584 Q. Okay. Registrar, you can
4 take that down and if you could take us into
5 HAM36663, please, at image 1 and 2.

6 On April 10, 2019, you send
7 Mr. McKinnon and Mr. McGuire proposed answers for
8 a series of questions asked by the Spectator.

9 Registrar, can you just call
10 out the very last question on the second page
11 starting, in the FOI documents.

12 So, one of the questions
13 that's being asked is:

14 "In the FOI documents,
15 there is an
16 April 2015/2016 e-mail
17 from Richard Andoga, the
18 guy at Walker Industries,
19 about planned
20 rehabilitation work on
21 the LINC and Red Hill the
22 following year. The
23 e-mail invites Walker
24 Industries to submit a
25 proposal for work that

1 would include testing a
2 500-metre stretch of the
3 road that year. What is
4 this testing? Did it
5 happen? Also, in the
6 e-mail Richard lists the
7 reason for the
8 rehabilitation. One is
9 the objective is to
10 improve skid resistance
11 on the Red Hill Valley
12 Parkway. How was that an
13 objective if no one was
14 aware of the Tradewind
15 report?"

16 And then I believe the red is
17 your draft proposed answer. Is that right?

18 A. I believe so.

19 585 Q. And so, you say:

20 "Again, while we
21 anticipate that the
22 investigation will help
23 to shed more light on
24 this matter, Rick has
25 shared with us that

1 he would have been the source of that last line.

2 Do you have any sense, given that information or

3 evidence from him, as to where this information

4 might have come from?

5 A. I don't remember. Sorry.

6 587 Q. And you also don't have a

7 specific recollection of receiving that

8 information from Mr. Andoga?

9 A. I don't remember talking
10 to him about this specifically, no.

11 588 Q. Okay. Do you know what
12 anecdotal evidence was being referenced in this
13 point?

14 A. I don't know. Sorry.

15 589 Q. Registrar, you can take
16 that down and if you can take us to overview
17 document 10A, image 218, paragraph 568, please.

18 So, on May 22, 2019,
19 Ms. Cameron e-mails Ms. Racine copying you and
20 Ms. Cameron attaches a copy of a document entitled
21 "Preliminary Reconstruction Timeline," writing:

22 "As requested, here is a
23 draft timeline for your
24 11:00 a.m. meeting."

25 And I believe that this is the

1 Excel document that you mentioned earlier today.

2 Was Ms. Racine involved in preparing the

3 chronology?

4 A. I don't think so.

5 590 Q. Do you know why

6 Ms. Cameron was sending her the chronology at this

7 particular point in time?

8 A. I couldn't. Don't

9 remember. No, I couldn't say.

10 591 Q. Registrar, could you call

11 up the timeline for us. It's HAM36955.

12 So, I believe this is the

13 Excel document version of the timeline. Did

14 anyone other than yourself and Ms. Cameron edit

15 this version of the timeline?

16 A. I don't think so.

17 592 Q. What's the purpose of the

18 Commentary/Potential Explanation column in the

19 timeline?

20 And it may be a bit difficult

21 to read, but it's four columns over, Registrar, if

22 you just don't mind calling that out.

23 A. I can't say for sure and

24 since there's no content in it, it's hard for me

25 to --

1 593 Q. Okay.

2 A. -- remember.

3 594 Q. Registrar, do you want to
4 flip over a couple pages and just see if we can
5 see one that has content in it. So, there's one
6 at the very bottom there. I think we can close
7 that out, Registrar. Thank you.

8 And in reference to this
9 comment, March 3, 2018:

10 "Mike Becke asking Gary
11 about Golder review of
12 hot in-place. Mike says
13 we can't use SMA with hot
14 in-place technology."

15 And then there's a comment
16 there to that says:

17 "This doesn't make any
18 sense here."

19 Does that assist you at all
20 about the purpose of this column?

21 A. I think that probably was
22 just -- I often just add a column for like notes
23 to myself when I'm trying to look at things to
24 make sure that the story is getting, you know,
25 together in a way that makes sense to me from a

1 communications perspective, and so it might just
2 have been that purpose. I can't recall, though,
3 specific -- like, I don't know for sure if that's
4 the reason here.

5 595 Q. Okay. Registrar, can you
6 take us back to image 1 of this document, please.

7 So, you'll see at the very
8 top, and it's difficult to read because it's in a
9 fairly dark box at the top, it says:

10 "Diana, see entries."

11 And then there are entries
12 throughout the timeline that are in a similar
13 colour scheme. Are those the entries that
14 Ms. Cameron put in?

15 A. I would think so, yes.

16 596 Q. Okay. Was she inputting
17 that information at your direction?

18 A. She was.

19 597 Q. Did you essentially write
20 out or provide her with the information and then
21 she did the administrative task of including it?

22 A. I think so, yes.

23 598 Q. Okay. What was the
24 purpose of preparing this version of the
25 chronology at this point? So, this one dates to

1 May of 2019.

2 A. I think we were honestly
3 still trying to figure out all of the pieces of
4 this story, and I don't know that this document
5 served any real specific purpose. I think we were
6 trying to be potentially helpful for this process
7 and I don't think that there was anything really
8 beyond that. And it never gets to a final point
9 because things evolved into this inquiry process,
10 and so it wasn't really -- I don't think it ever
11 really had a destination.

12 599 Q. And just for reference
13 back to your earlier evidence, this is the version
14 of the timeline that you're fairly certain you
15 were collecting documents to confirm statements
16 in?

17 A. Yes, and I think you can
18 see that where it says "related reports" in the
19 column second to the right.

20 600 Q. Okay. Thank you very
21 much. Those are all of my questions for
22 Ms. Graham today.

23 JUSTICE WILTON-SIEGEL: Okay.
24 So, if I understand correctly, Dufferin is not
25 present. Counsel for Golder does not have any

1 questions. Is that correct?

2 MS. RAMASWAMY: I confirm,
3 Mr. Commissioner, that we don't have any
4 questions.

5 JUSTICE WILTON-SIEGEL: Okay.
6 And counsel for the MTO, Ms. McIvor, you have no
7 questions either?

8 MS. MCIVOR: That's correct,
9 Mr. Commissioner.

10 JUSTICE WILTON-SIEGEL: Okay.
11 So, that leaves Ms. Talebi as counsel for the
12 City, who I believe does have some questions.

13 MS. TALEBI: Thank you,
14 Mr. Commissioner. We had indicated to
15 Ms. Bruckner earlier that we did have five to
16 ten minutes of questions, but we actually don't
17 have any further questions for this witness.
18 Thank you.

19 JUSTICE WILTON-SIEGEL: Thank
20 you. That's a very quick five minutes.

21 Then, first of all,
22 Ms. Graham, thank you for attending the hearing
23 and providing your testimony. You're excused.

24 And for the rest of counsel, I
25 believe we now stand adjourned until 9:30 tomorrow

1 morning. Have a good evening.
2 --- Whereupon the proceedings adjourned at
3 3:07 p.m. until Thursday, September 29, 2022
4 at 9:30 a.m.

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