



TOWN OF COLLINGWOOD

JUDICIAL INQUIRY

Before:

Associate Chief Justice Frank Marrocco

Held at:

Collingwood Town Hall

Council Chambers

97 Hurontario Street

Collingwood, Ontario

June 28th, 2019

1 APPEARANCES

2

3 Kate McGrann) Inquiry Counsel

4 John Mather) Associate Inquiry

5) Counsel

6

7 Michael Watson (np)) Alectra Utilities

8 Belinda Bain (np)) Corporation

9 Heather Fisher (np))

10

11 (No Counsel)) For Paul Bonwick

12

13 George Marron) For Sandra Cooper

14

15 (No Counsel)) For Timothy Fryer

16

17 Frederick Chenoweth) For Edwin Houghton

18

19 William McDowell (np)) For Town of Collingwood

20 Ryan Breedon)

21

22 Patrick Gajos (np)) For Collus PowerStream

23) Corporation

24

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1 --- Upon commencing at 9:03 a.m.

2

3 KEVIN MALCOLM LLOYD, Sworn

4

5 EXAMINATION-IN-CHIEF BY MS. KATE MCGRANN:

6 MS. KATE MCGRANN: Yes, thank you.

7 Good morning, Mr. Lloyd.

8 MR. KEVIN LLOYD: Good morning.

9 MS. KATE MCGRANN: You were a member
10 of the Collingwood Town Council for the 2010 to 2014
11 Council term?

12 Is that right?

13 MR. KEVIN LLOYD: That's correct.

14 MS. KATE MCGRANN: And you were also a
15 number for the 2014 to 2018 Council term?

16 MR. KEVIN LLOYD: That is correct.

17 MS. KATE MCGRANN: I'm going to ask
18 you some questions about the information that you cal
19 -- you recall receiving as a member of Council about
20 the payment that the Town would be receiving in
21 exchange for 50 percent of the shares of Collus.

22 MR. KEVIN LLOYD: All right.

23 MS. KATE MCGRANN: But before we turn
24 to those questions, I just wanted to discuss a -- a
25 timeline that you have provided a copy of the -- a

1 copy of which you have provided the Inquiry.

2 Could we pull up CJI2, please.

3

4 (BRIEF PAUSE)

5

6 MS. KATE MCGRANN: Just scroll down so
7 you can see the -- the title. This is a copy of a
8 timeline prepared by Ian Chadwick that's been provided
9 to the Inquiry.

10 If you could scroll down to the bottom
11 of the second page, so we could just take a look at
12 the -- the date. Keep going.

13 The -- the copy that we're looking at
14 here is dated September 27th, 2018. I understand that
15 you had a copy of a timeline like this dated, I think,
16 September 8th, 2018.

17 Is that correct?

18 MR. KEVIN LLOYD: I believe so.

19 MS. KATE MCGRANN: When did you
20 receive a -- a copy of the Mr. Chadwick's timeline?

21 MR. KEVIN LLOYD: Oh, my goodness. It
22 would be back in when it was produced. October,
23 likely.

24 MS. KATE MCGRANN: And -- and why did
25 you receive a copy of it?

1 MR. KEVIN LLOYD: Because he offered
2 it to me for my usage.

3 MS. KATE MCGRANN: Did you review the
4 timeline when you received it?

5 MR. KEVIN LLOYD: Yes, I did.

6 MS. KATE MCGRANN: And did you review
7 it in advance of giving your evidence today?

8 MR. KEVIN LLOYD: No, I have not.

9 MS. KATE MCGRANN: Turning to the
10 question of the information that you received as a
11 member of Town Council with respect to the -- what the
12 Town would be receiving in exchange for its shares in
13 Collus, when do you first recall receiving an
14 explanation about the financial offers that the Town
15 had received in response to its request for proposals
16 in respect to the Collus Power shares?

17 MR. KEVIN LLOYD: Okay. If you could
18 bring up the slide from the December 5th presentation
19 on the breakdown of the offers from the four (4)
20 proponents?

21 MS. KATE MCGRANN: So I will bring up
22 those slides, but before we do that, my question is
23 when you first recall receiving an explanation?

24 MR. KEVIN LLOYD: That's when.

25 MS. KATE MCGRANN: So it was at the

1 December 5th Council meeting?

2 MR. KEVIN LLOYD: Yes.

3 MS. KATE MCGRANN: Okay. So could we
4 please turn to ALE5133.2.

5 And as we're pulling those slides up,
6 what do you recall from your attendance at that
7 meeting?

8 MR. KEVIN LLOYD: At that meeting?

9 MS. KATE MCGRANN: Yes.

10 MR. KEVIN LLOYD: The 5th meeting?
11 Well, the 5th meeting was -- was the evaluation of the
12 results of the RFP, and that meeting had a brief
13 overview at the beginning, and then it went into a
14 complete coverage of the scores by the -- the RFP --
15 the RFP proponents that were based on the various
16 questions that were asked them to cover, and their
17 scores were -- their scores were all recorded in -- in
18 that presentation.

19 MS. KATE MCGRANN: Do you recall who--

20 MR. KEVIN LLOYD: Plus, there was this
21 -- the other -- plus, there was the financial aspect
22 on it as well.

23 MS. KATE MCGRANN: Do you recall who
24 gave the presentation?

25 MR. KEVIN LLOYD: That presentation

1 was made by -- Mr. Houghton was there. Mr. Rockx was
2 there, Mr. Rockx from KPMG. And I think that's about
3 it, prim -- primarily those two (2).

4 MS. KATE MCGRANN: Okay. And is it
5 your recollection --

6 MR. KEVIN LLOYD: The mayor -- the
7 mayor introduced, I believe.

8 MS. KATE MCGRANN: Okay. Is it your
9 recollection that most Mr. -- both Mr. Houghton and
10 Mr. Rockx gave the presentation?

11 MR. KEVIN LLOYD: I believe so, yeah.

12 MS. KATE MCGRANN: Could we turn to
13 slide 15 of this presentation, please. Scroll down a
14 little bit. So I'm trying to get the whole thing in
15 one (1) page. Perfect.

16 Do you remember any discussion about
17 this slide at that meeting?

18 MR. KEVIN LLOYD: In -- in detail, no,
19 I don't. I mean, there would have been discussion on
20 that slide, absolutely, but not in detail, no.

21 MS. KATE MCGRANN: Do you remember who
22 -- who would have spoken about this slide as between
23 Mr. Houghton and Mr. Rockx?

24 MR. KEVIN LLOYD: I think that was Mr.
25 Houghton, I believe. I'm not sure. I -- I'm not a

1 hundred percent convinced, at least.

2 MS. KATE MCGRANN: Specific -- do you
3 remember -- what can you tell us about what you
4 understood about the offers as a result of the
5 presentation you received at that meeting?

6 MR. KEVIN LLOYD: What I understood?

7 MS. KATE MCGRANN: M-hm.

8 MR. KEVIN LLOYD: Well, basically,
9 it's here, in that the highest bidder was, of course,
10 Hydro One, at fifteen point nine-nine (15.99), and
11 PowerStream was second at 15.010 million, but the
12 breakdowns in what they were offering in their -- in
13 their submissions slightly diff -- differed, all of
14 them.

15 The only one that was going to return a
16 full capitalization dollars was -- was PowerStream, as
17 you get to see here. They were putting a hundred
18 percent of it back, at 3 -- 5.3 million, which was an
19 estimate at that time, by the way. We -- we need to
20 remember that that was an estimate, whereas the other
21 three (3) were taking in the recapitalization and
22 splitting it between themselves and the -- the
23 remainder to the -- to us -- Collus.

24 MS. KATE MCGRANN: Do you remember any
25 discussion at that meeting about what the

1 recapitalization of dividend was or what it consisted
2 of?

3 MR. KEVIN LLOYD: The recap?

4 MS. KATE MCGRANN: Yes.

5 MR. KEVIN LLOYD: The recap, well, if
6 you -- if -- if you go back, Collus traditionally kept
7 their -- their debt equity level very low, but the
8 industry standard is usually around 60/40 debt to
9 equity, and when this -- these deals came through,
10 there would have to be a re-evaluation of the debt
11 equity position. Therefore, when they re-evaluated to
12 find out what the new debt equity position would be,
13 it would come out to those numbers.

14 MS. KATE MCGRANN: Okay. And do you
15 remember that being discussed at that meeting?

16 MR. KEVIN LLOYD: Not specifically,
17 no, but I -- I -- I can't say that it wasn't, that it
18 was -- you know, I -- it was a very in-depth
19 discussion from -- from Council and -- and the
20 presenters.

21 MS. KATE MCGRANN: I understand that
22 this was a long time ago, so I --

23 MR. KEVIN LLOYD: Yeah, eight (8)
24 years.

25 MS. KATE MCGRANN: -- have to ask the

1 question. Do you specifically remember anything --
2 any questions being asked or any explanations given
3 about the information on this slide of the December
4 5th meeting?

5 MR. KEVIN LLOYD: Specific questions
6 from Councillors, no, no.

7 MS. KATE MCGRANN: Or specific
8 explanations given about --

9 MR. KEVIN LLOYD: They --

10 MS. KATE MCGRANN: -- the information?

11 MR. KEVIN LLOYD: They explained the -
12 - the slide pretty thoroughly to us. It was -- it was
13 -- it's pretty straightforward actually to -- to read
14 that and have it presented to you and explained to you
15 what the circumstance and what the outcome was.

16 MS. KATE MCGRANN: And when I look at
17 this slide, I see total cash consideration to the Town
18 and I see information about the recapitalization and
19 the promissory note.

20 MR. KEVIN LLOYD: Right.

21 MS. KATE MCGRANN: I don't see
22 information about the financial offer --

23 MR. KEVIN LLOYD: That's the
24 difference --

25 MS. KATE MCGRANN: -- specifically

1 with respect to the --

2 MR. KEVIN LLOYD: That's the
3 difference between the total and -- and the deductions
4 of the --

5 MS. KATE MCGRANN: So first of all,
6 this -- this is something that we -- that we often run
7 into. You've got to let me finish my question --

8 MR. KEVIN LLOYD: Oh, sorry.

9 MS. KATE MCGRANN: -- before you
10 answer.

11 MR. KEVIN LLOYD: Sorry.

12 MS. KATE MCGRANN: And that way the
13 transcript will be clear.

14 MR. KEVIN LLOYD: M-hm.

15 MS. KATE MCGRANN: I don't see an --
16 an explanation of -- of the cash that is being offered
17 or the -- the money that's being offered specifically
18 with respect to the shares. I understand your answer
19 to be you've got to subtract something from something
20 else, so please go ahead.

21 MR. KEVIN LLOYD: Yeah. Let's take
22 PowerStream for example. If you take the 15.0
23 million, subtract the 175 and the five three, what do
24 you get? Eight Million.

25 MS. KATE MCGRANN: You remember that

1 being explained to Council at the -

2 MR. KEVIN LLOYD: Yeah.

3 MS. KATE MCGRANN: -- December 5th
4 meeting?

5 MR. KEVIN LLOYD: Yeah.

6 MS. KATE MCGRANN: Who -- who
7 explained that?

8 MR. KEVIN LLOYD: Whoever was
9 presenting at the time. It could have been Mr.
10 Houghton.

11 MS. KATE MCGRANN: Do you remember --
12 do you remember how that concept was explained to
13 Council?

14 MR. KEVIN LLOYD: The way I explained
15 it. That's what I recall.

16 MS. KATE MCGRANN: Do you remember how
17 much time was spent on the discussion about the -- the
18 financial component of the responses to the RFP at
19 this meeting?

20 MR. KEVIN LLOYD: The time on -- quite
21 a bit actually, because it was a very important
22 portion, although it was only 30 percent of the -- the
23 actual RFP.

24 MS. KATE MCGRANN: Can you help me
25 understand what you mean by quite a bit of time? Five

1 (5) minutes, twenty (20) minutes?

2 MR. KEVIN LLOYD: I can't remember
3 whether it was five (5) minutes -- it would be in
4 excess of twenty (20) minutes, I would suspect. This
5 is an --

6 MS. KATE MCGRANN: More than --

7 MR. KEVIN LLOYD: -- important --

8 MS. KATE MCGRANN: -- twenty (2)
9 minutes?

10 MR. KEVIN LLOYD: I would -- I would
11 suspect it was. My best recollection was, quite a
12 discussion.

13 MS. KATE MCGRANN: Okay. Could we
14 turn to Slide 19 of this presentation, please?

15

16 (BRIEF PAUSE)

17

18 MS. KATE MCGRANN: So Slide 19 is set
19 out in a -- a question and answer format. The
20 question is:

21 "We would like to negotiate the
22 offer from the 50 percent of shares,
23 up from 7.3 million to 8 million.
24 Besides this, PowerStream has agreed
25 to increase their offer up to 8

1 million. This represents a 10
2 percent increase."

3 And it goes on. Do you recall whether
4 the increased offer -- well, there is an explanation
5 given about whether this increased offer was included
6 in the slide that we had just looked at or whether it
7 was over and above --

8 MR. KEVIN LLOYD: I believe it was.

9 MS. KATE MCGRANN: You believe what
10 was, sir?

11 MR. KEVIN LLOYD: That the 8 million
12 was included in that slide.

13 MS. KATE MCGRANN: Do you remember
14 whether an explanation was given at the December 5th
15 meeting about whether the 8 million was --

16 MR. KEVIN LLOYD: No. I --

17 MS. KATE MCGRANN: -- included in --

18 MR. KEVIN LLOYD: -- don't.

19 MS. KATE MCGRANN: Okay. I really
20 need you to try to --

21 MR. KEVIN LLOYD: Yeah.

22 MS. KATE MCGRANN: -- let me finish my
23 question.

24 MR. KEVIN LLOYD: Sorry.

25 MS. KATE MCGRANN: It's difficult, I

1 understand. So, just so that it's clear for the
2 transcript, my question for you was, do you recall
3 whether there was an explanation given at the December
4 5th meeting about whether this increased offer of 8
5 million was included in the slide that set out the
6 financial offers or not.

7 I think your answer was that you don't
8 remember?

9 MR. KEVIN LLOYD: I don't recall. Can
10 you hear me? I'm sorry.

11 MS. KATE MCGRANN: I can. You're
12 doing well with the microphone. If we could look at
13 paragraph 425 of the Foundation Document.

14 And while that's coming up, do you
15 recall at the December 5th meeting whether there was a
16 discussion about whether the Town could have received
17 either a recapitalization dividend or repayment of the
18 \$1.7 million loan separate and apart from the sale of
19 its shares, just as a standalone proposition?

20 MR. KEVIN LLOYD: No, no.

21 MS. KATE MCGRANN: Stepping away from
22 the December 5th meeting for a moment, do you recall--

23 THE HONOURABLE FRANK MARROCCO: Excuse
24 me, Mr. Lloyd, you said no. Did you mean no, you
25 can't recall, or no, there was no discussion?

1 MR. KEVIN LLOYD: I'm -- sir, I'm --
2 I'm pretty sure there was no discussion.

3

4 CONTINUED BY MS. KATE MCGRANN:

5 MS. KATE MCGRANN: That's okay.
6 Stepping away from the December 5th meeting for a
7 second and speaking generally, do you recall if there
8 was ever a discussion with Council about the notion
9 that either recapitalization dividend or repayment of
10 the \$1.7 million promissory note could be achieved
11 without a sale of some or all of the shares?

12 MR. KEVIN LLOYD: There may have been
13 in future meetings. There may have been. I cannot
14 recall explicitly.

15 MS. KATE MCGRANN: I would ask --

16 MR. KEVIN LLOYD: It's --

17 MS. KATE MCGRANN: -- that paragraph -
18 - oh, sorry. Please go ahead.

19 MR. KEVIN LLOYD: Sorry. Kind of --
20 it's kind of understood that you could do those
21 separately from the deal, I mean, if you understood
22 what was happening within the industry and -- and
23 recap activities that -- that take place. I mean, you
24 could have done it at any time, but that wasn't
25 basically what this process was about.

1 MS. KATE MCGRANN: If we look at
2 paragraph 445 of the Foundation Document, which is
3 being shown on the screen in front of you, I brought
4 you to this just to -- to close off our understanding
5 of what happened at that meeting.

6 So, it's our understanding that at the
7 December 5th meeting, Council carried a motion to
8 direct the Collus Board to continue negotiations with
9 PowerStream -- so just to close that off.

10 Do you recall, when was the next time
11 that Council was provided with information about what
12 the Town would be receiving for the sale of 50 percent
13 of its shares?

14 MR. KEVIN LLOYD: The next time we had
15 a meeting?

16 MS. KATE MCGRANN: The next time that
17 -- that you remember an explanation or information
18 being provided to Council about --

19 MR. KEVIN LLOYD: Would be -- I would
20 venture to -- to guess it would be the next meeting,
21 the January 16th meeting, I believe.

22 MS. KATE MCGRANN: Okay. All right.
23 Do you recall attending that meeting?

24 MR. KEVIN LLOYD: Yes.

25 MS. KATE MCGRANN: Can you tell me

1 what you remember about attending that meeting in
2 terms of what was explained to Council about what it
3 would be receiving for the sale of its shares?

4 MR. KEVIN LLOYD: What we would be
5 receiving for the sale of the shares?

6 MS. KATE MCGRANN: Yeah.

7 MR. KEVIN LLOYD: We were receiving \$8
8 million for the sale of the shares, 50 percent.

9 MS. KATE MCGRANN: Okay. And -- and
10 what else as part of the Transaction -- what other
11 financial considerations would the Town be receiving
12 as part of the Transaction?

13 MR. KEVIN LLOYD: Would be the -- that
14 would be the recapitalization, which, remember, was an
15 estimate at that time. I think it was estimated
16 between 5.1 and 5.3 million, somewhere in there, but
17 that was purely an estimate, not based on the final
18 figures, and the 1.71 loan.

19 MS. KATE MCGRANN: Do you remember who
20 gave that information at that meeting? Who was the
21 source of that information?

22 MR. KEVIN LLOYD: January 16th, can
23 you bring up -- I think it was January 16th -- January
24 16th was --

25 MR. FREDERICK CHENOWETH: I wonder if

1 we could assist the witness by bringing up the minutes
2 which may --

3 MR. KEVIN LLOYD: I think Mr. Clark, I
4 believe.

5

6 CONTINUED BY MS. KATE MCGRANN:

7 MS. KATE MCGRANN: I -- I will be
8 bringing up the documents and using them as a -- as a
9 point of reference, but my first question is simply
10 what do you remember about attending the meeting.

11 MR. KEVIN LLOYD: It was Mr. Clark, I
12 believe. That was a major meeting, the 23rd of --

13 MS. KATE MCGRANN: And before we turn
14 to the slides, which we will do, I just want to have
15 an understanding of what you -- what you remember
16 being discussed at that meeting.

17 So, can you -- can you tell me, do you
18 remember how long Mr. Clark discussed the financial
19 components of -- of the Transaction?

20 MR. KEVIN LLOYD: Very thoroughly,
21 very thoroughly, a long time.

22 MS. KATE MCGRANN: Can you help me
23 understand what you mean by a long time?

24 MR. KEVIN LLOYD: Well, it -- it was a
25 meeting where Mr. Clark presented -- presented the

1 reasons why we were not just dealing with Collus sale
2 but for tax purposes that we were talking about CUS,
3 Collingwood Utility Services, would be sold, and that
4 was to -- to reduce the tax implications.

5 And then he went through the 8. -- the
6 \$8 million and he went through the recap and brought
7 us up to date on pretty well everything that was
8 taking place.

9 It was -- it was quite a substant -- I
10 can't say specifically whether it was an hour or two
11 hours, but it was substantial.

12 MS. KATE MCGRANN: Okay, and
13 specifically, I understand if you don't remember, but
14 I'm going to ask. Specifically, do you remember about
15 how much time was spent discussing the financial
16 component of the -- of the transaction?

17 MR. KEVIN LLOYD: Well that was prior
18 to, I think, the share discussion and the shareholder
19 discussion. It -- it would be an hour, at least, I
20 would think.

21 MS. KATE MCGRANN: You spent an hour
22 discussing the financial component?

23 MR. KEVIN LLOYD: I would -- I would
24 expect, I'm not -- I can't -- you can't hold me to the
25 hour, I -- I can't remember whether it was an hour or

1 an hour and a half. But some time.

2 MS. KATE MCGRANN: I don't want you to
3 guess. If you don't remember, you can just let us
4 know. But I understand you --

5 MR. KEVIN LLOYD: I can't remember
6 specifically how long it was. It was quite some time.

7 MS. KATE MCGRANN: With respect to the
8 fact that the recapitalization dividend was an
9 estimate at that point in time, do you remember why
10 that was?

11 MR. KEVIN LLOYD: Yes. That was an
12 estimate because I believe the -- the final -- well,
13 we didn't have the final figures for 2011.

14 MS. KATE MCGRANN: Final figures for
15 what?

16 MR. KEVIN LLOYD: The Town, for Collus
17 PowerStream, or Collus at that time.

18 MS. KATE MCGRANN: Could we turn to
19 TOC531801?

20 MR. KEVIN LLOYD: There we are.

21 MS. KATE MCGRANN: So this black,
22 grey, and orange slide is the cover page of the slide
23 that was -- the slide presentation that was given at
24 that meeting.

25 If you can scroll down a little bit,

1 you can see that it's -- it indicates that it was a
2 presentation the Town of Collingwood Council by Ron
3 Clark, dated January 16th, 2012.

4 What was your understanding of Mr.
5 Clark's role in the transaction?

6 MR. KEVIN LLOYD: Mr. Clark? He was
7 our -- he was our legal representation.

8 MS. KATE MCGRANN: Who's legal
9 representation?

10 MR. KEVIN LLOYD: The Town's.

11 MS. KATE MCGRANN: If we could turn to
12 page 2?

13 MR. KEVIN LLOYD: Oh, yes. Yes.

14 MS. KATE MCGRANN: This is just an
15 overview of the -- of the contents of the slide
16 presentation to orient you.

17 I'll ask that we turn to page 7 -- or
18 6, please. Keep scrolling.

19 This is where the -- the financial
20 information begins at point 2 here. You see that it
21 says PowerStream pays 8 million for 50 percent of the
22 shares?

23 MR. KEVIN LLOYD: M-hm.

24 MS. KATE MCGRANN: There's a point
25 here about a \$5.2 million dividend, estimated dividend

1 arising from debt injection by PowerStream or a third
2 party through Collus and up to Town.

3 Do you remember any discussion at this
4 meeting about the source of the debt that would fund
5 the 5.2 million?

6 MR. KEVIN LLOYD: No. Not that I
7 recall.

8 MS. KATE MCGRANN: You've explained to
9 us that it was explained to you that the 5.2 million
10 was an estimate. Were you given any information or
11 explanation about a range within which the final
12 number could fall?

13 MR. KEVIN LLOYD: My recollect -- yes,
14 I believe so. It was somewhere between 5.1 and 5.3
15 million at that stage, I believe.

16 MS. KATE MCGRANN: And beyond the fact
17 that you were waiting for the final figures from
18 Collus, do you recall any more detail being explained
19 about when the final information would be coming or
20 what potential impact it could have on the quantum of
21 the dividend?

22 MR. KEVIN LLOYD: I'm not sure whether
23 it was at this meeting, but there was at some point
24 Mr. Clark, I believe, pointed out that it wouldn't --
25 it would be after closing and the final --the final

1 numbers would be -- would be realized.

2 And we had the year-end from 2011, I
3 believe, for Collus.

4 MS. KATE MCGRANN: Once again,
5 stepping away from the January 16th meeting and -- and
6 just going to your recollection generally, do you
7 recall at any point being involved in a discussion at
8 Council about what the source of the debt that would
9 fund the \$5.2 million recap dividend would be? Who --
10 who the Town would -- who the money would be borrowed
11 from. Do you ever recall being involved in a
12 discussion about that?

13 MR. KEVIN LLOYD: No, who would we
14 borrow it from? No.

15 MS. KATE MCGRANN: Do you recall,
16 similarly, stepping away from the January 16th
17 meeting, do you ever recall being involved in a
18 discussion or receiving any information about whether
19 there were different implications attached from
20 different potential borrowers for that recap dividend?

21 MR. KEVIN LLOYD: No, I don't know who
22 Collus -- I was not aware of who Collus would be
23 taking that -- borrowing that money from.

24 MS. KATE MCGRANN: Could we go down to
25 slide 15 within this presentation, please?

1 THE HONOURABLE FRANK MARROCCO: While
2 they're -- while they're doing that, Mr. Lloyd --

3 MR. KEVIN LLOYD: Yes, sir.

4 THE HONOURABLE FRANK MARROCCO: --
5 were -- what were you told about why you were waiting
6 for the final financial statements from 2011? Was it
7 explained -- was there any discussion of what it was -
8 - I don't mean this as a criticism of what took place,
9 I'm just trying to understand.

10 MR. KEVIN LLOYD: M-hm.

11 THE HONOURABLE FRANK MARROCCO: Was
12 there any discussion about what in those statements
13 would affect the calculation of the dividend and
14 whether it was the lower number or the higher number?

15 MR. KEVIN LLOYD: It -- it would
16 depend on -- it -- any discussion, did you ask me?

17 THE HONOURABLE FRANK MARROCCO: Yes,
18 because you were told -- you're told it's not fixed,
19 you're told it's --

20 MR. KEVIN LLOYD: Yes.

21 THE HONOURABLE FRANK MARROCCO: And so
22 were you -- was there any discussion about what could
23 vary, what would -- what variance would affect the
24 dividend? A variance in what?

25 MR. KEVIN LLOYD: Well --

1 THE HONOURABLE FRANK MARROCCO: That's
2 -- that's what I was trying to understand.

3 MR. KEVIN LLOYD: What you're saying
4 to say. Yes.

5 I can't recall any discussion
6 specifically on that until much later, when actually
7 the numbers came in and I think -- well, I'm sure that
8 the -- the actual receipt was 4.3 million.

9 THE HONOURABLE FRANK MARROCCO: Yes, I
10 know that.

11 MR. KEVIN LLOYD: Because of the
12 reduction in -- they had a good year, so it was a good
13 thing and a bad thing.

14 THE HONOURABLE FRANK MARROCCO: Okay.

15 MR. KEVIN LLOYD: It's reduced in --
16 in the amount of money we received back.

17 But Collus --

18 THE HONOURABLE FRANK MARROCCO: You
19 were told that, but you were told that at a later
20 date?

21 MR. KEVIN LLOYD: A lot later date,
22 yes.

23 THE HONOURABLE FRANK MARROCCO: Right.

24 MR. KEVIN LLOYD: Yes.

25

1 CONTINUED BY MS. KATE MCGRANN

2 MS. KATE MCGRANN: So looking at this
3 slide, which is titled "Outstanding Issues", point
4 number 2 is the source of financing a 5.2 and 1.7
5 million, and we've discussed that.

6 The other item on here I wanted to ask
7 you about is point number 4, calculation of
8 recapitalization dividend methodology.

9 Do you remember any discussion about
10 the approach to calculating the recapitalization
11 dividend being an outstanding issue, what was
12 outstanding about it and when it could be expected to
13 -- to be resolved?

14 MR. KEVIN LLOYD: I actually don't
15 remember too much about that now. I can't recall that
16 now.

17 MS. KATE MCGRANN: Other than what
18 we've discussed, do you recall any other information
19 being given to you at this meeting about the financial
20 implications for the Town of the share sale?

21 MR. KEVIN LLOYD: Not -- not in
22 addition to what we would have -- you know, we've
23 discussed.

24 MS. KATE MCGRANN: Okay. Based on the
25 evidence that the Inquiry receives, it appears that

1 the next time the Town is given information about the
2 financial aspects of the transaction is at the January
3 23rd meeting, which was a public meeting.

4 Do you recall receiving any information
5 about the financial aspects of the transaction in-
6 between this meeting, January 16th, and the January
7 23rd meeting?

8 MR. KEVIN LLOYD: No.

9 MS. KATE MCGRANN: Okay. So I'm going
10 to ask that ALE1644 be brought up. This is a copy of
11 staff report CAO2012-01 in respect of the transaction.
12 It will just take a second to show up on your screen.

13 Could you scroll down a little bit just
14 so we can take a look at the recommendation?

15 I'm happy to let you take a look at
16 this document. Do you recall receiving a copy of this
17 staff report?

18 MR. KEVIN LLOYD: M-hm.

19 MS. KATE MCGRANN: Do you recall if
20 you received it before or at the meeting?

21 MR. KEVIN LLOYD: That was a public
22 meeting, we would have received it before.

23 MS. KATE MCGRANN: Okay. I'm reacting
24 to the fact that you said "would have", would have
25 received it before. Do you recall receiving it

1 before?

2 MR. KEVIN LLOYD: Yes.

3 MS. KATE MCGRANN: And is this a
4 document that you would have reviewed before you
5 attended the meeting?

6 MR. KEVIN LLOYD: Yes, we always
7 reviewed our -- our documents.

8 MS. KATE MCGRANN: If we could turn to
9 page 4 of this document, please. Scroll down. Keep
10 going. This is the -- the paragraph that I'd like to
11 look at.

12 So, heading number 4, "Effect on Town
13 finances," here we see an explanation that the Town of
14 Collingwood will receive cash and other considerations
15 valued at approximately 15 million. And then there's
16 an explanation of -- of the transfer tax.

17 Do you recall whether there was any
18 discussion or whether anyone had any questions about
19 this component of the staff report either before or at
20 the January 23rd meeting?

21 MR. KEVIN LLOYD: No.

22 MS. KATE MCGRANN: And again, no, you
23 don't recall or, no, there was no discussion or
24 questions?

25 MR. KEVIN LLOYD: I don't believe

1 there was. I don't -- I -- no, I don't believe there
2 was. It's -- it's pretty straightforward. I mean,
3 we'd gone through it all before.

4 MS. KATE MCGRANN: Okay.

5 MR. KEVIN LLOYD: I mean, we all knew
6 what the 15 million -- approximate 15 million
7 comprised of.

8

9 (BRIEF PAUSE)

10

11 MS. KATE MCGRANN: Bear with me for
12 one (1) second. I'm looking for a document reference.

13 MR. KEVIN LLOYD: Okay.

14

15 (BRIEF PAUSE)

16

17 MS. KATE MCGRANN: Could we pull up
18 KPM2403, please? While that's coming up, do you
19 recall whether there was a presentation of that staff
20 report made at the January 23rd meeting?

21 MR. KEVIN LLOYD: No, I don't. I
22 don't recall it being presented.

23 MS. KATE MCGRANN: Can you just close
24 the yellow box that's... And scroll down a little
25 bit. So, just so that you can -- we can orient

1 ourselves, this is the side presentation that we
2 understand was made at the January 23rd, 2012,
3 meeting.

4 Do you recall receiving this slide
5 presentation?

6 MR. KEVIN LLOYD: Yes.

7 MS. KATE MCGRANN: Okay. If we could
8 scroll down to look at slide 2 for a moment. I'll
9 give you an opportunity to review the agenda that's --
10 that's set out on slide 2 before we turn to my
11 specific questions. Could you scroll down so Mr.
12 Lloyd can read the whole thing? Perfect. Thank you.

13 Could we turn to slide 14, please?

14

15 (BRIEF PAUSE)

16

17 MS. KATE MCGRANN: So, this is the
18 slide that discusses the financial situation to the
19 Town. Do you recall who discussed the information on
20 this slide on the January 23rd meeting?

21 MR. KEVIN LLOYD: Mr. Houghton, I
22 believe.

23 MS. KATE MCGRANN: And what can you
24 tell us about what he discussed about the information
25 on this slide or the financial consideration more

1 generally at that meeting?

2 MR. KEVIN LLOYD: I don't recall, no.

3

4 (BRIEF PAUSE)

5

6 MS. KATE MCGRANN: The next document
7 that I'm going to take you to is an email -- an email
8 chain involving Mr. Houghton and the councillors from
9 July 28th, 2012, in which he reports back to you on
10 nearing final numbers for the financial consideration.

11 But before we go there, do you recall
12 receiving any other information about the financial
13 consideration to the Town between the January 23rd
14 meeting that we're talking about right here and the
15 end of July when the transaction closed?

16 MR. KEVIN LLOYD: Not to my
17 recollection, no.

18 MS. KATE MCGRANN: Could we look at
19 TOC192461, please?

20

21 (BRIEF PAUSE)

22

23 MS. KATE MCGRANN: And could we start
24 at the bottom of this email chain? So, this is an
25 email from Mr. Houghton to Town councillors dated July

1 29th, 2012. He writes:

2 "If all goes well Monday and Tuesday
3 morning, the transaction between
4 Collus Power and PowerStream will
5 take place late Tuesday afternoon."

6 He goes on to explain that -- I will
7 just read it.

8 "In Councillor Cunningham's terms,
9 we will be delivering two (2)
10 suitcases of money, one (1) suitcase
11 with 8 million from PowerStream and
12 one (1) from Collus Power with
13 approximately 4 million."

14 He explains in brackets:

15 "The recapitalization dividend
16 calculation is being completed
17 tomorrow. As you know, the Town of
18 Collingwood will still hold the
19 promissory note in the amount of
20 \$1.71 million."

21 If we can scroll up. Mr. Chadwick
22 responds with a joke and then says:

23 "Wait, that's 12 million. I thought
24 the total was 15 million."

25 He asks, "What happened to the rest."

1 And if we could scroll up. Mr. Houghton responds:

2 "The estimates we discussed with
3 council are based on two hundred and
4 ten -- 2010 financials and were
5 between 14 and 15 million.

6 The totals I noted are just under 14
7 if you include the promissory note
8 which council has requested to not
9 be monetised at this time.

10 The good news for Collus is we have
11 reduced our regulated liability by
12 almost 1 million since December
13 31st, 2010, and that helps at the
14 balance sheet but reduces the
15 recapitalization dividend by 1 to 2
16 million."

17 He goes on to say:

18 "There will also be a true up once
19 we've completed the 2012 financials
20 up to July 31st. The totals also
21 exclude the transaction costs."

22 First of all, do you remember receiving
23 these emails?

24 MR. KEVIN LLOYD: Yes.

25 MS. KATE MCGRANN: Do you remember

1 when council was advised that the estimates for the
2 total financial consideration would be between 14 and
3 15 million?

4

5 (BRIEF PAUSE)

6

7 MR. KEVIN LLOYD: Between 14 and 15
8 million?

9 MS. KATE MCGRANN: Yes.

10 MR. KEVIN LLOYD: Well, that -- that
11 had been -- I can recall one (1) way of doing that,
12 but the -- there were estimates all the way along up
13 until this final point, so it could have varied at any
14 time between, you know, as I mentioned before, the 15
15 million, around the 15 million mark.

16 MS. KATE MCGRANN: Okay. Do you
17 remember being advised that -- that the estimates for
18 the consideration could be between 14 and 15 million?

19 MR. KEVIN LLOYD: Not specifically,
20 no.

21 MS. KATE MCGRANN: Do you recall what
22 your reaction was when -- when you were told what the
23 total financial consideration was going to be in this
24 email?

25 MR. KEVIN LLOYD: Reaction?

1 MS. KATE MCGRANN: Yes.

2 MR. KEVIN LLOYD: My reaction was --
3 was positive. I mean, it's a lot of money.

4 MS. KATE MCGRANN: Did you have any --
5 did you have any reaction to learning that council or
6 the Town would be receiving just under 14 million as
7 opposed to something closer to 15 million?

8 MR. KEVIN LLOYD: No. I explained
9 why.

10 MS. KATE MCGRANN: With respect to the
11 explanation, what did you understand the impact of
12 reducing regulated liability by almost \$1 million was?
13 Could you help me understand what you understood in
14 terms of why regu -- reducing regulated liability by a
15 million would result in the reduction of a
16 recapitalization dividend by 1 to \$2 million?

17 MR. KEVIN LLOYD: Because you --
18 you've incre -- by -- because you re -- by -- okay,
19 hold on.

20

21 (BRIEF PAUSE)

22

23 MR. KEVIN LLOYD: It's almost sort of
24 a reverse effect. The more you re -- the more you
25 reduce it, the less you get back as a dividend.

1 MS. KATE MCGRANN: And -- and was --

2 MR. KEVIN LLOYD: The higher your debt
3 ratio, the more dividend you would receive back.

4 MS. KATE MCGRANN: Were the mechanics
5 of that transaction that you just explained to me
6 explained to council?

7 MR. KEVIN LLOYD: Here? No.

8 MS. KATE MCGRANN: At any point in
9 time.

10 MR. KEVIN LLOYD: In the email.

11 MS. KATE MCGRANN: No, I understand
12 that. But I'm ste -- stepping away from the email for
13 a second. The impact of the reduction of regulated
14 liability on the dividend and how that worked, was
15 that ever explained to council? Do you recall?

16 MR. KEVIN LLOYD: I don't recall.

17 MS. KATE MCGRANN: Other than this
18 email chain, what information do you recall of council
19 receiving about the total financial consideration that
20 was ultimately paid?

21 MR. KEVIN LLOYD: I don't recall.

22 MS. KATE MCGRANN: No.

23 MR. KEVIN LLOYD: Other than this,
24 this was just a -- something Ed sent, and it was
25 tongue and cheek and giving us a little heads-up. It

1 was the final figures.

2 MS. KATE MCGRANN: Was there --

3 MR. KEVIN LLOYD: Not the final
4 figures. The final figures were to come, but --

5 MS. KATE MCGRANN: Close to the --

6 MR. KEVIN LLOYD: -- close.

7 MS. KATE MCGRANN: -- final figures?

8 MR. KEVIN LLOYD: Close, yes.

9 MS. KATE MCGRANN: Do you recall if a
10 report was made to council when the final figures were
11 -- were finalized?

12

13 (BRIEF PAUSE)

14

15 MR. KEVIN LLOYD: I believe so, but I
16 can't recall when. But I know the final figures were
17 released to council.

18 MS. KATE MCGRANN: Okay. Leaving
19 aside the -- the date of the report, what can you tell
20 us about what you remember the contents being? Who --
21 who made the presentation and what was council told?

22 MR. KEVIN LLOYD: I don't recall.

23 MS. KATE MCGRANN: Those are my
24 questions.

25 THE HONOURABLE FRANK MARROCCO:

1 Mr. Bonwick, I understand you have a commitment this
2 afternoon, so would -- you can go now. You can ask
3 your questions now.

4 Yes. Wherever -- wherever you're
5 comfortable from asking the questions. Just that way
6 we'll be sure that you get your questions in if there
7 should be some unexpected delay.

8 MR. PAUL BONWICK: Thank you,
9 Your Honour. I suspect I will only be a few moments.

10 THE HONOURABLE FRANK MARROCCO: All
11 right.

12 MR. PAUL BONWICK: But thank you for
13 the consideration, and I appreciate that.

14

15 CROSS-EXAMINATION BY MR. PAUL BONWICK:

16 MR. PAUL BONWICK: Good morning,
17 Mr. Lloyd. My name's Paul Bonwick, and I'm a
18 participant at the Inquiry.

19 MR. KEVIN LLOYD: Right.

20 MR. PAUL BONWICK: Thanks very much
21 for attending this morning. Mr. Lloyd, it's been
22 stated that you served on Council from 2010 to 2018.
23 Correct?

24 MR. KEVIN LLOYD: Right.

25 MR. PAUL BONWICK: Could you maybe

1 walk back in time and give us a little background in
2 terms of your career, your work history, your -- just
3 service to the community, and different aspects?

4 MR. KEVIN LLOYD: Yes. I -- I studied
5 marketing and business, and I entered the advertising
6 industry in 1971 and worked in it until 19-- I think
7 I left about 1994. I was vice-president of
8 McCann-Erickson in Toronto, an international agency.
9 I opened up my own communications company in -- in
10 1986 or '87; operated that until 1993.

11 When I moved to Collingwood, we had a
12 chalet here. We moved to Collingwood 'cause we loved
13 it, and I opened up a business here -- a wine and beer
14 business and operated that for 15 years. I was a
15 member of the Optimist Club; served as a president of
16 the Optimist Club for two (2) years -- or two (2)
17 terms. Pardon me. And sold my business about eight
18 (8) years ago. And I'm -- I'm now working in another
19 industry. So I'm not giving up.

20 MR. PAUL BONWICK: Excuse me for one
21 (1) second. I just forgot my pen.

22 MR. KEVIN LLOYD: So that's my
23 background, if that's enough.

24 THE HONOURABLE FRANK MARROCCO: I'm
25 not giving -- I'm not giving up either.

1 MR. KEVIN LLOYD: I think I'm crazy
2 sometimes too, but --

3 MR. PAUL BONWICK: The more often --

4 MR. KEVIN LLOYD: -- I like to work.
5 I like work.

6 MR. PAUL BONWICK: The more often you
7 retire, the busier you get --

8 MR. KEVIN LLOYD: Yeah, true.

9

10 CONTINUED BY MR. PAUL BONWICK:

11 MR. PAUL BONWICK: So thank you for
12 that. Mr. Lloyd, are you aware of the fact that I
13 served on Council as well as served as the member of
14 Parliament for Simcoe-Grey?

15 MR. KEVIN LLOYD: Yes, I am.

16 MR. PAUL BONWICK: Are you aware of
17 the fact that I was the president and owner of
18 Compenso Communications?

19 MR. KEVIN LLOYD: Yes, I am.

20 MR. PAUL BONWICK: Are you aware of
21 the fact that during the past 15 years or certainly
22 the period leading up to 2018 that my company
23 represented several -- several companies, corporate
24 entities throughout the region, including PowerStream?

25 MR. KEVIN LLOYD: Not specifically who

1 you represented but yes. You -- that was your
2 company. It was a consulting company, I believe.

3 MR. PAUL BONWICK: Councillor Lloyd,
4 at any time during the period you served on Council,
5 did you ever find me to be pressuring you in any way
6 to vote in a particular direction?

7 MR. KEVIN LLOYD: Never.

8 MR. PAUL BONWICK: Did you ever find
9 me, through my representations on various companies,
10 to be pursuing an interest that would be otherwise in
11 the best interest of the community?

12 MR. KEVIN LLOYD: Never.

13 MR. PAUL BONWICK: I'd like to bring
14 up TCO -- sorry, yeah -- TOC0531801.

15

16 (BRIEF PAUSE)

17

18 MR. PAUL BONWICK: Just before we go
19 to that, I think -- would you agree with me that it's
20 safe to say that this was one of the most significant
21 transactions that was dealt with during your time on
22 Council?

23 MR. KEVIN LLOYD: Absolutely.

24 MR. PAUL BONWICK: Would it be
25 reasonable to state, based on the size of the

1 transaction, that Council, councillors would have
2 taken serious and significant interest in the matter?

3 MR. KEVIN LLOYD: Absolutely.

4 MR. PAUL BONWICK: Would it therefore
5 be reasonable to suggest that -- while you can't speak
6 on individual -- behalf of individual councillors --
7 based on your understanding that individual
8 councillors paid very close attention to any of the
9 presentations that were made related to this matter?

10 MR. KEVIN LLOYD: Absolutely.

11 MR. PAUL BONWICK: If we could scroll
12 down, please. I wanted to get to the financial
13 portion, please. Sorry, stop there. My apology.

14 We've heard evidence that this process
15 began sometime -- consideration for the process began
16 sometime after the election in 2010. You were
17 obviously campaigning during that point in time.

18 Do you recall a major part of the
19 campaign on behalf of the mayor as well as other
20 councillors talking about shifting the priorities
21 or -- I should rephrase this -- being a significant
22 concern about the financial state of the community?

23 MR. KEVIN LLOYD: Yes. It was one of
24 my platforms as well.

25 MR. PAUL BONWICK: Do you recall there

1 being significant concern during that -- that election
2 campaign related to spending on lawyers, consultants,
3 the fact that much of the spending, from a political
4 perspective, was a major consideration?

5 MR. KEVIN LLOYD: Spending was a major
6 consideration.

7 THE HONOURABLE FRANK MARROCCO: Yeah,
8 yeah. Go ahead. Please finish your answer.

9 MR. KEVIN LLOYD: Spending was a major
10 consideration, but it wasn't just specific to lawyers
11 or in consultants and that sort of thing. But they
12 were -- they were a consideration as well.

13 THE HONOURABLE FRANK MARROCCO:
14 Mr. Lloyd's here for a limited purpose. So --

15 MR. PAUL BONWICK: I was trying to get
16 into his understanding.

17 THE HONOURABLE FRANK MARROCCO: I am
18 trying to give you some leeway, but he's here for a
19 limited purpose.

20 MR. PAUL BONWICK: Thank you.

21

22 CONTINUED BY MR. PAUL BONWICK:

23 MR. PAUL BONWICK: Sir, the process
24 appears to have started during the 2010 --

25 MR. KEVIN LLOYD: M-hm.

1 MR. PAUL BONWICK: -- election cycle.

2 There appeared to be more direction given in 2011
3 specific to the transaction and the process related to
4 the transaction. Is that your understanding?

5 MR. KEVIN LLOYD: Yes.

6 MR. PAUL BONWICK: Was your
7 understanding that the need for this transaction was
8 predicated on changes within the industry, the ability
9 for Collus to modernize and deliver better service, or
10 do you have other recollection of what was the driving
11 force behind the transaction?

12 MR. KEVIN LLOYD: That -- that was
13 primarily the drive -- one of the major driving forces
14 was the direction that the government was proceeding
15 to reduce the LDCs in the province and also to
16 increase the -- the efficiency and -- and the -- the
17 service and distribution to our -- our valued
18 customers.

19 MR. PAUL BONWICK: Thank you.

20 MR. KEVIN LLOYD: Absolutely.

21 MR. PAUL BONWICK: Can you -- sorry, I
22 didn't mean to over speak -- can you scroll down to
23 the financial portion, please.

24

25 (BRIEF PAUSE)

1 MR. PAUL BONWICK: There. Thank you.
2 Now, we've heard from some witnesses from our former
3 CAO to our current city clerk to several lawyers,
4 consultants that have been attached to the file. And
5 there appears from some of the testimony that they
6 felt there was maybe some confusion in the eyes of
7 Council as it related to the financial aspects of this
8 transaction.

9 So you've stated already that it is
10 your opinion that individual councillors during the
11 period of time paid very close attention to this
12 particular file based on the size of the transaction.
13 I understood you correctly?

14 MR. KEVIN LLOYD: You did.

15 MR. PAUL BONWICK: Mr. Lloyd, is there
16 any other possible scenario you could envision based
17 on how this is laid out that PowerStream is paying
18 \$8 million for 50 percent of the shares?

19 MR. KEVIN LLOYD: That's what they're
20 paying. That's what they paid. Eight million for
21 50 percent of the shares.

22 MR. PAUL BONWICK: Was there any
23 confusion on your part or that of members of Council
24 that you can recall that you were going to be
25 receiving your \$1.7 million loan that you had in place

1 with Collus?

2 MR. KEVIN LLOYD: Excuse me. Repeat
3 that?

4 MR. PAUL BONWICK: Was there any
5 confusion on your part that as part of the global
6 payment that you were going to receive that you were
7 going to receive payment for the \$1.7 million loan
8 you -- Council had provided to Collus some number of
9 years ago?

10 MR. KEVIN LLOYD: Yes. We were going
11 to -- that was part of the original...

12 MR. PAUL BONWICK: And so it's
13 reasonable to state that recognizing you've described
14 this dividend had to be calculated post-transaction
15 that the remaining balance was going to be out of the
16 recapitalization of the dividend. Is that your
17 understanding?

18 MR. KEVIN LLOYD: Absolutely, yes.

19 MR. PAUL BONWICK: Could you --
20 anybody have been confused about that in any manner,
21 based on what you've seen and based on your
22 experiences then?

23 THE HONOURABLE FRANK MARROCCO: Well,
24 I think -- I appreciate the witness may want to answer
25 that question. I think he can express whether he was

1 confused or not.

2 MR. PAUL BONWICK: Fair enough.

3 THE HONOURABLE FRANK MARROCCO: It's a
4 little hard for him to get into the heads of others
5 and -- but in any event.

6 MR. PAUL BONWICK: I do appreciate
7 that, Your Honour, and having sat around Council
8 myself I know that there's a lot of dialogue that
9 takes place between Councillors when they say "I don't
10 understand, I'm confused", no, this makes perfect
11 sense and that's a general -- that's general
12 experience when you're sitting around the Council
13 table and that's the context in which I was asking the
14 question.

15 THE HONOURABLE FRANK MARROCCO: So
16 you're asking him whether there was any confusion
17 expressed to him that he's aware of, right?

18 MR. PAUL BONWICK: Yes.

19 MR. KEVIN LLOYD: Not that I recall.

20

21 CONTINUED BY MR. PAUL BONWICK

22 MR. PAUL BONWICK: During the various
23 meetings, both in-camera and public, related to this
24 matter, did the Mayor ever restrict debate or restrict
25 any questions from member of Council?

1 MR. KEVIN LLOYD: No.

2 MR. PAUL BONWICK: Is it therefore
3 accurate to say that there was a complete open process
4 in terms of any individual councillor to ask any
5 questions they wanted related to this matter, should
6 they have any confusion?

7 MR. KEVIN LLOYD: Absolutely.

8 MR. PAUL BONWICK: The evidence has
9 shown that when the vote was taken it was a unanimous
10 vote that particular evening, 8-0.

11 MR. KEVIN LLOYD: Yes.

12 MR. PAUL BONWICK: Do you recall
13 anybody raising any concerns related to the
14 transaction at the -- during that process leading up
15 to that vote?

16 MR. KEVIN LLOYD: Related to the
17 financial aspects.

18 MR. PAUL BONWICK: Related to the
19 financial.

20 THE HONOURABLE FRANK MARROCCO: The
21 witness's evidence is restricted --

22 MR. PAUL BONWICK: Right.

23 THE HONOURABLE FRANK MARROCCO: -- to
24 his -- whether there was confusion about the finances.
25 And he's been pretty clear on that, but go ahead.

1 CONTINUED BY MR. PAUL BONWICK

2 MR. PAUL BONWICK: Do you recall the
3 evening of the vote anybody raising any concerns
4 regarding the financial aspects of the transaction?

5 MR. KEVIN LLOYD: No, I do not. No.

6 MR. PAUL BONWICK: We've heard
7 evidence from you and others that Mr. Houghton, as
8 well as Mr. Clark, were part of the presentation or
9 the presenters that evening.

10 Did you have full confidence in --

11 MR. KEVIN LLOYD: Excuse me. Which
12 evening?

13 MR. PAUL BONWICK: Sorry, the -- the
14 Council meeting where you were presented initially
15 with the KPMG report or the Collus report related to
16 the transactions and the comparisons.

17 At any time did you ever doubt that Mr.
18 Houghton was presenting in a manner that would be
19 anything other than in the best interests of Collus or
20 the community?

21 MR. KEVIN LLOYD: Ever doubt it? No.

22 THE HONOURABLE FRANK MARROCCO: You
23 appreciate that the witness is here on a restricted
24 basis. And you are expanding that and I don't want
25 that to happen. I thought I was pretty clear that I -

1 - this witness's evidence is restricted.

2 MR. PAUL BONWICK: I understood that,
3 sir, and I may have misunderstood. I understood we
4 were seeking clarity for what he understood to be the
5 situation regarding presentations that were made --

6 THE HONOURABLE FRANK MARROCCO:
7 Concerning the financial aspects of this transaction
8 to rebut the suggestion that there was confusion.

9
10 CONTINUED BY MR. PAUL BONWICK

11 MR. PAUL BONWICK: I'll close out, Mr.
12 Lloyd, with at the close of the transaction was there
13 any confusion on your part in respect to how the funds
14 were being delivered to the Town of Collingwood, and
15 were they consistent with the presentations that had
16 taken place before that?

17 MR. KEVIN LLOYD: Yes.

18 MR. PAUL BONWICK: That ends my
19 questions, Your Honour.

20 THE HONOURABLE FRANK MARROCCO: I -- I
21 -- when you said "yes", I think the question was was
22 there any -- was your question whether there was any
23 confusion?

24 MR. PAUL BONWICK: Correct.

25 MR. FREDERICK CHENOWETH: It was two

1 (2) questions asked.

2 MR. PAUL BONWICK: Two (2) questions
3 in there.

4 MR. FREDERICK CHENOWETH: It was two
5 (2) questions and he answered the last --

6 THE HONOURABLE FRANK MARROCCO: Just -
7 - Mr. Chenoweth, let me deal with Mr. Bonwick. You
8 can ask questions to follow if there's some confusion.

9 I wanted to make sure that -- that the
10 witness's answer "yes" -- did you want to ask the
11 question again?

12 MR. PAUL BONWICK: I will.

13

14 CONTINUED BY MR. PAUL BONWICK

15 MR. PAUL BONWICK: There was two (2)
16 questions in there, Mr. Lloyd. Was there any
17 confusion on your part, at the close of the
18 transaction, with the funds that were delivered?

19 MR. KEVIN LLOYD: No.

20 MR. PAUL BONWICK: Was the amount that
21 was delivered consistent with the earlier
22 presentations that you had received as a member of
23 Council?

24 MR. KEVIN LLOYD: Yes. Yes.

25 MR. PAUL BONWICK: That ends my

1 questions, Your Honour.

2 THE HONOURABLE FRANK MARROCCO: Thank
3 you.

4 Mr. Chenoweth, sorry to take you out of
5 the order, but I -- I did want to let Mr. Bonwick go
6 first in case we were delayed, so.

7 MR. FREDERICK CHENOWETH: I wonder if
8 the Town, in the usual order, is prior to me?

9 THE HONOURABLE FRANK MARROCCO: Mr.
10 Breedon, go ahead.

11

12 CROSS-EXAMINATION BY MR. RYAN BREEDON:

13 MR. RYAN BREEDON: Mr. Lloyd, we've
14 met. My name is Ryan Breedon, I'm counsel for the
15 Town.

16 I just had a couple questions about one
17 (1) of the documents that Ms. McGrann took you to,
18 because I -- I wanted to clarify what your evidence
19 was.

20 Can we look at ALE5133.2, please? And
21 turn to slide 15.

22 So sir, this was the presentation that
23 was made on December 5th, 2011. And am I correct that
24 this is the only time that the financial aspects of
25 the other bids were discussed with Council?

1 MR. KEVIN LLOYD: Of the four (4)
2 bidders? Yes, I believe so.

3 MR. RYAN BREEDON: Right. Because at
4 this meeting the decision is made to stay with
5 PowerStream and then the subsequent presentations just
6 deal with the PowerStream bid, right?

7 MR. KEVIN LLOYD: Yes, later on, yes.

8 MR. RYAN BREEDON: And -- and you're -
9 - and you weren't provided with copies of the actual
10 bids?

11 MR. KEVIN LLOYD: The actual bids?

12 MR. RYAN BREEDON: Right, like the
13 actual bids from the different --

14 MR. KEVIN LLOYD: The RFPs you mean,
15 the actual, physical responses? No.

16 MR. RYAN BREEDON: Correct. Okay.
17 So this is the only information that
18 you had about what each of the four (4) bidders was
19 proposing?

20 MR. KEVIN LLOYD: Right.

21 MR. RYAN BREEDON: Okay. And I think
22 you testified that the way that you understood that
23 the power -- PowerStream was offering \$8 million for
24 the shares was by subtracting 5.3 and 1.71 from the
25 15.010?

1 MR. KEVIN LLOYD: That's not the only
2 way. I mean, we were -- we were told in this
3 presentation, and throughout the rest, is that there
4 was \$8 million.

5 MR. RYAN BREEDON: Okay.

6 MR. KEVIN LLOYD: I think if you -- if
7 you look at this to determine, because I was asked, I
8 believe, there's no \$8 million in here or any other
9 figures, but if you take the 10, the 15 and subtract
10 the -- the 7, or add the 7, you get 8 -- you get 15.

11 MR. RYAN BREEDON: Right.

12 MR. KEVIN LLOYD: So my -- my
13 understanding would be that the 8 million was included
14 in this.

15 MR. RYAN BREEDON: All right. And so
16 that -- that was what I didn't really understand, I
17 think, from your -- the evidence that you gave in
18 response to Ms. McGrann's questions.

19 Was that -- that sort of math exercise
20 that you walked through something that was done at
21 this meeting, or did they tell you that -- when you
22 were looking at this spreadsheet, that PowerStream was
23 offering \$8 million for the shares?

24 MR. KEVIN LLOYD: I don't recall that,
25 sorry. No.

1 MR. RYAN BREEDON: Do you know what
2 Hydro One was offering for the shares --

3 MR. KEVIN LLOYD: -- added it up.

4 MR. RYAN BREEDON: So -- well, we --
5 we can do the math, but did anybody tell you during
6 this meeting what Hydro One was offering for 50
7 percent of the shares of the utility?

8 MR. KEVIN LLOYD: I can't recall.

9 MR. RYAN BREEDON: Okay. If you do
10 the math here, it works out to something like \$11
11 million. Did they tell you that?

12 MR. KEVIN LLOYD: I can't recall.

13 MR. RYAN BREEDON: Okay. The actual
14 Hydro One bid for 50 percent of the shares of the
15 utility was \$13.6 million. Are you aware of that?

16 MR. KEVIN LLOYD: Shares?

17 MR. RYAN BREEDON: Yes.

18 MR. KEVIN LLOYD: Yeah, it would have
19 been discussed, I'm sure.

20 MR. RYAN BREEDON: Well -- well, was
21 it discussed?

22 MR. KEVIN LLOYD: Here? I can't
23 recall.

24 MR. RYAN BREEDON: Was it ever
25 discussed?

1 MR. KEVIN LLOYD: I believe it would
2 have been, yes.

3 MR. RYAN BREEDON: When?

4 MR. KEVIN LLOYD: I don't know, I
5 can't recall.

6 MR. RYAN BREEDON: Well, isn't that a
7 discussion that you would recall? I mean, if -- if
8 the question is should we take \$13.6 million or \$8
9 million for the shares, that's a significant
10 difference and that, I would have thought, would have
11 prompted a fairly vigorous discussion.

12 MR. KEVIN LLOYD: No, but when you
13 look at the -- look at the totals at the bottom,
14 you're 900,000 difference, only \$900,000 difference.

15 MR. RYAN BREEDON: And if the
16 difference was --

17 MR. KEVIN LLOYD: It wasn't based --
18 the 30 percent of this process was based on the
19 financial. Hydro One did not match up to the 70
20 percent criteria at all.

21 MR. RYAN BREEDON: So -- so my
22 question was did you know, did Council know before
23 approving this transaction, that Hydro One had offered
24 \$13.6 million for the shares?

25 MR. KEVIN LLOYD: Specifically, I

1 can't recall.

2 MR. RYAN BREEDON: Okay. Do you think
3 that that's something that Council should have known?

4 MR. KEVIN LLOYD: In the -- in the
5 overall scheme of things with the -- the bottom lines,
6 no, I don't think so.

7 MR. RYAN BREEDON: All right, thank
8 you. Those are my questions.

9 MR. KEVIN LLOYD: We're looking at
10 total figures.

11 MR. RYAN BREEDON: Sorry?

12 MR. KEVIN LLOYD: Looking at total
13 figures.

14 MR. RYAN BREEDON: Thank you.

15 MR. KEVIN LLOYD: You're welcome.

16 MR. RYAN BREEDON: Those are my
17 questions.

18 THE HONOURABLE FRANK MARROCCO: All
19 right, we'll take the morning break now, otherwise
20 we'd -- you'd no sooner get started then we'd stop.

21 MR. FREDERICK CHENOWETH: Thank you,
22 Your Honour.

23

24 --- Upon recessing at 10:01 a.m.

25 --- Upon resuming at 10:12 a.m.

1

2 THE HONOURABLE FRANK MARROCCO: Mr.
3 Chenoweth?

4 MR. FREDERICK CHENOWETH: I think Mr.
5 -- I think it's agreed that Mr. Fryer would go before
6 me, Your Honour.

7 THE HONOURABLE FRANK MARROCCO: It's -
8 - it's like a test every day to see if I -- what --
9 all right, if I can get the order straight. Mr.
10 Fryer, go ahead.

11 MR. TIM FRYER: Thank you, Justice
12 Marrocco. And this will just take a second, so no
13 disrespect by not approaching. I -- I don't think
14 it'll take much --

15 THE HONOURABLE FRANK MARROCCO: That's
16 fine. That's fine.

17 MR. TIM FRYER: -- clarify.

18

19 CROSS-EXAMINATION BY MR. TIM FRYER:

20 MR. TIM FRYER: So, I just was going
21 to say to Mr. Lloyd that, as a matter of record, my
22 name is Tim Fryer and I'm representing myself in these
23 proceedings.

24 I just wanted to ask for clarification,
25 did you ever ask me any questions of -- in regards to

1 the financial aspects of the transaction?

2 MR. KEVIN LLOYD: No.

3 MR. TIM FRYER: Thank you. Those are
4 my questions, Your Honour.

5 THE HONOURABLE FRANK MARROCCO: Okay.
6 Thank you. Okay.

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

9 THE HONOURABLE FRANK MARROCCO: Mr.
10 Chenoweth?

11 MR. FREDERICK CHENOWETH: Thank you,
12 Sir.

13

14 CROSS-EXAMINATION BY MR. FREDERICK CHENOWETH:

15 MR. FREDERICK CHENOWETH: Mr. Lloyd,
16 my name is Fred Chenoweth. I represent Mr. Houghton,
17 who's a participant in these proceedings. I will take
18 you shortly to the December 5th meetings and meetings
19 after that.

20 But, as I understand it, there were
21 three (3) meetings that you would have attended as a
22 councillor prior to the December 5th meeting relating
23 to this matter. Those would have been on June 27th,
24 October 3rd, and November 17th of 2011, three (3)
25 previous meetings prior to December 5th?

1 MR. KEVIN LLOYD: Yes.

2 MR. FREDERICK CHENOWETH: All right.

3 And during the course of those meetings were you kept
4 up to date or did you feel as a councillor that you
5 were being kept up to date with respect to the
6 progress being made with respect to developing a
7 concept for the sale of some of the shares of Collus -
8 - of the Collus Power company?

9 MR. KEVIN LLOYD: I do, yes.

10 MR. FREDERICK CHENOWETH: And were you
11 comfortable with what you learned through the course
12 of those three (3) meetings?

13 MR. KEVIN LLOYD: Yes. Yes.

14 MR. FREDERICK CHENOWETH: Do you feel
15 that what you'd learned was a fulsome explanation of
16 the exploration that was being done by the STT team
17 and by the Board of Power Corporation?

18 MR. KEVIN LLOYD: Yes, I do. Yeah.

19 MR. FREDERICK CHENOWETH: And you
20 obviously attended the meeting of December 5th --

21 MR. KEVIN LLOYD: Yes.

22 MR. FREDERICK CHENOWETH: -- with
23 respect to these matters?

24 MR. KEVIN LLOYD: Yes. Yes.

25 MR. FREDERICK CHENOWETH: And I note

1 that there's a couple of references -- and -- and I'll
2 do this very quickly. I don't want to take a lot of
3 time with it. But I notice -- if you could bring up
4 the -- the appropriate slide presentation with respect
5 to this, which is ALE5133-0002. Thank you very much.

6 And if we could go to the third slide
7 with respect to these matters. Again, very quickly,
8 did you understand -- this appears to be a
9 presentation with respect to the evaluation criteria
10 relating to evaluating the bids that had come in.

11 And you can look at this and read it
12 but did you feel that, as a councillor, you'd been
13 given full information with respect to the criteria on
14 which the bids would be valued?

15 MR. KEVIN LLOYD: Yes. Yes.

16 MR. FREDERICK CHENOWETH: And this --
17 this appears to be the -- the second time you had been
18 given this bid criteria in that you were given it also
19 in an October 3rd meeting. Do you recall that?

20 MR. KEVIN LLOYD: Yes.

21 MR. FREDERICK CHENOWETH: So, you
22 would have understood clearly that the -- the bidding
23 process involved 30 percent for the evaluation of your
24 -- the financial offering of the bidders and 70
25 percent with respect to the non-financial aspects of

1 the bid?

2 MR. KEVIN LLOYD: Yes.

3 MR. FREDERICK CHENOWETH: Thank you.

4 And you understood that -- looking at quickly slide 4,
5 you understood that there had been an STT team
6 involved --

7 THE HONOURABLE FRANK MARROCCO: Well -
8 - well, I -- I believe Mr. Lloyd's evidence is
9 restricted to the financial aspects of the bid. I'd
10 be shocked if he wasn't aware that there was a
11 Strategic Partnership Task Team struck to -- to deal
12 with this matter.

13 But can we please -- I'm not trying to
14 -- I -- I'd like to give you the opportunity to lead
15 up to what you want to get to, but we are restricting
16 his evidence to whe -- whether there was confusion
17 concerning the financial presentation.

18 MR. FREDERICK CHENOWETH: I understand.
19 Thank you, Your Honour.

20

21 CONTINUED BY MR. FREDERICK CHENOWETH:

22 MR. FREDERICK CHENOWETH: And that was
23 intended to be nothing more than a buildup. But in
24 any event, if we look at what I believe to be slide 16
25 of this presentation. Go down to the bottom of that

1 slide, if you would, please. Lower, please. Thank
2 you very much.

3 And you indicated that -- was it your
4 evidence, and just clarify for me, that this slide
5 presentation was given by Mr. Rockx at that time?

6 MR. KEVIN LLOYD: I believe so.

7 MR. FREDERICK CHENOWETH: Thank you.
8 And I note that there's a note at the bottom of -- of
9 this page, based on \$8 million for 50 percent of the
10 equity, the premium that PowerStream was paying was
11 one point six zero (1.60) times book.

12 Did you understand from that that
13 Collus Power was paying \$8 million for 50 percent --
14 I'm sorry, that PowerStream was paying \$8 million for
15 50 percent of the shares of Collus Power?

16 MR. KEVIN LLOYD: Yes.

17 MR. FREDERICK CHENOWETH: And
18 certainly, this was reviewed in the slide presentation
19 that was before you during the course of that December
20 5th, 2011, presentation. That was in the slide
21 presentation. And you would have seen that in the
22 presentation?

23 MR. KEVIN LLOYD: Yes.

24 MR. FREDERICK CHENOWETH: All right.

25 And I take it that's something that -- can you tell me

1 whether that's something Mr. Rockx made clear to you
2 through the course of the presentation, i.e., the \$8
3 million for 50 percent of the shares?

4 MR. KEVIN LLOYD: Yeah, it was made
5 very clear to -- to council throughout, yeah, the
6 presentation.

7 MR. FREDERICK CHENOWETH: And I notice
8 that there's a further reference to that at slide 19.
9 Could we move to that, if we could? Under, "Further
10 clarification," PowerStream has agreed to increase
11 their offer from 7.3 million to \$8 million.

12 Did you understand that from what you
13 saw of the slides in the December 5th meeting and from
14 what you heard during the course of Mr. Rockx's
15 presentation?

16 MR. KEVIN LLOYD: Yes.

17 MR. FREDERICK CHENOWETH: So, you
18 understood they had actually increased their -- their
19 bid for the shares from 7.3 to \$8 million?

20 MR. KEVIN LLOYD: Yes.

21 MR. FREDERICK CHENOWETH: And so, the
22 amount they were going to get for the shares was \$8
23 million?

24 MR. KEVIN LLOYD: Fifty percent shares
25 was \$8 million.

1 MR. FREDERICK CHENOWETH: Thank you.

2 And just looking at slide 15 for a moment, if we

3 could, please.

4

5 (BRIEF PAUSE)

6

7 MR. FREDERICK CHENOWETH: Thank you.

8 I note that there appears to be a discussion about the

9 recapitalization. And you indicated in your evidence

10 to inquiry counsel that there was some discussions

11 about the recapitalization in the meeting of December

12 5th?

13 MR. KEVIN LLOYD: I believe so.

14 MR. FREDERICK CHENOWETH: Thank you.

15 And you indicated that you had understood that Collus

16 Power, not Collus PowerStream, not PowerStream, but

17 Collus Power, had kept their debt to equity ratio low.

18 Is that -- was that your understanding?

19 You're have -- going to have to say

20 'yes' or 'no' for the record. Did you understand that

21 Collus kept their debt --

22 MR. KEVIN LLOYD: Collus kept their

23 debt -- yes.

24 MR. FREDERICK CHENOWETH: -- very low?

25 MR. KEVIN LLOYD: Yes.

1 MR. FREDERICK CHENOWETH: All right.

2 And did you understand that there was -- when
3 discussing the recapitalization, did you understand
4 that there was an opportunity to increase the debt in
5 the Collus company as they approached this
6 transaction?

7 MR. KEVIN LLOYD: Yes.

8 MR. FREDERICK CHENOWETH: All right.
9 And did you understand that increasing that debt to
10 equity ratio -- and it seems to indicate here to a
11 60/40 debt to equity ratio. Did you understand that
12 that would lead to the opportunity for a dividend from
13 the power company to the Town?

14 MR. KEVIN LLOYD: Yes.

15 MR. FREDERICK CHENOWETH: All right.
16 So, is it fair to say that you had a pretty good
17 understanding as a result of those presentations on
18 December 5th that there was an opportunity as a result
19 of the recapitalization -- or changing the debt to
20 equity ratio there was an opportunity for a dividend
21 to the Town?

22 MR. KEVIN LLOYD: Yes.

23 MR. FREDERICK CHENOWETH: And -- and I
24 also understand that there was a promissary note which
25 continued to be outstanding by Collus Power to the

1 Town?

2 MR. KEVIN LLOYD: Yes.

3 MR. FREDERICK CHENOWETH: And that's
4 the -- and that's indicated in the slide, promissary
5 note 1.7 million payout?

6 MR. KEVIN LLOYD: Yes.

7 MR. FREDERICK CHENOWETH: Correct?

8 MR. KEVIN LLOYD: Yes, correct.

9 MR. FREDERICK CHENOWETH: All right.

10 So, you understood that there was an opportunity for a
11 payout of that promissary note?

12 MR. KEVIN LLOYD: Yes.

13 MR. FREDERICK CHENOWETH: And I think
14 you indicated in your evidence to inquiry council that
15 -- that that \$1.7 million could be paid by Power back
16 to the Town whether or not there was a share sale
17 transaction?

18 MR. KEVIN LLOYD: Yes.

19 MR. FREDERICK CHENOWETH: You
20 understand that as a result of this presentation you
21 got on December --

22 MR. KEVIN LLOYD: It -- it had been an
23 ongoing loan.

24 MR. FREDERICK CHENOWETH: It had been
25 ongoing?

1 MR. KEVIN LLOYD: Yes.

2 MR. FREDERICK CHENOWETH: So, you kind
3 of understood that as a result of being on council and
4 -- and absorbing that information at other meetings up
5 to and including December 5th?

6 MR. KEVIN LLOYD: (NO AUDIBLE
7 RESPONSE).

8 MR. FREDERICK CHENOWETH: All right.

9 MR. KEVIN LLOYD: Sorry, yes.

10 MR. FREDERICK CHENOWETH: This --

11 MR. KEVIN LLOYD: I'm not talking loud
12 enough. Yes.

13 MR. FREDERICK CHENOWETH: Thank you.
14 And this opportunity for a recapitalization, did you
15 or did you not understand that that opportunity was
16 available whether or not the shares were sold?

17 MR. KEVIN LLOYD: Yes.

18 MR. FREDERICK CHENOWETH: You
19 understood it was available, that opportunity to get
20 that dividend?

21 MR. KEVIN LLOYD: Yes.

22 MR. FREDERICK CHENOWETH: All right.
23 In any event of whether the shares were sold?

24 MR. KEVIN LLOYD: Yes.

25 MR. FREDERICK CHENOWETH: Thank you.

1 And you had understood that as a result of the
2 December 5th presentation. Is that right?

3 MR. KEVIN LLOYD: Partially, yes.
4 Yeah.

5 MR. FREDERICK CHENOWETH: Did you
6 understand it from other discussions or Council
7 meetings or -- you say "partially."

8 MR. KEVIN LLOYD: I -- I can't recall.
9 Can't recall. But I understood that that was just
10 a -- you know, because of the situation with Collus
11 keeping their debt to equity ratio low for certain
12 strategic and -- and marketing or business reasons or
13 some -- that if at any time they wanted to go up to
14 the standard of 60/40 or the -- or the level of 60/40,
15 they were able to. But they decide -- they had made
16 the decision over the years not to.

17 MR. FREDERICK CHENOWETH: Good. And
18 you understood that to be the history of the
19 corporation.

20 MR. KEVIN LLOYD: Yes.

21 MR. FREDERICK CHENOWETH: Yes. So you
22 understood that there was really three (3) envelopes
23 of money that were coming to the -- to the Town that
24 were going to come during the course of this
25 transaction?

1 MR. KEVIN LLOYD: Potentially.

2 Potentially three (3) envelopes.

3 MR. FREDERICK CHENOWETH: All right.

4 And those three (3) envelopes were what, sir?

5 MR. KEVIN LLOYD: Eight million for
6 the 50 percent shares; the 5.3 or approximate, that
7 was an estimate; and the 1.7.

8 Sorry. There would be the 8 million
9 for the share sale. It would be the 5.3, as is
10 indicated here, for the recapitalization; and the 1.7
11 for the loan.

12 MR. FREDERICK CHENOWETH: And there
13 was a further review of these matters, I understand,
14 at the January 16th meeting of Council?

15 MR. KEVIN LLOYD: Pardon? Repeat
16 that, please?

17 MR. FREDERICK CHENOWETH: The further
18 review of the status of the transaction at the
19 January 16th meeting of Council?

20 MR. KEVIN LLOYD: Yes.

21 MR. FREDERICK CHENOWETH: All right.
22 And could we pull up the minutes of that meeting.

23 And just before we move to that if we
24 could, with respect to the recapitalization that you
25 were told of in the December 5th meeting, you

1 understood that the numbers that were being given to
2 you with respect to the recapitalization -- the
3 potential dividend from that -- those were approximate
4 numbers.

5 MR. KEVIN LLOYD: Yes.

6 MR. FREDERICK CHENOWETH: All right.

7 And did you understand that the numbers that were
8 given to you at that time -- were they based on -- on
9 what? The 2010 financial statements?

10 MR. KEVIN LLOYD: I believe so, yes.

11 MR. FREDERICK CHENOWETH: All right.

12 Thank you. And did you understand that those numbers
13 might change by the time of the closing of the
14 transaction as a result of subsequent financial
15 statements?

16 MR. KEVIN LLOYD: Yes, yes.

17 MR. FREDERICK CHENOWETH: So that you
18 would have understood that when the 2011 financials
19 came in, that had the potential to change the amount
20 of the dividend at the time it was receive from the
21 capitalization.

22 MR. KEVIN LLOYD: Yes.

23 MR. FREDERICK CHENOWETH: All right.

24 And that in fact occurred.

25 MR. KEVIN LLOYD: Yes, it did.

1 MR. FREDERICK CHENOWETH: And --

2 MR. KEVIN LLOYD: Email.

3 MR. FREDERICK CHENOWETH: Thank you.

4 And that email was a July 29th email between
5 Mr. Houghton and the councillors at the Town?

6 MR. KEVIN LLOYD: Yes.

7 MR. FREDERICK CHENOWETH: All right.
8 And did you feel that you had received an adequate
9 explanation as to both the good news and the bad news
10 with respect to the adjustments resulting from the
11 2011 financials coming in?

12 MR. KEVIN LLOYD: From that email?

13 MR. FREDERICK CHENOWETH: Yes.

14 MR. KEVIN LLOYD: No, no. It was
15 pretty top line. Didn't get into any detail, so...

16 MR. FREDERICK CHENOWETH: All right.
17 Thank you. But you were comfortable that the
18 information you were given with respect to the
19 adjustment in the recap was appropriate?

20 MR. KEVIN LLOYD: I would have no
21 reason to -- to think it wasn't.

22 MR. FREDERICK CHENOWETH: Good. So
23 let's go to the minutes of January 16th if we could,
24 and if we could pull up CJI9079, and we go down to the
25 bottom of that.

1 (BRIEF PAUSE)

2

3 MR. FREDERICK CHENOWETH: There was an
4 indication again -- I'm sorry. I wanted to go to the
5 bottom of the first page. Thank you very much.

6 I noticed the minutes state that there
7 would be 8 million from PowerStream, and you were at
8 the meeting. What did you understand the 8 million
9 from PowerStream was for?

10 MR. KEVIN LLOYD: Fifty percent share.

11 MR. FREDERICK CHENOWETH: All right.
12 And there was a further amount of \$7 million, and did
13 you understand what \$7 million was made up of?

14 MR. KEVIN LLOYD: Yes.

15 MR. FREDERICK CHENOWETH: What did you
16 understand it was made up of?

17 MR. KEVIN LLOYD: It was made through
18 the 5 and the 1.7.

19 MR. FREDERICK CHENOWETH: And what was
20 the 3.5?

21 MR. KEVIN LLOYD: Three point five?

22 MR. FREDERICK CHENOWETH: Five point
23 three. I'm sorry.

24 MR. KEVIN LLOYD: That was the
25 recapitalization.

1 MR. FREDERICK CHENOWETH: One point
2 seven?

3 MR. KEVIN LLOYD: Was the loan.

4 MR. FREDERICK CHENOWETH: All right.

5 MR. KEVIN LLOYD: The outstanding loan
6 ongoing.

7 MR. FREDERICK CHENOWETH: Clearly by
8 the time of the second presentation given to Council
9 on January 16th following the December 5th
10 presentation, this was pretty clear in your mind.

11 MR. KEVIN LLOYD: Oh, absolutely.
12 Yes.

13 MR. FREDERICK CHENOWETH: And in --
14 your own -- I just like to get your own observation.
15 Would there be -- have been any reason for any of the
16 other councillors who would have attended those
17 December 5th meetings and the January 16th meetings to
18 have been confused about the 8 million and the 1.7 and
19 the 5.3 and those various packages?

20 MR. KEVIN LLOYD: I can't speak for --
21 I can't --

22 THE HONOURABLE FRANK MARROCCO: Well,
23 I don't know -- just a minute, just a minute. Sorry.

24 MR. FREDERICK CHENOWETH: Well, I --
25 I --

1 THE HONOURABLE FRANK MARROCCO: I
2 really don't know how he can -- something that might
3 be perfectly clear to Mr. Lloyd -- he can say how it
4 affected him. How does he know? He can say that
5 nothing struck him as confusing, but you can't get
6 inside the mind of the other people.

7 MR. FREDERICK CHENOWETH: Well, I can
8 ask him about the nature of the presentation he
9 received --

10 THE HONOURABLE FRANK MARROCCO: Yes.

11 MR. FREDERICK CHENOWETH: -- and
12 whether he might have anticipated any confusion
13 arising in other minds.

14 THE HONOURABLE FRANK MARROCCO: Yes.

15 MR. FREDERICK CHENOWETH: And that was
16 my question, Your Honour.

17 THE HONOURABLE FRANK MARROCCO: Oh,
18 sorry.

19 MR. FREDERICK CHENOWETH: Thank you.

20 THE HONOURABLE FRANK MARROCCO: Go
21 ahead.

22

23 CONTINUED BY MR. FREDERICK CHENOWETH:

24 MR. FREDERICK CHENOWETH: From the
25 nature of the presentation you receive both visually

1 on the 5th of December and the 16th of January and
2 orally from the presentations that you were given,
3 would you have anticipated any confusion in the minds
4 of other councillors about the three (3) packages?

5 MR. KEVIN LLOYD: I can --

6 THE HONOURABLE FRANK MARROCCO: Well,
7 go ahead and answer.

8 MR. KEVIN LLOYD: Well, yeah, yeah.

9 THE HONOURABLE FRANK MARROCCO: He's
10 going to keep asking it over and over again.

11 MR. KEVIN LLOYD: Yeah.

12 THE HONOURABLE FRANK MARROCCO: We'll
13 be here till September of --

14 MR. KEVIN LLOYD: I -- I cannot -- I
15 can't honestly speak for confusion in other people's
16 minds. I -- I can only speak for myself, and I had no
17 confusion.

18 MR. FREDERICK CHENOWETH: Very well.

19 THE HONOURABLE FRANK MARROCCO: That
20 answer I understand, Mr. Chenoweth.

21 MR. FREDERICK CHENOWETH: There you
22 go.

23

24 CONTINUED BY MR. FREDERICK CHENOWETH:

25 MR. FREDERICK CHENOWETH: In any

1 event, we've already been over this and I won't spend
2 much time on it. But there was a slide presentation
3 given by, I take it, Ron Clark at the January 16th
4 meeting? Correct?

5 MR. KEVIN LLOYD: Correct.

6 MR. FREDERICK CHENOWETH: All right.
7 And I notice it's -- could you bring up that slide
8 presentation if you would, please, and that's
9 TOC0531801.

10

11 (BRIEF PAUSE)

12

13 MR. FREDERICK CHENOWETH: And
14 Mr. Bonwick took you to certain parts of this. But
15 you remember this being a presentation that Mr. Clark
16 made at that time?

17 MR. KEVIN LLOYD: Yes, I do.

18 MR. FREDERICK CHENOWETH: All right.
19 And you knew he was a lawyer acting on this
20 transaction?

21 MR. KEVIN LLOYD: I knew Mr. -- yes.
22 He was our lawyer.

23 MR. FREDERICK CHENOWETH: All right.

24 MR. KEVIN LLOYD: One (1) of them.

25 MR. FREDERICK CHENOWETH: And if we

1 could just go to slide 3. It's titled "Why the Sale
2 of Shares of CUS Rather than Collus Directly".

3 Did you understand that as things had
4 transpired and for various tax reasons, the holding
5 company, Collus, it's -- 50 percent of its shares were
6 being sold rather than the shares of the Power
7 company?

8 MR. KEVIN LLOYD: You're talking about
9 Collus Utility Services, 50 percent?

10 MR. FREDERICK CHENOWETH: Yes.

11 MR. KEVIN LLOYD: Yes.

12 MR. FREDERICK CHENOWETH: All right.

13 And did you understand the reasons why
14 that was necessary?

15 MR. KEVIN LLOYD: For tax purposes it
16 was, yes, it was made clear.

17 MR. FREDERICK CHENOWETH: Thank you.
18 All right.

19 And did you understand that as a result
20 of selling what I'll describe as -- as the holding
21 company and it's -- and it's shares, or 50 percent of
22 its shares, that Collus Solutions would be going to
23 the purchaser, along with an inactive company, Collus
24 Energy?

25 MR. KEVIN LLOYD: Yes.

1 MR. FREDERICK CHENOWETH: All right.

2 And there was no confusion about that,
3 certainly in your mind in any event?

4 MR. KEVIN LLOYD: No.

5 MR. FREDERICK CHENOWETH: Very good.

6 And it's interesting to note, looking
7 at page 6 of the -- of the matter, looking at the
8 bottom of that page in particular, at the matters
9 titled "Item 2", it was -- again, the -- the -- if you
10 just move to the top of the next page, we had an A, a
11 B, and a C.

12 And again, if we can try and get them
13 all in the same -- all on the screen at the same time,
14 just scroll down a little bit. I think down is the
15 other way, but in any event. Try and bring in the
16 last part of the -- of the fifth page and the first
17 part of the sixth page, that's fine. You had it
18 there. Up again. Thank you very much. Going up,
19 ever so slightly. There, thank you. All right.

20 So again, this appears to be the
21 presentation that was shown to you visually at the
22 time of the January 16th meeting. And did Mr. Clark
23 take you through 2A, B, and C orally at the time of
24 that presentation?

25 MR. KEVIN LLOYD: I believe so. I --

1 MR. FREDERICK CHENOWETH: Thank you.

2 And again, did that describe the three
3 packages of money that were going to be received or
4 could be received during the course of this
5 transaction?

6 MR. KEVIN LLOYD: Absolutely. It was
7 consistent with every presentation that we'd had on
8 the -- on the funding.

9 MR. FREDERICK CHENOWETH: Again, those
10 three packages were?

11 MR. KEVIN LLOYD: The 8 million for 50
12 percent share --

13 MR. FREDERICK CHENOWETH: Yes.

14 MR. KEVIN LLOYD: -- of CUS, at this
15 point, because it had changed from Collus.

16 And the estimated 5.2 million for the
17 recapitalization and the 1.71 for the promissory note.

18 MR. FREDERICK CHENOWETH: All right.

19 So there was no confusion in your mind
20 as to what could be received as a result of this
21 transaction?

22 MR. KEVIN LLOYD: No.

23 MR. FREDERICK CHENOWETH: I'll not ask
24 my secondary question in that respect.

25 And looking at page 8 or slide 8,

1 looking at item 4 and we'll see if we can get all of
2 item 4 on the -- on the matter. You understood that
3 there would be a necessity for a MAAD application and
4 a review of this transaction by the Ontario Energy
5 Board?

6 MR. KEVIN LLOYD: Yes. Yeah.

7 MR. FREDERICK CHENOWETH: You
8 understood the transaction was conditional on that?

9 MR. KEVIN LLOYD: Yes. Yeah.

10 MR. FREDERICK CHENOWETH: All right.

11 And you would have understood that as a
12 result of the --

13 MR. KEVIN LLOYD: Previous.

14 MR. FREDERICK CHENOWETH: -- of -- you
15 would have understood that from what Clark told you at
16 the meeting. The lawyer. What the lawyer told you,
17 correct?

18 MR. KEVIN LLOYD: Yes. And it was --
19 and it was covered in -- I believe in other meetings.

20 MR. FREDERICK CHENOWETH: Thank you.

21 And I -- I'm just looking at 4E. Did
22 you understand that Infrastructure Ontario was one of
23 the potential sources, in fact I think they eventually
24 were the source of the money that was going to be used
25 to -- to get a loan to recapitalize Collus Power?

1 MR. KEVIN LLOYD: I -- don't recall.

2 MR. FREDERICK CHENOWETH: All right.

3 MR. KEVIN LLOYD: Sorry.

4 MR. FREDERICK CHENOWETH: But -- but
5 did you understand that one of the things that had to
6 be accomplished before the transaction could -- could
7 close, in particular before the recap could take place
8 and the dividend could be paid, that they had to find
9 the Town -- or Collus Power had to find somebody to --
10 to borrow the money from?

11 MR. KEVIN LLOYD: Yes.

12 MR. FREDERICK CHENOWETH: And you
13 understood that?

14 MR. KEVIN LLOYD: Yes.

15 MR. FREDERICK CHENOWETH: And you
16 understood that as a result of this presentation?

17 MR. KEVIN LLOYD: I -- I can't recall
18 whether or not I did, no. Sorry.

19 MR. FREDERICK CHENOWETH: All right.
20 But -- but as some juncture prior to voting on this
21 matter on January 23rd, and -- and putting in the
22 bylaw, you understood that it was going to be
23 necessary to find a lender so that the dividend to the
24 Town could be made?

25 MR. KEVIN LLOYD: Absolutely, or it

1 wouldn't be made.

2 MR. FREDERICK CHENOWETH: Thank you.

3 And looking at slide 11, I'll be brief
4 with respect to these matters. And Mr. Clark being
5 the lawyer, it looks like he took you through the
6 shareholder's agreement. Is that the case?

7 MR. KEVIN LLOYD: Yes.

8 MR. FREDERICK CHENOWETH: And he took
9 you through the guiding principles with respect to
10 that shareholder's agreement?

11 MR. KEVIN LLOYD: He did.

12 MR. FREDERICK CHENOWETH: And turning
13 over to 12, if we could, please, to slide 12.

14 And Mr. Clark would have explained to
15 you the makeup of the Board of Directors of the --

16 THE HONOURABLE FRANK MARROCCO: What
17 does this have to do with Mr. Lloyd's understanding of
18 the financial underpinnings of this transaction?

19 MR. FREDERICK CHENOWETH: Very -- very
20 little, Your Honour.

21 THE HONOURABLE FRANK MARROCCO:
22 Exactly.

23 MR. FREDERICK CHENOWETH: Except that
24 it's -- I might have thought that it's useful to get--

25 THE HONOURABLE FRANK MARROCCO: No.

1 MR. FREDERICK CHENOWETH: Very good,
2 sir, thank you.

3

4 CONTINUED BY MR. FREDERICK CHENOWETH

5 MR. FREDERICK CHENOWETH: And just to
6 look quickly at slide 15. And it spoke then about
7 outstanding issues and obviously one of the issues
8 outstanding was the source of the financing of the --
9 of the recap amount and sourcing the funds to pay back
10 the promissory note.

11 And again, I think you've already told
12 me that you understood that that financing had to be
13 obtained before those two (2) packages could be paid
14 to the Town?

15 MR. KEVIN LLOYD: Yes.

16

17 (BRIEF PAUSE)

18

19 MR. FREDERICK CHENOWETH: Do you
20 regard the presentations that you received on December
21 5th and January 16th as fulsome explanations of -- of
22 the financial aspect of this coming transaction? In
23 other words, did you feel --

24 MR. KEVIN LLOYD: To the best --

25 MR. FREDERICK CHENOWETH: -- it had

1 been properly explained to you?

2 MR. KEVIN LLOYD: To the best of my
3 recollection, yes.

4 MR. FREDERICK CHENOWETH: Very good.
5 And I understand that there was two (2) public
6 meetings with respect to this matter that followed
7 thereafter.

8 MR. KEVIN LLOYD: Two (2) public
9 meetings, yes.

10 MR. FREDERICK CHENOWETH: Well,
11 there'd been one in November, I guess --

12 MR. KEVIN LLOYD: Yes.

13 MR. FREDERICK CHENOWETH: -- correct,
14 November 22nd? And there was a -- another public
15 meeting, a televised meeting of Council, on January
16 23rd.

17 MR. KEVIN LLOYD: Right.

18 MR. FREDERICK CHENOWETH: All right.
19 And did you feel that -- that at the January 23rd
20 meeting, with the presentation of the slides that
21 you'd been earlier taken to, that a fulsome
22 explanation of the financial aspects of this matter
23 were given to the public and to Council on January
24 23rd?

25 MR. KEVIN LLOYD: That was Mr. Bentz

1 and Ed and -- and -- yes, yes, yeah.

2 MR. FREDERICK CHENOWETH: All right,
3 thank you. And I take it as a result of that you were
4 -- you were comfortable voting for the bylaw that was
5 put before Council on January 23rd?

6 MR. KEVIN LLOYD: Absolutely.

7 MR. FREDERICK CHENOWETH: Those are my
8 questions, Your Honour. Thank you.

9 THE HONOURABLE FRANK MARROCCO: Thank
10 you, Mr. Chenoweth.

11 Mr. Marron...?

12 MR. GEORGE MARRON: I have no
13 questions, Your Honour.

14 MS. KATE MCGRANN: No further
15 questions, Your Honour.

16 THE HONOURABLE FRANK MARROCCO: Mr.
17 Lloyd, thank you very much.

18

19 (WITNESS STANDS DOWN)

20

21 THE HONOURABLE FRANK MARROCCO: So
22 that basically, I think, completes the evidence in
23 Phase 1, and I want to thank all of you for your
24 cooperation and putting up with sitting at nine
25 o'clock and going till 6:00 in the evening and without

1 protesting -- well, there was some protests from one
2 (1) -- one (1) representative but the protests were
3 muted and I appreciate that -- all of you didn't have
4 to cooperate to that extent.

5 We did finish within the time frame of
6 June 28th, which means that the balance of the Inquiry
7 will look, I think, like this.

8 There'll be a draft of Foundation
9 Document Number 2 dealing with the application of
10 funds in -- in August. Same process as before. We'll
11 get all of the comments of the participants in Phase 2
12 about that document and then we'll produce a final
13 copy of the document, put on the website.

14 Witnesses -- Phase 2 witnesses start
15 September 9th and we will, as you can appreciate, sit
16 as we have to, to try to get through that in a
17 reasonable period of time. My expectation is we'll be
18 more -- not as long as this.

19 Closing submissions, August 30 -- for
20 Phase 1, in writing. August 31st is the deadline for
21 those submissions.

22 Obviously, we won't be evaluating the
23 whole thing until we're -- we complete the thing, so
24 that's the deadline but if somebody thinks of
25 something after the fact, let us know and we'll try to

1 accommodate.

2 Part 3 is the policy phase, will come
3 right -- come shortly after Part 2. Part 3 involves
4 really the Town and the Commission and deals with
5 policy issues. Doesn't deal with either the sale or
6 the application of the funds from the sale. It's --
7 as is typical in these sorts of inquiries, it's a
8 policy-driven exercise, shouldn't take that long, and
9 it's more in the nature of receiving presentations.
10 It's not adversarial the way this is, and so it will
11 be -- it will be shorter.

12 I think that basically is everything.
13 And thank you all. See you on September 9th.

14 MR. FREDERICK CHENOWETH: Just one --
15 one -- one quick question, Your Honour. You mentioned
16 FD-1 sometime in August, and I know that's -- that's
17 the -- this would be the draft of -- I'm sorry, FD-2.

18 THE HONOURABLE FRANK MARROCCO: Yes.

19 MR. FREDERICK CHENOWETH: This would
20 be the draft. Again the -- the date for that is
21 obviously difficult to call, but do we have any sense
22 of whether that might be received early in August or--

23 THE HONOURABLE FRANK MARROCCO: Well,
24 certainly -- certainly by the middle, I would think,
25 so that everybody has a couple of weeks to read it

1 over and consult with their client and -- and let us
2 know whatever they decide they want to let us know.

3 MR. FREDERICK CHENOWETH: Thank you,
4 Your Honour.

5 THE HONOURABLE FRANK MARROCCO: Thank
6 you all.

7

8 --- Upon adjourning at 10:51 a.m.

9

10 Certified Correct,

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12

13

14 _____

15 Wendy Woodworth, Ms.

16

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