

RED HILL VALLEY PARKWAY INQUIRY

TRANSCRIPT OF PROCEEDINGS
HEARD BEFORE THE HONOURABLE
HERMAN J. WILTON-SIEGEL
held via Arbitration Place Virtual
on Wednesday, October 19, 2022 at 9:32 a.m.

VOLUME 71

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Delna Contractor Sahar Talebi	For City of Hamilton
Heather McIvor	For Province of Ontario
Jennifer Roberts	For Golder Associates Inc.

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1 Arbitration Place Virtual

2 --- Upon resuming on Wednesday, October 19, 2022

3 at 9:32 a.m.

4 MS. LAWRENCE: Good morning,
5 Commissioner. I don't believe the court reporter
6 has affirmed the witness.

7 AFFIRMED: GORDON MCGUIRE

8 EXAMINATION BY MS. LAWRENCE:

9 Q. Mr. McGuire, good
10 morning. I want to start with some questions
11 about your professional background, employment
12 history and education. When did you first join
13 the City of Hamilton?

14 A. I joined the region I
15 believe in 1994, which became the City of Hamilton
16 in 2000, 2001, something like that.

17 Q. You are now retired from
18 the City; is that correct?

19 A. That's correct.

20 Q. When did you retire?

21 A. At the end of 2021.

22 Q. Are you working in any
23 other position now?

24 A. No, I'm not.

25 Q. Prior to retiring you

1 were the director of engineering services within
2 public works?

3 A. That's correct.

4 Q. I understand that you
5 first held that role on an interim basis from
6 May 2018 and then after a recruitment process you
7 were successfully hired into that role permanently
8 in June 2018; is that right?

9 A. That's correct.

10 Q. Before taking on that
11 role you were the manager of geomatics and
12 corridor management?

13 A. Correct.

14 Q. When did you start in
15 that role?

16 A. Oh, 2004 or 5, something
17 like that.

18 Q. I have 6, but sometime
19 around then?

20 A. Sure.

21 Q. Okay. Prior to becoming
22 the interim --

23 MS. JENNIFER ROBERTS: Good
24 morning. I couldn't log in. Forgive me.

25 JUSTICE WILTON-SIEGEL: That's

1 quite all right. I understood that you were on
2 the line, so we better make sure that doesn't
3 happen again.

4 BY MS. LAWRENCE:

5 Q. Prior to becoming the
6 director of engineering in that interim period in
7 May of 2018, I understand that your role as
8 manager of geomatics and corridor management
9 expanded to included some of the portfolio that
10 was within the then current director's scope; is
11 that right?

12 A. That's correct.

13 Q. And can you tell me a
14 little bit more about how your role expanded,
15 which I believe happened in about January of 2018.

16 A. Yeah, the pressures I
17 believe on the division at the time were the
18 commencements of the LRT, which was taking more of
19 Gary Moore's time, the existing director. At the
20 same time there was a requirement for the
21 development of an asset management policy, a
22 sustainable asset management policy. So the
23 transition period was for me to spend some time at
24 sort of the front end, the programming end with
25 the asset management and the budgeting folks,

1 while the other part of the division, the
2 construction and design, remained with Gary.

3 Q. Did that expanded
4 portfolio include a title change?

5 A. I don't believe it did.
6 I think it was -- yeah, just still at the manager
7 level.

8 Q. So you said that you
9 joined the region in 1994 and you took over the
10 manager of geomatics role in 2004, 2006. What
11 other positions did you hold within the City in
12 that period of time between 1994 and the
13 mid-2000s?

14 A. So I'm a material land
15 surveyor. I spent some time when I first started
16 in the field, which is quite a long time ago, at
17 the technologist level. I was at a project
18 manager level, a senior project manager level, and
19 then worked my way to the manager level across
20 that timeframe.

21 Q. Was that always within
22 the division that by 2006 was known as geomatics
23 and corridor management?

24 A. So the division would
25 have been engineering services. The section would

1 have been surveying, or surveying and mapping,
2 which became I believe geomatics later on.

3 Q. Thanks. So my questions
4 today are going to focus both on your time when
5 you were manager of geomatics and corridor
6 management and when you were director of
7 engineering services.

8 So starting with the manager
9 of geomatics and corridor management role. Who
10 did you report to in that role?

11 A. I reported to the
12 director of engineering services, and at the time
13 that was Gary.

14 Q. Okay. And I would like
15 to ask who reported to you, but just to be able to
16 assist you in being able to answer that question I
17 do have an organizational chart which might
18 assist.

19 Registrar, could you bring up
20 RVH679, image 15, please. I think that's the
21 document that I want. Give me a second.

22 That document is a compilation
23 of a number of other documents. I'm going to go
24 directly into the underlying documents.

25 Registrar, HAM56572 at

1 image 15.

2 So just before we get into
3 this document, Mr. McGuire, just so that we can
4 check that your screen is set up, can you see both
5 the screens where I am or you are or
6 Ms. Contractor is and where the commissioner is
7 and also the complete document that is up?

8 A. So directly in front of
9 me is the panel with -- I'm looking at the org
10 chart, and to the right is the panel with the
11 camera and the --

12 Q. Fantastic. I just wanted
13 to make sure that you could see both at the same
14 time.

15 So this is a public works
16 organizational chart which I believe is from
17 March 2015. It's one of the ones that happens to
18 have the geomatics and corridor management
19 organization from below you. So it's 2015
20 somewhat randomly, but I thought it might be of
21 assistance in answering the question of who
22 reported to you within geomatics and corridor.

23 A. Okay. Do you want me to
24 go through each position and what their roles were
25 or do you want me -- I can confirm that that

1 appears to be the structure that was in place
2 around that time.

3 Q. Did that structure change
4 fundamentally in terms of the different managers
5 and their portfolios underneath you?

6 A. In the -- during the
7 transition phase?

8 Q. While you were manager of
9 corridor management -- pardon me, geomatics and
10 corridor management?

11 A. So there's -- I mean
12 there's an evolution or kind of a constant change
13 in aspects to what's within your section and not,
14 so I'm not sure I'm answering your question but --
15 so I mean, if you look at the manager of special
16 project GIS, that little -- that was with me for I
17 think 18 months and then it moved off to somewhere
18 else.

19 So that took place on a
20 fairly -- not a regular basis but an ongoing
21 basis.

22 Q. So perhaps we'll address
23 it like this. Over time did the bullet points
24 that were underneath the manager roles -- for
25 example, surveying, modelling, dealing with it

1 seems like coordinations and consents, permitting,
2 those sorts of things -- is that the bread and
3 butter of geomatics and corridor management?

4 A. Yeah, I would say yes.

5 Q. And maybe more generally,
6 what is this section responsible for within
7 engineering services?

8 A. So starting at the top, I
9 mean, so the engineering and legal surveying for
10 the generation of the plans, the CAD files, the
11 models that create the backdrop for capital
12 programming for underground work and capital work.

13 So then alongside of that
14 would be the legal surveys for land acquisition or
15 disposals or expropriations. Fairly heavy on
16 systems, so a lot of CAD and a lot of GIS systems.
17 That reference to the drawing management tool
18 below, Prism, so a record or archival solution.
19 And then on the other side there's the street
20 lighting and some traffic planning, traffic
21 management.

22 Q. The inquiry has heard
23 over time that there was reorganizations within
24 public works. Did you consistently have a traffic
25 planning group under this section?

1 A. No. The traffic planning
2 group was part of a reorganization -- I don't
3 recall the timeframe -- that brought the street
4 lighting group in as well.

5 Q. Was it around 2013 when
6 Hart Solomon left? There was a large
7 reorganization around that time.

8 A. Yeah, that seems to make
9 sense.

10 Q. Okay. And from that
11 point on street lighting or lighting issues fell
12 under your portfolio?

13 A. Correct.

14 Q. The inquiry has heard
15 that the other sections within engineering
16 services, asset management, design and
17 construction, they sort of flow in terms of a work
18 flow of a capital project. Where did geomatics
19 and corridor management fit into the work flow of
20 setting a scope and budgeting and then design and
21 then construction? Where does geomatics fit into
22 that?

23 A. So geomatics would really
24 be more of a service section. Asset management
25 would be developing the program. Together with

1 inputs from Hamilton water and our development
2 group, we would get their program assigned or
3 contract out the required work to acquire the
4 field data, and then generate the plans and
5 utility coordination and things that were required
6 at that time.

7 Q. So I take from that that
8 much of that happened at the same time as asset
9 management was dealing with the initiation of a
10 project, or was it throughout the project?

11 A. So the work flow would be
12 as asset management generated the program. This
13 section would start the data acquisition and the
14 building of the files in order to move to the next
15 phase, which is design.

16 Q. Registrar, you can take
17 this down.

18 Prior to 2013 did you have any
19 involvement in -- well, in fact perhaps I'll say
20 prior to 2008, did you have any involvement in the
21 construction of the Red Hill.

22 A. No, I did not.

23 Q. Prior to 2013 did you
24 have any involvement in any projects related to
25 the Red Hill once it was constructed?

1 A. Not that I can recall. I
2 mean, we may have done some field work for -- if
3 there was some work to be done, but I don't recall
4 a project being done out there that we were
5 involved in.

6 Q. You said earlier that
7 Mr. Moore was the director of engineering while
8 you were the manager of geomatics and corridor
9 management. How much oversight did Mr. Moore have
10 over your department?

11 A. So Gary was the director.
12 When you're asking how much oversight --

13 Q. How involved was he in
14 the work of your section?

15 A. He wasn't deeply involved
16 in it. It was work that I generally took on and
17 advised him of where we were headed and made
18 sure -- I mean, we would meet regularly to ensure
19 that we were complying with the requirements or
20 the scheduling, but he wasn't -- you know, he
21 wasn't in our section asking us about what we're
22 doing with our CAD systems or what we're doing
23 with our field data collection, et cetera.

24 Q. And he didn't have a
25 background in surveying or geomatics in the way

1 that you do; is that right?

2 A. Correct. I mean, Gary
3 did understand the CAD systems and that quite
4 well, and one of the other elements that we did a
5 fair bit of work on was the utilities. The third
6 party management, Gary was involved in that quite
7 a bit. So parts of the section we were -- we were
8 very intertwined with Gary on that.

9 Q. I'm going to move now to
10 the role of director of engineering. I'll have
11 some more specific questions about that transition
12 into that role once we get there in that
13 chronology, but just at a high level regarding
14 that role, when you took on the role of director
15 of engineering services who did you report to?

16 A. The general manager of
17 public works Dan McKinnon.

18 Q. We've talked a little bit
19 about the various divisions within engineering
20 services: geomatics, asset management, design,
21 construction. Are those the division -- pardon
22 me, the section heads that all reported to you?

23 A. Correct. There was also
24 waterfront -- a Hamilton waterfront section that
25 was in the engineering division as well, or still

1 is.

2 Q. I'm going to turn now to
3 2013. Registrar, can you bring up OD6, page 8 and
4 9, please.

5 Mr. McGuire, again just a
6 technical test, can you see both the images that
7 are up plus the screens where our video images
8 are?

9 A. Yes, I can.

10 Q. Great. Registrar, could
11 you call out paragraph 11, please.

12 In January of 2013 the public
13 works committee passed a motion which is set out
14 here, a motion that staff were directed to
15 investigate upgrading the lighting on the Red Hill
16 in the vicinity of the Mud/Stone Church Road
17 interchanges and directed to investigate better
18 reflective signage and lane markings to assist
19 motorists in the same area, and that a full
20 costing of all options and alternatives be
21 presented to committee for their consideration.

22 Do you recall being aware of
23 this motion when it was passed?

24 A. I don't directly recall
25 it now, but I do recall a number of motions or

1 inquiries around lighting on the Red Hill.

2 Q. At the time I think we
3 established that lighting fell under geomatics; is
4 that right?

5 A. I'm not sure of the exact
6 transition date. This is early in 2013 and I
7 don't know when lighting came over to geomatics,
8 but -- again I'm not definite on that.

9 Q. Okay. You certainly at
10 some point get involved so perhaps as we go
11 through you can confirm that this would have
12 fallen under your portfolio.

13 The inquiry has heard evidence
14 via testimony from Mike Field, and he worked in
15 the lighting group within geomatics; is that
16 right?

17 A. Yeah, correct.

18 Q. And he reported to you?

19 A. Correct.

20 Q. How large was the
21 lighting group at that time in 2013?

22 A. If it was -- and I'm
23 casting my mind back here, but I think it was
24 Mike Field and Peter Locs, I think it was two.

25 Q. Prior to this motion in

1 January of 2013 and in the preceding year since
2 the Red Hill opened were you aware of any public
3 concerns about lighting or lack of lighting on the
4 Red Hill?

5 A. No, I don't -- I don't
6 believe I was.

7 Q. Registrar, you can close
8 this callout, and if you can go to paragraph 12
9 and call that out. If you can call out the top of
10 page 9 as well, paragraph 12.

11 So on the same day that the
12 motion passed public works Mr. White, who was in
13 traffic operations and engineering which at the
14 time was in energy fleet and traffic at that
15 department, so not within geomatics; is that
16 right?

17 A. Correct.

18 Q. He e-mailed Mr. Gallo,
19 who I believe was also in his section, and you to
20 advise you about a decision -- about the decision,
21 that is the motion, and to suggest that Hamilton
22 hire a consultant to carry out the work. So at
23 this time he is -- Mr. White is e-mailing you.
24 Does that provide some refreshment of your memory
25 about lighting being within geomatics?

1 A. So yeah, I'm aware that
2 lighting was in geomatics and -- okay.

3 Q. You had said earlier that
4 you weren't sure when it came into -- under your
5 portfolio, and I'm going to suggest Mr. White
6 wouldn't have been reaching out to you if you
7 weren't the manager who wasn't responsible for
8 street lighting at the time. Does that make sense
9 to you?

10 A. Fair.

11 Q. Registrar, could you
12 close this down. And if you can call out
13 paragraph 13, please.

14 So the overview document
15 doesn't show it, but you actually flip Mr. White's
16 e-mail to Mr. Field, and Mr. Field responds on
17 January 17th and he says -- he responds and he
18 copies you and he copies Gary Kirchknopf, and he
19 says:

20 "After discussing this with
21 Gord and Gary, it is our
22 opinion that the safety issues
23 should be reviewed
24 holistically....and the
25 consultant's scope should

1 encompass street lighting
2 review and baa countermeasure
3 benefits would be attributed
4 to adding lighting. As you
5 can imagine, adding lighting
6 would be supremely
7 expensive...." (As read)

8 And then he goes on to say:
9 "If traffic is going to
10 proceed with contracting a
11 consultant, then please
12 include me in the conversation
13 to assist in defining the
14 project scope." (As read)

15 So stopping there, do you
16 recall having discussions with Mr. Kirchknopf and
17 Mr. Field about how engineering services should
18 best approach responding to this motion?

19 A. No, I don't.

20 Q. Mr. Kirchknopf at the
21 time was a senior project manager in traffic
22 planning within geomatics and corridor management.
23 Do you recall how his role within your section
24 differed from the work that those in traffic
25 operations and engineering were doing?

1 A. Yeah, fundamentally a lot
2 of work that the group within Gary Kirchknopf's
3 section was doing, or his team, was related to
4 development, you know, new development,
5 development planning, not existing traffic
6 systems.

7 Q. Just so that -- that's a
8 helpful way to distinguish. In terms of
9 involvement in new development and planning, how
10 does new development affect traffic planning and
11 what was -- what were they actually doing within
12 that group?

13 A. So there was a few folks
14 in the team. If someone proposed a new
15 subdivision or commercial building, issues like
16 the traffic generation, what was going to take
17 place for driveways, driveway accesses, things
18 like that, that is what this team would have been
19 reviewing.

20 Q. I see. And did
21 Mr. Kirchknopf have a background in traffic
22 operations and engineering as well?

23 A. Yeah, I believe he did.

24 Q. Do you recall why
25 Mr. Field attributes to himself and to you and to

1 Gary that it's your opinion that the safety issue
2 should be reviewed holistically?

3 A. No, I don't.

4 Q. When Mr. Field asked to
5 be included in the conversation about defining
6 project scope did you anticipate you personally
7 having involvement in the project going forward or
8 would you have left that to Mr. Field?

9 A. I would have left this to
10 the folks running it, Mike and Gary.

11 Q. What would -- to your
12 expectation what would Mr. Kirchknopf's role be in
13 that project?

14 A. Gary's got a traffic
15 background. I'm not sure -- I don't know beyond
16 what the first callout was referring to, what else
17 is involved in this assignment so --

18 Q. Okay. Would you expect
19 or did you understand that the motion would
20 involve both dealing with traffic safety issues
21 and lighting?

22 A. No, I don't.

23 Q. Okay. Registrar, you can
24 close this callout.

25 We know that CIMA was

1 ultimately retained to prepare a report following
2 this motion. Were you involved in the discussions
3 internally within the City about the scope of the
4 project?

5 A. I don't recall that.

6 Q. Were you involved in any
7 discussions internally about the lighting
8 component?

9 A. Again, I don't recall
10 that.

11 Q. When CIMA's work -- the
12 scope of CIMA's work was defined did Mr. Field or
13 Mr. Kirchknopf update you about what CIMA was
14 going to be looking at?

15 A. I don't recall getting
16 any -- I don't recall the updates that may have
17 taken place.

18 Q. Okay. And I suspect I'll
19 ask you this a number of times. When you say I
20 don't recall, does that mean you don't remember
21 one way or the other or you're confident that it
22 didn't happen?

23 A. I don't remember one way
24 or the other.

25 Q. Did you attend any

1 meetings internally with the project team to
2 discuss CIMA's work as it progressed?

3 A. I don't recall.

4 Q. Do you recall any --
5 attending any meetings with CIMA during this
6 project?

7 A. No, I don't recall that.

8 Q. Is that one where you
9 have confidence that you did not or you just don't
10 remember either way?

11 A. I don't remember either
12 way.

13 Q. Did you receive updates
14 from Mr. Field as the project progressed?

15 A. I don't recall that.

16 Q. Okay. Knowing you as you
17 do and your practices as role as manager, would
18 you expect to receive updates from Mr. Field as
19 the project progressed?

20 A. Yeah, I would.

21 Q. What kind of updates and
22 how regularly would you expect to receive them?

23 A. So Mike was pretty
24 thorough in identifying his work plan and what was
25 on it and what elements were being addressed

1 through his staff and the contractors, so he would
2 provide that kind of update on a regular base. I
3 don't have recollection of, you know, the
4 particulars of each work plan or each work plan
5 submission.

6 Q. So I think you answered
7 the part about what kind of updates, but -- I
8 think, but on this particular project what sort of
9 updates would you be expecting?

10 A. Regular updates, whatever
11 transpired that may potentially impact the budgets
12 or contracts in the future.

13 Q. Okay. Did you have
14 regularly scheduled check-ins with Mr. Field?

15 A. I don't recall that.

16 Q. Was it part of your
17 management style at the time to have scheduled
18 check-ins with those who reported directly to you?

19 A. So looking at -- I'm
20 looking at the top of paragraph 13 and I see when
21 Mike and Peter came over, I believe they came over
22 at the PM level, the project manager level. I
23 think at this point in time he's reporting up to
24 Gary Kirchknopf. In the future we kind of grow
25 the street lighting section a bit more and Mike

1 becomes an SPM. So I don't know if he's directly
2 reporting to me at this moment in time or coming
3 back up through Gary.

4 Q. Okay. Fair enough.
5 Registrar, could you go to page 35, please. Could
6 you call out paragraphs 75 to 77.

7 So we don't see anything to
8 suggest that you were involved with some of the
9 project initiation on this, but there was a
10 project initiation which included a PowerPoint
11 presentation and minutes of meetings with CIMA,
12 and that progresses in the usual course of these
13 projects -- process update meetings and then
14 minutes coming from that.

15 In July Mr. Kirchknopf
16 e-mailed Mr. Applebee, who is at CIMA, regarding
17 mainline pavement treatment on the Red Hill
18 arising out of discussions about CIMA's
19 recommendations or preliminary recommendations to
20 this point. And Mr. Kirchknopf says:

21 "Regarding the Red Hill Valley
22 Parkway mainline pavement
23 treatment, please be advised
24 that the City's asset
25 management section has

1 retained Golder Associates to
2 oversee all testing and
3 monitoring of this specialized
4 surface material. Please
5 contact Ludomir directly
6 should you require any
7 additional information
8 regarding weight in motion or
9 friction testing or friction
10 testing on the RHVP mainline."

11 Just stopping there and noting
12 that you are not copied on this e-mail, were you
13 aware in July 2013 that asset -- the asset
14 management section had retained Golder to conduct
15 or to oversee all testing and monitoring of the
16 surface material on the Red Hill?

17 A. No, I was not.

18 Q. Had you worked with
19 Golder or with Ludomir Uzarowski before July 2013?

20 A. No. No, I had not.

21 Q. Were you aware of the --
22 what Mr. Kirchknopf calls the specialized surface
23 material, that is that the Red Hill was
24 constructed using stone mastic asphalt?

25 A. No, I was not.

1 Q. You're not a materials
2 guy in terms of your background?

3 A. No, not from -- not in my
4 background.

5 Q. I actually don't think I
6 asked you. What is your educational background?

7 A. I have a bachelor of
8 science from University of Toronto in surveying
9 and I'm a registered Ontario land surveyor.

10 Q. I know you said the
11 latter; I wasn't sure if you said the former.

12 Were you aware in July of 2013
13 that Mr. Moore in particular had retained Golder
14 to conduct a review of the condition of the Red
15 Hill?

16 A. No, I was not.

17 Q. Registrar, you can close
18 this down. If you could pull out paragraph 77
19 particularly. Thank you.

20 So this is the same day. It's
21 July of 2013. Mr. Field forwarded Mr. Applebee's
22 message, which was a PowerPoint presentation and
23 minutes, to Mr. Moore, to you, and to
24 Mr. Kirchknopf. Recognizing you're not exactly
25 sure about the reporting structure, do you know

1 why Mr. Field sent these slides and minutes to all
2 of Mr. Kirchknopf and you and to Mr. Moore?

3 A. No, I don't.

4 Q. Was that his usual
5 practice, to forward these sorts of documents to
6 not only his immediate supervisor, but also up the
7 chain?

8 A. Are you asking if Mike
9 routinely sent everybody all the details from the
10 meeting? Mike would send information when I think
11 he thought it was relevant for people to either
12 get a copy of or just further information.

13 Q. That seems like a good
14 practice. Do you know why he did so in this case,
15 including Mr. Kirchknopf, you and Mr. Moore?

16 A. No, I don't. Isn't
17 Mr. Kirchknopf on the first distribution?

18 Q. He is. He received
19 Mr. Applebee's initial copy of the PowerPoint
20 presentation and the minutes. And you had said
21 Mike would send information he thought was
22 relevant to people to either -- for copy or for
23 further information, and I'm just wondering if you
24 know why he sent these to you and to Mr. Moore?

25 A. No, I don't.

1 Q. Do you recall having any
2 discussions with Mr. Field after he sent you the
3 PowerPoint presentation and minutes?

4 A. No, I do not.

5 Q. Did you review the
6 PowerPoint presentation and minutes when he sent
7 them to you?

8 A. I can't recall.

9 Q. Registrar, you can close
10 this callout.

11 The slides reference the
12 collision review that CIMA has conducted, at least
13 at a preliminary level.

14 Registrar, can you go to
15 HAM51990, please, and to image 2, please.

16 So this is sort of an overall
17 summary of the recap of findings and it references
18 the collision analysis results as being a high
19 proportion of SMV, single motor vehicle accidents,
20 collisions in non-daylight conditions and
21 collisions in wet road surface conditions. Did
22 Mr. Field convey to you any of these results of
23 this collision analysis?

24 A. I can't recall.

25 Q. Do you recall in 2013

1 being aware even anecdotally that there was a high
2 proportion of some kinds of accidents on the Red
3 Hill?

4 A. I'm not sure when I was
5 aware or when that knowledge was acquired, but
6 across the course of time I am aware that the Red
7 Hill was perceived as having higher than -- or a
8 higher accident rate or collision rate.

9 Q. Registrar, you can close
10 this.

11 I'm not going to take you
12 through those slides. There's a lot of different
13 recommendations that deal with signage and
14 installation of beacons or a number of different
15 things that I think would fairly fall under the
16 scope of traffic engineering and operation.

17 There's also a preliminary
18 recommendation to do friction testing. Do you
19 recall learning that either through viewing the
20 slides or from Mr. Field at the time in July of
21 2013?

22 A. No, I do not.

23 Q. Was Mr. Moore involved in
24 this work with CIMA to your knowledge?

25 A. I don't -- I don't have

1 that knowledge. I would expect he is but that's
2 just -- that's just a -- yeah, a bit of a guess.

3 Q. Why would you expect that
4 Mr. Moore would be involved in this project given
5 his role?

6 A. I mean, the Red Hill was
7 opened in 2007. I think there was still -- you
8 know, Gary still had sort of a relationship with
9 that road so I would expect that traffic would be
10 consulting with him or Marco or whoever was part
11 of the original group that was the constructors.

12 Q. Did you have a perception
13 at the time in 2013 that Mr. Moore still had
14 his -- still wanted to be involved in any issues
15 that addressed the Red Hill?

16 A. I didn't have a
17 perception that he wanted to be involved. I had
18 the understanding that he was, as a part of the
19 background that he -- I mean, the constructor had
20 kind of been involved in it from its inception.

21 Q. And when you make that
22 distinction between wanting to and being involved
23 do you mean other people brought him into issues
24 around the Red Hill?

25 A. I don't know -- I can't

1 define whether Gary wanted to or not. I just know
2 that it was part of some of the ongoing things
3 that he would be doing.

4 Q. Okay. Would his
5 involvement in a project like this at this level
6 where there is a project manager involved, would
7 that be something that was typical for Mr. Moore,
8 sort of getting involved in the weeds at that
9 level?

10 A. I don't -- I don't think
11 it would be typical, but again the Red Hill is a
12 large asset so -- if we were doing, you know, like
13 a large tunnelling project or a large structures
14 project or an escarpment crossing or something
15 that was significant I would expect that he would
16 get involved in that, but not in kind of some
17 position (ph) work or something along those lines.

18 Q. As this project came from
19 the councillors via motion and then into CIMA
20 being retained and through the process of CIMA's
21 work, do you recall having discussions with
22 Mr. Moore about his views on illumination on the
23 Red Hill?

24 A. In 2013 no, I don't
25 recall having those conversations.

1 Q. Again, is that you can't
2 remember either way or --

3 A. Yeah, I can't remember
4 either way.

5 Q. Registrar, can you go to
6 CIM22409, please, image 9. I'll give you that
7 again just in case -- oh. Registrar, could you
8 call out the text on that page.

9 This is from the notebooks of
10 Mr. Malone at CIMA and as -- it's not transcribed,
11 but it reads "Golf, Gord McGuire and Gary Moore."

12 Registrar, you can close this
13 down. It's dated August 20, 2013. You can close
14 this out now, thank you.

15 When did you first meet Brian
16 Malone?

17 A. I think -- was Brian not
18 an employee of the City at one point in time
19 before he left for private sector?

20 Q. He was. Did you know him
21 when he was an employee at the City?

22 A. I think our paths crossed
23 or I had met him at one point. I also knew his
24 wife Betty. So -- yeah, I was familiar with
25 Brian. I'm not exactly sure at what point in time

1 in the timeline that I knew him.

2 Q. Did you retain CIMA on
3 any projects while you were manager of geomatics
4 and corridor management?

5 A. I don't believe I did.

6 Q. Did you ever golf with
7 Mr. Malone and Mr. Moore as implied by that note?

8 A. I can't recall golfing
9 with Brian and Gary in 2013. I do know that we
10 were at a couple of OBWA events sort of more
11 recent in time, but no, I don't recall anything in
12 2013.

13 Q. Are you confident that
14 that did not happen or you just can't recall?

15 A. I can't recall.

16 Q. Do you recall having any
17 discussions over golf or otherwise with Mr. Malone
18 and Mr. Moore about the Red Hill or the LINC in
19 2013?

20 A. No, I don't.

21 Q. I asked you about both
22 Mr. Malone and Mr. Moore. Do you recall having
23 any conversation directly with Mr. Malone in 2013
24 about the Red Hill?

25 A. No, I do not.

1 Q. Registrar, can you go to
2 OD6, page 62. Could you call out 157, please.

3 So we're now in October of
4 2013 and CIMA has progressed through its work to
5 provide preliminary recommendations and work
6 towards a report to be presented to staff, and
7 thus staff is working towards a staff report to be
8 provided back to public works committee. In terms
9 of working with consultants, that's not surprising
10 to you that that would be the process?

11 A. So your -- I mean, the
12 consultants provided us a report. We're going
13 to -- the staff are going to repackage it and
14 bring it forward as a staff report.

15 Q. Yes. That's not atypical
16 when dealing with consultants?

17 A. No, it's not.

18 Q. Mr. Cooper, who was in
19 the traffic operations and engineering group and
20 was involved from that section with the CIMA
21 project, he sent a 10-page draft of a staff report
22 to Mr. Field noting that the report was due that
23 day. Mr. Field then forwarded the report to you
24 and Mr. Kirchknopf and Mr. Locs, who I think you
25 mentioned before, and you'll see here his title at

1 the time was project manager, street lighting
2 infrastructure management.

3 Registrar, you can close the
4 callout.

5 Do you recall receiving a copy
6 of a draft staff report involving the 2013 CIMA
7 project in October?

8 A. No, I don't.

9 Q. Casting your mind back in
10 time to your working relationship with Mr. Field
11 in 2013, do you know why he was sending it to you?

12 A. So going back a ways, I'm
13 assuming or understand or believe that Mike would
14 forward me and Gary and Peter this if it meant
15 something to the street lighting infrastructure,
16 whether it was an addition or just a neutral
17 position or something in the future.

18 Q. So recognizing that this
19 is a project that crosses between traffic
20 engineering and operations and street lighting or
21 lighting, that is Mr. Cooper is on it and
22 Mr. Field is also reviewing this draft, what was
23 your role as Mr. Field's immediate or indirect
24 boss in finalizing staff report?

25 A. I don't believe I had a

1 role in finalizing the staff report. I think it
2 was provided to us to kind of as an information
3 item and Mike would have handled most, if not all,
4 of the back and forth with the consultant.

5 Q. I understand all the back
6 and forth with the consultant but now we're at the
7 point where there's going to be report to the
8 public works committee. And so once you get to
9 that level, and recognizing this may have been an
10 unusual circumstance because of the involvement of
11 traffic engineering and operations, how did you
12 view your role in getting staff reports to the
13 public works committee?

14 A. So my role in getting a
15 traffic -- traffic engineering report to public
16 works committee?

17 Q. Well, I recognize that
18 this might be an unusual circumstance compared to
19 one that was -- where a staff report was done just
20 by your section, but in this circumstance what did
21 you view your role to be in finalizing the staff
22 report, if any?

23 MS. CONTRACTOR: I don't think
24 I understand the question -- I'm just confused as
25 to what the question is.

1 MS. LAWRENCE: The question is
2 I'm trying to understand what he thought his role
3 would be. He said he didn't have a role and I'm
4 trying to understand if he thought that there was
5 any role for him.

6 MS. CONTRACTOR: Okay.

7 THE WITNESS: At this point I
8 don't believe -- yeah, I think this is going
9 forward with, you know, as a report from another
10 division with some information that I'm assuming
11 or that Mike and Peter have provided input on.

12 BY MS. LAWRENCE:

13 Q. Registrar, can you go to
14 HAM41767. So this is the staff report that
15 Mr. Cooper forwarded.

16 Could you bring up the next
17 image as well, please. Registrar, could you
18 actually bring up image 2 and image 3, please.
19 Apologies, I'm just looking for the particular
20 section because I'm not seeing it. Just give me
21 one moment. Thank you. Registrar, could you pull
22 up the bottom of image 2 and the very top of
23 image 3, the bullet points.

24 So this is a reference --
25 again this is not your drafting -- a reference to

1 the scope of a study that CIMA had conducted. And
2 you'll see it has the first four bullets relate to
3 traffic volume, speed, collisions, signs and
4 marking, human factors and roadside safety. These
5 are all things that are very much traffic
6 operations and engineering portfolio. And then
7 the next is review of illumination in specific
8 areas only, i.e., not through the study area.

9 So just stopping there. Did
10 you understand by this point in the project that
11 CIMA was not reviewing or assessing continuous
12 illumination of the study area in this project?

13 A. No, I don't think I was
14 involved at the project in those specific details.

15 Q. Registrar, you can close
16 this callout.

17 So recognizing those are quite
18 specific details, the distinction between
19 assessing continuous illumination of the entire
20 study area, which is set out in the diagram or the
21 map on image 2, versus at very specific areas,
22 seems to be a pretty critical difference when it
23 comes to the lighting component of this study.

24 Do you recall having any
25 discussions with Mr. Field over time about the

1 decision or -- the decision to not consider
2 continuous illumination?

3 A. No, I don't.

4 Q. Registrar, could you go
5 to images 7 and 8, please. If you can call out
6 the bottom of image 7 underneath the table.

7 One of the references in this
8 draft staff report to lighting is the lighting on
9 the westbound Mud Street onramp which is
10 referenced as having the highest benefit coast
11 ratio for the entire segment under review. And it
12 says when the RHVP was originally constructed it
13 was decided not to provide lighting due to
14 environmental/ecosystem concerns. As such --
15 there's a comma in the wrong place. As such,
16 staff prefers to defer this option as there have
17 been some significant recent changes to signing on
18 the ramp prior to the beginning of this review.
19 And then it goes on to say we want to wait some
20 time to see if that -- those changes would be
21 effective.

22 Stopping there. In 2013 what
23 did you understand, if any -- what was your
24 understanding, if any, of the decision when the
25 Red Hill was made about whether and how to

1 illuminate?

2 A. I don't know in 2013 what
3 my level of knowledge would have been on this. So
4 I recall I think it was -- I don't know where we
5 are in 2013. We had sort of a reorganization.
6 I've got the lighting group. Mike Field I think
7 has been involved in the lighting area for a
8 number of years. He was with Hart prior to that.
9 So I rely on him for whatever as being proposed or
10 dealt with on the lighting. At this point in time
11 I don't think have knowledge about what the --
12 either the project or the history of the project
13 with respect to lighting.

14 Q. Recognizing you said I
15 don't have much knowledge about the project or the
16 history of the project, just so that I'm clear,
17 you mean the project to construct the Red Hill or
18 do you mean the 2013 CIMA project?

19 A. Both.

20 Q. And so I think what I'm
21 hearing your evidence is is that you didn't have
22 any information either way about why the Red Hill
23 was lit in the way that it was when it was
24 constructed in 2013; is that right?

25 A. Yeah, that's a fair

1 assessment of what I recall at this moment in time
2 looking back to 2013.

3 Q. You don't recall having
4 discussions with anyone about the circumstances
5 around construction in 2013?

6 A. No, not in 2013 I don't
7 believe I had those conversations, but I know we
8 had conversations as we moved forward in time but
9 by the best of my recollection they hadn't
10 occurred at this time.

11 Q. Thank you. Registrar,
12 you can close this and close this down. Other
13 than -- you can close the callout and you can
14 close the document.

15 Other than the e-mail from
16 Mr. Field that we started -- we just looked at a
17 moment ago, were you involved in the drafting of
18 the staff report that was eventually presented to
19 the public works committee?

20 A. I don't recall.

21 Q. I have no -- there's no
22 documents that the inquiry has received to suggest
23 that you were. Does that refresh your memory
24 about whether you were or not?

25 A. Well, I don't want to

1 give you a definitive no because I don't recall,
2 so I don't recall. I don't believe that I had any
3 input into it but that's my memory at this point
4 in time.

5 Q. Okay. The report which
6 was PW13081 was presented to the public works
7 committee on November 18, 2013, and the inquiry
8 has a video recording of that meeting.

9 When Mr. Lupton testified he
10 identified a number of staff who were sitting in
11 the council room during that committee meeting and
12 he identified you as one of the City staff that
13 was in attendance. Recognizing it was a long time
14 ago, do you recall attending that meeting?

15 A. No, I don't.

16 Q. I'm not going to take you
17 to the agenda, which might assist. If you would
18 like me to I can. But do you know why you were
19 attending that meeting?

20 A. So from a high level
21 perspective, the section that I was running at the
22 time we did a fair amount of real estate matters,
23 bylaws and things like that so I was at public
24 works committee on a fairly regular basis. I
25 can't tell you if I was or wasn't at one specific

1 meeting, and if Geoff has identified me on the
2 video then obviously I was there. But I don't
3 know why.

4 Q. Perhaps I'll put it in
5 this context. Recognizing you went to lots of
6 meetings for your own purposes, that is geomatics
7 and corridor management purposes, did you have a
8 practice of going to public works committee
9 meetings when staff reports involving anything
10 under your portfolio was being submitted?

11 A. Generally.

12 Q. And given this atypical
13 circumstance where you have the crossover between
14 traffic engineering and operations and lighting,
15 was this the kind of report that you would make an
16 effort to go to the public works committee when it
17 was presented?

18 A. I don't know if they were
19 live-streaming them at the time or not. If I
20 didn't have a reason to be this to speak, if I
21 wanted to just note and see what the committee was
22 deliberating on and staff were there or there was
23 an item of interest, I would put the streaming on.
24 So I don't know when the streaming started. This
25 is 2013 so I'm not sure. I could have attended to

1 try and understand what the deliberations were or
2 I could have been there for another reason.

3 Q. Okay. Prior to attending
4 the public works committee meeting did you review
5 the final staff report that was submitted to
6 public works on this project?

7 A. I don't recall that.

8 Q. Would it be part of your
9 practice to review staff reports that included
10 components from individuals under your portfolio?

11 A. Generally yes, but I
12 don't know in this instance if -- I mean, I'm
13 trying to -- this isn't coming from the traffic
14 engineering group so Mike Field would have had it.
15 We're not making a recommendation. I don't think
16 we're coauthors on it either. So I might just try
17 and get some understanding of what they were
18 saying around the assets that we were mandated to
19 manage at that time, but I don't recall whether I
20 reviewed or commented on that report.

21 Q. There was also the
22 underlying consultant report which you I think
23 fairly said would be repackaged into the staff
24 report. Do you recall reviewing a copy of the
25 2013 CIMA report?

1 A. No, I don't.

2 Q. There is some discussion
3 about this report in particular about lighting at
4 this public works committee meeting. Do you
5 recall councillors making comments about lighting
6 in respect of this report at that meeting?

7 A. I don't recall
8 councillors making comments about lighting at that
9 meeting. I do know that there was an -- and I'm
10 not sure exactly the timeframe from now and
11 backwards -- there's been comments around the Red
12 Hill is dark or there's a need for illumination.
13 So I don't know exactly when those comments -- I
14 heard those comments, but it wouldn't surprise me
15 if they were brought up during the presentation of
16 this report.

17 Q. So what I think I can
18 fairly summarize for you is that Councillor
19 Collins and Councillor Jackson both say thank you
20 very much for this report. Seems comprehensive.
21 We don't want to lose sight of lighting going
22 forward so we'll accept this report, but we don't
23 want to abandon the idea of installing lighting.

24 Does that refresh your memory
25 about this meeting or about the councillors' views

1 in respect of this report?

2 A. Not a lot, no, but I mean
3 that was an ongoing conversation around lighting
4 in the Red Hill.

5 Q. Registrar, can you bring
6 up OD6, page 79, please. If you can pull up
7 paragraph 201.

8 So in fact councillors as
9 whole, following Councillor Collins' and
10 Councillor Jackson's comments about not losing
11 sight of the issue of lighting, directed staff to
12 report back in respect of the lighting aspects of
13 the outstanding business list C which was the
14 overall report. And that outstanding business
15 list, the council follow-up, is distributed from
16 the general manager public works down into the
17 directors of the public works department including
18 Mr. Moore and this gets trickled down to you.

19 Does that assist you in
20 refreshing your memory about the outcome of the
21 public works committee meeting, that this
22 eventually made its way back onto an outstanding
23 business list item?

24 A. Sorry, no. I mean, I
25 understand that there were a number of OBLs and

1 inquiries around lighting. I don't have direct
2 recollection of this one on this date at this
3 time.

4 Q. Registrar, can you
5 open -- can you close the callout and go to
6 HAM4334.

7 So as I said, this makes its
8 way from the general manager's office down to the
9 directors, and then you'll see Ms. Cameron, who is
10 Mr. Moore's assistant at the time, e-mails
11 Mr. Field, Mr. Locs, you and Mr. Moore, setting
12 out the outstanding business list item.

13 Did you have any discussions
14 with Mr. Field or Mr. Moore regarding the OBL item
15 when Ms. Cameron forwarded it to you?

16 A. I don't recall that.

17 Q. Registrar -- actually
18 before we close this down, who in particular would
19 be responsible for ensuring that this item was
20 completed?

21 A. Well, I mean, so I'm
22 trying to recall or reconcile this, but the
23 lighting would generally be a part of the larger
24 program, so I'm not sure if there's other -- was
25 there other directions from council at that time

1 or was it just it's directed straight to
2 illumination.

3 Q. So I'm sure there was
4 many other directions from public works and
5 council on that day, but in respect of the staff
6 report that packaged up the 2013 CIMA report, that
7 report was accepted and then this was the
8 outstanding business list item that came back in
9 respect of the lighting aspects in particular.

10 A. Okay.

11 Q. So does that assist you
12 with who would be responsible for ensuring that
13 this item was complete?

14 A. Not -- I mean, not
15 enormously. CIMA would be -- I think CIMA had
16 been retained by the traffic engineering group.
17 This is coming back over to us and I think, as you
18 realize over time, the street lighting group goes
19 back to operations sometime in I think 2020 or
20 something along those lines. So I'm not
21 100 percent sure who is going to pick this one up
22 and run with it, if that's what you're asking me.

23 Q. It is what I'm asking
24 you. And I asked who and I did mean who in terms
25 of which individual, but also when you received

1 this which division did you understand was going
2 to be running with this?

3 A. Well, it's coming back to
4 us but I'm not certain if this is part of a larger
5 program or look at the area. So I don't know if
6 it's us or if it's traffic engineering or a
7 collaborative effort.

8 Q. Okay. And just I think
9 another document that might assist you with this.

10 Registrar, could you bring up
11 HAM4361.

12 This is a few days later.
13 You'll see that Charlene Hans Laurie, who I
14 understand is Mr. Mater's assistant, says:

15 "Hi Nancy, I've been advised
16 that the following OBL will be
17 completed by engineering
18 services. Can you please have
19 the lead division changed."

20 And then it gets forwarded to
21 Ms. Cameron, and then it goes to you and you
22 respond to that same group of people in the last
23 e-mail and say I thought this was not our report.

24 Do you recall coming out of
25 this back and forth where it seems clear that

1 Mr. Mater's group thinks that this is an
2 engineering services issue, from this point who
3 you understood was responsible for completing this
4 OBL item?

5 A. So I don't have a direct
6 recollection to this, but it appears that I'm at
7 that moment in time confused about who has got the
8 lead.

9 Q. I think that's correct.
10 So I assume that you got through your confusion in
11 some way. Do you recall how you informed yourself
12 and what the outcome was?

13 A. No, I don't.

14 Q. Sitting here today you
15 don't recall, coming out of this e-mail, who was
16 responsible for completing this OBL item?

17 A. Sorry, I mean, did this
18 illumination review end up as part of the 2015
19 CIMA assignment or -- if we took off on our own?

20 Q. We are certainly going to
21 follow this through to what becomes the lighting
22 study in 2018, but I'm asking at the time in 2013
23 did you understand that engineering services had
24 responsibility for responding to this OBL item?

25 A. At this point I appear to

1 be confused about it so maybe there's further
2 documents that you can turn me to.

3 Q. There's not, which is --
4 I'm asking you must have dealt with your confusion
5 in some way. Do you remember at some point in
6 2014, which we're now at the beginning of 2014, if
7 you came to understand that this OBL item fell
8 under engineering services?

9 A. Again, you're asking me
10 to go back nine years. I don't have a
11 recollection of it. I do see in the subject it
12 says OBL item for Q2 2015. This is Q1 of 2014.
13 So sometime between -- in that timeframe I think
14 that the item gets addressed in the CIMA report
15 but I'm not positive of that.

16 Q. Okay.
17 Registrar, can you go to OD6,
18 page 86, please. So just on the point of when
19 this was going to be coming back around in terms
20 of an OBL item. Registrar, can you pull out 224.

21 On January 15, 2014, Mr. Moore
22 e-mailed Mr. Lupton and Mr. White and traffic
23 engineering is not in operation under the energy
24 fleet division, and Mr. Locs, Mr. Field, you and
25 Nancy Clark, and he said that he had a

1 conversation with Councillor Collins and he is not
2 expecting anything until the improvement suggested
3 and approved in the last report have been
4 implemented and there has been a reasonable time
5 for those to take -- to comment on their
6 effectiveness. He says he would not be looking
7 for anything in 2014.

8 And then Ms. Clark says this
9 is an OBL item that will have to go beyond this
10 term of council and cannot at this time be given
11 dates, certainly not before Q -- sorry, I think I
12 might have misspoke on that. That will have go
13 beyond this term of council and cannot at this
14 time be given a date, at least not in certainty
15 before Q4 2015.

16 So it looks like Mr. Moore has
17 had a conversation with Mr. Collins to confirm
18 what the expectations are about when this OBL item
19 will be required to go back before public works
20 committee.

21 Do you recall having any
22 discussions with Mr. Moore about this OBL item
23 after he sent this e-mail?

24 A. No, I don't. I'm just
25 reading through this.

1 Q. Go ahead.

2 A. So Gary's had a
3 conversation with Councillor Collins. And the
4 improvements suggested and approved are those ones
5 being implemented by traffic engineering?

6 Q. That's right. As part of
7 the broader staff report from the CIMA project.

8 A. Okay. So we're waiting
9 for that effectiveness and then this will get tied
10 into whatever is happening there and come back in
11 looks like mid to late 2015.

12 Q. That's right. Did you
13 have any discussions with Mr. Moore? I think you
14 might have already said you don't recall.

15 A. I don't that.

16 Q. Do you recall having
17 discussions with Mr. Field about this OBL item
18 coming out of this e-mail from Mr. Moore?

19 A. I don't recall directly
20 having conversations with Mike about this one. I
21 do recall conversations about programming and
22 scheduling potential lighting improvements, and I
23 don't know when those started and then what the
24 implications were. But I'm not sure if they
25 started at this point or further on.

1 Q. Sorry, I have a little
2 clarity in your evidence just a moment ago. You
3 recall having conversations with Mike about
4 programming and scheduling potential lighting
5 improvements. Do you mean lighting improvements
6 on the Red Hill?

7 A. Yeah, correct.

8 Q. Okay. Can you give a bit
9 more information about the programming and
10 scheduling of lighting improvements, in particular
11 what programs and scheduling of lighting
12 improvements?

13 A. So the -- I mean, the
14 upshot of a study or whatever comes -- if you fast
15 forward and say okay, there's a desire or, you
16 know, a need to apply lighting in any area, that
17 has to get programmed so we have to find money for
18 it. It's got to be put into a budget and then
19 assigned to a calendar year or a capital cycle,
20 and then it has to get coordinated with any other
21 works that are taking place in that area. And
22 from a lighting perspective I'm not 100 percent
23 sure about the connections for power. I mean,
24 those were always a bit of a challenge so might be
25 a fairly long line. And potentially because it's

1 rock there there might some trenching or drilling
2 required.

3 So those were the sorts of
4 things that would be discussed around the
5 programming application of it.

6 Q. I guess I was asking for
7 a bit more detail on that because I was trying to
8 see if I might be able to assist you with when
9 those discussions might have happened. As you
10 know, and we will get through over the next couple
11 of days, that there was a fair bit of discussion
12 about lighting over time.

13 Can you pinpoint at all when
14 these discussions about programming and scheduling
15 with Mr. Field occurred?

16 MS. CONTRACTOR: I'm sorry to
17 interrupt, but I just wonder if we can take the
18 witness to a document that might be relevant to
19 Mr. McGuire's understanding of who was responsible
20 for the OBL item coming out of that 2013 PWC
21 meeting, and it is at OD6, image 140, and
22 specifically paragraph 410, and the attachment
23 therein might be helpful.

24 MS. LAWRENCE: Thanks very
25 much, Ms. Contractor. We're right in the middle

1 of something talking about something else, so we
2 can certainly come back to that.

3 MS. CONTRACTOR: Well, I think
4 if you're asking him to recall this -- relevant to
5 that question, I think this document might be
6 useful to help frame those discussions and
7 generally his understanding.

8 JUSTICE WILTON-SIEGEL: Let me
9 interject for just a second. I think the question
10 is does he recall any specific project that was
11 being programmed and scheduled, and if so when.
12 That's a separate question. I think we should
13 proceed down that road first and then we can come
14 back to the document to which, Ms. Contractor,
15 you've just referred.

16 THE WITNESS: Sorry. I don't
17 recall any specific project or scheduled
18 installation of lighting because this OBL I think
19 is asking for a study, or an illumination review.

20 BY MS. LAWRENCE:

21 Q. This one is acting (ph)
22 for a report back. I think, and perhaps this is
23 just because there's -- lighting issues do go on
24 for some time, there is eventually a request for a
25 study. Is that the time period in which you

1 recall having discussions with Mr. Field about
2 programming and scheduling issues?

3 A. Yeah. I would say yes
4 but I don't know what those time periods are.

5 Q. Okay. We will come to
6 them when we go through the chronology, and we
7 will also come to what happens in 2015 with CIMA.
8 And as we get to those points I certainly invite
9 you to come back to the conversation we're having
10 right now, and let me know if you can recall when
11 those scheduling discussions occurred.

12 I'm going to move on. I don't
13 believe I need to take Mr. McGuire to the document
14 referenced by Ms. Contractor at this point.

15 MS. CONTRACTOR: Well, I'm not
16 sure why that would be, given that you've asked
17 him the question and taken him to a few documents
18 and he's indicated that he doesn't recall but he's
19 asked to see whether there are any other relevant
20 documents.

21 JUSTICE WILTON-SIEGEL:
22 Ms. Contractor, I don't think that it's
23 appropriate to question the process that
24 commission counsel has in mind. That's why you
25 have the right to re-examine. So if you feel that

1 there's something that is missing that should be
2 brought to the attention of the commission that's
3 your opportunity to do so.

4 MS. CONTRACTOR: Fair enough,
5 Mr. Commissioner, I just wanted to be sure we were
6 fair to the witness by putting documents --

7 JUSTICE WILTON-SIEGEL: That's
8 fine, but the way we are being fair to the witness
9 is by giving you and the other participants an
10 opportunity to examine in your own right.

11 MS. CONTRACTOR: Thank you.

12 BY MS. LAWRENCE:

13 Q. Mr. McGuire, just to
14 close the loop, I think you had mentioned
15 something about this coming back in 2015, and
16 certainly the document that Ms. Contractor refers
17 to, which is from 2015, we'll come to that just to
18 ensure that you don't have any concerns about not
19 having documents that are relevant before you.

20 Registrar, could you close
21 this and can you go to page 102.

22 And I'm just going to read to
23 you the bottom of 269 because it goes on to the
24 next page, just so I don't have to call out a
25 number of callouts.

1 So is this is in February of
2 2014, so you've already had that back and forth.
3 The OBL item has been communicated to you and a
4 member of the public e-mailed Ms. Clark about an
5 issue on the Red Hill and in particular, it starts
6 at the bottom:

7 "I would like to bring your
8 attention to a serious lack of
9 lighting on the Red Hill
10 Valley Expressway as well as
11 stretch of Mud Street between
12 Paramount and Winterberry."

13 Registrar, can you go to image
14 103 and 104, please.

15 At the top, and again I'm not
16 going to call this out although I recognize the
17 font is small, the member of the public goes on to
18 say "it poses a real danger when driving
19 especially when weather conditions is bad." And
20 Ms. Clark -- and, Registrar, could you pull this
21 up, 270 and 271.

22 Ms. Clark responds adding
23 Mr. Moore and Ms. Cameron, who is still
24 Mr. Moore's assistant. And Ms. Cameron forwards
25 this e-mail to Mr. Field and to you, requesting

1 that they review below and provide an update to
2 Gary that can be shared.

3 Just stopping there. And you
4 can close this callout, Registrar, and if you can
5 open up the next paragraph, 272, as a callout.
6 And then Mr. Moore provides a response.

7 So I'll just give you a moment
8 to review this response, and while you're doing so
9 my question is, were you involved in preparing
10 this response that Mr. Moore eventually sends to
11 the member of the public works the following day?

12 A. No, I don't recall being
13 involved in preparing this response.

14 Q. The second paragraph
15 says:

16 "With regard to the parkway,
17 the approval that was received
18 for its construction is based
19 on the illumination currently
20 provided for environmental and
21 social impact reasons." (As
22 read)

23 And then there's reference to
24 signage, road markings and other non-illumination
25 improvements to aid driver awareness.

1 Do you recall having any
2 discussions with Mr. Field or Mr. Moore in respect
3 of the information Mr. Moore provides, that is the
4 approval for illumination at construction?

5 A. No, I don't recall having
6 conversations at this point in time.

7 Q. Okay. You said earlier
8 in 2013 you weren't sure about why the Red Hill
9 was illuminated as it was at construction. By
10 February of 2014 did you have any further
11 knowledge about why the Red Hill was illuminated
12 the way that it was?

13 A. So based on this, and I'm
14 not sure when I gathered this information, my
15 understanding was that the project considered
16 lighting, however it wasn't advanced in the final
17 phase of it.

18 Q. Did you have any other
19 insight by February 2014 about why it was that it
20 considered lighting but in the end lighting wasn't
21 advanced?

22 A. No, I don't.

23 Q. You didn't in 2014?

24 A. No.

25 MS. LAWRENCE: Commissioner,

1 I'm noting it that is 11:00 o'clock, which is our
2 time for our morning break. And I'm moving on to
3 a different topic.

4 JUSTICE WILTON-SIEGEL: Sure,
5 that's fine. Let's take the 15-minute break we
6 normally take at this time. We'll return at
7 11:15.

8 --- Recess taken at 11:01 a.m.

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

10 MS. LAWRENCE: Commissioner,
11 may I proceed?

12 JUSTICE WILTON-SIEGEL: Yes,
13 please do.

14 MS. LAWRENCE: Thank you. I
15 noted that I did not mark a document that is not
16 currently an exhibit that I raised with Mr.
17 McGuire just before the break. It is HAM4361.
18 And it was the document where Mr. McGuire asked --
19 said he thought it was not a report, and that
20 should be marked as Exhibit 186.

21 THE REGISTRAR: Noted. Thank
22 you, Counsel.

23 EXHIBIT NO. 186: Two-page
24 e-mail dated 1/17/2014;
25 HAM4361

1 BY MS. LAWRENCE:

2 Q. Thank you. Mr. McGuire,
3 going back a bit in time from what we were just
4 looking, at which is at September of 2013, there
5 was a pretty significant rainfall that led to some
6 collisions on the Red Hill and then an external
7 exchange among people in road operations and
8 traffic operations and safety and later risk
9 management describing the concerns about slippery
10 conditions and next steps internally to look into
11 those.

12 Were you aware of discussions
13 in September 2013 arising out of this significant
14 rainfall?

15 A. No, I wasn't aware of
16 that.

17 Q. Registrar, can you go to
18 OD6, page 57 and 58, please. Can you call out
19 paragraph 145 at the bottom of 57, and it goes on
20 to the top of 58.

21 One of the suggestions made by
22 those who are involved in the discussion about
23 these rainstorms is to raise the issue at the TCC,
24 and there is a meeting of the transportation
25 coordinating committee on September 24, 2013.

1 Minutes were taken, and you'll see here there's a
2 list of attendees and a list regrets and guests
3 and then some cc's for the minutes. And you are
4 listed under regrets.

5 Just before we get into this
6 particular meeting, were you a regular attendee of
7 the transportation coordinating committee?

8 A. I recall attending that
9 committee on a few occasions. I don't know how
10 regularly they met or how long it went.

11 Q. Were you a member of that
12 committee?

13 A. I can't recall.

14 Q. Do you recall what the
15 purpose of the transportation coordinating
16 committee was?

17 A. Well, given at the time
18 the sort of traffic planning, development planning
19 group was in geomatics, I'm expecting or assuming
20 that this committee is reviewing and trying to
21 determine aspects of the transportation network,
22 so before adding new roads or new connections, et
23 cetera.

24 Q. You'll see one of the
25 attendees is Gary Kirchnopf who was -- I think I

1 have his title right -- senior project manager in
2 traffic planning at the time. What would your
3 role have been in going to this committee if Mr.
4 Kirchknopf was there?

5 A. I don't know. Sorry, I'm
6 trying to recall back what the scale and scope of
7 this committee was.

8 Q. It sounds like from your
9 evidence that this was not a significant part of
10 your work or the committees that you attended in
11 2013; is that fair?

12 A. I don't recall it as....

13 Q. So you didn't attend this
14 particular meeting. There is a reference to
15 Mr. White suggesting he's going to get some
16 collision information in the minutes. Did anyone
17 raise any issues with the Red Hill with you
18 following this meeting?

19 A. Not to my recollection.

20 Q. Registrar, you can close
21 this down. If you can go to page 60 of OD6,
22 please. If you can pull up 151.

23 So this is an e-mail that you
24 are not copied on. It is a continuation of the
25 discussions amongst those who are talking about

1 the September rainstorms, and this one is
2 Mr. Moore to Mr. McLennan in risk; Mr. Shynal in
3 operations; Mr. White in traffic engineering and
4 operations; Mr. Mater, Mr. White's boss; and Mr.
5 Lupton also is sandwiched between Mr. White and
6 Mr. Mater.

7 Mr. Moore says:

8 "As part of the ongoing
9 pavement monitoring for asset
10 management purposes, we will
11 have skid resistance testing
12 completed on both the LINC and
13 the Red Hill. There is a
14 standard by which we can
15 report on relative level of
16 resistance and by which we can
17 gauge the performance of each
18 mix and road surface."

19 As a callback to e-mails that
20 Mr. McLennan had sent, Mr. Moore references
21 eliminating the "ought to have knows" as well as
22 dealing with the "we think it was slippery"
23 issues.

24 So I asked you earlier, in the
25 context of July 2013, if you were aware that

1 Golder had been retained to conduct an assessment,
2 a condition assessment on the Red Hill. By
3 September or October of 2013 were you aware of
4 Golder's retainer?

5 A. No, I was not.

6 Q. Mr. Moore from this
7 e-mail then does contact Dr. Uzarowski to ask
8 if -- testing can be completed. Were you aware
9 that Mr. Moore retained Golder to conduct friction
10 testing on the Red Hill and the LINC in the fall
11 of 2013?

12 A. No, I was not.

13 Q. Prior to the second half
14 of 2018, were you ever provided with results or
15 information relating to friction testing conducted
16 in the fall of 2013?

17 A. No, I was not.

18 Q. Do you have any
19 experience or expertise in friction testing?

20 A. No, I do not.

21 Q. Registrar, you could
22 close this, and if you can go to page 101, please.
23 Callout 102 as well, please. Can you call out
24 paragraph 265 at the bottom of 101 that continues
25 on to 202.

1 So just for context, Golder
2 does retain a subcontractor to complete friction
3 testing as part of a larger project that Golder
4 were doing on a -- it's called now the six-year
5 review of the RHVP, and Golder in mid February
6 puts in an invoice that deals -- for a pre-tax
7 amount of \$2,000 for costs associated with
8 preparation of the draft report and analysis of
9 friction results. I'm just providing this to you
10 as a bit of context.

11 Registrar, you can close this
12 down. If you can call out the next paragraph,
13 please.

14 So that invoice is received by
15 the City on February 24, and you approve it with a
16 notation that you're acting director. The inquiry
17 has heard some evidence about acting directors and
18 how individuals can be appointed for a day or for
19 a short period of time if the director is away.
20 Do you recall in February of 2014 if you were made
21 acting director for a period of time?

22 A. So my recollection of the
23 acting role is it was generally on a rotation. So
24 you would get assigned -- I don't know. If
25 there's six directors, you would be every six

1 months, and in the event that the director was
2 away on a conference or vacation, it would be
3 either in your calendar that you were acting in
4 the event that they were away. So no, I don't
5 have any direct recollection of being the acting
6 director in February, but that's sort of the
7 mechanism.

8 Q. Registrar, could you
9 close this down and go to HAM56546.

10 Mr. McGuire, I just want to
11 ensure that you actually see the invoice that is
12 referenced in the OD. You'll see at the bottom of
13 that the stamp is "Gary Moore, Director," but then
14 it says "Gord McGuire, Acting." Would you have
15 reviewed the -- any underlying information before
16 approving this invoice?

17 A. No. Invariably the admin
18 (ph) at the time, and it looks like Diana's
19 handwriting, would assemble a series or a file
20 folder of things that you needed to sign, invoices
21 or payment requisitions or something along those
22 lines, bring them forward, and you would have to
23 trust that staff had properly prepared them and
24 had the correct -- I'm just looking to see here --
25 the correct PO numbers on them and they were good

1 to be processed.

2 Q. When you were in these
3 acting roles, was this kind of task, processing a
4 package of materials including an invoice that
5 Ms. Cameron provided to you, was that a routine
6 administrative task?

7 A. Yeah, correct.

8 Q. Did you speak to
9 Mr. Moore about this invoice for this project when
10 he returned?

11 A. No, I did not.

12 Q. Registrar, you can close
13 this. Can you can go back to OD6, page 132,
14 please. Could you call out 377.

15 So we're now at the end of
16 2014, in December, and Rob Merritt who is a
17 traffic signal technologist, sent an e-mail to you
18 and to Bob Paul, who is in operations,
19 Mr. McCleary, who is also in operations, and
20 Mr. Christian, who is also in operations, and
21 Mr. Ferguson and Mr. Jacobson, who I believe you
22 know, David Ferguson. And he says:

23 "I wanted to advise you of
24 some improvements we are
25 undertaking for lane

1 demarcation along the Parkway,
2 by way of installing recessed
3 reflective delineators, or
4 cats eyes, in a particular
5 area, Greenhill to Dartnall."

6 And he goes on to say:

7 "These improvements have been
8 brought forward to address
9 concerns relating to
10 illumination and visibility in
11 the section of RHVP."

12 And it says "Dufferin will be
13 completing work in --" and it has a particular
14 date.

15 Were you involved in the
16 decision to implement the installation of recessed
17 reflective delineators?

18 A. No, I wasn't.

19 Q. Before this e-mail were
20 you aware that that was a countermeasure to
21 address illumination and visibility along the
22 section of the Red Hill?

23 A. I recall having a
24 conversation with Chris Jacobson. I'm not sure if
25 it was prior to or post installation on these, but

1 yeah, that's my recollection.

2 Q. Looking at this notice of
3 information, can you provide any insight into why
4 you were copied on this e-mail?

5 A. You know, I'm going to
6 speculate a little bit here, but it looks like
7 traffic ops is just trying to make sure that we
8 understand what they are doing and, you know, as
9 it related to illumination since the street
10 lighting section was with us. That may be the
11 reason that Rob copied us on it or sent it to me.

12 Q. Sitting here today, you
13 can't think of any other reason why you would have
14 been copied on this e-mail that went to roads ops
15 and traffic engineering and ops people?

16 A. No.

17 Q. Okay. Registrar, could
18 you close this and go to page 139, please. Can
19 you call out paragraphs 403 to 406.

20 So we're in February of 2015
21 here, and you'll see I'm including 403 at the top
22 and draw your attention to that. Mr. Ferguson
23 e-mailed Mr. Cooper, copying Mr. Worrone, so all of
24 those are in traffic operations and engineering.
25 And he says:

1 "Can you please prepare an
2 update report on the Red Hill
3 based on the action items we
4 identified in our previous
5 report and identify what has
6 been completed along with
7 action items still to be
8 completed."

9 So you'll recall that the 2013
10 CIMA report included a whole bunch of
11 countermeasures that were really under the
12 portfolio of traffic operations and engineering.

13 And this -- I'll suggest to
14 you it's a follow-up that Mr. Ferguson wants to
15 provide. He also says:

16 "It should be short and sweet
17 and include the recommendation
18 that the item be removed from
19 the public works OBL."

20 So that -- you can skip over
21 404 and then go to 405.

22 Ms. Cameron e-mailed Mr. Field
23 with the subject line "Report Red Hill Parkway
24 Improvements - Lighting." And why don't we
25 actually go into that document. It is HAM4577.

1 So Ms. Cameron e-mails
2 Mr. Field, "Did you e-mail Dave Ferguson. If so,
3 can you send me a copy." And Mike Field responds:
4 "Not yet. I will send an
5 e-mail over the weekend and
6 copy you on it. I briefly
7 discussed it with Gordo
8 today."

9 Just stopping there. This is
10 February of 2015. I can tell you that there is a
11 public works committee meeting scheduled which is
12 eventually heard in May of 2015, and Mr. Ferguson
13 is looking to have his staff do an update.
14 There's a reference here to Gordo, which I think
15 is you.

16 Do you recall speaking to
17 Mr. Field about reporting back to public works in
18 respect of lighting in or around the end of
19 February of 2015?

20 A. Yeah, I have a
21 recollection of us being involved or engaged with
22 I think it was the 2015 CIMA update. I'm not sure
23 if this is the genesis of it or if Mike is just
24 commenting on the staff report.

25 Q. Thank you. So you're

1 quite right, and I'm sorry I didn't provide you
2 with that additional context. This is the 2015
3 CIMA report is being dealt with in 2015.

4 In February of 2015, it
5 doesn't seem that you -- sorry, I'll take a step
6 back. In February of 2015, the CIMA 2015 report
7 or project is not yet underway. This is -- and
8 maybe this will help you in terms of just
9 chronology.

10 In May of 2015, which is
11 coincidentally a public works committee meeting
12 where traffic engineering and operations intended
13 to report on Red Hill improvements, in early May
14 there are two young women who die in a car crash
15 on the Red Hill, so this is before that and before
16 the 2015 CIMA project.

17 MS. CONTRACTOR: I'm sorry to
18 interrupt, but I just want to be clear that the
19 document suggests that there were discussions in
20 late 2014 about engaging CIMA to do a review of
21 the Red Hill. So commission counsel is correct
22 that CIMA's not engaged until after May, but there
23 are those discussions and I just wanted the
24 witness to have that context.

25 BY MS. LAWRENCE:

1 Q. I'm fine to have that
2 context. I think that evidence is a little
3 unclear, but there were certainly some discussions
4 in 2014. CIMA is doing a LINC study in 2014.

5 I'm not sure if any of that
6 assists you in providing some context,
7 Mr. Ferguson -- pardon me, Mr. McGuire -- about
8 the back and forth that you see here with
9 Mr. Field referencing Mr. Ferguson and discussions
10 with you. Does it?

11 A. No, it doesn't.

12 Q. Okay. Do you recall
13 having any discussions with Mr. Field more
14 generally about lighting in or around 2015?

15 A. I mean, I think I
16 previously referenced in which was I guess part of
17 the -- you know, the expansion of the discussion
18 about the 2015 assignment to CIMA. I wasn't sure
19 when it originated, whether it was early 2014 or
20 it commenced in 2015, but yeah, I recall having
21 conversations with Mike about that.

22 Q. Do you recall
23 specifically having conversations about the need
24 to follow up on the OBL item that asked staff to
25 report back on lighting?

1 A. No, I don't have a
2 specific recollection of that.

3 Q. In respect of the 2015
4 CIMA project, the inquiry doesn't have any
5 documents which suggest that you were directly
6 involved in that project. Were you?

7 A. My understanding is that
8 CIMA took kind of the whole bundle of things to
9 review, including illumination, and went through
10 that process. I don't believe I had a significant
11 involvement in it.

12 Q. Were you aware at the
13 time that CIMA was taking that whole bundle and
14 doing what became the 2015 CIMA report?

15 A. Yeah, I believe I was
16 aware, I think in conversation with Mike Field,
17 but again the lighting element of it was sort of
18 part of the overall package.

19 Q. In 2013 Mr. Field was
20 involved with Mr. Cooper. To your recollection,
21 did he have the same level involvement in the 2015
22 report?

23 A. I don't have a
24 recollection of his involvement in the 2015
25 report. I would expect he's a contributor to it,

1 but I'm not -- I mean, I think that's casting
2 around a little bit.

3 Q. You just don't have any
4 particular recollection either way?

5 A. No, correct.

6 Q. Moving forward --
7 Registrar, you can take this down. Moving forward
8 in time, Registrar, could you bring up OD7,
9 page 108, please. You can also bring up 109.
10 Thank you.

11 So in September of 2016,
12 Mr. Moore submitted a report prepared by you and
13 Mr. Field, and that's referenced in paragraph 341
14 at the bottom of 108, and the report commented on
15 the 2015 CIMA report and the 2015 CIMA LINC
16 report. I'm actually going to pull out the report
17 that was submitted.

18 Registrar, could you go to
19 HAM58680. Thank you, Registrar.

20 So, Mr. McGuire, you'll see
21 that you submitted -- pardon me -- you prepared
22 this document which was submitted by Mr. Moore.
23 At the time in 2016, was the process for providing
24 information reports that the most senior person
25 within the division would be the person who

1 submitted it? Is that your recollection?

2 A. Generally the -- yeah,
3 the reports were submitted through the director's
4 office and then authored by managers or subject
5 matter experts.

6 Q. You are listed as one of
7 the two who prepared it. Do you recall the
8 preparation of this information report?

9 A. Not in great detail.
10 Yeah, I have some recollection it, but not -- not
11 a great one.

12 Q. Well, why don't we go
13 through it. If you would like to just take
14 another minute, looks like you're reading it, I'm
15 happy to give you a moment to do that before I ask
16 my next question.

17 A. Okay.

18 Q. So you'll see in the
19 first two paragraphs on the left-hand image,
20 there's a reference to the December 7, 2015 public
21 works meeting in which the public works committee
22 directed staff to report to the public works
23 committee on information on the cost and process
24 of investigating an improved lighting system on
25 the Red Hill Parkway and LINC. So that

1 December 7th, 2015 public works committee meeting
2 is the one in which traffic engineering and
3 operation submitted the 2015 CIMA report, just to
4 give you some context. Maybe just stopping there.

5 Do you recall attending the
6 December 7th, 2015 public works committee meeting
7 in particular?

8 A. No, I don't, not in
9 particular.

10 Q. It goes on to say this
11 direction was in response to the review and
12 discussion of the LINC and Parkway, Red Hill,
13 safety review report PW15091, which I think is the
14 staff report, which I'm going to ask were you
15 involved in preparing? It was the one that
16 packaged up the 2015 CIMA report.

17 A. No, I don't believe I had
18 any involvement in that.

19 Q. As part of the
20 preparation of this information report, did you
21 review either the underlying consultant reports
22 that are referenced in that staff report or the
23 staff report itself?

24 A. So I recall having a
25 conversation with Mike and a review I believe of

1 the assessment of the lighting through the CIMA
2 report, but I don't believe I would have read the
3 entire CIMA report, you know, for the other
4 elements.

5 Q. I see. It is a lengthy
6 report that deals with a lot of traffic signage
7 and those sorts of things. But you do recall
8 reviewing it, at least the parts that were about
9 illumination?

10 A. I believe so, yes.

11 Q. So this report from
12 September 2016 -- Registrar, could you actually
13 bring out the bottom two paragraphs, just for ease
14 of review. Make it a little bigger.

15 I'm sorry, just before I go
16 into that, you said you did review the study, at
17 least the parts on illumination. You were aware
18 as this report is being drafted that CIMA
19 recommended installation of continuous
20 illumination as a long-term countermeasure in the
21 2015 report?

22 A. Yeah, I believe I am.

23 Q. So in these two
24 paragraphs that are up, there's reference to the
25 design and construction of both parkways with

1 partial illumination at the exit/entrance ramps
2 and without continuous illumination on the
3 mainline corridors, and that lighting at
4 interchanges and in cross street overpasses
5 provides additional inadvertent partial
6 illumination in some locations.

7 And then it goes on to say the
8 original environmental assessment completed for
9 the parkways included a review of lighting. It
10 was identified that through the Red Hill Creek
11 Valley, that lighting would have a detrimental
12 environmental impact and lighting restrictions
13 were imposed. Goes on to say the decision
14 regarding adding lighting on the parkways would
15 require renewing and updating the original EA so
16 that the impacts of lighting could be re-examined.

17 So just stopping there. What
18 was your role in gathering information to draft
19 this part of this report?

20 A. My recollection is that
21 Mike Field was primarily doing the lifting and the
22 research. I was involved in it -- I think further
23 on it talks about the 6 to \$10 million potential
24 investment, so trying to understand what that
25 meant from a project perspective.

1 Q. Okay. So in this part
2 the reference to the original environmental
3 assessments, had you ever reviewed the original
4 environmental assessment documentation?

5 A. I had not reviewed that
6 documentation.

7 Q. To your knowledge --

8 A. To my knowledge, no.

9 Q. To your knowledge, had
10 Mr. Field reviewed original environmental
11 assessment documentation in order to draft this
12 section of the information report?

13 A. To my knowledge, Mike had
14 some pretty detailed background on the project.
15 I'm not sure if he read the entire environmental
16 assessment -- I think it's probably a fairly
17 lengthy document -- or some of the studies that
18 fed into it.

19 Q. Okay. So you say to your
20 knowledge he had detailed background on the
21 project. Do you mean the construction of the Red
22 Hill?

23 A. Yeah, correct.

24 Q. You say to your knowledge
25 he had this. In particular, did he advise you

1 that he had read background information?

2 A. I don't recall that.

3 Q. Did he advise you of the
4 source of his information to draft this particular
5 paragraph?

6 A. No, I don't recall him,
7 you know, specifically defining the source.

8 Q. Did he convey to you that
9 he had learned this information through a source
10 other than documentation?

11 A. Such as a conversation
12 or --

13 Q. Yeah, exactly. Maybe
14 I'll even be more specific. Did he ever tell you
15 of any discussions he had with Mr. Moore in which
16 he learned information about the original
17 environmental assessment process?

18 A. We had conversations. I
19 believe there are some other records, and there
20 was an e-mail from Gary earlier that indicated
21 that the project considered lighting but only
22 selected it, as noted in the first paragraph, at
23 interchanges and cross street overpasses, so the
24 decision point lighting. And then it is -- it
25 says it is going to require an updated

1 environmental assessment. So yeah, that part of
2 it was something I understood as well.

3 Q. Something that you
4 understood had originated from Mr. Moore?

5 A. Well, no -- yeah,
6 something I understood would be required in order
7 to continue to move forward, so I'm looking at the
8 last two sentences in the second paragraph.

9 Q. We'll certainly go
10 through some of the documentation. You said there
11 are some references in other records. In
12 particular, did you have any discussions with
13 Mr. Field about him getting information from
14 Mr. Moore in order to draft this?

15 A. I can't recall directly,
16 but I do know there were ongoing conversations,
17 and referencing that e-mail from Mr. Gary again
18 that indicated that lighting was considered and
19 not included in the Red Hill project, and that any
20 such extension or addition to it would require
21 either a new EA or an extension to the other EA,
22 which I think by this point in time has probably
23 expired.

24 Q. It goes on to say:

25 "It would be prudent to delay

1 any such EA review so that
2 this may be coupled with other
3 proposed changes such as
4 widening the LINC/Red Hill to
5 six lanes."

6 Do you recall at this time, so
7 we're in 2016, that there had been some discussion
8 in the media generally about the potential to
9 widen either of the parkways?

10 A. I don't recall exactly
11 when those discussions commenced, but I do recall
12 discussions or conversations around widening both
13 of the facilities.

14 Q. Okay. Who felt it would
15 be prudent to delay the EA review?

16 A. Well, I mean, that would
17 be probably myself, Gary and Mike because if we
18 commenced an environmental assessment review just
19 for illumination, it would have to be informed by
20 all of those other decisions that were going to be
21 made around potentially widening or any other
22 improvements.

23 Q. Just so that I can better
24 understand that, why would it be prudent to delay
25 an EA review? And maybe -- actually, maybe I'll

1 ask this question differently. When it says EA
2 review, what does that mean?

3 A. Well, I mean, what I'm
4 reading in this is that we're going require either
5 an update to the original environmental assessment
6 or a new one, so it prudent to delay either one of
7 those processes until such time as we've got kind
8 a more fulsome scope. The EA would be probably a
9 multiyear process, and if I remember correctly, in
10 the second last paragraph, we indicated it was a 6
11 to \$10 million project which would require -- I
12 don't know the dollar value on the EA, but it
13 would require a significant study that would just
14 address the lighting component of the Red Hill,
15 not the other components.

16 Q. Okay. So just that I
17 understand, the reference here to EA review would
18 not be a review of the current EA, but it would be
19 the renewing and updating the original EA? That's
20 what EA review means?

21 A. Correct. I mean, there's
22 a period of time that you can amend or update an
23 EA and I'm not sure if we're past it or not at
24 this time.

25 Q. Okay. Registrar, could

1 you close this down and call out the text in the
2 image on the right-hand side.

3 Just before we get to this,
4 one last question on that last bit, the EA review
5 and its prudence. In 2016, what did you
6 understand the timeline for the proposed changes,
7 like widening, to be?

8 A. I don't think I
9 understood a timeline. It wasn't in the next
10 year, and I'm not sure at that point in time it
11 had been programmed or considered into even the
12 five year.

13 Q. So in short, the idea of
14 pausing an EA review until the issue of widening
15 had been -- until the other proposed changes were
16 being considered, that would have meant in effect
17 that it could be a very significant period of time
18 before the EA process commenced. Is that what you
19 understood in 2016?

20 A. Correct. Well, so couple
21 of points there. I think a decision needs to be
22 made, and so if you go to the installation of
23 lighting will require (inaudible) bases and
24 trenching and potentially -- if it was centre
25 line, potentially protection around it. So all of

1 that then would ask the question what are we doing
2 with the storm systems. Are we doing a widening.
3 Is there bridge works that we need to do.

4 So I think what we're saying
5 here is that there's a lot of elements in the Red
6 Hill to consider and let's not just advance one
7 and then find out, oh, we've got kind of an
8 assessment on just one element, but we didn't
9 consider or should have considered others prior to
10 making these decisions.

11 Q. I see. You said earlier
12 that I think you were involved in the drafting or
13 the information that went into the drafting of the
14 fourth paragraph that references the preliminary
15 high level estimates indicate that the cost to
16 install lighting would be in range of 6 to 10
17 million depending on many factors. And then have
18 the -- it goes on -- operationally what the annual
19 operation costs would be for the installation of
20 lighting.

21 How were you involved in the
22 drafting or the preparation for drafting of that
23 paragraph?

24 A. Again, to my
25 recollection, we were trying to determine what the

1 costs would be in different areas, and this was
2 for both the LINC and the Red Hill, for installing
3 coal bases and rock and/or running them into
4 different locations. I believe Mike -- and I'm
5 kind of casting back here -- I believe Mike
6 prepared a couple of different scenarios on what
7 the cost might be here and that's where we came up
8 with that range.

9 Q. When you're saying "we"
10 in your evidence just now, is it you and Mr. Field
11 or you and Mr. Field and Mr. Moore?

12 A. In general I would say
13 with Mike Field on this part of it.

14 Q. In the last paragraph it
15 says the staff report that packaged up the 2015
16 CIMA report discussed the safety benefits
17 associated with continuously lighting the
18 parkways:

19 "The consultant review
20 included a high-level
21 discussion relating to
22 lighting. The high-level
23 review was not comprehensive
24 enough to guide any staff
25 recommendations and in order

1 to fully understand the
2 benefits, risks and challenges
3 of adding continuous lighting,
4 a more fulsome review and
5 business analysis would be
6 required to be undertaken."

7 So can you explain in a bit
8 more detail what was missing from the consultant
9 report that you thought needed to be part of a
10 comprehensive or a more fulsome review?

11 A. No, I don't think I can
12 provide a lot more detail on that. I think Mike
13 would have had kind of hands on on this. He would
14 be the subject matter expert on what the
15 consultant had provided and what we would need to
16 get a little bit more information or more
17 information in order to kind of make an informed
18 decision.

19 Q. Did you discuss with him
20 how he came to the approximate cost of such a
21 study?

22 A. No. I mean, I think at
23 that point in time we were trying to determine
24 whether or not it was within roster limits or
25 would be something that would require to go out on

1 its own RFP. I think the roster limits at the
2 time were \$100,000, so my reading of this is we
3 assume or made the determination that it would be
4 within that limit.

5 Q. Did you and Mr. Field
6 discuss what would be included in the scope of
7 this more fulsome review?

8 A. Potentially, but I can't
9 recall.

10 Q. Can you explain why staff
11 didn't recommend doing this more fulsome review in
12 this report rather than just advising of the
13 approximate cost of it?

14 A. Sorry, can you ask me
15 that again?

16 Q. Sure. Can you explain
17 why staff did not recommend doing this report
18 rather than just advising of its approximate cost?

19 A. No, I don't think -- so
20 what you're asking is why aren't we making a
21 recommendation to proceed with a new study?

22 Q. Yes.

23 A. Okay. So that would be a
24 different report. It would be a recommendation
25 report, and that wasn't, from what I'm seeing, the

1 intent of this report.

2 Q. Well, I understand it
3 wasn't the intent, but why wasn't it the intent?

4 A. At this point in time, I
5 mean, we're looking at the existing project
6 determinations on whether -- or what lighting was
7 allowed and then the other potentials around kind
8 of a larger assessment. So I don't think
9 recommending a lighting study at this point in
10 time in absence of all of the other elements that
11 needed to be considered was something that we were
12 going to bring forward.

13 MS. CONTRACTOR: I wonder if
14 we could just put this callout down so he can take
15 a look at the full report, including the council
16 direction. It might be relevant to that.

17 BY MS. LAWRENCE:

18 Q. Of course. Registrar,
19 can you close this callout.

20 Mr. McGuire, in the very first
21 paragraph, the direction was to provide
22 information on the cost and process of
23 investigating an improved lighting system. And
24 I'm going to suggest to you that a process for
25 investigating an improved lighting system would

1 have or could have included saying you should go
2 get a consultant report. I'm wondering why that
3 wasn't the direction that you and Mr. Field and
4 Mr. Moore went in.

5 A. Again, back to sort of
6 the high level. To do a standalone lighting
7 assessment driven by the street lighting group
8 without getting the information from
9 transportation and operations and what may be
10 required for additional storm drainage and things
11 like that wouldn't result in -- you know, we would
12 have potentially a report that would allow you
13 to -- or disallow you to do lighting, but wouldn't
14 consider any of the other elements.

15 Q. But why wouldn't you do a
16 comprehensive report that would include getting
17 information from transportation and operations,
18 storm drainage, et cetera?

19 A. So that would then be not
20 an information report. It would be a joint report
21 and require -- I think we end up getting to that
22 point with PW1800A -- or 18008A, and that's
23 considering a lot of other elements, including the
24 lighting element.

25 Q. I'm sorry, I think my

1 question wasn't clear. Why didn't you recommend
2 to public works committee to start a comprehensive
3 report -- pardon me -- a comprehensive study which
4 during that study would have obtained that
5 information from transportation and then
6 operations and storm drainage?

7 A. You're asking if we --
8 from lighting we should drive an environmental
9 assessment and project review of the entire
10 corridor or --

11 Q. No. I'm sorry, I don't
12 mean --

13 A. Okay. I'm confused about
14 what you're asking me.

15 Q. I don't mean to
16 interrupt. I do want to make sure that my
17 question is clear.

18 In the very last paragraph it
19 says the consultant report that CIMA did wasn't
20 sufficient and that a high level -- or the
21 high-level review wasn't sufficient. And then:

22 "In order to fully understand
23 the benefits, risks and
24 challenges of adding
25 continuous lighting, a more

1 fulsome review and business
2 analysis would be required to
3 be undertaken."

4 I'm going to suggest to you
5 that one path that you could have taken was to
6 look to a scope that would include that fulsome
7 review and business analysis. Within that scope,
8 you would have asked the consultant to seek
9 information from transportation planning, from
10 operations, from storm maintenance, that that
11 could have all been part of the fulsome review.

12 And my question to you is, why
13 didn't you go to the next step of actually
14 recommending the commencements of such a report
15 rather than just providing the approximate cost of
16 it?

17 A. Well -- yeah, so that
18 report to gather up all of that information from
19 the other groups would require more than \$100,000
20 and probably a much more significant -- a much
21 more significant assignment. So I think what
22 you're asking is why isn't lighting driving a
23 review of the entire facility, and I would say
24 that the review of the entire facility would carry
25 lighting, and that's the way this report is

1 written.

2 JUSTICE WILTON-SIEGEL: I
3 don't normally get involved in questions, but I
4 will put the question that I believe is being
5 asked in a very specific way to you.

6 Why doesn't the report say the
7 approximate cost of such a study would be
8 approximately \$100,000; we recommend that a
9 consultant be engaged to prepare such a report?

10 THE WITNESS: So the answer
11 would be that the \$100,000 was a component of a
12 larger study, and maybe that's not clear in the
13 report. And that at the bottom of page 2, it says
14 it's prudent to delay the review until it's
15 coupled with the other proposed changes.

16 So I think what we're saying
17 is there's a report required or a study required,
18 but that should come together with any other
19 proposed changes that are being advanced on this
20 facility.

21 BY MS. LAWRENCE:

22 Q. Registrar, can you go to
23 OD7, page 109. Can you call out 342.

24 Mr. McGuire, that is not at
25 all what happened, that lighting would cost

1 \$100,000 was part of a bigger project. Public
2 works committee came back and said staff is
3 directed to undertake a comprehensive study of
4 lighting opportunities at an estimated cost of
5 \$100,000. So even though you didn't recommend it,
6 public works committee directed it, and that the
7 matter be referred to the capital budget process.

8 I'm going to ask you some
9 questions about this going forward, but just so
10 that I understand again and further to the
11 Commissioner's question, I'm not -- then I will
12 move on, but I still don't understand why the
13 report was not drafted in a way that clearly the
14 public works committee saw when they said, okay,
15 we're directing you to do this comprehensive study
16 for lighting opportunities.

17 MS. CONTRACTOR: I'm a little
18 confused because I think we've asked him this
19 question a few times and he's answered. Is what
20 you're asking why it wasn't a recommendation
21 report instead of an info report? Is that what
22 your question is?

23 MS. LAWRENCE: No, that is not
24 my question. I don't care about the form of the
25 report itself. I'm asking why the recommendation

1 wasn't made. Maybe those are the same thing, but
2 I don't really care about the form of the report.
3 My question for Mr. McGuire is why didn't staff
4 recommend to the public works committee rather
5 than just simply say it's going to cost this much.

6 MS. CONTRACTOR: I feel like
7 he's answered that question a few times, unless
8 Mr. McGuire has anything else to add. I do feel
9 like he's answered that a few times.

10 MS. LAWRENCE: Commissioner,
11 I'll direct my responses to you, recognizing that
12 I think that's the appropriate way to do this.

13 Mr. McGuire just said after
14 quite correctly I did ask the question a number of
15 times, that the idea was that the \$100,000 would
16 be part of a bigger project, and I want to ensure
17 that he understands and is reminded about what
18 happened in this project, which was it wasn't part
19 of a bigger project. And so that's why I'm asking
20 the question again, and then I'll move on.

21 JUSTICE WILTON-SIEGEL: I
22 think you can ask the question again.

23 BY MS. LAWRENCE:

24 Q. Mr. McGuire, would you
25 like me to repeat my question?

1 A. I'm going to try and
2 paraphrase and get to what I think you're asking
3 again.

4 The bonus point -- if we were
5 asking council for money for something, that would
6 be considered a recommendation report. We would
7 bring forward a recommendation. We would say,
8 this is what we propose and please approve or
9 amend or edit the recommendation in front of you.
10 What we brought forward was an information report.
11 The information report addressed what we thought
12 was a path forward, in that there's going to be a
13 larger consideration of these facilities, and as a
14 part of that, they should consider the lighting.
15 We did not bring forward a standalone lighting
16 recommendation.

17 Q. Thank you. So in other
18 words, the information report was information
19 only, and in fact you were not seeking for any
20 direction from public works committee and did not
21 want any direction; is that right?

22 A. We weren't seeking
23 direction, no.

24 Q. You didn't want any
25 direction to move forward because you wanted to

1 hold off until the other opportunities for the
2 parkways were being addressed?

3 A. I'm careful about saying
4 we don't want direction from council. So I would
5 say we brought forward an information report and
6 they determined after conversation that they
7 wanted a study undertaken.

8 Q. Thank you. I appreciate
9 your position and your language, and I can phrase
10 it differently just so that it's very clear.

11 Staff did not want to move
12 forward with a more fulsome review of lighting at
13 this time; is that right?

14 A. We didn't recommend it,
15 and no, we wanted to fold it into a larger study.

16 Q. The public works
17 committee did direct you to undertake a
18 comprehensive study of lighting opportunities and
19 refer the matter to the capital budget process.
20 Given this direction, in your view was there a
21 process by which you could go back to the public
22 works committee and say, oh, that's not what we
23 meant; we think that this should be held off; it
24 would be money better spent if it was part of a
25 bigger project? Is there a process to do that?

1 A. I don't -- I mean, write
2 a report back to them telling them that we were
3 going to defer this or include it in a larger
4 study?

5 Q. Yeah.

6 A. Yeah, that is a process.

7 Q. Why didn't you do that?

8 A. Did we not do that in
9 your 18008 or 18008A?

10 Q. Yes, I mean, at the time
11 there's this direction. Before it goes to the
12 capital budget process to get money to actually
13 move forward with something that you haven't
14 recommended to be done, at that point, given
15 process that's available, did you go back?

16 A. I don't -- I mean, at
17 this point in time, council is directing us to put
18 some money aside for a lighting study, and that's
19 their direction and we're going to take that and
20 put it in the budget process. That's my
21 understanding.

22 Q. Mr. Field testified that
23 the funding for the illumination study was
24 submitted as part of the 2017 capital budget
25 process as set out in the recommendation here and

1 that it was approved and became available to staff
2 for spending around March 2017. Is that
3 consistent with your recollection?

4 A. That would make sense,
5 yes.

6 Q. That's from what -- your
7 experience with the budgeting process, that would
8 make sense in terms of when monies become
9 available once they go through that process?

10 A. Yeah, correct.

11 Q. The comprehensive study
12 that staff were directed to undertake is not
13 initiated, at least as it relates to dealing with
14 a consultant, in March 2017. Do you know why?

15 A. I think at the time --
16 I'm trying to remember the exact timeframe, but
17 the lighting group was in the midst of a city-wide
18 LED street light conversion. So I think we
19 were -- I know we were pretty occupied with that,
20 and that was probably our largest focus in the
21 immediate term.

22 Q. Mr. Field testified that
23 he was dealing with the lighting asset
24 modernization project, or LAMP?

25 A. Yes.

1 Q. Is that what you mean?
2 Did Mr. Field raise with you that the LAMP work
3 would delay starting this comprehensive study?

4 A. So I don't know if he
5 raised it directly, but this would've gone on to
6 his work plan and we would have -- it's come on to
7 the work plan and then we'll assign resources to
8 it as they become available.

9 Q. Did you have any concerns
10 that the direction from public works committee to
11 undertake a comprehensive study of lighting
12 opportunities, that its start could be delayed as
13 a result of Mr. Field's full work plan?

14 A. So I think -- I mean,
15 it's important that they don't tell us to return
16 to them within a year or something like that.
17 They give us direction to proceed with the
18 lighting study and a budget. So we're putting it
19 on a work plan and obviously we'll get to it as
20 quickly as possible, but there's other things on a
21 work plan.

22 Q. Okay. And given the lack
23 of direction to report back, as a manager, what
24 was your expectation about how long would be
25 appropriate to -- maybe I'll put it differently.

1 As a manager, what was your expectation about when
2 it would become problematic if you hadn't reported
3 back?

4 A. I mean, that's pretty
5 specific to each item. So I don't think I could
6 give you between X and Y timeframe. It would
7 depend on the aspect or the element that we were
8 working on.

9 Q. Well, what about specific
10 to this recommendation.

11 A. So I'm not -- I mean, at
12 this point in time I don't think we said, oh,
13 we're not going to get to it until 2021 or
14 something. You know, we put it into the work plan
15 and began trying to resource it the best way we
16 could. So I didn't have an expectation that it
17 would be delivered immediately, nor did we have an
18 expectation that it would never make it on to the
19 queue in the work plan.

20 Q. You said, we put it into
21 the work plan and began to try to resource it the
22 best way we could. What exactly was done to
23 resource responding to this direction from PWC in
24 2017?

25 A. I can't give you the

1 specifics on that. I mean, it would be one of a
2 number of things that we would be looking to
3 address, and obviously on the work plan the big
4 item was the LED conversion. So no, I can't give
5 you a specific on that one.

6 Q. I'm going to suggest to
7 you that there was no resourcing of this project
8 in 2017?

9 A. Okay.

10 Q. Do you agree with that?

11 A. I'm trying to remember
12 the commencement of the CIMA illumination study,
13 but if you tell me it didn't commence until 2018,
14 then I'll accept that.

15 Q. It didn't. It's
16 March 2018.

17 A. Okay.

18 Q. So you'll accept that?

19 A. Yeah.

20 Q. There's no one else who
21 is being resourced on to this if it's not
22 Mr. Field, right?

23 A. Correct.

24 Q. Did anyone from your
25 division advise council that the LAMP study would

1 delay other lighting initiatives?

2 A. The LAMP project, it was
3 sort of a time-bound project. There was some
4 revenue or some grants available from the
5 province. We had to get -- I can't remember the
6 exact number -- I think it was 25 or 30,000 lights
7 changed out in a two-and-a-half year window. We
8 reported to council. We asked them for the money
9 to proceed with it. We told them it was high
10 pressure.

11 Councillor Ferguson, to my
12 recollection, identified that he thought we would
13 not make that window and asked us to report back
14 quarterly on the project status. So there are LED
15 conversion quarterly updates to public works
16 committee. So inherent in that is the fact that
17 we are putting a lot of resources into that
18 project.

19 Q. So not expressly, no one
20 expressly advised PWC or council that the LAMP
21 study would delay other lighting initiatives?

22 A. Yeah, correct, and the
23 LAMP was a project, not a study.

24 Q. Sure. Sorry.

25 A. And we were exposed to I

1 think about three-and-a-half million dollars of
2 grants that were time bound, that we needed to
3 complete our project in order to accrue that
4 money.

5 Q. Speaking of money being
6 time bound, when this \$100,000 was put into the
7 2017 capital budget and then made available in
8 March of 2017, what happens to those funds if they
9 are not used within the year in which they are
10 budgeted?

11 A. Capital budget process,
12 they will stay in the capital -- they will get a
13 project ID and they will sit in the open accounts
14 list, and then on a regular basis it'll get
15 assigned to somebody and you'll get some reports
16 back to tell you that there is works in progress
17 on these projects with these budgeted amounts and
18 these available amounts.

19 Q. So am I hearing then if
20 you roll over from one year to the next without
21 spending some or all of the money that's been
22 budgeted, it just rolls over to the next year on a
23 project list?

24 A. Yeah, correct.

25 Q. Moving away from lighting

1 for a minute. Registrar, could you close this out
2 and go to OD7, page 171 and 172, please. Can you
3 call out 504, please.

4 In March of 2017, Mr. Andoga
5 from engineering services e-mailed Mr. Hughes and
6 you under the subject line "LINC - Red Hill
7 Resurfacing," and he copied in Mr. Sidawi from
8 asset management, Mr. Jazvac -- remind me -- from
9 design; is that right?

10 A. Pardon?

11 Q. Mr. Jazvac?

12 A. He's in asset management.

13 Q. Thank you. Ms.

14 Matthews-Malone who is operations, roads;
15 Mr. Moore; Ms. Jacob who is in design; Mr. Becke
16 who is in design; Mr. Ferguson who is in traffic
17 operations and engineering; and Mr. White, also
18 with Mr. Ferguson. He includes a number of people
19 here and says:

20 "Brian/Gord, we are proposing
21 resurfacing of the RHVE in
22 2018 - 2019, followed by the
23 LINC in 2020 - 2021. Please
24 note the e-mail below, any
25 comments/ project scope/

1 concerns from your respective
2 sections?"

3 So just in terms of the
4 project that's referenced below -- Registrar,
5 could you close the callout. I'm just going to
6 pull it out just so that you can see it. It's
7 HAM52799, please. I'm sorry, I think I misspoke.
8 HAM52799. I misspoke again, I'm sorry. 52799.

9 THE REGISTRAR: Sorry,
10 Counsel, are you saying 52799?

11 MS. LAWRENCE: No, it's
12 HAM25799. I'm very sorry.

13 THE REGISTRAR: Thank you.
14 Sorry for interrupting you, Mr. Commissioner.

15 BY MS. LAWRENCE:

16 Q. That was entirely my
17 fault, and apologies, Mr. McGuire, because I'd
18 like to ask what your role was and involvement is
19 in this.

20 Just so that you can see,
21 there's a fair bit of back and forth starting on
22 the bottom of image 2 about traffic operations and
23 engineering's preferred scope for the resurfacing,
24 and there are some back and forth with Mr. Andoga
25 and Mr. Ferguson and his team about what would be

1 included, including median barriers, including
2 recessed pavement markings, pavement markings
3 themselves, rumble strips, there's a number
4 different things. So that's what works its way up
5 to you.

6 All that to say in that
7 context, why would Mr. Andoga be reaching out to
8 you in March of 2017 asking for comments, project
9 scope, or concerns from your section?

10 A. That's a good question.
11 So I'm not sure if you're aware or familiar with
12 sort of the capital budget processing system, but
13 generally -- and there is a group or a committee,
14 project coordination committee, and there's a
15 system which we have a project ID number and then
16 the staff from the variety of different areas
17 would key in or enter their specifics into that
18 system. So sending it out by e-mail, I'm not sure
19 why -- if we did this on all of our projects, it
20 would be pretty difficult to manage.

21 Q. Maybe I'll ask the
22 question in a different way, although that's
23 helpful.

24 As manager of geomatics and
25 corridor management, what concerns might you have

1 about project scope of resurfacing.

2 A. I mean, at that point in
3 time as the manager of geomatics, I mean, the
4 lighting group was with us, but this is a proposal
5 for resurfacing. I really wouldn't have any
6 comments, and again back to sort of the capital
7 project management system, that's where I would
8 expect people would enter scope and their
9 requirements or desires for elements in a project.

10 Q. That's helpful. I could
11 not also not quite understand why geomatics would
12 have a role in resurfacing. Did geomatics
13 generally have roles in resurfacing?

14 A. So, I mean, we would
15 prepare what's called a base plan which is
16 generally like a 2D extract from the mapping, so
17 that the design team could extract quantities and
18 overlay things like where manhole adjustments and
19 that needed to be made, but we wouldn't have a
20 role in suggesting scope or changes or anything
21 else like that.

22 Q. Thank you. That's
23 helpful.

24 So given that role that
25 geomatics might play or just generally, did you

1 know before Mr. Andoga sent this e-mail that there
2 was a plan to resurface the Red Hill in 2018,
3 2019?

4 A. No, I don't think I was
5 aware of it. Maybe just to back it up a little
6 bit as well, coming out of the project
7 coordination and the capital budgeting process
8 would come a large list of projects, and those
9 projects would get assigned to folks in the
10 geomatics team to do data collection or field work
11 or if there was real estate things required. So
12 that's how I would become aware of projects. I
13 wouldn't generally become of them through an
14 e-mail or -- yeah, this kind of fashion.

15 Q. I see. So just the
16 inquiry has heard a lot about how the projects
17 move from asset management to design to
18 construction. So when you're saying you would get
19 the large list from capital budget and they would
20 be assigned, that's all after it's gone through
21 asset management and received funding; is that
22 right?

23 A. Yeah, correct, or -- I
24 mean, some projects -- you know, I think we're
25 diverting a bit, but some projects maybe we invest

1 some time and effort to gather some data so that
2 we've got enough information that asset management
3 can generate a more defined scope. So we may get
4 stuff prior to it being through a budget, but
5 that's really not relevant to this.

6 Q. So resurfacing, that's
7 probably not where that would be unusual?

8 A. No.

9 Q. Were you actively working
10 on anything related to the Red Hill resurfacing at
11 this time, which is March of 2017?

12 A. Not to my knowledge.

13 Q. This is before your
14 portfolio expanded to include asset management,
15 which we will talk about later. Did you have any
16 significant involvement in the Red Hill
17 resurfacing in terms of geomatics? Maybe I should
18 say that differently. Did the geomatics section
19 of your division have any role in the Red Hill
20 resurfacing?

21 A. Nothing beyond, you know,
22 basic file preparation or something like that in
23 order to support the delivery through the design
24 group.

25 Q. In January of 2018, as we

1 discussed, your role did expand. Did you
2 personally become more involved in the Red Hill
3 resurfacing as a result?

4 A. So in January of 2018, my
5 focus at that time was on a thing called winter
6 damages. We spent a lot of time and effort on
7 going to council and identifying -- anyways, there
8 was some damaged roads from some severe winters.
9 So no, I didn't spend a lot of time on the Red
10 Hill, and in fact I wasn't -- I don't think I was
11 sure that it was in the state it was until kind of
12 later on into June and July.

13 Q. Just stopping there. You
14 said there was winter damage. So the inquiry has
15 heard some evidence about the idea of the
16 freeze-thaw cycle and that can cause cracking or
17 potholes or that sort of thing. Is that the kind
18 of thing you're talking about?

19 A. Correct. So not directly
20 related to the LINC or the Red Hill, but the city
21 roads over the winters of 2016-17, 17-18, together
22 with a lot of other roads in southern Ontario
23 experienced a lot of frosting, a lot of thaw,
24 which caused, you know, a lot of damage. I think
25 there was a section of Main Street West that our

1 transit operators declined to drive their bus down
2 anymore because of the condition of the road. So
3 those were the things that we were trying to deal
4 with immediately in the January -- when I first
5 got in.

6 Q. And you said that that
7 was not related to the LINC or the Red Hill, so
8 the winter damage project, I'll say for lack a
9 better word, that was on city roads, not the
10 parkways?

11 A. Correct.

12 Q. And that was in -- that
13 work you did on the winter damage, that was in the
14 context of your expanded portfolio, not your role
15 as corridor management and geomatics?

16 A. Yes, correct.

17 Q. Just to close the loop on
18 that, the work that you were doing, was it to
19 secure funds to ensure that operations could go
20 out and do that work?

21 A. No, the work was to -- I
22 think there was a couple of reports, but there was
23 reserve funds made available. I think it was in
24 the neighborhood of \$20 million. Staffed, through
25 us at management, brought forward a number of

1 candidates, city-wide candidates as well as
2 ward-specific. Then we folded those candidates
3 into either existing contracts that engineering
4 services was delivering or new contracts to be let
5 to address those issues.

6 Q. Registrar, could you
7 close this and go into OD8, page 41, please. Can
8 you call out paragraphs 107 and 108.

9 So we're in January of 2018
10 now, and Ms. Jacobs e-mailed Mr. Sidawi and you
11 and Mr. Moore about the 2018 capital projects,
12 advising that the project was committed for a
13 January 24, 2018 tender, but that it was still in
14 programming with scope to be modified. So as of
15 January 2018, did you expect that the Red Hill
16 resurfacing was going to go to tender and be
17 completed in 2018?

18 A. I don't think in
19 January 2018 I had, you know, a real line of sight
20 on where that project sat.

21 Q. Was this e-mail that
22 Ms. Susan (sic) sent, to your knowledge, for your
23 information only, or were you more meaningfully
24 involved as of January 2018 with this?

25 A. So in January 2018 I'm

1 not at the director level and I'm not in charge
2 of -- so Susan would be doing the tenders through
3 her section, and then they would move over to
4 Marco Oddi's section to deliver. So those are --
5 the tender is now with Susan, so it's sort of
6 outside the realm of what I'm looking at. She may
7 be informing us -- she may be informing me here,
8 because I would see all the budgets, that there
9 may be money or something like that sitting in the
10 budget. But I just see this as a bit of a heads
11 up. We've got some schedule changes on a couple
12 of projects.

13 Q. Fair enough. It's a
14 heads up. Just so that I'm very clear, it's a
15 heads up to you in which capacity? In your
16 expanded manager capacity with oversight over
17 asset management?

18 A. Right, and so I think the
19 second line says it's still in programming, so the
20 programming part would be with asset management,
21 and she's saying scope still being modified. So
22 we have had the conversation about where and how
23 the capital project management cycle works, so as
24 people enter scope into it, as some point that
25 gets locked in and moved forward. What she's

1 saying is it appears that scope is still being
2 added to this project and it's still sitting over
3 here, would be with asset management, and it's not
4 going to hit this January 24th deadline or tender
5 date.

6 Q. You'll see in
7 paragraph 108 that from that there is discussion,
8 which it's not clear from the OD, but you are
9 copied on, where it's noted that we, in the
10 e-mail, still need to confirm whether the RHVP was
11 to be rehabilitated using HIR, and if so,
12 construction would be deferred until 2019.

13 Just to be clear, in the
14 underlying document the OD uses HIR but the
15 underlying document says hot in-place, and makes
16 the reference that if so, construction would be
17 deferred to 2019. Were you aware in January of
18 2018 that there was any discussions about the use
19 of hot in-place as part of the resurfacing
20 project?

21 A. No, I don't recall being
22 aware. I don't know if I was copied on this
23 e-mail or not.

24 Q. You were copied on the
25 e-mail. I can go to the underlying e-mail. I

1 just was trying to save --

2 A. Yeah, that's fair. Look,
3 if they are copying me on scope changes or
4 material changes on every project that's in the
5 queue, I probably wouldn't be able to keep up.
6 So I would have seen this and said, oh, okay,
7 they're having some conversations about something
8 going on with this project and Susan and Sam are
9 going to deal with it.

10 Q. So taking from that, you
11 would be more interested in that there might be a
12 deferral to 2019 than the reference to hot
13 in-place?

14 A. Yeah, correct.

15 Q. Did you know at the time,
16 in 2018, what hot in-place recycling was?

17 A. I don't think from -- I
18 mean, at that point in time looking at that
19 acronym, I would have known what Sam was
20 indicating there.

21 Q. In the underlying e-mails
22 on acronym, it says actually hot in-place, but did
23 that phrase "hot in-place" mean anything to you?

24 A. No. I mean, not in
25 January of 2018 it didn't.

1 Q. Were you involved in
2 discussions as to whether hot in-place recycling
3 would be used at that time, not this e-mail, but
4 sort of other discussions?

5 A. No, I don't recall -- I
6 don't recall any discussions about hot in-place
7 until later in the year, kind of mid year.

8 Q. Registrar, you can close
9 this callout.

10 Hot in-place recycling starts
11 to be something that engineering staff are talking
12 about, certainly design are talking about, after a
13 conference in Halifax in November of 2017. Does
14 that refresh your memory? You had said you don't
15 recall any discussions. Does the reference to
16 this conference refresh your memory or twig any
17 memories about discussions about hot in-place in
18 early 2018 with you?

19 A. So for clarity, I don't
20 think I'm aware of the hot in-place methodology
21 until, like I said, sort of mid year, later year.
22 And no, I don't have any information at that point
23 in time. I think HIR stands for hot in-place
24 recycling or something like that. The "R" --

25 Q. Yes.

1 A. Yeah, I see it in both
2 forms, the HIP and the HIR, or however you want to
3 evaluate those.

4 Q. Around the same time as
5 that conference in Halifax in in November 2017,
6 Golder submitted a proposal for testing, including
7 British pendulum testing, medium texture deputy
8 measurements, polished stone value testing, to be
9 conducted on the Red Hill. You obviously will get
10 into this later in the chronology, become involved
11 in that, but at the time did you have any
12 knowledge that Golder was being -- was proposing
13 to do any sort of testing of the materials on the
14 Red Hill?

15 A. No, I wasn't aware of the
16 beginnings of that 2017 assignment.

17 Q. Turning back now to
18 lighting, because we're going chronologically.
19 Registrar, could you go to page 31 of OD8.

20 If you could call out 76 and
21 77, please. Actually, can you close that callout
22 and can you call out 75 to 77, the whole page.
23 Thank you. Just so it's a little bit bigger.

24 So you'll see in paragraph 75
25 in December Mr. White has some back and forth with

1 Councillor Collins attaching a draft of PW18008,
2 so that's not the one that -- that's the first
3 18008 report. And on the same day, Ms. Cameron
4 e-mailed you and Mr. Field, copying Mr. Moore,
5 regarding lighting on the Red Hill, and she wrote:

6 "Councillor Conley is
7 requesting an information
8 report on lighting as he says
9 he's still getting
10 complaints."

11 Just stopping there. We're
12 now into December 2017. Had you -- apart from the
13 council requests for information about lighting,
14 had you learned that there was public concerns
15 about the level of illumination on the Red Hill by
16 December 2017?

17 A. Yeah, I think I'm aware
18 that, you know, by this point in time, that
19 lighting or illumination is something that gets
20 raised as a concern for the travelling public.
21 I'm not exactly sure when I'm aware of it, but
22 yes, I am aware.

23 Q. Thank you. So
24 Ms. Cameron says, I spoke to Mike and since Martin
25 is doing a report for the January 15th PWC

1 committee meeting -- I think I can read that in --
2 "on five previous motions that includes barriers,
3 he feels like a coordinated effort is required,"
4 and Ms. Cameron suggests that you and Mr. Field
5 and Ms. Cameron sit down and put something to
6 Martin, copying to Mr. Moore and Mr. Mater.

7 And then she mentions that
8 Mr. Field approved -- was approved by committee
9 for money to hire a consultant, but he thinks the
10 EA may need to be updated.

11 "Mike, any additional
12 information?"

13 And you respond: "Thanks,
14 we're looking into this now as
15 Martin has this report.

16 Lighting needs to be
17 understood in the context of
18 the original EA and
19 restrictions placed in that
20 file. Mike is looking into
21 this currently." (As read)

22 Just before we get into the
23 details of this. This is December 4, 2017 that
24 you're having the back and forth. Certainly to be
25 fair to you, I think earlier I said was there any

1 resourcing of what becomes the lighting study in
2 2017, and this clearly is December of 2017, so I
3 do certainly want to be fair you to that I think
4 it was December 2017 that you first start speaking
5 about this.

6 Is that your recollection as
7 well, that these are the first discussions arising
8 out of the comprehensive study direction from
9 council?

10 A. So, I mean, I'm wondering
11 if Martin has -- and I don't know what's included
12 in the first draft of PW18008 and whether he's
13 already had conversations with Mike about
14 addressing any of those issues in there, but if
15 not, then this would be sort of the commencement
16 of those conversations.

17 Q. This is the commencement
18 of conversations with you at least; is that fair?

19 A. Okay, yeah.

20 Q. No, I'm asking. Is there
21 any earlier --

22 A. I don't have any
23 recollection of being involved in it any earlier.

24 Q. At this point, this is
25 2017, did you understand that your division was

1 responsible to report back to council about
2 lighting on the Red Hill?

3 A. Yeah, that was my
4 understanding.

5 Q. When you say "we're
6 looking at this right now as Martin has a report
7 going," what were you looking at right now?

8 A. I can't provide you any
9 additional context.

10 Q. Both Ms. Cameron and you
11 reference that the EA might have to be updated.
12 That's what she says, and say "lighting needs to
13 be understood in the context of the original EA."

14 Do you recall having
15 discussions with Mr. Field in early December
16 of 2017 about the original EA and if anything
17 needed to be done to investigate the original EA.

18 A. No, I don't have a direct
19 recollection of having those conversations.

20 Q. So what did you mean
21 lighting needs to be understood in the context of
22 the original EA?

23 A. I'm working from sort of
24 the history of what I understood up to that point
25 in time, that the project -- the original project

1 considered lighting and didn't include it in the
2 construction phase and that in order for us to
3 install lighting, we need to review it through the
4 EA process, so context of the original EA and --
5 the project.

6 Q. Okay. So by this point
7 had you gone back and looked at any of the
8 documentation that related to the original EA?

9 A. I don't think we retained
10 CIMA yet, right.

11 Q. No, that doesn't happen
12 until March --

13 A. I'm not sure what I
14 looked at at this point in time. I know there's a
15 series of reports from CIMA, 2013 and 2015 and I'm
16 not sure what they referred to in there and what
17 I've read at this point.

18 Q. By this point do you 95
19 inkling that the EA was of different than you had
20 thought before this point, that the information
21 that you understood -- concerns other things might
22 not be set out in the -- in that form?

23 A. No, I don't think I've
24 got that context at this point.

25 Q. Did Mr. Field give you --

1 did he convey you to anything that would suggest
2 that he was starting to have some -- wanted to
3 make inquiries about whether the EA in fact said
4 what they thought it said?

5 A. It says Mike is looking
6 into this currently, I'm not sure if he's looking
7 into retaining the consultant or doing a little
8 bit more background work I can't provide much more
9 information than that.

10 Q. Councillor Conley's
11 request for an information report, this is -- as
12 you said, you were just going through that
13 history. There's the 2013 report where PWC asks
14 for lighting and other measures and CIMA does not
15 assess continuous -- recommend continuous
16 illumination. Then there's the 2015 report, which
17 you're not involved in, but where they do
18 recommend continuous illumination as a long-term
19 measure. Then there's the information report you
20 do in 2016 which comes back even though you didn't
21 ask for the recommendation and says, yes, go take
22 that -- do that comprehensive study. And now
23 there's this request from Councillor Conley.

24 Did you understand lighting
25 was an issue that at least some councillors had a

1 strong, persistent interest in?

2 A. Yeah, there's an ongoing
3 discussion or conversation about lighting on the
4 Red Hill, together with a number of other items.
5 I think if you look at the schedule on PW18008,
6 there's a number of other things.

7 So as a function of -- yeah,
8 the feedback from the residents, we get requests
9 for information reports on a variety of different
10 things, you know, when is the road going to be
11 done, or what about this, or something like that.
12 So I am aware of it and it isn't uncommon.

13 Q. Did this request from
14 Councillor Conley after that history that we just
15 went through, did that leave you with some
16 pressure to start the comprehensive study that PWC
17 had directed be undertaken in September of 2016?

18 A. I don't know if -- at
19 this point in time I think we're trying to make
20 sure that we're coordinating, as we mentioned in
21 that 2016 information report. So I think it's a
22 timely discussion and that we're going to start or
23 commence and tie into the larger project.

24 Q. Just so I understand the
25 coordination, did you want to have a plan in place

1 so that Mr. White could add in some reference to
2 lighting within his report?

3 A. Yeah, I mean, I think
4 Diana notes it feels like a coordinated effort,
5 and I believe that's what we're trying to do, is
6 create a collaborative approach to addressing some
7 of these issues.

8 Q. I'm just trying to dig in
9 to what coordinated effort means. Was the idea
10 that if you did some thinking through or some
11 planning now, that Mr. White could put that into
12 his report, or was a coordinated effort that two
13 reports would go at the same time, or something
14 else?

15 A. So, I mean, a coordinated
16 effort, it would be one report would make the most
17 sense. Brining two reports forward on the same
18 asset on sort of individual things doesn't make a
19 lot of sense.

20 Q. Registrar, could you
21 close this down and go to page 60, please.

22 You'll see at 162 Mr. Field
23 e-mailed Mr. Malone, writing that the City was
24 looking to engage CIMA to conduct a lighting study
25 on the RHVP. Do you recall having discussions

1 with Mr. Field about retaining CIMA as the
2 consultant.

3 A. No, I don't have a direct
4 recollection of that, although it makes sense
5 because they have done all the previous work.

6 Q. Did you have any
7 discussions with Mr. Moore about the City
8 retaining CIMA to do the lighting study?

9 A. I don't recall that.

10 Q. When you say you can't
11 recall, are you confident that that didn't happen
12 or you just can't recall either way?

13 A. I can't recall either
14 way. Is that how you would like me to answer?

15 Q. No. It's a phrase that
16 we all use, "I can't recall," and so when I need
17 clarity, but certainly if you have circumstances
18 in which you're confident that something didn't
19 happen, you can say that instead of saying I can't
20 recall.

21 Do you recall if there was any
22 further work that you or Mr. Field did to
23 investigate the scope of the original EA between
24 December when we were just looking at that and the
25 end of February 2018?

1 A. No, I don't recall that,
2 but I do recall that the scope of the work was to
3 do a fulsome study of all of the aspects around
4 the lighting and all of the things that had taken
5 place previously.

6 Q. Did you have discussions
7 with Mr. Field about ensuring that the scope
8 included historical review?

9 A. I don't recall that
10 directly, but I do know that we wanted to make
11 sure that whatever came out of this study was
12 useable, reusable in the future as a part of sort
13 of larger projects if and when they went forward.

14 Q. Did you have an
15 impression that the CIMA studies had not -- the
16 earlier CIMA studies had not gone back and done a
17 historical review?

18 A. I didn't have that
19 impression, no.

20 Q. You didn't have an
21 impression either way about what CIMA done --

22 A. No, I didn't.

23 Q. Registrar, could you go
24 to page 81 of OD8, please. At the very bottom of
25 this page, 225, Mr. Malone and Mr. Field continue

1 to correspond from the end of February, the 27th,
2 in through March, and they schedule a meeting for
3 March 14th to discuss scope of work. And you are
4 listed as an attendee at that meeting. I can
5 certainly go into Mr. Malone's notes.

6 Do you recall attending a sort
7 of pre-retainer meeting with CIMA in respect of
8 the lighting study?

9 A. No, I don't recall that
10 directly. I do recall a few meetings with CIMA on
11 lighting, but I don't recall each individual one.

12 Q. I'll take you in the
13 hopes of refresh your memory. CIM22413, please.
14 Image 3, please. So you'll see this is in the
15 bottom half of this page. Registrar, could you
16 pull that out. Mr. Malone's notes are somewhat
17 legible. It has Dipankar Sharma, Mike Field, Gord
18 McGuire. I'm not sure what that says, but I think
19 it says something history, EA, and then it goes
20 on. Again, I'm not sure if this will be
21 particularly helpful for you.

22 Does this refresh your memory
23 about -- at least the list of attendees, about who
24 -- about attending this meeting on March 14th?

25 A. Sorry, I'm just reading

1 through it.

2 Q. Go ahead. I think that
3 says lighting history. Sorry, the word I couldn't
4 pull out.

5 A. That's fine. No, it
6 doesn't refresh my memory directly. Dipankar and
7 Mike are probably the leads on this project as
8 they go forward and I'm there attending. I don't
9 know how many more I'm in or -- yeah. That's my
10 recollection of it. Was it at our office or was
11 it in -- at CIMA? Or do we know?

12 Q. I do not know that.

13 A. Okay.

14 Q. So you said you think
15 that Mr. Bentley and Mr. Field were the leads on
16 this. What was your role in the lighting project
17 compared to Mr. Field?

18 A. I mean, at this point I'm
19 in the transition role. I've got, you know, less
20 time available to me than I would have as the
21 manager. I'm relying on Mike to run with this,
22 and he's the subject matter expert on the lighting
23 for the City, and Dipankar was in that section as
24 well as one of the designers and technologists.

25 Q. Mr. Bentley is not a

1 lighting expert though, right?

2 A. He's an electrical
3 engineer and he did -- that was the reason we
4 hired him. We hired him into a role that we
5 created in lighting. I don't know -- I think he
6 has lighting design background, yes.

7 MS. LAWRENCE: Thank you.
8 Commissioner, I'm looking at the time, it's
9 exactly 1 o'clock, which is the time we usually
10 take our lunch break.

11 JUSTICE WILTON-SIEGEL: So
12 then let's adjourn until 2:15.

13 --- Recess taken at 1:00 p.m.

14 --- Upon resuming at 2:15 p.m.

15 BY MS. LAWRENCE:

16 Q. Good afternoon, Mr.
17 McGuire. I had some follow-up questions from some
18 of your evidence before the break. Registrar,
19 could you pull up HAM58680, please. Thank you.

20 Mr. McGuire, we were looking
21 at this before lunch. Just so that I am clear
22 about your evidence, what was Mr. Moore's role in
23 drafting this report?

24 A. He's signatory on it. I
25 don't have a complete recollection, but given his

1 knowledge on the Red Hill and the origins of all
2 of the project reports, I'm reasonably sure he
3 would have gone through this one.

4 Q. When you say "I'm
5 reasonably sure he would have gone through this
6 one," you mean he would have reviewed it after it
7 was drafted for approval before he submitted it?

8 A. Yeah, correct.

9 Q. You don't have any
10 recollection either way about whether he was
11 involved in the actual drafting or the information
12 in order to do the drafting?

13 A. No, I don't.

14 Q. So I understand how it
15 works in engineering services, this would not have
16 been provided to public works committee if he had
17 not approved it and signed it; is that right?

18 A. Yeah, sorry, you're
19 asking me if -- I mean, the report process is to
20 submit the reports to the administrative
21 assistant, to the director, and then the director
22 would sign together with the manager.

23 Q. Thank you. And if the
24 director had some issue or concern with the
25 drafting, it wouldn't have gone to public works

1 committee without revision; is that fair?

2 A. Yeah, correct.

3 Q. Registrar, you can close
4 this down. If you can go to OD8, page 93, please.
5 If you can call out 254.

6 So before lunch, Mr. McGuire,
7 we were talking about the pre-retainer meeting
8 that you and Mr. Bentley and Mr. Field had with
9 Mr. Malone and others at CIMA. You left a voice
10 mail for Mr. Malone on the status of the proposal
11 that CIMA eventually prepared and mentioned
12 recurring RHVP-related meetings that had been
13 called by Mr. McKinnon.

14 So Mr. McKinnon is now the
15 general manager of public works. What do you --
16 is that -- let me try this. Mr. McKinnon, we've
17 seen in the inquiry, has these bimonthly recurring
18 calendar invitations that start in March of 2018.
19 Is that the meetings that you're referring to in
20 your invoice message to Mr. Malone?

21 A. I don't -- I don't recall
22 reviewing a transcript of the voice message, but
23 if I'm referring to recurring meetings as called
24 by Dan, then I would expect them to be the ones
25 that you just mentioned.

1 Q. Registrar, could you
2 close this down and go to page 79, paragraph 216.
3 So, Mr. McGuire, I'm just bringing up the
4 attendees that are listed on these calendar
5 invitations to assist with my next question. What
6 to your knowledge was the purpose of these
7 recurring meetings?

8 A. I'm a bit confused.
9 Maybe -- when did Edwards start?

10 Q. That is fair. So there
11 is, it appears, some overlap between Ms.
12 Matthews-Malone and Mr. Soldo, and I think that
13 we're in that period where the meetings either are
14 changed over time, so both of them are on this, or
15 there's a period of overlap where they're both
16 there. But fair point. I too was confused by
17 that. So I think you can assume that Ms.
18 Matthews-Malone is in her role as director of
19 roads that Mr. Soldo takes over.

20 A. So my understanding of
21 these meetings was to ensure, you know, a fulsome
22 conversation around all of the things that are
23 taking place around the Red Hill and the LINC, and
24 then as we move forward, I think it had a bit more
25 of a focus on the Red Hill resurfacing project

1 through 2018.

2 Q. Did you connect the
3 commencement of these meetings to be related to
4 the fact that the resurfacing was being
5 programmed?

6 A. I don't know if I
7 connected it at that point or if, you know,
8 potentially, given the reports that were going
9 forward to council, Dan wanted a bit better lens
10 on what was taking place on the entire facility.

11 Q. Thank you. So when you
12 contact Mr. Malone asking for an update on the
13 proposal and reference these meetings, in your
14 view was there some urgency to get the proposal
15 from CIMA to be able to provide an update at one
16 of these meetings?

17 A. I don't -- I don't recall
18 having -- no. I think it would have been just
19 been an update or an request so that I could -- it
20 looks like provide some background information or
21 some information to the group.

22 Q. Thank you. Registrar,
23 you can close this callout, and if you can go to
24 page 93, please. If you can call out 255 to 257.

25 On April 11th, Mr. Malone sent

1 Mr. Field a proposal for what we call in the OD
2 the lighting study. The proposal included
3 reviewing previous environmental assessments for
4 both the LINC and the Red Hill; revisiting
5 findings from previous collision analyses that
6 CIMA had done using more recent data, data that
7 was not available in 2013 and 2015; and conducting
8 an illumination review to determine whether or not
9 illumination should be installed in the study
10 area.

11 I'm not going to go into the
12 proposal unless you would like me to. What was
13 the purpose and intent in terms of outcome from
14 the CIMA study?

15 A. I think the last sentence
16 in the first paragraph, conducting an illumination
17 review to determine whether or not it should be
18 installed within the study area.

19 Q. Okay. You were aware
20 that CIMA had done that analysis in the 2015 CIMA
21 study?

22 A. I think I reference to it
23 in the 2016 information update, indicates that it
24 was a -- and I'm going to paraphrase here -- not a
25 comprehensive review, and I believe this was to

1 move forward with a more comprehensive review.

2 Q. Okay. Did you expect
3 that that review was going to build in the things
4 that we talked about before, storm drains, hydro
5 poles, those sorts of things?

6 A. No.

7 Q. So can you provide any
8 more details about what was not comprehensive
9 about the 2015 report you that expected CIMA would
10 address here?

11 A. So I don't have a full
12 recollection, but my understanding of the 2015
13 report was they didn't do an end-to-end study of
14 the LINC and the Red Hill or -- I'm not sure what
15 level of detail they went into for illumination.

16 Q. Well, they did come out
17 with a recommendation to do end-to-end
18 illumination on the Red Hill in particular as a
19 long-term countermeasure. Does that assist with
20 refreshing your memory?

21 A. Somewhat.

22 Q. Am I hearing your
23 evidence that there was something that you thought
24 that CIMA was going to do that was over and above
25 what was done in 2015, but sitting here today, you

1 can't recall exactly what the extra details would
2 be?

3 A. So I'm trying to
4 remember. The 2015 study had a -- kind of a small
5 segment related to illumination. This study was
6 all about illumination, including peer facilities,
7 the opportunity to install off-the-grid lighting
8 and a few other things like that. So I think it
9 moved it from a component of one overall thing to
10 a larger illumination, you know, more direct
11 illumination study.

12 Q. Who was tasked to be the
13 project manager for this assignment? Was it
14 Mr. Field?

15 A. Yes, I would believe he
16 was the PM on that.

17 Q. What was your role?

18 A. I mean, at this point we
19 were in April, so I'm still in that transition
20 phase. I think my role at this point is to try
21 and keep my hands off too many wheels and let the
22 subject matter experts run with these things.

23 Q. Registrar, can you close
24 this and go to page 95, please.

25 So looking at paragraph 260,

1 there was an internal meeting on that day to
2 prepare for a meeting with the City. I'm sorry,
3 I'm just looking for the reference. You know
4 what, I think I'm actually going to go right into
5 the document itself.

6 If you can go the CIM16263,
7 please. If you can call out the next one as well.

8 This is the kick-off meeting,
9 it's April 25, and you were listed as an attendee.
10 Recognizing you want to take your hand off the
11 wheels and let the subject matter experts do it,
12 why did you attend this kick-off meeting?

13 A. I mean, it's a kick-off
14 meeting, so it gives me, you know, insight into
15 what's happening or what the -- you know, making
16 sure the overall scope is what we had considered
17 or expected and to hear from the consultant about
18 what their plans are.

19 Q. Did you attend because
20 there was sensitivity in ensuring that this
21 project went smoothly?

22 A. No, that wasn't the
23 purpose of my attending.

24 Q. You see on the second
25 page at the bottom it says "background

1 information" and it says "hard copies of the
2 following documents were provided." It has a
3 number of documents there. The font is a little
4 small. Can you read those?

5 A. Yeah.

6 Q. Did you review those
7 documents before they were provided to CIMA?

8 A. I don't -- no, I don't
9 believe I would have reviewed all of those.

10 Q. Would you have reviewed
11 some of them? Maybe not the flying squirrel
12 study, but the final impact assessment report or
13 the impact assessment and design process, the
14 environmental asset volumes?

15 A. I can't recall if I
16 reviewed those documents.

17 Q. Did you have a hand in
18 collecting them to provide to CIMA?

19 A. I do recall -- I mean,
20 Jennifer DiDomenico was the -- was on the project,
21 and I do recall that we either met with her or
22 went somewhere with her to try and gather up some
23 of the hard copies that she had in order to get
24 this started.

25 Q. When you say "you," is

1 that you and Mr. Field?

2 A. I think so, yeah. I
3 think it was Mike and I.

4 Q. Where did you find them?

5 A. Oh, gosh, I can't
6 remember where Jennifer was in the office. I
7 don't think she was on the same floor as us.
8 Maybe be a different floor.

9 Q. My question was were they
10 in some storage off site or were they somewhere in
11 a cabinet near her office?

12 A. I think they were in a
13 cabinet near her office. That's my recollection.

14 Q. Looking at image 1, the
15 left hand image, under "Review of Work Plan."

16 Registrar, can you call out
17 this second bullet or you can just call out the
18 entire table, that's fine, thank you. The third
19 bullet says:

20 "One potential is at the
21 decision for lighting
22 continuous versus interchange
23 was a cost-based decision. It
24 may be found that it will not
25 be a prohibitive statement

1 about lighting in the
2 documents provided. CIMA will
3 review all information and
4 confirm." (As read)

5 Had you and Mr. Field -- or
6 Mr. Field done an assessment of those underlying
7 documents to come to the conclusion that perhaps
8 it was a cost-based decision and not a prohibitive
9 statement?

10 A. I don't recall if -- is
11 that our information or is that from CIMA?

12 Q. I can certainly go into
13 Mr. Malone's notes but he does reference this
14 being a statement attributed to Mr. Field.

15 A. Okay.

16 Q. I'm not sure if you
17 finished answering your question. You said I
18 don't recall. My question was had you done some
19 assessment of those underlying documents to
20 determine --

21 (Speaker overlap)

22 Q. -- left with an
23 impression maybe it was not a prohibitive
24 statement.

25 A. I had not done that

1 assessment and if Brian's notes are that Mike had
2 then I would accept that.

3 Q. Brian notes are not that
4 Mike had done that underlying statement. This
5 comment is attributed to him that it might be, one
6 potential is. Did you have any discussions with
7 Mr. Field about what you understood about the EA
8 up to this point compared to what he was seeing in
9 documents?

10 A. I don't recall having
11 that conversation. At this point where are we,
12 April?

13 Q. Yes. So CIMA has not
14 done their review yet. We'll get to this of
15 course, but when CIMA came back with its review of
16 the historical EAs was the -- was its conclusions
17 that the EA didn't prohibit lighting continuously?
18 Was that a surprise when you learned that?

19 A. I don't know. I don't
20 know if I would characterize it as a surprise, but
21 it felt like different information that I was
22 aware of before. My understanding was that
23 lighting -- my understanding was that lighting had
24 been considered in the origins of the project and
25 that it wasn't included in the overall project,

1 and I'm not sure if it was specifically excluded
2 or just not included, but either way from the --
3 as it moved forward in the EA we had decision
4 point lighting.

5 Q. So that was the
6 understanding that you held in -- at this kick off
7 meeting in April 2018?

8 A. Yeah, correct.

9 Q. Registrar, you can close
10 this down and if you can go back into OD8, page 87
11 and 88. If you can pull out paragraph 240 which
12 goes over to the next page.

13 So, Mr. McGuire, this is a
14 series of questions about resurfacing, not about
15 lighting, just to orient you. This is a
16 handwritten note which identified you as custodian
17 of it, that is, he was author of it, dated
18 April 9, 2018. And we've received a
19 transcription. Just to confirm, are these a
20 transcription of your handwritten notes?

21 A. So the top box, those
22 aren't my -- are those my notes?

23 Q. I can go into the
24 handwritten note, I was just hoping you may have
25 already done this in your preparation for today.

1 A. I do recall having -- I
2 think it's just a one-page note that was around.
3 Are you asking me about the bottom notes?

4 Q. So this is just the way
5 that the overview document page breaks, so it's
6 all the same note.

7 A. Okay.

8 Q. I'll pull it up so we're
9 all on the same page. Registrar, can you --

10 A. I think that's fine. I
11 think I'm okay.

12 Q. All right. So, in fact,
13 before we actually get into the notes themselves
14 maybe I should ask you about your note taking
15 practices.

16 So this is from April 2018.
17 Is it your practice to take notes of meetings and
18 calls?

19 A. It was a bit of a
20 sporadic practice over time and then it became
21 more of a practice as I got deeper into the
22 director role in particular.

23 Q. Do you have a practice of
24 making notes in advance to use as an agenda in
25 advance of a meeting or a call?

1 A. Generally no.

2 Q. So your notes, when you
3 take them, reflect circumstances that are
4 happening in the meeting itself?

5 A. Yeah. Generally yes.

6 Q. Do you typically note
7 things that others say or that you raise or both?

8 A. Probably both.

9 Q. How do you store your
10 notes after they're taken, if you do?

11 A. If -- so I did use a lot
12 of binders so if I had -- if I was in a meeting,
13 you know, with respect to utility or something
14 like that I probably have a binder with their name
15 on it. I put the notes and I probably put it in
16 that binder, if that was what I was doing.

17 For some of these just -- they
18 may have ended up on my desk and maybe added as an
19 action item or counter item for me to act on or
20 follow-up, or they may not just ended up as
21 something I was looking for for discussion and
22 then disposed of.

23 Q. So these are notes that
24 appear to deal with the resurfacing. It starts
25 off by saying "RHVP paving, hot in-place, check

1 with Marco, core samples, check with Gary, QA."

2 Is that your recollection,
3 that these are notes in respect of something to do
4 with RHVP resurfacing?

5 A. Yeah, correct.

6 Q. By April are you trying
7 to become more knowledgeable about the hot
8 in-place consideration that is happening for the
9 resurfacing?

10 A. I don't -- in April I
11 don't think I'm looking for more knowledge. I
12 think what I would take away from this meeting is
13 where is the capital budget and have we tendered.

14 Q. Okay. Do you remember
15 what the context of this meeting was or if these
16 are just your own notes?

17 A. No, I don't remember the
18 context of the meeting. They are my notes from
19 it. I don't recall who was in attendance either.

20 Q. Do you have a process of
21 writing the attendees of meetings or calls at the
22 top of notes?

23 A. That process evolved and
24 generally you would probably see future notes
25 having more of that information on it, maybe -- I

1 don't recall doing that regularly.

2 Q. There's a reference to
3 core samples, check with Gary. Do you recall what
4 core samples that refers to?

5 A. April. I think we were
6 doing -- so this is the reference to the
7 December 2017 Golder's work which extracted some
8 panels or extracted some material and then was the
9 origins of the polished stone value review.

10 Q. By April do you recall
11 why you happened to check with Gary about that?

12 A. Yeah, I think I'm looking
13 here. If you go down to the budget and where it's
14 said, I'm trying to understand where we are with a
15 budgeting and a scheduling perspective.

16 Q. And that's because this
17 is in April of 2018 so your portfolio includes
18 asset management?

19 A. Correct.

20 Q. Up at the top. This is
21 partly in your handwriting, but it says "results
22 of SMA PPS/polished" and then on the next line it
23 says "polished stone review."

24 A. Yeah, that top line says
25 "review of sharps/polish." So that's S-H-A-R-P-S.

1 Q. And what does that refer
2 to?

3 A. I think that is the
4 polished stone value and the consideration of
5 aggregate as a sharp or having facets to it.

6 Q. I think that it is SMA
7 PPS, stone mastic asphalt. Would that make sense?

8 A. I don't know, it's
9 strange that I'm debating you over my own
10 handwriting.

11 Q. Again, I could take you
12 into the transcription but I don't think it
13 matters. My question really is much more about
14 the polished stone review.

15 What information did you have
16 at this point about what we call the Golder
17 pavement evaluation? So the core samples and the
18 work that was coming from that.

19 A. I don't think I have much
20 information and I don't recall following up in any
21 detail on this. This one appears to be sort of a
22 standalone and I get more involved in it again
23 probably into June and July.

24 Q. Again, you can't recall
25 what meeting this came from or who you were

1 talking to or what information you were getting?

2 A. No.

3 Q. On the same day you

4 e-mail Mr. Andoga about the status of repaving.

5 See that at 241. Were you looking at the status

6 from a budgeting perspective? I think that was

7 your evidence a few moments ago.

8 A. Correct.

9 Q. We know that Mr. Moore

10 retires in May of 2018 and this is announced by

11 Mr. McKinnon a few days after where we are now on

12 April 13. Did you have any advance knowledge of

13 Mr. Moore's retirement as of April 9th or 10th?

14 A. I really can't recall if

15 he made that known or not.

16 Q. You can't recall (skipped

17 audio) announcement was the first time you learned

18 about this or if you learned about it before?

19 A. I'm not certain on that.

20 Q. Registrar, can you go to

21 page 97 and 98. At the bottom of 97 is Mr.

22 McKinnon's announcement and it really just focuses

23 on Mr. Moore and his experience. Did you take on

24 the acting role or were you offered the acting

25 role immediately upon this announcement of his

1 retirement?

2 A. I don't exactly recall
3 the dates but I think it was fairly close in time.

4 Q. Recognizing it started as
5 an acting role, can you tell me about the
6 transition period as far as any formal or informal
7 transitions between Mr. Moore and you?

8 A. There wasn't a formal
9 transition. I think in part, if you read through
10 Dan's message, "Gary's moving," quote/unquote, "to
11 the LRT office but he's still on our floor just at
12 the other end of the building from where he was
13 previously."

14 Q. So do you recall sitting
15 down with Mr. Moore and Mr. Moore giving you the
16 lay of the land, as it were, about the role of
17 director of engineering?

18 A. No, we didn't have a
19 formal on-boarding, for lack a better term.

20 Q. Registrar, could you pull
21 up OD9A, page 15 and 16, please. If you look at
22 the bottom of page 15, paragraph 25, Mr. Moore
23 sent you an e-mail under the subject line "Stuff"
24 noting "FYI" in the body of the email and attached
25 two e-mails. Was that the kind of transition that

1 Mr. Moore provided to you? For example,
2 forwarding e-mails or documents he thought might
3 be relevant?

4 A. Yes. I mean, he did
5 provide me -- I can't recall exactly but I think
6 he forwarded me a few things that he thought might
7 be of value to me.

8 Q. Did Mr. Moore provide you
9 with any particular information about the Red Hill
10 when you were transitioning into the role as
11 acting director?

12 A. No, we didn't have a sit
13 down or direct conversation about that project.

14 Q. No briefing binders or
15 materials?

16 A. He had a series of
17 binders but I think they were mostly related to --
18 yes, some other projects.

19 Q. Did you discuss the
20 status of the Golder project, the pavement
21 materials evaluation project with Mr. Moore before
22 he retired?

23 A. So the Golders assignment
24 that PMTR on our -- it's kind overall asphalt
25 process or the one that was being done from 2017

1 with respect to the measured textured depth and --
2 either way --

3 Q. The latter. The one that
4 was currently in progress.

5 A. Either way no, we have a
6 direct conversation about that.

7 Q. And did he tell you
8 anything about the Tradewind report?

9 A. No, he did not.

10 Q. Did you discuss anything
11 about friction values on the Red Hill or the LINC?

12 A. Not in this May 2018
13 timeframe, no.

14 Q. Before he retired?

15 A. Correct.

16 Q. Could you help me
17 understand some of the technical details of your
18 transition in terms of the technology? In your
19 role as manager did you have access to
20 ProjectWise?

21 A. Yes.

22 Q. Did you use it regularly?
23 Was that sort of the primary place where you kept
24 documents?

25 A. So maybe I can provide

1 you a little bit of insight. I was the driver
2 behind getting ProjectWise into engineering
3 services and we used ProjectWise primarily to
4 deliver projects. One of the reasons we did that
5 was in order to keep the files and who had access
6 to them kind in a correct order while we worked
7 our way through it.

8 On the other side, once the
9 asset was constructed we had a couple of different
10 systems. I think I referenced one earlier called
11 Prism, which had kind of a client-facing part
12 called Spider. Those were where the engineering
13 records got stored.

14 So ProjectWise yes for
15 projects, and then Spider for the engineering
16 records. And then for day-to-day, like where the
17 e-mails get stored and things like that, a lot of
18 using the network and I used ProjectWise as well
19 from that perspective.

20 Q. As manager did you have
21 access to the director's office folder within
22 ProjectWise?

23 A. No, I wouldn't have had
24 access to that.

25 Q. When you were a manager

1 were you aware that there was such a folder, the
2 directors office folder? That is -- maybe I'll
3 put it this way. Could you see it but not access
4 it, or was it not even something that was visible
5 to you?

6 A. A good question. I'm not
7 sure -- I'm not sure. I don't know if it was
8 visible. I think the accessibility of those
9 folders is based on kind of user rights, and I'm
10 not sure if ProjectWise shows you or doesn't if
11 you don't have user rights.

12 Q. When you became acting
13 director did you get access to that folder or was
14 it only when you took on the role of director in a
15 permanent capacity?

16 A. Only when I was the --
17 became the permanent director.

18 Q. Registrar, could you go
19 to the next page of OD9, please. In part I ask
20 because of Ms. Cameron's e-mail to you
21 paragraph 33. So this is in May of 2018 just as
22 Mr. Moore is retiring, and we'll get to this in a
23 moment. This is you and Ms. Graham having some
24 discussions. And Ms. Cameron says:

25 "Gary uploaded a lot of Red

1 Hill files in ProjectWise
2 understand the directors
3 office engineering services.
4 Not sure if pavement testing
5 is there but I know it was
6 folder who did it." (As
7 read).

8 On that -- this is May, so
9 you're in the acting job. Were you able to access
10 the folder that Ms. Cameron was speaking about at
11 this time?

12 A. I don't believe so.

13 Q. You may not be able to
14 answer this but were you even aware of the
15 director's office folder at this time?

16 A. I'm not sure. I can't
17 recall.

18 Q. Do you recall when you
19 did get access to the folder did you ask for
20 access or did it just appear in your folder list?

21 A. So my understanding is
22 that the permissions are based on I think it's
23 called Windows Active Directory, so where you are
24 in the directory drives you into what access you
25 have inside the system. I think once the HR

1 processes took place I think that's what happened.

2 Q. It just appeared?

3 A. Yeah. I had different
4 permissions, right.

5 Q. Right. So it looked
6 different than your folder tree looked like when
7 you were a manager or when you were an acting
8 director?

9 A. Correct.

10 Q. When you first got access
11 to the director's office folder did you review its
12 contents?

13 A. Not in detail. I don't
14 believe I did.

15 Q. Did you get access to
16 Mr. Moore's in-box as well?

17 A. No, I did not.

18 Q. Moving away from
19 technology and into physical space. Did you
20 remain in your same physical location when you
21 moved from manager to acting director?

22 A. Yes.

23 Q. Was that in a closed
24 office, like a cubicle?

25 A. Yes, semi-enclosed, kind

1 of open space cubicle type.

2 Q. So you start in the
3 permanent role as director in mid-June, June 18.

4 When did you move into Mr. Moore's former office?

5 A. I think I was -- probably
6 within a couple weeks.

7 Q. So is there a period of
8 time between the end of May when Mr. Moore retired
9 and go with a couple weeks, so beginning of July,
10 that Mr. Moore's office was vacant?

11 A. Yeah, correct.

12 Q. Do you recall when you
13 moved into Mr. Moore's former office if there was
14 any documents left there, any hard copy documents?

15 A. My memory of the
16 transition was Gary had a specific desk and layout
17 in his office and we changed that, went up to a
18 different location in the City, picked a different
19 desk, had that other desk removed and
20 repositioned. So I don't recall what was left
21 with respect to files as we went through that, and
22 I'm not sure if Diana that maybe boxed a few
23 things up or there was a few things left around,
24 but there wasn't much. I moved a bunch of the
25 files that I would have had into my area as well.

1 Q. Ms. Cameron's evidence
2 was Mr. Moore had a bookshelf in his office when
3 he was director. Did you keep that bookshelf?

4 A. Yeah, there were a couple
5 bookshelves in there, correct.

6 Q. Do you recall there being
7 any documents in that bookshelf when you moved in?

8 A. No, I don't recall one
9 way or the other.

10 Q. And you don't recall
11 giving Diana any direction to clear any documents
12 that Mr. Moore had left?

13 A. No, I don't recall that.

14 Q. When Ms. Cameron became
15 your assistant was that when you transitioned into
16 the permanent director role or when you
17 transitioned to the acting director role?

18 A. Permanent.

19 Q. If Ms. Cameron testified
20 that she had significant involvement in your
21 electronic filing practices, would you agree with
22 that general statement?

23 A. Yes.

24 Q. And that you let her send
25 and receive some e-mails on your behalf?

1 A. Correct.

2 Q. And did you have her
3 triage your in-box for you?

4 A. Yes, she did.

5 Q. Did she do filing within
6 ProjectWise for you?

7 A. Yes, she did.

8 Q. I'm not sure if this
9 would be relevant. Did show do filing wherein
10 Prism or Spider or (skipped audio) basis?

11 A. That's a separate --
12 that's generally like large format drawings and
13 things like that, that wouldn't be Diana's role.

14 Q. I'm sorry, I'm not sure
15 if I heard you correctly. That would be Diana's
16 role?

17 A. No, would not. The
18 Prism-inspired tools are generally large format
19 engineering or survey drawings. That's not
20 something Diana was handling or managing virtually
21 at any time I don't believe.

22 Q. During the transition to
23 acting director and then into the permanent
24 director role, did you take on a more
25 public-facing role than you had had as manager of

1 geomatics?

2 A. Yes.

3 Q. The inquiry has
4 documents, for example, in May 2018 around the
5 time that Mr. Moore retired, that Mr. Moore was
6 contacted by the Spectator regarding RHVP asphalt
7 testing and resurfacing, and this request
8 ultimately made it to you from Ms. Graham.

9 Registrar, can you keep
10 page 17 up but also open up image 16.

11 Mr. McGuire, this is some of
12 the back and forth. You'll see it starts at
13 paragraph 26. And I've just summarized that it
14 makes its way from Nicole O'Riley at the Spectator
15 to Mr. Moore, updated asphalt testing, and then
16 Mr. Moore forwards it to Ms. Graham and Ms. Graham
17 forwards it to you, paragraph 29, asking for a
18 status of rehabilitation and Spectator's request.
19 And you respond:

20 "Not sure where it landed. We
21 waiting on new technology
22 called hot in-place. Marco
23 Oddi may have some insights.
24 Will be in soon."
25 Just stopping there. So we're

1 at the end of May now. Is it fair that you have a
2 sense that there's some new technology that might
3 be used, that is hot in-place recycling, but you
4 don't know the details yet?

5 A. Yeah, that's correct.

6 Q. And Ms. Graham then sends
7 this to Mr. Oddi who responds yes, we are thinking
8 about this option and a reference to the ministry
9 of transportation's project in north Ontario.

10 Were you aware at this point
11 that the City's assessment of hot in-place
12 recycling was going to be connected to an MTO, I'm
13 going to call it a pilot project that they were
14 doing?

15 A. I mean, did Marco copy me
16 on his response or did he just send it back to
17 Jasmine.

18 Q. I can certainly look. I
19 was really more just asking about what you knew.
20 He does copy you, yes.

21 A. Okay. So this sounds
22 like when I'm becoming aware of kind of more the
23 technology and how we were assessing it.

24 Q. So I know eventually you
25 actually do have it. You sit for an interview

1 related I believe to these requests, and we'll get
2 there.

3 But just more generally, were
4 you provided with my guidance or policies on how
5 to interact with the media?

6 A. I did some media training
7 and I'm not sure if it was in advance of this.
8 I've done some previously as well when I was in
9 the manager role and then Jasmine did do some
10 media training as well.

11 Q. Did Mr. Moore provide you
12 with any insight during this transitional period
13 about information that you should or shouldn't
14 share with the media?

15 A. No, I didn't get any of
16 that.

17 MS. LAWRENCE: Thank you. I
18 see it's 3:00 o'clock. I was about to move on to
19 another topic but I think we've agreed that we'll
20 have a hard stop today at 3 p.m.

21 JUSTICE WILTON-SIEGEL: Then
22 we'll stand adjourned until 9:30 tomorrow morning.
23 Have a good evening.

24 MS. LAWRENCE: Thank you.

25

1 --- Whereupon at 3:00 p.m. the proceedings were
2 adjourned until Thursday, October 20, 2022 at
3 9:30 a.m.

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