



TOWN OF COLLINGWOOD

JUDICIAL INQUIRY

Before:

Associate Chief Justice Frank Marrocco

Held at:

Collingwood Town Hall

Council Chambers

97 Hurontario Street

Collingwood, Ontario

May 1st, 2019

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APPEARANCES

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) Counsel
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Belina Bain) Corporation
(No Counsel)) For Paul Bonwick
George Marron) For Sandra Cooper
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William McDowell) For Town of Collingwood
Ryan Breedon)
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) Corporation

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1 --- Upon commencing at 10:00 a.m.

2

3 CONTINUED EXAMINATION-IN-CHIEF BY MR. JOHN MATHER:

4 MR. JOHN MATHER: Good morning, Mr.
5 Lloyd.

6 MR. RICHARD LLOYD: Good morning.

7 MR. JOHN MATHER: When we were
8 speaking yesterday, we had just started talking about
9 the meetings where the RFP was scored. I showed you
10 that as we understand it, there was two (2) meetings,
11 one (1) on November 23rd, where the non-financial
12 components were scored, and a second meeting on
13 November 28th, when the financial components were
14 reviewed and scored.

15 And I was asking you questions about
16 the November 23rd meeting, so I'm going to continue
17 asking you questions about that process.

18 MR. RICHARD LLOYD: Can I just
19 confirm, I'm still under oath, correct?

20 MR. JOHN MATHER: Yes, you are.

21 MR. RICHARD LLOYD: Thank you.

22 MR. JOHN MATHER: So you said that you
23 were given the non-financial package for review prior
24 to the meeting. Did you complete your scores prior to
25 the November 23rd meeting?

1 MR. RICHARD LLOYD: The dates are a
2 little confusing, but yes, before the meeting, we've -
3 - we filled out the score sheet ourselves. That's
4 correct.

5 MR. JOHN MATHER: And when you say
6 "filled out the score sheet," what you mean by that?

7 MR. RICHARD LLOYD: It was ranking --
8 it was ranking each category.

9 MR. JOHN MATHER: Did you have a
10 physical score sheet?

11 MR. RICHARD LLOYD: I -- I apologize.
12 Pardon?

13 MR. JOHN MATHER: Did you have a
14 physical score sheet that you were writing rankings
15 down? Was it electronic?

16 MR. RICHARD LLOYD: It was a -- a
17 paper copy, yes.

18 MR. JOHN MATHER: A paper -- a hard
19 copy?

20 MR. RICHARD LLOYD: That's correct.
21 Thank you.

22 MR. JOHN MATHER: And then what did
23 you do with that hard copy score sheet?

24 MR. RICHARD LLOYD: We handed it in at
25 the meeting, and that was the last I'd seen of it.

1 MR. JOHN MATHER: Who did you hand it
2 to at the meeting. Do you recall?

3 MR. RICHARD LLOYD: I think -- I would
4 think that the executive secretary took them all.

5 MR. JOHN MATHER: Would that be Pam
6 Hogg?

7 MR. RICHARD LLOYD: That's correct.

8 MR. JOHN MATHER: Before you handed
9 your score sheet to Ms. Hogg, was there any discussion
10 about scoring at the meeting?

11 MR. RICHARD LLOYD: I -- I can't
12 remember. I don't think there was any discussion
13 other than what was supposed be discussed. It wasn't
14 a -- a what did you do, or something like that. It
15 was --

16 MR. JOHN MATHER: So what -- what did
17 you understand was supposed to be discussed?

18 MR. RICHARD LLOYD: When we did the
19 scoring, then KPMG obviously took all the -- the
20 scoring and -- and did a spreadsheet or -- or an
21 overhead projection, if I remember right, of all the
22 categories and where everybody was at.

23 MR. JOHN MATHER: So you're recalling
24 some sort of overhead projection that -- and you said
25 you had all the categories, and everybody -- where

1 everybody was at. So did that reflect the scores that
2 had been provided?

3 MR. RICHARD LLOYD: It didn't say who
4 voted what. It was just reflective of a cumulation.
5 KPMG dissected all the -- the scoring that everybody
6 put in, and the overhead was a -- a large TV that's in
7 the boardroom, that everything was put on it and
8 presented -- and presented by KPMG. I believe that's
9 how it worked out.

10 MR. JOHN MATHER: Okay if we could
11 turn up document CPS6920.

12

13 (BRIEF PAUSE)

14

15 MR. JOHN MATHER: The projection that
16 you were just describing, did it look something like
17 this?

18 MR. RICHARD LLOYD: It did.

19 MR. JOHN MATHER: It's our
20 understanding that this reflects the scores -- the
21 non-financial scores of the team members. You had
22 said that it didn't identify who had scored what.

23 Is this different than what was on the
24 screen at the time?

25 MR. RICHARD LLOYD: No, I think what

1 happened -- originally, it didn't. I -- I have no
2 idea. I don't remember. Obviously, it's on here. My
3 memory was that -- that it wasn't influenced.

4 I think what happened was, if I -- my
5 understanding would be that KPMG took all the
6 valuations and then that's when they did a
7 spreadsheet. I didn't think it showed everybody's
8 individual names, but...

9 MR. JOHN MATHER: So your recollection
10 is what you were looking at at the time didn't show --

11 MR. RICHARD LLOYD: That's correct.

12 MR. JOHN MATHER: -- the individual
13 names?

14 MR. RICHARD LLOYD: Yeah.

15 MR. JOHN MATHER: After a version of -
16 - of something that looked like this that at least
17 reflected the scores was put up at the meeting, at
18 that point, was there a discussion about the scoring?

19 MR. RICHARD LLOYD: The -- there was
20 discussion by KPMG leading us through it and
21 explaining where the scores were, and -- and -- but it
22 wasn't -- it wasn't questioning how we scored it,
23 individually. It was just showing the -- the actual
24 score. And again, I'm -- I'm going from memory from
25 eight (8) years ago, trying to --

1 MR. JOHN MATHER: Understood.

2 MR. RICHARD LLOYD: Yeah.

3 MR. JOHN MATHER: Do you remember if
4 there was discussion among the Task Team members about
5 the results they were seeing?

6 MR. RICHARD LLOYD: I don't think so,
7 other than we've seen the results, and that's how --
8 there was no influence by any of the Task members,
9 either.

10 MR. JOHN MATHER: So I'm going to walk
11 through the -- the non-financial scoring --

12 MR. RICHARD LLOYD: Sure.

13 MR. JOHN MATHER: -- and then I'll
14 have some questions for you at the end and -- and
15 perhaps as we go along.

16 So this is the first page of what we
17 understand to be the record of the scoring. And it's
18 in the first category, customer experience and
19 satisfaction, supporting in -- the interests of the
20 communities. And we see here that you scored
21 PowerStream a ten (10)?

22 MR. RICHARD LLOYD: That's correct.

23 MR. JOHN MATHER: Yeah. And we can
24 also see that a lot of people scored PowerStream a ten
25 (10), incurring -- including Ms. Cooper and Mr.

1 Houghton?

2 MR. RICHARD LLOYD: Everyone but one
3 (1).

4 MR. JOHN MATHER: Yes.

5 MR. RICHARD LLOYD: That's right, and
6 it was a nine (9).

7 MR. JOHN MATHER: Mr. Fryer?

8 MR. RICHARD LLOYD: That's right.

9 MR. JOHN MATHER: Yes. So if we could
10 go to the next -- okay. So this is the next category,
11 provision of strategic and specialized resources,
12 support in growing Collus business. Again, we see
13 that the point value is thirty (30), and you've scored
14 PowerStream thirty (30)?

15 MR. RICHARD LLOYD: Pretty consistent.
16 There's one (1) twenty-five (25), but everyone else
17 scored thirty (30) as well on it.

18 MR. JOHN MATHER: Yes. So if we go to
19 the next slide, this is the next category support for
20 employees and their careers. We see here that you
21 scored PowerStream ten (10)?

22 MR. RICHARD LLOYD: Four (4) of us
23 scored ten (10), three (3) scored eight (8), one (1)
24 nine (9), and one (1) seven (7).

25 MR. JOHN MATHER: Right. And the

1 others who scored ten (10) were Mr. McFadden, Mr.
2 Garbutt, and Mr. Houghton?

3 MR. RICHARD LLOYD: That's correct,
4 and Mr. Houghton.

5 MR. JOHN MATHER: I -- yeah, sorry, I
6 said Mr. Houghton, if you didn't catch me there.

7 MR. RICHARD LLOYD: Sorry.

8 MR. JOHN MATHER: No, that's okay. I
9 just wanted to make sure we were on the same page.

10 So if we could go to the next. So this
11 is the next category, competitive distribution rate
12 and cost structure of Collus. And in this instance,
13 you scored PowerStream eight (8)? Is that correct?

14 MR. RICHARD LLOYD: That's correct,
15 yeah.

16 MR. JOHN MATHER: Yes. And -- and in
17 this -- in this case, Horizon appeared to otherwise
18 get top marks?

19 MR. RICHARD LLOYD: That's -- that's
20 correct.

21 MR. JOHN MATHER: And we see that Mr.
22 Houghton also scored PowerStream an eight (8)?

23 MR. RICHARD LLOYD: That's correct.

24 MR. JOHN MATHER: Yeah.

25 MR. RICHARD LLOYD: Yes.

1 MR. JOHN MATHER: And then if we could
2 go to the next. So this is cultural and synergistic
3 fit, again out of ten (10). And again, we see that
4 you've scored PowerStream ten (10) out of ten (10), as
5 has many of -- other people on the Task Team, except
6 Mr. Fryer. Is that -- is that your recollection?

7 MR. RICHARD LLOYD: That's accurate.
8 Yes.

9 MR. JOHN MATHER: Okay. And then if
10 we can go to the next, and then we get into the
11 financial components, which isn't filled out at this
12 point.

13 So that -- what we looked was the
14 totality of the non-financial components?

15 MR. RICHARD LLOYD: That's accurate.
16 That's correct.

17 MR. JOHN MATHER: Okay. We see that
18 both Mr. Houghton and yourself give PowerStream full
19 marks in every category except one (1). Does that
20 accord with your recollection?

21 MR. RICHARD LLOYD: I wasn't analyzing
22 it as we're doing it. If that's what the documents
23 show it would be, there was no --

24 MR. JOHN MATHER: And I think -- and I
25 -- we can go look at the category. I believe it was

1 every category except in one (1), you gave them eight
2 (8) out of ten (10). Does that sound correct?

3 MR. RICHARD LLOYD: And -- and, I
4 guess, analyzing a little further, you mentioned that
5 Mr. Houghton and I gave all of them except one (1),
6 how -- how did I score with the other ones? Like, for
7 instance, Dean Muncaster, where was I with his score?
8 Where was I with -- because I can't just use the word
9 that Mr. Houghton and I were right on the same page,
10 because was I on the same page with the others?

11 MR. JOHN MATHER: So -- and this is
12 only with respect to PowerStream --

13 MR. RICHARD LLOYD: Yeah.

14 MR. JOHN MATHER: -- not the other --

15 MR. RICHARD LLOYD: Exactly.

16 MR. JOHN MATHER: -- proponents. I
17 can tell you from my review, and I'm happy to walk
18 through this, that you and Mr. Houghton gave the same
19 scores to PowerStream in every category, and no one
20 else in every category gave -- gave the same scores
21 that you and Mr. Houghton did. There was overlap in
22 other ones. I'm not suggesting there wasn't.

23 MR. RICHARD LLOYD: The other ones,
24 yeah.

25 MR. JOHN MATHER: Yeah.

1 MR. RICHARD LLOYD: Yeah.

2 MR. JOHN MATHER: And the category
3 where you gave PowerStream less than full marks was
4 the competitive distribution rate, which is the one we
5 looked at.

6 MR. RICHARD LLOYD: Okay.

7 MR. JOHN MATHER: At any time prior to
8 this meeting did you discuss your scores with Mr.
9 Houghton?

10 MR. RICHARD LLOYD: No, never, with
11 anyone.

12 MR. JOHN MATHER: Did you discuss your
13 scores with anyone else?

14 MR. RICHARD LLOYD: No one at all, no.

15 MR. JOHN MATHER: Do you recall at any
16 time changing your scores from what you initially
17 wrote down to what went into the --

18 MR. RICHARD LLOYD: I don't remember.

19 MR. JOHN MATHER: -- presentation?

20 MR. RICHARD LLOYD: I don't think I
21 did but --

22 MR. JOHN MATHER: Sorry, and again
23 please wait till I'm --

24 MR. RICHARD LLOYD: I'm sorry.

25 MR. JOHN MATHER: -- finished.

1 MR. RICHARD LLOYD: Yeah.

2 MR. JOHN MATHER: So the question was,
3 did you change your scores at any time from when you
4 originally wrote them down on the hard copy to when
5 they were entered into PowerPoint and --

6 MR. RICHARD LLOYD: No.

7 MR. JOHN MATHER: So that was the
8 November 23rd, 2011, meeting. The next meeting for
9 scoring was November 28th, 2011. And it's our
10 understanding the purpose of that meeting was to
11 review and score the financial components of the bids.

12 What do you recall about that meeting?

13 MR. RICHARD LLOYD: I just remember
14 again KPMG presenting. I know that the -- I believe
15 that -- that all the financials were in a sealed
16 envelope, and then they were opened, I'm not sure if
17 that meeting or before, and that's when we -- we
18 reviewed them.

19 MR. JOHN MATHER: And so you reviewed
20 them at the meeting?

21 MR. RICHARD LLOYD: I can't -- that's
22 a -- an assumption. I'm thinking that's probably what
23 we did. I can't remember if we reviewed them or they
24 were opened and announced, and then KPMG put them in
25 the -- the right categories.

1 MR. JOHN MATHER: So you can't recall
2 if you reviewed them before or at the meeting?

3 MR. RICHARD LLOYD: It wouldn't be
4 before the meeting. It would be when they were
5 opened, and I think they were opened at the meeting.

6 MR. JOHN MATHER: Okay. That -- thank
7 you. Thank you for clarifying.

8 How did you score the financial
9 results?

10 MR. RICHARD LLOYD: It was based on 30
11 percent, and you probably have the scores here that we
12 can look at, how -- how it was scored, on the
13 computer. I know that it was ranked on -- on the
14 amount of monies that were -- were being presented.
15 So if -- for instance, if one was at 10 million,
16 another one was at -- at 1 million, obviously it was
17 ranked thirty (30) for the one at 10 million and the
18 one at one million was ranked at one (1) or whatever.

19 MR. JOHN MATHER: And again I just
20 want to be clear here, is that what you recall
21 happening or is that what you --

22 MR. RICHARD LLOYD: That's what I
23 recall. I -- I can't confirm it. Again, it's eight
24 (8) years ago. I'm trying my best.

25 MR. JOHN MATHER: Okay. And to the

1 best of your recollection, did every team member then
2 submit a -- a ranking out of thirty (30) based on what
3 they saw in the financial scores --

4 MR. RICHARD LLOYD: I don't think so.
5 I think it was all -- when they were opened, it was
6 obvious who was high and who was low and the ones in
7 between. So I -- it wasn't scoring them. So I think
8 it was just, if I remember right, it was -- it was
9 when they were opened, we could tell which one was
10 high and which one was low. It's pretty simple
11 actually.

12 MR. JOHN MATHER: And do you recall
13 KPMG making any sort of adjustments to the financial
14 components of any bidders?

15 MR. RICHARD LLOYD: No, I don't
16 remember anything happening like that.

17 And again, KPMG is a pretty honourable
18 company. I can't imagine them fudging anything, if
19 that's what you're suggesting, or changing anything.

20 MR. JOHN MATHER: I'm not suggesting
21 fudging. What I'm -- there is an indication in the
22 documents that KPMG made adjustments to, for instance,
23 Hydro One's bid in order to make it an apples-to-
24 apples comparison.

25 MR. RICHARD LLOYD: Okay.

1 MR. JOHN MATHER: Does that trigger
2 any recollections?

3 MR. RICHARD LLOYD: No, it doesn't,
4 but KPMG would be the best to answer that. I'm sure
5 that they --

6 MR. JOHN MATHER: And so -- and I just
7 -- I want to know at this point what you recall.

8 Do you recall KPMG ever providing any
9 explanation to you about whether the financial
10 components had been adjusted?

11 MR. RICHARD LLOYD: No, but I do
12 remember when I read this document, there's stuff in
13 there about it but I don't remember anything at the
14 time.

15 MR. JOHN MATHER: Okay. So if we
16 could bring Document CPS6920 back on the screen.

17

18 (BRIEF PAUSE)

19

20 MR. JOHN MATHER: And I believe it's
21 Slide 6.

22 So we were looking at this document
23 just a few minutes ago.

24 MR. RICHARD LLOYD: That's right.

25 MR. JOHN MATHER: We went through the

1 non-financial --

2 MR. RICHARD LLOYD: That's right.

3 MR. JOHN MATHER: -- categories where
4 there was numbers populated for everyone. This is the
5 financial category, and we don't see any numbers
6 populated.

7 That's -- do you remember if a slide or
8 a -- sorry, I think it's actually a page of an Excel,
9 to correct myself, but do you remember if this
10 component of the scoring was ever populated?

11 MR. RICHARD LLOYD: I -- I believed it
12 was. We had -- and I think Council was presented with
13 the numbers. I think there's a slide -- I remember
14 seeing a slide showing the numbers on it, it was no
15 secret, so.

16 MR. JOHN MATHER: So if we could go to
17 the next slide.

18 MR. RICHARD LLOYD: Ahh.

19 MR. JOHN MATHER: So is this the slide
20 you were referring to?

21

22 (BRIEF PAUSE)

23

24 MR. RICHARD LLOYD: I think there was
25 a slide that showed the actual financial numbers, like

1 it -- for instance, if Ontario Hydro was at 18
2 million, it showed 18 million, whatever the -- the
3 amount. There was a -- a spreadsheet showing the
4 actual values that were being presented.

5 MR. JOHN MATHER: And this
6 spreadsheet, do you remember this being presented at
7 the scoring meeting?

8 MR. RICHARD LLOYD: No. It would --
9 you're making it a little bit confusing, to be honest
10 with you, so I'm not -- I don't know if it was at the
11 scoring meeting. It would be at the meeting that we
12 were discussing the financials, whether that was at
13 the scoring meeting or whatever. So the meeting we
14 were at with the financials is where it was discussed,
15 where in fact it was opened.

16 So the -- the sealed envelopes were
17 opened up. Somebody marked the -- the numbers. I
18 can't remember if it was Pam or whatever, recorded the
19 numbers, and I think in fact Mr. Fryer was involved in
20 it as well, from memory, because it was a financial
21 thing, and then it was analyzed. I think it was not
22 unlike a tender where they'd look at it to make sure
23 everything was complete, that that was the actual
24 number.

25 Then, from what I understand or what I

1 remember, is that it was presented back to us with all
2 the numbers, to show what they actually -- the prices
3 they put in.

4 MR. JOHN MATHER: So what you're
5 describing, just to confirm, is the -- your
6 recollection of what occurred at the meeting to review
7 the financial bids?

8 MR. RICHARD LLOYD: No. This was part
9 of the financial meeting.

10 MR. JOHN MATHER: Okay.

11 MR. RICHARD LLOYD: All the
12 information was gathered and -- and then I think it
13 went back with KPMG to be confirmed, to confirm that
14 everything was accurate.

15 It'd be pretty rash to just open a
16 envelope and say, okay, that's the number without
17 reading through all the -- the -- making sure the 'i's
18 are dotted, the 't's are crossed, and I think that's
19 what was done.

20 We did see the numbers, but I think it
21 did come back later to -- to show us what the actual
22 accuracy was of it.

23 MR. JOHN MATHER: And I'm just trying
24 to confirm your recollection, so --

25 MR. RICHARD LLOYD: That's fine. And

1 I'm -- trying my best.

2 MR. JOHN MATHER: I -- I understand
3 that and -- and so from what I understand from what
4 you're saying, at the fin -- at the meeting to review
5 the financials, envelopes were opened, that's what you
6 recall, and then there was a subsequent meeting where
7 the -- the financial numbers were presented to you?

8 MR. RICHARD LLOYD: I believe that's
9 what happened. They had to have time to analyze to
10 make sure all the numbers were in place and correct,
11 so.

12 MR. JOHN MATHER: So you recall
13 whether that second meeting was a strategic task team
14 meeting or another meeting?

15 MR. RICHARD LLOYD: It would have to
16 be the -- the strategic task force meeting. It would
17 have to be that.

18 MR. JOHN MATHER: And so you say --
19 but do specifically recall whether it was?

20 MR. RICHARD LLOYD: No, I don't. But
21 I know that the numbers would be -- the reason this is
22 a little bit confusing is I know that the numbers were
23 presented to Council as well, to show the financials
24 and everything, so there has to be another slide
25 showing the numbers, like the 18 million, that -- that

1 one was offering, and 15 or 14 on the other one.

2 There -- there's actual disclosure of -
3 - of the numbers.

4 MR. JOHN MATHER: And -- and we see
5 that at the December 5th Council meeting. I'm -- my
6 questions right now are focusing on what was discussed
7 at the strategic task --

8 MR. RICHARD LLOYD: Okay.

9 MR. JOHN MATHER: -- team meetings.

10 MR. RICHARD LLOYD: That clarifies a
11 lot because I'm starting to think, well, are you
12 suggesting, and I'm not -- I -- my mind is thinking,
13 well, are you suggesting there's something wrong with
14 what went on here? There wasn't, so.

15 MR. JOHN MATHER: I'm not trying to
16 suggest anything. I'm just trying to -- to get your
17 recollections about what happened at the strategic
18 task team --

19 MR. RICHARD LLOYD: I -- I agree.
20 Thank you.

21 MR. JOHN MATHER: So again we're
22 looking at the documents that appears to be the
23 collection of the scoring at the strategic task team.
24 This is the last slide. The slide before this we saw
25 that there was no data in the financial scoring

1 components. Here, if you look at the top line, it
2 says:

3 "Payment for up to 50 percent of
4 shares and other considerations in
5 3.1"

6 which is the financial component, and
7 then we see there are total numbers populated across.

8 MR. RICHARD LLOYD: Right.

9 MR. JOHN MATHER: Do you know how
10 those numbers were calculated?

11 MR. RICHARD LLOYD: I think when the
12 consultants looked at it they analyzed them and given
13 the scores for what they were, I wouldn't know how to
14 score it. I think that's how it was done.

15 MR. JOHN MATHER: Okay. So if we
16 could go to paragraph 297 of the Foundation document.

17 So I want to ask you some questions
18 about an event where a Barrie business reached out to
19 you seeking assistance in a dealing with PowerStream.

20 Do you know what I'm talking about?

21 MR. RICHARD LLOYD: Totally, yes.

22 MR. JOHN MATHER: Okay. Can you tell
23 us what you recall about that event?

24 MR. RICHARD LLOYD: I had a call from
25 one of my friend's, which is a Coll -- was a

1 Collingwood resident, Dan Beggs. Dan Beggs has a
2 machine shop over in the City of Barrie. He called
3 me, a little stressed, that for three (3) weeks he had
4 been trying to get a hold of -- of Barrie Hydro and
5 never had anybody come out to his site to take a look
6 at the transformer. He was having transformer issues,
7 I guess some of his equipment would -- was drawing
8 more power than necessary or whatever and it would
9 shut down and -- and he said he's pretty frustrated
10 nobody would -- he couldn't get anybody to come out.

11 And he was asking me if I knew anybody
12 at -- at Barrie Hydro that -- that maybe I could
13 rattle some chains.

14 So what I did is I -- I knew that Paul
15 Bonwick obviously was working for PowerStream and I
16 just sent him an email said that Danny Beggs was
17 looking for assistance, is there anything that -- that
18 you can do to get at least somebody from Barrie Hydro
19 to get in contact with him, he's been waiting three
20 weeks to -- to get this problem solved, this
21 transformer, nobody's even responded to him.

22 Then you'll see the email chain after,
23 that they did, immediately somebody got a hold of
24 Danny Beggs, I think he spent 80 or \$90,000 on a new
25 transformer. That wasn't the issue. The issue was

1 getting it up and running again, and then it was fine.

2 MR. JOHN MATHER: And the paragraph in
3 front of you, you suggest that this -- your request to
4 Mr. Bonwick was on October 4th, 2011.

5 Does that sound correct in terms of the
6 time period?

7 MR. RICHARD LLOYD: Probably, yes,
8 somewhere around October, November.

9 MR. JOHN MATHER: Why would the
10 individual who was seeking help with PowerStream, why
11 would he come to you for help with PowerStream?

12 MR. RICHARD LLOYD: I get calls from
13 people all over the place, outside this Municipality
14 as well, still do, on trying to help them.

15 I think he was so frustrated he knew no
16 one else to -- to call, knew that over the 25 years
17 obviously if I've been involved at the county, I knew
18 a lot of different organizations.

19 But it's not unusual, put it that way,
20 I've had lots of people call me to -- for assistance.

21 And that's what I'd said yesterday.

22 MR. JOHN MATHER: Is it fair to say
23 you've had a lot of people call you for assistance
24 with companies that don't operate in Collingwood?

25 MR. RICHARD LLOYD: Oh, yes. Yes, and

1 the -- I've even had people bring in their tax bills
2 from Clearview Township or the Town of Blue Mountains
3 because they thought it was absurd, or helped them
4 with a bylaw in another municipality. It wasn't
5 unusual, they -- it was just all part of it.

6 With the county experience it even
7 helped further because at County Council I -- we were
8 sitting with -- with all the other municipalities in
9 Simcoe County, so I did have some connections with
10 them, so.

11 MR. JOHN MATHER: Do you recall that
12 when this individual contacted you if he told you why
13 he was reaching out to you?

14 MR. RICHARD LLOYD: Just exactly what
15 I told you at the very beginning, that -- that he had
16 an issue --

17 MR. JOHN MATHER: Sorry, I don't mean
18 to cut you off, I wasn't specific enough in my
19 question, why he was -- why he thought you would be an
20 appropriate person to get in contact with PowerStream.

21 MR. RICHARD LLOYD: Yeah, he thought
22 it was Barrie Hydro. He was -- he didn't know where
23 else to turn. He was from Collingwood, good friend of
24 mine. And he has already contacted Barrie Hydro
25 several times to no avail, didn't get any response at

1 all from them.

2 MR. JOHN MATHER: And when you
3 contacted Mr. Bonwick, do you recall what he said to
4 you in response?

5 MR. RICHARD LLOYD: There's an email,
6 if we could see the email I can --

7 MR. JOHN MATHER: So we can --

8 MR. RICHARD LLOYD: Rather than me
9 guessing.

10 MR. JOHN MATHER: Understood. So why
11 don't we pull up TOC 00, sorry, I needed to read the
12 full number on that paragraph to know what email to
13 pull up. TOC 61079.

14 So this is the email that was
15 referenced in the paragraph and it's you reaching out
16 to Mr. Bonwick and I just wanted to know if you
17 remembered what his response was to you about this.

18 MR. RICHARD LLOYD: What Paul's
19 response was? I think he -- the next email tells the
20 story because he obviously was able to get a hold of
21 whoever it was at -- at PowerStream or at Barrie
22 Hydro, which I didn't even know, and it was -- they
23 went out immediately and dealt with the problem, got
24 it solved, got Dan his business back up and everything
25 was fine.

1 MR. JOHN MATHER: So, I may be able to
2 assist you with this. If we could go to TOC 61382.

3 MR. RICHARD LLOYD: Yes.

4 MR. JOHN MATHER: So if we could
5 scroll down. Scroll up. And sorry, scroll up a bit
6 more, keep scrolling up. And then -- sorry, just
7 scroll down a bit further.

8 So this is the next email chain that we
9 are aware of, and it -- it appears that PowerStream is
10 reporting to Mr. Bonwick about the actions they have
11 taken in response to your request.

12 What's not apparent to me was what you
13 -- sent Mr. Bonwick an email and then we see
14 PowerStream's taking action.

15 I want to know what you recall about
16 what Mr. Bonwick said to you after you sent him the
17 email and before these emails reflecting that
18 PowerStream took action. If you recall.

19 MR. RICHARD LLOYD: If there's not an
20 email it would've been me sending it to him, probably
21 no response then all of a sudden he was dealing with
22 it.

23 MR. JOHN MATHER: And again, I'm just
24 looking for your recollection, so do you recall if you
25 spoke to him on the phone about it?

1 MR. RICHARD LLOYD: No, no. It was --
2 it would be just emails back-and-forth, that would be
3 it.

4 MR. JOHN MATHER: So if we could,
5 starting on this email, Mark Henderson at PowerStream
6 and this is October 5th, 2011, so it's the day after
7 you emailed Mr. Bonwick the email we were looking at,
8 Mark Henderson at PowerStream sells -- sends Mr.
9 Bonwick an email saying, "Please see the email train -
10 - trail below" and basically from what I understand is
11 PowerStream addressed the individual's concerns.

12 Is that your recollection?

13 MR. RICHARD LLOYD: And when I read
14 this email, yes. But when I read this email it says
15 that -- that we are going beyond the norm to help the
16 customer with this project. Well, they've been months
17 waiting for it and didn't get a response from them, so
18 now they are, which is great.

19 MR. JOHN MATHER: Right, and I just
20 wanted to confirm that your recollection is that
21 PowerStream did address the individuals --

22 MR. RICHARD LLOYD: Positively, yes.

23 MR. JOHN MATHER: Okay.

24 MR. RICHARD LLOYD: And earlier I had
25 said that -- that -- that Dan was quite pleased

1 because they did respond very quickly.

2 MR. JOHN MATHER: And then if we
3 scroll up, Mr. Bonwick responds "Thanks very much,
4 Mark", who is Mr. Henderson at PowerStream, then he
5 says "This is very useful as it provides DM an
6 opportunity first-hand to blow our horn during review
7 stage. I will let him know."

8 I'm assuming DM is Deputy Mayor?

9 MR. RICHARD LLOYD: That's right, yes.

10 MR. JOHN MATHER: Okay. Do -- did you
11 at the time agree with Mr. Bonwick that PowerStream's
12 assistance gave you an opportunity to blow their horn?

13 MR. RICHARD LLOYD: Let's go through
14 this for a minute. We have a friend of mine in Barrie
15 that has a business that depends on hydro. For weeks
16 he was down. Nobody responded from Barrie Hydro,
17 which is PowerStream.

18 He calls me in desperation. I get a
19 hold of Bonwick hoping that he can assist because I
20 didn't know anybody at PowerStream I could call. They
21 then move very quickly.

22 I don't know if blowing your horn is
23 really the answer at that point, but I was very
24 appreciative that -- that they did respond once I get
25 involved. But, again, let's go back. Three (3)

1 weeks, at least, this guy was out of business.

2 MR. JOHN MATHER: So you did
3 appreciate what PowerStream had done?

4 MR. RICHARD LLOYD: And what Paul
5 Bonwick did, as well.

6 MR. JOHN MATHER: At that point, did
7 it change how you viewed PowerStream, knowing that
8 they were a potential bidder in the RFP?

9 MR. RICHARD LLOYD: None whatsoever,
10 no. And it didn't even come into -- in any of you at
11 all. I wasn't even considering it. It was Barrie
12 Hydro that we were dealing with.

13 I know it's PowerStream, one (1) of
14 their subsidiaries, but I -- it didn't make any
15 difference to me at all.

16 MR. JOHN MATHER: Okay. And if we
17 could scroll up to the next email. Mr. Bonwick says -
18 - forwards you his conversation with Mr. Henderson.
19 And then he says, "Let's chat."

20 Did you have a conversation with Mr.
21 Bonwick?

22 MR. RICHARD LLOYD: I don't remember.
23 I see the email, but I don't remember. Like, that's,
24 again, eight (8) years ago.

25 MR. JOHN MATHER: So if we could go to

1 paragraph 299 of the Foundation Document.

2

3 (BRIEF PAUSE)

4

5 MR. JOHN MATHER: So this is -- comes
6 a few days after the emails we were looking at. Mr.
7 Bonwick sent you the following language in -- with an
8 -- in an email with a message that says, "As per your
9 request"?

10 MR. RICHARD LLOYD: That's right.

11 MR. JOHN MATHER: And we see that what
12 he's drafted here is --

13 MR. RICHARD LLOYD: That's right.

14 MR. JOHN MATHER: -- as res -- is an
15 email to what I understand to be Mr. Henderson at
16 PowerStream?

17 MR. RICHARD LLOYD: It was a thank
18 you. I thought it appropriate. You never known down
19 the road if I need another -- more help from
20 PowerStream, so I was being cordial as doing the right
21 thing by thanking them for -- for all their
22 assistance. And did Mr. Bonwick did help me with the
23 letter.

24 MR. JOHN MATHER: Okay. And so one
25 (1) of the reasons you did that was in case you needed

1 further assistance down the road?

2 MR. RICHARD LLOYD: Partly that. And,
3 also, I was raised to be polite with things like that
4 and if somebody does something for you, you thank
5 them. That's exactly what I did.

6 MR. JOHN MATHER: Why did you ask Mr.
7 Bonwick to request that you write this for him?

8 MR. RICHARD LLOYD: Not unlike the le
9 -- the letters that he had done previously for me.
10 And I had made it very clear yesterday that -- that
11 writing letters isn't my forte, any assistance I can
12 get would be great.

13 He's great at -- at writing letters.
14 He helped me with it. I've had numerous other people
15 in the community, as I said yesterday, help me with
16 letters.

17 MR. JOHN MATHER: And I think we see
18 that you did send this response if we scroll down --

19 MR. RICHARD LLOYD: I did, yes.

20 MR. JOHN MATHER: -- on October 14th,
21 it looks like. Is that accurate?

22 MR. RICHARD LLOYD: That's correct,
23 yes.

24 MR. JOHN MATHER: Did you tell the
25 Strategic Task Team at any point that you had reached

1 out to Mr. Bonwick to help an individual with
2 PowerStream, that PowerStream had responded and that
3 you had replied with their thanks?

4 MR. RICHARD LLOYD: No. And I -- no.

5 MR. JOHN MATHER: -- with your thanks,
6 sorry, sir?

7 MR. RICHARD LLOYD: However, I did say
8 previously today that -- that I didn't feel that it
9 had anything to do with -- with what we were doing
10 with PowerStream or anybody with the Strategic Task
11 Force.

12 This was an isolated situation where a
13 friend of mine had a business issue with Barrie Hydro,
14 or PowerStream, where he was shut down because he
15 didn't have transformer power. They weren't getting
16 in touch with him or back to him to help him, and I
17 helped him.

18 But at no point in time did I have
19 anything to do with -- with what was going on with --
20 with the potential sale of Collus and so on?

21 MR. JOHN MATHER: And so that was the
22 reason you didn't tell the Strategic Task Team?

23 MR. RICHARD LLOYD: Your wording's
24 wrong because I had no reason to. I'll put it that
25 way. That wasn't the reason. That isn't the right

1 word. I had no reason to tell anybody because I was
2 helping a taxpayer in the city of Barrie that's a
3 friend of mine that -- that I believed that -- that I
4 would help him or anybody else.

5 MR. JOHN MATHER: Fair enough. And --
6 and perhaps I should have put it this way. Do you
7 recall turning your mind to whether or not you -- you
8 should or not dis -- disclose it to?

9 MR. RICHARD LLOYD: Yeah. No, it even
10 crossed my mind. Thank you. Yeah.

11 MR. JOHN MATHER: So as we already
12 went through, we've seen that when you scored the non-
13 financial components --

14 THE HONOURABLE FRANK MARROCCO: Excuse
15 me. Are you moving on to something else?

16 MR. JOHN MATHER: I just have another
17 question in this area, but if -- I'm happy to have you
18 interject.

19 THE HONOURABLE FRANK MARROCCO: I just
20 wondered if you could just take a look at the email.

21 MR. JOHN MATHER: Sure.

22 THE HONOURABLE FRANK MARROCCO: And
23 that email says -- that email says your actions only
24 re-affirm the high level of confidence I have in the
25 PowerStream organization. But -- but I thought -- I

1 took from what you said this morning that actually you
2 weren't ultimately very impressed because it had taken
3 them three (3) weeks to respond to the person.

4 MR. RICHARD LLOYD: I'm not --

5 THE HONOURABLE FRANK MARROCCO: Did it
6 occur to you that, you know, the email was saying
7 something different about PowerStream than you felt?

8 MR. RICHARD LLOYD: I sent that --
9 that letter of thanks. My -- my first response,
10 obviously, I wasn't very pleased that I had to get
11 involved in it to start with at all.

12 I was very pleased that the higher up
13 people at PowerStream got involved and made sure that
14 Barrie Hydro, which is part of Power -- PowerStream,
15 did deal with it. I wasn't very happy at all that I
16 had to -- that I had a friend that was three (3) weeks
17 out of power, or limited power.

18 This letter was being polite, trying to
19 -- to ensure that -- that -- in the future, that if I
20 was ever dealing with them -- I -- I've done se --
21 similar things in the past, too, with other
22 organizations where sometimes I haven't totally agreed
23 with -- with the outcome, but they've helped me
24 throughout it and I've sent thank yous to them.

25 THE HONOURABLE FRANK MARROCCO: All

1 right. So you -- you -- it -- you actually didn't
2 have a high level of confidence in the organization
3 based on the fact that --

4 MR. RICHARD LLOYD: I do.

5 THE HONOURABLE FRANK MARROCCO: --
6 they kept your friend waiting for three (3) weeks for
7 some action?

8 MR. RICHARD LLOYD: Yeah. I -- I do
9 have a -- or did have a high level of confidence in
10 the total organization. Somehow, it feel apart in the
11 city of Barrie and I wasn't very happy with what
12 happened in that organization.

13 THE HONOURABLE FRANK MARROCCO: All
14 right. Thank you.

15

16 CONTINUED BY MR. JOHN MATHER:

17 MR. JOHN MATHER: So if we could
18 scroll up to paragraph 297 again, and then go back to
19 that document TOC61079.

20

21 (BRIEF PAUSE)

22

23 MR. JOHN MATHER: So this is the email
24 from the individual. And it -- it relates to -- in
25 part, to what you were saying about an issue in

1 Barrie. Sorry, just one (1) second. I may have
2 pulled up the wrong email.

3

4 (BRIEF PAUSE)

5

6 MR. JOHN MATHER: Actually, if we
7 could go to TOC61382.

8

9 (BRIEF PAUSE)

10

11 MR. JOHN MATHER: Sorry. One (1)
12 moment.

13

14 (BRIEF PAUSE)

15

16 MR. JOHN MATHER: So if we could just
17 go back to that email. It's 61382, TOC61382. And
18 scroll down.

19

20 (BRIEF PAUSE)

21

22 MR. JOHN MATHER: And then scroll down
23 further. And go down further. Okay. So sorry, I'm
24 just trying to make sure I find the right place.

25 MR. RICHARD LLOYD: That's fine.

1 MR. JOHN MATHER: So scroll up. And
2 then scroll up. And one (1) more, sorry. I think
3 this is the right one.

4

5 (BRIEF PAUSE)

6

7 MR. JOHN MATHER: When you -- when you
8 receive this email chain from Mr. Bonwick do you
9 recall if you looked down to see what PowerStream had
10 told Mr. Bonwick?

11 MR. RICHARD LLOYD: I don't know if I
12 ever seen those emails. I don't know if they were
13 ever forwarded to me.

14 MR. JOHN MATHER: So if we scroll
15 up --

16 MR. RICHARD LLOYD: I don't -- no
17 idea.

18 MR. JOHN MATHER: -- we see that
19 Mr. Bonwick did forward the email chain to you.

20 MR. RICHARD LLOYD: But was it the
21 whole chain, or just certain ones?

22 MR. JOHN MATHER: If you scroll down,
23 everything in this chain, it appears, was forwarded to
24 you.

25 MR. RICHARD LLOYD: Okay.

1 MR. JOHN MATHER: But I take it you
2 don't have a recollection of that.

3 MR. RICHARD LLOYD: No. I've -- I
4 don't -- when I read these in the document, it was the
5 first time I had seen -- that I remember ever seeing
6 them.

7 MR. JOHN MATHER: Okay.

8 MR. RICHARD LLOYD: Yeah.

9 MR. JOHN MATHER: So we have seen that
10 you reached out to Mr. Bonwick to have -- seek
11 assistance with PowerStream for an individual who
12 reached out to you. You were appreciative that
13 PowerStream reached out to you. You said that one (1)
14 of the reasons you sent a thank you note was in case
15 you needed PowerStream's assistance and -- in addition
16 to other things that you mentioned.

17 And then we've also seen that you gave
18 PowerStream top marks in every category except one.
19 Did this experience influence how you scored
20 PowerStream?

21 MR. RICHARD LLOYD: As I said earlier,
22 it had nothing to do with -- with what we were doing
23 with PowerStream, with the -- the sale.

24 Interesting enough, I'd also yesterday
25 made it very clear that -- that I -- I felt that it

1 was PowerStream's to lose. I very much, right at the
2 get go, believed that -- that a good partnership with
3 PowerStream made sense; the geographic connection to
4 Barrie for many reasons was important to me; the
5 GO Transit possibilities in the future made a lot of
6 sense.

7 So I really, as I said yesterday,
8 believed that PowerStream was the partner we should
9 have. I -- I tried to keep an open mind throughout
10 the -- the scoring and everything else, but I
11 definitely believed, and I still do today. If I was
12 going through it again, I would still believe that
13 PowerStream should be the one that we should be
14 involved with because of the geographic area.

15 MR. JOHN MATHER: Okay. So we've seen
16 in this instance on October 5th, 2011 that Mr. Bonwick
17 assisted when you had a question or when you sought
18 some assistance with PowerStream.

19 Other than this incident throughout the
20 period of when the STT was formed in August 2011 to
21 when PowerStream was selected as the preferred
22 proponent in December 2011, what else did you
23 understand Mr. Bonwick was doing for PowerStream?

24 MR. RICHARD LLOYD: On I think it was
25 June 29th, we had a meeting -- an introduction

1 meeting -- and at that June 29th meeting, I believe,
2 as I said yesterday, Brian Bentz was at it; Jeff
3 Lehman, the mayor of the city of Barrie; myself; the
4 mayor; and CAO Kim Wingrove.

5 And at that meeting, it was explained
6 to us that Mr. Bonwick was involved with assisting
7 them as I said yesterday, and that's what I believed
8 what was told to us at that point.

9 MR. JOHN MATHER: Right. And we
10 discussed that yesterday. After that meeting and as
11 the Strategic Task Team's work progressed and as the
12 RFP went out and the responses came in, did your
13 understanding change at all about what he was doing?

14 MR. RICHARD LLOYD: I don't think
15 it -- no, I don't think anything changed at all. I --
16 from what I understood at the beginning what was
17 explained to us, he was doing his job.

18 MR. JOHN MATHER: As the RFP was being
19 developed and after it was released, did you
20 understand Mr. Bonwick to be seeking to gather
21 information about the RFP and what the STT was doing?

22 MR. RICHARD LLOYD: I can't speak for
23 Mr. Bonwick honestly. I would think -- or
24 PowerStream. I just know that -- that that's what
25 consultants do, and -- and I know that things like

1 that happen. I can't speak for them.

2 MR. JOHN MATHER: I understood you
3 can't speak for Mr. Bonwick and -- and that -- that's
4 fair. My question is, is at the time, what did you
5 think he was doing?

6 MR. RICHARD LLOYD: Exactly what was
7 explained to us on the June 29th meeting.

8 MR. JOHN MATHER: Okay. And did that
9 include speaking to individuals in Council or at
10 Collus about the RFP?

11 MR. RICHARD LLOYD: Repeat that
12 question again. I didn't get it. Sorry.

13 MR. JOHN MATHER: Sorry. In your
14 mind -- and I understand you can only speak to what
15 was in your mind -- did you believe that Mr. Bonwick's
16 role as a consultant would include speaking to
17 individuals on the Strategic Task Team, in Council, or
18 at Collus about the RFP?

19 MR. RICHARD LLOYD: I think what was
20 explained to us on -- on June 29th that we could
21 expect that.

22 MR. JOHN MATHER: Okay. Did he ever
23 speak with you?

24 MR. RICHARD LLOYD: I can't remember
25 any specifics, put it that way, but I'm sure. We've

1 had lots of conversations over the year and everything
2 else, but I can't think of actual specifics that, you
3 know, that would be.

4 MR. JOHN MATHER: Okay. So what I
5 want to do now is I'm going to take you to a few
6 documents to -- and ask about information that
7 Mr. Bonwick appears to at least know about and ask --
8 and ask you about them.

9 MR. RICHARD LLOYD: Okay.

10 MR. JOHN MATHER: And so if we go to
11 paragraph 269 of the Foundation Document.

12

13 (BRIEF PAUSE)

14

15 MR. JOHN MATHER: So this is
16 September 14th, 2011, and to place you in time, this
17 is in the time period where the Strategic Task Team
18 has been meeting with potential proponents. That was
19 just to put you at a point in time, if it assists.

20 MR. RICHARD LLOYD: Do that -- ask me
21 the question again. Sorry.

22 MR. JOHN MATHER: Sorry. I didn't ask
23 you a question. I'm just helping orient you in time.
24 It's September 14th, 2011. It's around the time when
25 the Strategic Task Team was meeting with potential

1 proponents, and they were giving their presentations.

2 MR. RICHARD LLOYD: Okay.

3 MR. JOHN MATHER: So Mr. Bonwick sends
4 an email to Mr. Houghton's gmail account attaching a
5 memo entitled "PowerStream competitive analysis for
6 Mr. Houghton's review and comment." And if we could
7 pull up that document TOC59013.

8

9 (BRIEF PAUSE)

10

11 MR. JOHN MATHER: So this is what was
12 described in the Foundation Document. It's a draft
13 memo -- or a memo that's addressed to PowerStream.
14 It's being sent to Mr. Houghton at this point in time.
15 If you scroll down, it says:

16 "Please review the following points
17 of interest as they relate to
18 presentations to date, as well as
19 profile points of interest."

20 And then Mr. Bonwick in the -- in the
21 memo says:

22 "Hydro One, Mike Mueller. Ontario
23 Hydro clearly articulated the
24 regional value Collus represents to
25 them. They offered rationale that

1 Collingwood could be a regional hub,
2 recognizing that some of the
3 territory surrounding Collingwood
4 are presently serviced by Hydro One
5 and that their model is one that the
6 province would likely accept."

7 He then goes on in the memo and says:

8 "It was made clear that all existing
9 staff would be provided an
10 opportunity with Hydro, with the
11 option for senior staff to negotiate
12 an early retirement."

13 Then it goes on:

14 "The platform of their presentation
15 was, generally speaking, predicated
16 on a straight purchase model would
17 help to solidify on Hydro One's
18 position in the region."

19 And then the final bullet:

20 "While the presenter demonstrated
21 integrity and in-depth knowledge of
22 the industry trends and, more
23 particularly, the South Georgian Bay
24 region, the Assessment Committee was
25 not enamored with the concept or

1 direction Hydro One presented."

2 So it appears that this memo is
3 relaying information about Hydro One's presentation.
4 Did you provide Mr. Bonwick with any of the
5 information about Hydro One?

6 MR. RICHARD LLOYD: None.

7 MR. JOHN MATHER: Okay.

8 MR. RICHARD LLOYD: No.

9 MR. JOHN MATHER: Did you provide him
10 in the final bullet point any information about how
11 the Assessment Committee had received any component of
12 Hydro One's presentation?

13 MR. RICHARD LLOYD: No.

14 MR. JOHN MATHER: Okay. And if we
15 scroll down. So -- oh, sorry -- we see that there is
16 also a heading about Veridian and the individuals from
17 Veridian?

18 MR. RICHARD LLOYD: Yeah.

19 MR. JOHN MATHER: And the first bullet
20 point is:

21 "Veridian made a very strong and
22 positive impression on the
23 Assessment Committee. Once past
24 their introduction event of
25 attendees, they focused on the

1 following..."

2 And then it goes through points, and so
3 I'll just give you a moment to read through the
4 points.

5

6 (BRIEF PAUSE)

7

8 MR. RICHARD LLOYD: Okay.

9 MR. JOHN MATHER: And scroll down. I
10 just want to...

11

12 (BRIEF PAUSE)

13

14 MR. RICHARD LLOYD: Okay.

15 MR. JOHN MATHER: Did -- and there's a
16 few more.

17

18 (BRIEF PAUSE)

19

20 MR. RICHARD LLOYD: Okay.

21 MR. JOHN MATHER: Did you provide
22 Mr. Bonwick with any of this information about
23 Veridian's presentation?

24 MR. RICHARD LLOYD: No.

25 MR. JOHN MATHER: So if we could go to

1 paragraph 279 of the Foundation Document.

2

3 (BRIEF PAUSE)

4

5 MR. JOHN MATHER: So if we can scroll
6 down, I just want to confirm the date.

7 So this is an email from Mr. Bonwick to
8 Mr. Glicksman or an excerpt of that email --

9 MR. RICHARD LLOYD: Okay.

10 MR. JOHN MATHER: -- from
11 September 20th, 2011. Scroll back up.

12 So Mr. Bonwick is emailing
13 Mr. Glicksman and providing strategies on how to use
14 information about the Strategic Partnership Task
15 Team's views and the plans by at least one bidder.

16 And if you scroll down, you see that
17 Mr. Bonwick was providing information in this
18 paragraph about what appears to be the Strategic Task
19 Team's views. For instance, it says:

20 "They believe that palatability is
21 much greater from a Council
22 perspective if they are able to
23 announce this type of scenario
24 rather than the perceived loss of
25 control in a less than 50 percent

1 scenario."

2 Did you provide Mr. Bonwick with this
3 information about the Strategic --

4 MR. RICHARD LLOYD: I did not. No.

5 MR. JOHN MATHER: Again --

6 MR. RICHARD LLOYD: Oh, sorry.

7 MR. JOHN MATHER: -- just wait until
8 I'm finished. So did you provide Mr. Bonwick with
9 this information about the Strategic Task Team's
10 views?

11 MR. RICHARD LLOYD: No, I did not.

12 MR. JOHN MATHER: Okay. And if we
13 scroll down further and keep going down.

14

15 (BRIEF PAUSE)

16

17 MR. JOHN MATHER: All right. I should
18 have told you to stop. Go up.

19 So then we see here that:

20 "Irrespective of the Committee's
21 buy-in or reluctance on this issue,
22 the municipal council retains final
23 authority, and it is in this regard
24 we must remain mindful that at least
25 one of our competitors, Horizon,

1 will submit a proposal providing a
2 50 percent ownership scenario."

3 Did you provide Mr. Bonwick with any
4 information about what the Task Team expected Horizon
5 to submit?

6 MR. RICHARD LLOYD: No, I didn't.

7 MR. JOHN MATHER: If we go to
8 paragraph 302 of the Foundation Document.

9
10 (BRIEF PAUSE)

11
12 MR. JOHN MATHER: And here we see
13 October 5th, 2011, Mr. Bonwick is sending a memo to
14 PowerStream with ideas concerning the RFP bid based on
15 input over the past several weeks, and then there's
16 some information here.

17 So if we go down to subparagraph (g),
18 one -- on the issue of "issue clarification and
19 management comments" under this heading included:

20 "Provide an example where existing
21 private sector companies provide
22 support staff in a cooperative
23 working environment. Veridian
24 emphasized synergies with same
25 union."

1 Do you see that?

2 MR. RICHARD LLOYD: Yes.

3 MR. JOHN MATHER: Did you provide
4 Mr. Bonwick with this information about Veridian?

5 MR. RICHARD LLOYD: No, I did not.

6 MR. JOHN MATHER: Okay. And then if
7 we could go to paragraph 322 of the Foundation
8 Document.

9

10 (BRIEF PAUSE)

11

12 MR. JOHN MATHER: This is a
13 November 14th, 2011 email from Mr. Bonwick to
14 Eric Fagen at PowerStream. He -- Mr. Bonwick advises
15 that he had sent Dennis Nolan some changes to the
16 information services section of the PowerStream
17 proposal, and then Mr. Bonwick elaborates:

18 "While the offer for back-office
19 support will become a reality, I
20 highly recommend removing at this
21 time a general offer of support will
22 be more warmly received, rather than
23 telling them what we will provide.
24 The senior person for this
25 department is presently very

1 supportive. I don't want us to lose
2 that support."

3 Do you know, appreciating that you
4 weren't a recipient of this e-mail, who Mr. Bonwick
5 was referring to when he says "the senior person" in
6 that department? The senior person for that
7 department?

8 MR. RICHARD LLOYD: No, I don't.

9 MR. JOHN MATHER: Did you provide Mr.
10 Bonwick the information that a senior person of any
11 department was supportive of anything in relation to
12 the are -- to the potential RFP?

13 MR. RICHARD LLOYD: No, I didn't.

14 MR. JOHN MATHER: So we've seen a few
15 examples of Mr. Bonwick providing information that
16 appears to be information about what other bidders may
17 be doing or feedback that was received, or feedback
18 from the strategic task team.

19 Was that the sort of information that
20 you expected Mr. Bonwick to be gathering?

21 MR. RICHARD LLOYD: If I was on
22 PowerStream's Board, I would hope that he would be
23 gathering that kind of information.

24 When I'm sitting on the strategic task
25 force team, I have no idea how much he got, I don't

1 know how much of it is -- is -- what he's written to
 2 elaborate on some of the points he was trying to make
 3 with it, they go and dissect the -- the letters and
 4 try to figure out exactly what he's saying, is it
 5 accurate or is it not accurate or is he just trying to
 6 -- to make sure that his client gets the best bang for
 7 their buck and he's trying to give them a -- a good
 8 show for it.

9 I would have to dissect every one of
 10 them to make sure that -- that it was accurate to what
 11 we did. So I have no idea that -- that he had this
 12 information, I don't know how he got it. I'm not
 13 concerned about it at all, but because I don't think
 14 anything I've seen so far is alarming to me.

15 MR. JOHN MATHER: Do you -- do you
 16 want me to continue or -- how are you -- what are --

17 THE HONOURABLE FRANK MARROCCO: Well,
 18 why don't you finish this.

19

20 CONTINUED BY MR. JOHN MATHER:

21 MR. JOHN MATHER: Okay, sounds good.

22 So at any point from when you join --
 23 at any point from when you -- June 27th, 2011, when
 24 there was the in-camera presentation about the
 25 strategic partnership to when PowerStream was

1 announced as the preferred partner in December or
2 selected as the preferred partner in December 5th,
3 2011, did you provide Mr. Bonwick with any information
4 about the potential sale of Collus or the RFP that you
5 learned at Council or on the strategic task team?

6 MR. RICHARD LLOYD: I don't believe I
7 did. No.

8 MR. JOHN MATHER: So you told us
9 yesterday that you have -- you had no concerns
10 providing Mr. Bonwick with information that was
11 relevant to his clients.

12 You also told us that when you did that
13 you would do it with a view to helping getting deals
14 completed in -- efficiently or more -- in a more --
15 more timely manner.

16 You also told us yesterday and today
17 that it was -- you were leaning to PowerStream from
18 the get go and you thought it was a part -- potential
19 partner that made sense for the Town.

20 Why didn't you share information you
21 received with Mr. Bonwick when it relate -- as it
22 related to PowerStream in this instance?

23 MR. RICHARD LLOYD: I wasn't asked. I
24 don't think Mr. Bonwick asked me for information
25 leading to this at all.

1 MR. JOHN MATHER: Had he asked you?

2 MR. RICHARD LLOYD: I'd have to
3 consider what he was asking. Again, that's -- that's
4 speculative. I have no idea. Depends on what he was
5 asking me. If it was something that I felt that --
6 that was information I could give him or any other
7 consultant that was working for any of the other
8 groups, I would -- I would consider it.

9 MR. JOHN MATHER: The other thing you
10 said yesterday was that it wasn't only people who
11 asked you for information that you provided
12 information to, it was people who you understood could
13 use the information or would benefit from the
14 information.

15 MR. RICHARD LLOYD: Sure, yes.

16 MR. JOHN MATHER: I take it you
17 understood that Mr. Bonwick would benefit from the
18 information you received as a member of the strategic
19 task team?

20 MR. RICHARD LLOYD: I would think that
21 he's already got a contract, goals and objectives.

22 Probably I would assume that his
23 contract would be already determined. What you're
24 suggesting is that if he was able to set some goals
25 and he would get more money, I have no idea if -- if

1 preset goals, or if there is anything with this
2 contract with PowerStream, I've never seen it, I don't
3 know what it is.

4 MR. JOHN MATHER: What I'm suggesting
5 to you is we've seen other examples where you were
6 aware that one of Mr. Bonwick's clients had an
7 interest in a matter that related to the Town, and
8 that you had information about in your role as Deputy
9 Mayor. And in those instances you -- you provided Mr.
10 Bonwick that information, and you said you had no
11 concerns about doing it.

12 MR. RICHARD LLOYD: That's right.

13 MR. JOHN MATHER: I am -- I want to
14 know why it appears that you didn't follow that same
15 practice -- practice in this case with PowerStream?

16 MR. RICHARD LLOYD: Again, I was on a
17 strategic task force team, the information I would get
18 would be sporadic except at the meetings, so I had no
19 reason to share with anybody.

20 I wasn't asked, so I -- you know, I --
21 I can't answer it other than no, I didn't share it and
22 no, I didn't. Why didn't I? It -- it didn't even
23 come to mind, like it wasn't any issue at all for me.

24 MR. JOHN MATHER: And related to the
25 questions I have here, you were saying yesterday,

1 again, that you -- you felt that it was acceptable and
2 actually a good idea for you to again provide
3 information when it might assist a local business
4 person --

5 MR. RICHARD LLOYD: That's correct.

6 MR. JOHN MATHER: -- in order to get
7 something done. And -- and sometimes that might even
8 be information that was marked as comp --
9 confidential.

10 MR. RICHARD LLOYD: Not often.

11 MR. JOHN MATHER: Not often, but
12 sometimes?

13 MR. RICHARD LLOYD: Yes. It could.

14 MR. JOHN MATHER: I take it then that
15 it was your view that other members of council were
16 equally in a position to take such steps?

17 MR. RICHARD LLOYD: I would -- again,
18 I don't know how the other members of Council dealt
19 with their clients or their -- their taxpayers or the
20 residents of Collingwood. Some dealt with them
21 differently, no doubt, and helped them.

22 Some perhaps weren't even assisted,
23 maybe they didn't have the interest that -- that was
24 going on in the community. It would be -- I would be
25 speculating if I assumed what they were doing.

1 MR. JOHN MATHER: But -- and my
2 question was more that if you thought it was okay for
3 you to do this, I take it that if other members of
4 Council took the same approach, you would think that's
5 okay?

6 MR. RICHARD LLOYD: Yes, I would.
7 Yes.

8 MR. JOHN MATHER: Do you not think
9 that's unworkable, to have various individual members
10 of Council pursuing Town member -- matters on an
11 individual basis?

12 MR. RICHARD LLOYD: It's done all the
13 time, and it's -- I'm sure it's still done when --
14 when somebody gets a phone call late -- they deal with
15 it. I would hope they would deal with it.

16 MR. JOHN MATHER: So you -- you would
17 hope that everyone was doing what -- what we've seen
18 that you have done during this time period, which is
19 assist. We've seen the documents referring to Mr.
20 Bonwick and your evidence was, in addition to Mr.
21 Bonwick other businesses in deals they had with the
22 Town, and you -- you don't think that's unworkable to
23 have individual councillors engage in those sorts of
24 conversations, rather than as a collective?

25 MR. RICHARD LLOYD: I think it happens

1 all the time and it's no different than me helping a
2 business in Barrie I was helping. And I think that's
3 what -- that's what Municipal Councillors do, elected
4 officials try to help the residents of the community,
5 the business of the community and so on.

6 I don't think it's uncommon that --
7 that I know that there's been other members of Council
8 where they've been lobbied to try and -- and get
9 something done in a park and they've gone to the park
10 director to see if it's going to be done.

11 I don't see it any different than what
12 the role we did 25 years ago. Times have changed,
13 things are getting tighter, things are -- are getting
14 more sophisticated than they were back then.

15 But I can remember when I first got
16 elected we -- we -- some of the members of council
17 would go and actually make ice rinks in some of the
18 residential areas, in the parks of Collingwood for the
19 kids. Should we have been doing it? Probably not, it
20 probably should have been paid Park's employees, but
21 we volunteered, we did it. There was all kinds of
22 things we did that is above the norm.

23 So by giving information to businesses,
24 yes, I did that. And other -- I'm sure other members
25 of Council have done it over the years. It -- it's

1 the norm. It was the norm anyway.

2 MR. JOHN MATHER: And you -- so you've
3 talked about ice rinks and why that approach works for
4 ice rinks.

5 MR. RICHARD LLOYD: Yes.

6 MR. JOHN MATHER: Do you think it
7 equally applies when you're dealing, for instance,
8 with the sale of a piece of Town property?

9 MR. RICHARD LLOYD: It's totally
10 different when you're bringing it in that context.

11 When we're dealing with a piece of Town
12 property, if we're selling a -- a specified piece of
13 property that -- that has been done, the clerk's
14 department looks after it and quite often we're not
15 involved in it at all other than we're going to divest
16 of this property.

17 If it's something that's more
18 complicated and we're trying to work through, like we
19 did at the Mountain View Hotel to bring a whole bunch
20 of people in to try and get the thing together, that's
21 a little different circumstance. But most times
22 Council wouldn't be involved.

23 MR. JOHN MATHER: And so the example
24 of the Mountain View Hotel, is that the example we
25 looked at yesterday, where you were emailing one of

1 the parties who was interested and then forwarding it
2 on to Mr. Bonwick?

3 MR. RICHARD LLOYD: What I was doing
4 is I e-mailed one of the property owners that -- that
5 owned the property to the north of the Mountain View
6 property, marked my e-mail confidential, trying to get
7 them to know the urgency to try and sell their
8 property because the person buying the balance of the
9 property from the Town wouldn't put that deal together
10 without -- without buying the property to the north,
11 as I said yesterday. And I knew Mr. Bonwick was
12 working for the proponent trying to buy the balance of
13 the property.

14 So I gave them -- I went to the company
15 to the north, sent them the email that I thought we
16 should be moving on this and sent it to Bonwick.

17 MR. JOHN MATHER: And did you report
18 to Council that you had sent that email?

19 MR. RICHARD LLOYD: I didn't report it
20 to anybody, I just did it. It's what we did.

21 MR. JOHN MATHER: So in that specific
22 circumstance where you're dealing with a more complex
23 matter, do you think it would be workable if
24 individual members of Council, like you, were emailing
25 the parties involved and not reporting to Council on

1 what those emails were?

2 MR. RICHARD LLOYD: I do. I think
3 that -- that as I said yesterday, things get mired in
4 -- in legal stuff and lawyers and so on and sometimes
5 it takes somebody on the ground to get -- get stuff
6 going.

7 I was assisting to try and get this
8 thing moving, it worked, it was a success story, I
9 wasn't keeping it away from Council, I just was
10 dealing with it.

11 As I said before, I -- I have a bad
12 habit of micro-managing and I guess that's part of
13 micro-managing, trying to get this thing put together.

14 And it worked. Again, happy story, we
15 ended up getting the road widening, very little cost
16 to the taxpayers. We were able to successfully get
17 grants. The individual that bought the balance of the
18 property and the property to the north was able to
19 close his deal with the Town, cover most the cost of
20 the property so the Town wasn't saddled with that.

21 It was a -- it was a good news story.

22 MR. JOHN MATHER: And in your view, if
23 another member of Council had been doing what you were
24 doing on the exact same deal, that would be workable?

25 MR. RICHARD LLOYD: I would

1 congratulate him for doing it and getting it put
2 together. I would think that rather than just rubber
3 stamp stuff in a Council meeting Monday nights, he was
4 doing his job or her job and trying to help to get
5 something together, which is helping the community.

6 We help the community in a positive way
7 by getting the property so we could widen the road and
8 the previous Council was not successful. The
9 expropriation didn't work and it just got to
10 loggerheads.

11 What I did was -- was help put this
12 thing together and all of a sudden we got a road
13 widened. And again, I was chair Public Works, the
14 road widening was important to me.

15 So that was part of one (1) of the
16 functions I believed as chair of Public Works to try
17 and help when we could get this road widening through,
18 and that's what I did there.

19 So there's instances that I -- I
20 understand the optics, I understand what you're trying
21 to -- what you're trying to paint. I don't totally
22 agree that -- that that's exactly the norm for
23 everything.

24 MR. JOHN MATHER: I'm going to move on
25 to another area.

1 THE HONOURABLE FRANK MARROCCO: Just
2 one (1) question before we break.

3 MR. RICHARD LLOYD: Thank you.

4 THE HONOURABLE FRANK MARROCCO: Did --
5 did you think that the strategic partnership task
6 teams response to one (1) bidder's presentation should
7 be disclosed to the bidders who hadn't presented yet?

8 MR. RICHARD LLOYD: No.

9 THE HONOURABLE FRANK MARROCCO: Thank
10 you.

11

12 --- Upon recessing at 11:10 a.m.

13 --- Upon resuming at 11:24 a.m.

14

15 MR. RICHARD LLOYD: I don't know if
16 it's appropriate, but if I could. His Honour had
17 asked me a question, and I answered, and I just felt
18 that it might require a little bit more information on
19 it.

20 Your Honour, you had asked me a
21 question about whether one (1) bidder should have had
22 all this information sort of thing. And I had
23 answered, "No," but I'm not so sure. And again, I --
24 I don't know if this information was -- could have
25 been available for others if it was asked for.

1 You know, so I know that we've read the
2 documents and seen through the documents, but I can't
3 tell you -- I said that one (1) bidder shouldn't have
4 it, and I agreed with -- with that, but I'm not so
5 sure that -- that if others had requested or asked for
6 it, that some of this information wouldn't have been
7 available to the other bidders, as well.

8 THE HONOURABLE FRANK MARROCCO: But --
9 but somebody has to go first.

10 MR. RICHARD LLOYD: Yeah, exactly.

11 THE HONOURABLE FRANK MARROCCO: So the
12 person who goes first has nothing to ask about. But
13 the person who goes fourth can ask about the other
14 three (3). Does that seem fair to you?

15 MR. RICHARD LLOYD: It doesn't seem
16 fair. But I'm just not sure what -- what they had
17 about the -- Collus if -- if stuff was available with
18 some of it. I don't know all of it or anything else.

19 I just didn't want to taint it that --
20 that, no, it took a little bit more explanation, that
21 maybe some of this stuff was available and wasn't
22 confidential because I didn't go through every aspect
23 of every email that could have been available to
24 others, as well, if that helps.

25 THE HONOURABLE FRANK MARROCCO: Thank

1 you. Go ahead.

2

3 CONTINUED BY MR. JOHN MATHER:

4 MR. JOHN MATHER: If we could turn up
5 paragraph 400 and -- and -- sorry, 434 of the
6 Foundation Document.

7

8 (BRIEF PAUSE)

9

10 MR. JOHN MATHER: So I'm just looking
11 at the heading here, "Council holds a closed meeting
12 on December 5th, 2011." And it's our understanding
13 that at this council meeting there was an in camera
14 session in which Collus reported on the results of the
15 RFP and -- and announced that PowerStream was the
16 preppered -- preferred proponent out of the RFP.

17 Do you recall that council meeting?

18 MR. RICHARD LLOYD: I don't, no.

19 MR. JOHN MATHER: So if we could go to
20 pa -- paragraph 3 -- 436.

21

22 (BRIEF PAUSE)

23

24 MR. JOHN MATHER: So this paragraph
25 says:

1 "As the meeting was beginning at
2 7:37 p.m., Mr. Bonwick forwarded an
3 email string from a developer to
4 Deputy Mayor Lloyd as council was
5 moving from an in camera -- moving
6 from public session to in camera
7 meeting."

8 He then writes -- he then advised:

9 "Try to lighten things up a bit when
10 you go in camera. We need them in a
11 good mood for other things."

12 Do you remember receiving this email
13 from Mr. Bonwick?

14 MR. RICHARD LLOYD: And I don't even
15 know what the developer was. I -- I don't remember
16 it.

17 MR. JOHN MATHER: Do you -- again, as
18 you can see in paragraph 437 as we scroll down, at the
19 meeting there was a Collus Strategic Partnership RFP
20 review that was to be heard in camera.

21 Do you recall emailing with Mr. Bonwick
22 about the in camera RFP review?

23 MR. RICHARD LLOYD: I don't remember.

24 MR. JOHN MATHER: Scroll up. Do you
25 have any recollection at all about what you understood

1 Mr. Bonwick to mean when he said:

2 "Try to lighten things up -- up a
3 bit when you go in camera."

4 MR. RICHARD LLOYD: Not at all. This
5 email was sent to me, or is it to --

6 MR. JOHN MATHER: It was sent to you.
7 And if it assists, we can pull up the full chain --

8 MR. RICHARD LLOYD: Yeah, no.

9 MR. JOHN MATHER: -- TOC69692.

10

11 (BRIEF PAUSE)

12

13 MR. JOHN MATHER: So you can see in
14 that --

15 MR. RICHARD LLOYD: Okay.

16 MR. JOHN MATHER: -- you and Mr.
17 Bonwick are emailing. You're the only ones on the
18 email. You report to Mr. Bonwick at 7:35, "Public
19 meeting is now over." Mr. Bonwick writes back:

20 "Try to lighten things up a bit when
21 you go in camera. We need them in a
22 good mood for other things."

23 MR. RICHARD LLOYD: Okay.

24 MR. JOHN MATHER: At the time, do you
25 recall understanding what he was referring to?

1 MR. RICHARD LLOYD: I don't even
2 remember the emails, so.

3 MR. JOHN MATHER: Do you recall if you
4 turned your mind to the fact that Mr. Bonwick may be
5 asking you to lighten up the mood in the room because
6 there was going to be a discussion about his client,
7 PowerStream, being selected as the preferred
8 proponent?

9 MR. RICHARD LLOYD: I don't think it
10 would have mattered if it was lightened up or not
11 lightened up. I -- I don't think there's any
12 revelance (sic) to it at all.

13 MR. JOHN MATHER: So if we could go to
14 paragraph 446 of the foundation document.

15

16 (BRIEF PAUSE)

17

18 MR. JOHN MATHER: So this references
19 an email you sent Mr. Muncaster on December 6, 2011,
20 which would be the day after the council meeting we
21 were just talking about. And you write to Mr.
22 Muncaster that you have a concern about Tim Fryer and
23 his obvious distaste for the strategic partnership
24 idea. Then it says:

25 "You suggested that at the next

1 Collus meeting the Board have an in
2 camera discussion with Mr. Fryer in
3 order to bring him onboard."

4 MR. RICHARD LLOYD: That's right

5 MR. JOHN MATHER: Do you recall
6 sending this email to Mr. Muncaster?

7 MR. RICHARD LLOYD: Yes, I do. And I
8 also forward it to Mr. Houghton.

9 MR. JOHN MATHER: Okay. And what did
10 you mean by Mr. Fryer and his obvious distaste for the
11 strategic partnership idea?

12 MR. RICHARD LLOYD: Mr. Fryer came to
13 my flower shop to discuss with me the -- what was
14 going down with the deal of PowerStream, Mr. Houghton,
15 and felt that it wasn't a good deal and that -- that -
16 - felt that I should be maybe considering not going
17 ahead with it and a whole bunch of conversation like
18 that.

19 I thought -- thought it was
20 inappropriate. I didn't say much at the time. I was
21 more surprised because Tim wasn't the type of person
22 that ever come to lobby me for anything.

23 And the more I got thinking of it, I
24 got hold of the chair of -- of the committee and said
25 this isn't appropriate. And I think that -- I believe

1 that I wasn't the only one that was lobbied. I don't
2 know for sure, but I believe that I wasn't.

3 I just got hold of Mr. Muncaster and
4 said, You got to deal with this, the guy's not
5 onboard, he's a staff person, and, you know, like,
6 he's coming to me for -- to lobby me, and it's not
7 appropriate.

8 MR. JOHN MATHER: What happened after
9 you sent Mr. Muncaster and Mr. Houghton this email?

10 MR. RICHARD LLOYD: I don't remember.
11 I know Mr. Muncaster was going to deal with it, and I
12 think he did. But I'm sure Mr. Fryer can -- can
13 answer that. I -- I have no idea at this point.

14 MR. JOHN MATHER: Do -- do you know
15 what Mr. Muncaster did?

16 MR. RICHARD LLOYD: Pardon me?

17 MR. JOHN MATHER: Do you know what Mr.
18 Muncaster did?

19 MR. RICHARD LLOYD: No, I have no
20 idea.

21 MR. JOHN MATHER: Do you know if there
22 was a discussion at the next Collus board meeting, as
23 is suggested here?

24 MR. RICHARD LLOYD: No. No, I
25 wouldn't know. I brought my concerns forth to Mr.

1 Muncaster.

2 MR. JOHN MATHER: And I want to ask
3 you some questions about the transaction that led to
4 the signing of -- of the sa -- of the documents that -
5 - that are the sale.

6 So there's discussions about a bylaw.
7 There's negotiations regarding a unanimous shareholder
8 agreement and a share purchase agreement.

9 MR. RICHARD LLOYD: Okay. Thank you.

10 MR. JOHN MATHER: Do you recall who
11 represented the Town in the negotiations about the
12 documents that formalize the transaction?

13 MR. RICHARD LLOYD: The legal
14 representation?

15 MR. JOHN MATHER: Yes.

16 MR. RICHARD LLOYD: Aird & Berlis.

17 MR. JOHN MATHER: Was there any other
18 representatives other than the legal representation?

19 MR. RICHARD LLOYD: I -- I don't know.
20 I would think Aird & Berlis were the legal people. I
21 know our clerk would be involved, the CAO, no doubt.
22 I don't know if -- KPMG, I would assume, would be
23 involved, as well.

24 MR. JOHN MATHER: Do you know who was
25 providing Aird & Berlis instructions on behalf of the

1 Town?

2 MR. RICHARD LLOYD: I would hope that
3 it would go through the CAO's office in conjunction
4 with -- with Mr. Houghton.

5 MR. JOHN MATHER: So I understand
6 that's -- that's what you hope would have happened or
7 you thought may have happened. Do you know if that
8 was the case?

9 MR. RICHARD LLOYD: No, I -- I don't
10 know what -- again, municipal council's role is -- is
11 limited once it gets to the administration sti --
12 side, and that's more the clerk's department. She
13 does a great job on it.

14 MR. JOHN MATHER: So if we go to
15 paragraph 480.

16

17 (BRIEF PAUSE)

18

19 MR. JOHN MATHER: So this paragraph
20 references a telephone call with Mayor Cooper,
21 yourself, and Mr. Houghton. And it appears, based on
22 Mr. Longo's notes, that the telephone call was on
23 January 12th, 2012?

24 MR. RICHARD LLOYD: Okay.

25 MR. JOHN MATHER: Do you recall

1 participating in a te -- telephone conference with Mr.
2 Longo, Ms. Cooper, and Mr. Houghton on January 12th,
3 2012?

4 MR. RICHARD LLOYD: I don't.

5 MR. JOHN MATHER: Do you recall
6 participating in any conversations with Mr. Longo
7 about the transaction for the Collus sale?

8 MR. RICHARD LLOYD: There was
9 conversations with Mr. Longo. There was a meeting --
10 actually, an in camera meeting that he attended. And,
11 again, there's emails in here from Leo Longo to myself
12 and Sandra.

13 MR. JOHN MATHER: So with respect to
14 this meeting that's referred to here, I take it then
15 it's possible that you participated. You don't
16 recall?

17 MR. RICHARD LLOYD: I'm sure I did,
18 yes. I'm sure I did.

19 MR. JOHN MATHER: But you don't have
20 any recollections about that?

21 MR. RICHARD LLOYD: No. It's...

22 MR. JOHN MATHER: So if we could then
23 go to paragraph 473 of the Foundation Document. And,
24 actually, before we pull that up, Ms. Wingrove, in her
25 evidence, described a process whereby she wanted to

1 include in the bylaw that would approve the sit -- the
2 -- the share sale transaction a provision that there
3 had to be a report back to council before the
4 documents could be signed.

5 And she -- her evidence was that that
6 was met with re -- resistance and that that wasn't the
7 view of other people involved. Do you recall being
8 part of those discussions?

9 MR. RICHARD LLOYD: Yes. We discussed
10 that yesterday and -- whenever we were talking about
11 Ms. Wingrove. And generally speaking, all the bylaws
12 go through the clerk's department, and she does -- she
13 looks after them. She makes sure all the 'i's are
14 dotted, the 't's are crossed.

15 Sara makes sure that -- that all the
16 paperwork's in place, the -- the lawyers have always
17 signed off or, if it's an engineering thing, the
18 engineers have signed off.

19 Then, when she's satisfied that she's
20 got all the information, all the documentations, she
21 takes it to the mayor for a signature. And then she
22 signs it.

23 So the authorizing bylaw, to my
24 knowledge, ever -- never came back to council. We've
25 passed an authorize -- authorization bylaw. Then the

1 clerk looked after all the administration that she
2 does and she gathers all the information. And when
3 it's all gathered, then it -- the -- she signs off and
4 -- and the mayor signs off.

5 If there's an issue, it comes back.
6 But, for instance, as I said yesterday, there was
7 discussion that it's a \$14 million or \$15 million
8 transaction, that it should come back to council.

9 Well, that -- there's no merits in that
10 because we did over a \$10 million contract with Hume
11 Street, passed an authorizing bylaw. The clerk signed
12 it and the mayor signed it once all the paperwork was
13 done, and I've never seen it come back to council
14 unless there's an issue.

15 MR. JOHN MATHER: So what I want to
16 understand is if you recall being part of any
17 conversations where Ms. Wingrove was suggesting that -
18 - that it be re -- that there be a report back to
19 council before this -- this transaction document was
20 signed.

21 Do you remember her making that
22 suggestion?

23 MR. RICHARD LLOYD: I don't remember.
24 I just remember there was discussion that -- that the
25 authori -- about the authorizing bylaw, that there

1 should be a clause in the authorizing bylaw that comes
2 back to council. And I've never seen that ever in the
3 past.

4 MR. JOHN MATHER: So you recall that.
5 Do you recall that Ms. Wingrove was in favour of that?

6 MR. RICHARD LLOYD: She wanted the
7 clause, as -- as you've already said. Kim Wingrove
8 wanted the authorizing bylaw, as what we normally do,
9 but then she wanted a clause that it comes back to
10 council.

11 MR. JOHN MATHER: And it take it from
12 the -- for the reasons you've just said, you disagreed
13 that that was necessary?

14 MR. RICHARD LLOYD: I -- it -- it was
15 unusual. It was not the norm. Twenty-five (25) at
16 the council table I never ever seen that ever done. I
17 don't know if -- as I said yesterday, if Ms. Wingrove
18 understood the clerk's responsibilities and roles as -
19 - as much as she should have.

20 The norm was, as I said before, that
21 once we passed an authorizing bylaw, council's passed
22 it, approved it, is satisfied, then it goes to
23 administration to make sure all the paperwork is done.

24 Let's go the role of Kim, or Ms.
25 Wingrove. So why would it come back to council? Like

1 -- so if we have the authorizing signed -- bylaws
2 signed -- or signatures approved, all the paperwork's
3 done as it's done in the past, I don't know why it
4 would come back to council other than if you wanted to
5 have a ceremonial signature in front of the media.

6 MR. JOHN MATHER: So I take it then
7 you didn't think that this was necessary, to have a
8 further report back to council? I just want to know
9 if --

10 MR. RICHARD LLOYD: Yeah.

11 MR. JOHN MATHER: -- that was your
12 view.

13 MR. RICHARD LLOYD: It didn't make any
14 sense. We've never done it. And I just think it was
15 a lack of experience, a lack of Ms. Wingrove's
16 knowledge of -- of the way municipalities work.

17 MR. JOHN MATHER: Okay. So, if we can
18 now turn up paragraph 473. So if you recall, there
19 was a conversation on July 12th between Ms. Cooper,
20 yourself, Mr. Houghton, and Leo Longo?

21 MR. RICHARD LLOYD: Yes.

22 MR. JOHN MATHER: And this is Ju --
23 sorry, I -- I might have said July. I meant January.
24 This is January 13th, 2012. Mr. Bonwick is reporting
25 to Mr. Glicksman at PowerStream, and it refers to Ms.

1 Wingrove, and he says:

2 "The CAO attempted to cause some
3 problems in the middle of the week,
4 requesting the Town lawyer to add
5 some last-minute items that were
6 contrary to the ongoing discussion
7 and agreement. The CAO has since
8 been engaged at the political level
9 and has a very clear understanding
10 of the level of support expected at
11 this late date. No more problems
12 expected."

13 Do you recall Ms. Wingrove ever being
14 engaged at the political level?

15 MR. RICHARD LLOYD: No. I -- I guess
16 the confusion I got, explain political level. What --
17 what --

18 MR. JOHN MATHER: What does that mean
19 to you?

20 MR. RICHARD LLOYD: The only thing I
21 can see that -- that she's engaged by politicians.
22 That'd be the only thing.

23 MR. JOHN MATHER: Okay. So, and
24 you're a politician. Did you ever engage Ms. Wingrove
25 on the issue?

1 MR. RICHARD LLOYD: As I -- my
2 previous statement was, all of the stuff that I said
3 about the -- the authorization bylaw.

4 MR. JOHN MATHER: And I understood
5 what you said but did you ever speak directly to Ms.
6 Wingrove about that?

7 MR. RICHARD LLOYD: That's what I
8 said. That's -- that was part of the conversation
9 with Kim Wingrove that I didn't agree, with the
10 authorizing bylaw coming back to Council.

11 MR. JOHN MATHER: And I'm just trying
12 to confirm. So you recall having this discussion?

13 MR. RICHARD LLOYD: I don't remember
14 the discussion, but I did no doubt talk to Kim about
15 it.

16 MR. JOHN MATHER: Okay. And I'm just
17 asking do you have a specific recollection of that or
18 if you're just --

19 MR. RICHARD LLOYD: No.

20 MR. JOHN MATHER: -- assuming that --

21 MR. RICHARD LLOYD: -- I don't.

22 MR. JOHN MATHER: -- you did? Are you
23 aware of anyone else who is a politician having a
24 discussion with Ms. Wingrove about this?

25 MR. RICHARD LLOYD: No, no. I -- I

1 wouldn't know.

2 MR. JOHN MATHER: So I asked you
3 earlier about who was representing the Town, and you
4 said the -- the lawyers at Aird & Berlis.

5 Who at Aird & Berlis did you understand
6 was representing the Town?

7 MR. RICHARD LLOYD: I can't remember
8 his name. It wasn't Leo Longo; it was his partner.
9 There's two of them that -- that were looking after --

10 MR. JOHN MATHER: Ron Clark and
11 Corrine --

12 MR. RICHARD LLOYD: That's it.

13 MR. JOHN MATHER: And Corrine Kennedy?

14 MR. RICHARD LLOYD: That's it, yeah.

15 MR. JOHN MATHER: So you understood
16 they were representing the Town?

17 MR. RICHARD LLOYD: They were
18 representing the whole transaction.

19 MR. JOHN MATHER: And what did you
20 understand Mr. Longo's role to be?

21 MR. RICHARD LLOYD: I really didn't
22 know that -- that Aird & Berlis -- I -- I figured
23 Aird & Berlis as a whole was looking after the -- the
24 project. The two lawyers that were assigned were the
25 two that you just mentioned. Ron Clark and the other

1 lady. I just thought it was all part of the team, the
2 Aird & Berlis team, trying to put this thing together.

3 MR. JOHN MATHER: So if we could go to
4 paragraph 482 of the Foundation Document.

5

6 (BRIEF PAUSE)

7

8 MR. JOHN MATHER: So -- and maybe
9 we'll scroll up a paragraph just to provide some
10 context.

11 So on January 16th, 2012, Mr. Clark,
12 who you referred to, informed Mr. Longo that there
13 were two (2) other issues that Mr. Longo needed to be
14 aware of, and he sets out the two (2) issues.

15 And if we go to paragraph 482, Mr.
16 Longo emails Ms. Cooper and yourself, advising that
17 he's reviewed the latest draft agreements. They
18 contain proposed reps and warranties to be made by the
19 Town and Services Board:

20 "I will review these -- I will
21 review these to ensure the Town can
22 make these statements. What I
23 cannot comment on are the financial
24 aspects of the deal. Has the Town
25 received advice that it is receiving

1 fair value?"

2 And then if we go down, Mayor Cooper
3 responds:

4 "Collus has included Corrine and Ron
5 from A&B to review the documents,
6 also David McFadden, an expert."

7 And she walks through what is -- what
8 her understanding was about the review that's going
9 on, and says:

10 "I hope this addresses your
11 comments."

12 And then Mr. Longo responds in
13 paragraph 44, it partially addresses his comment, but
14 he notes:

15 "Ron and Corrine are advising
16 Collus, not the Town. I just want
17 to note that the Town's interests
18 may not be identical to Collus."

19 Do you recall being included on this
20 email chain?

21 MR. RICHARD LLOYD: Yes, I do.

22 MR. JOHN MATHER: What was your
23 reaction when Mr. Longo said that Ron and Corrine were
24 advising the Town and -- sorry, were advising Collus
25 and Collus' interests may not be identical to the

1 Town's?

2 MR. RICHARD LLOYD: My biggest concern
3 was at that point in time that -- that I believed that
4 we were all one. The -- as I said before, the --
5 Collus was owned by the Town of Collingwood. I had
6 stated previously, maybe not at the hearing but I had
7 stated previously that in business, if I'm selling my
8 business, I wouldn't have a lawyer for my business and
9 a lawyer for me personally. I felt that was all one.

10 The other thing that -- that comes to
11 mind is, and as a lawyer you would know this better
12 than I do, that if Leo had an ab -- an absolute
13 concern on this thing or the Aird & Berlis law firm, I
14 would believe that they would have advised us to seek
15 independent legal advice, because you're obligated to
16 do that as a lawyer, I believe.

17 The other thing that -- that if it was
18 a separate company or -- or we needed other lawyers
19 involved or -- or had concerns of what that one is, I
20 would have thought that the law firm of Aird & Berlis
21 would have had us sign an affidavit agreeing that one
22 law firm can look after both entities.

23 To my knowledge, none of that was done.
24 There's no red flags put up on that. The only red
25 flag I see is, may not be identical to Collus. I'm

1 not a lawyer but I do believe that there's obligations
2 if you thought, or if the law firm thought there was a
3 concern.

4 MR. JOHN MATHER: So you then respond
5 to Mr. Longo and say:

6 "The fact of the best interests of
7 the Town has been -- the fact is
8 that the best interests of the Town
9 has been the driving force and
10 objective for this entire
11 initiative. On a consistent basis,
12 Council has been fully briefed and
13 provided unanimous support to
14 continue with this direction."

15 Why did you respond in that manner?

16 MR. RICHARD LLOYD: The way I read
17 what he was saying at the time was that the interests
18 weren't identical, that the Town didn't have the same
19 interests as -- as Collus.

20 In fact, this says basically that, yes,
21 we have it, we've been briefed, we -- we -- we are
22 steering the ship, the Town of Collingwood, and we --
23 we felt very comfortable that -- that the end result
24 was going to be positive.

25 Again, I'm not a lawyer. I depend on

1 Aird & Berlis and Aird & Berlis in my opinion is one
2 of the finest law firms there is in Ontario. There's
3 not a better planning lawyer, excuse me, than Leo
4 Longo in the whole province, or Jane Pepino.

5 MR. JOHN MATHER: So it sounds like
6 your response to Mr. Longo was, our interests are
7 aligned. Is that fair?

8 MR. RICHARD LLOYD: Was -- I'm sorry?

9 MR. JOHN MATHER: Our -- the Town of
10 Collus' (sic) interests are -- are aligned.

11 MR. RICHARD LLOYD: Totally, yes.

12 MR. JOHN MATHER: And then what I take
13 from what you're saying is, if there was anything else
14 to it, it was up to Aird & Berlis to raise that issue?

15 MR. RICHARD LLOYD: Common sense tells
16 me that if you're my lawyer and if you had a concern -
17 - I've just gone through some real estate transactions
18 with my own personal lawyer that also had us go out
19 and seek independent legal advice, and it was just our
20 matrimonial home.

21 I would have thought that if there is a
22 concern, that there's an obligation on behalf of Aird
23 & Berlis to ensure that if it was necessary to have
24 independent legal advice, that we should do it.

25 In this case, when it was all one home,

1 one family, one business, one owner, I don't think
2 they obviously thought it was a concern or they would
3 have advised us that way, I would hope.

4 The other thing that -- that I've
5 always seen is, if you represent two (2) parties,
6 you'd want to make sure you had an affidavit signed in
7 advance. That was never suggested either. So my
8 interpretation of all this was, he was just thinking
9 that -- that our thoughts between Collus and the Town
10 of Collingwood were not aligned, or our interests.

11 MR. JOHN MATHER: So, and we saw
12 earlier the genesis of this conversation was Mr. Longo
13 asking the Town whether or not it had received
14 independent advice. Why did --

15 MR. RICHARD LLOYD: That one.

16 MR. JOHN MATHER: -- so if we can
17 scroll up.

18 I added the word "independent" and it
19 says -- and this is the initial email in this chain.

20 "Has the Town received advice that
21 it is receiving fair value?

22 MR. RICHARD LLOYD: That's not what
23 that says to me.

24 MR. GEORGE MARRON: Can I clarify?
25 The question is -- is posited or poses, the Town --

1 whether there was some independent legal advice, and
2 the question was put on that basis, and I think that's
3 improper. I don't think the evidence is that.

4 MR. JOHN MATHER: So I'll ask --

5 THE HONOURABLE FRANK MARROCCO: Just a
6 minute. So what do you think it is?

7 MR. GEORGE MARRON: Well, the question
8 as I thought that was posed by Mr. Longo was -- has
9 been referred to, and that the question was whether
10 there was competing interests as between the Town and
11 as between Collus. There was nothing posed by way of
12 whether there was independent legal advice. That --
13 that term was not employed.

14 THE HONOURABLE FRANK MARROCCO: So
15 it's the word "independent" that --

16 MR. GEORGE MARRON: Yeah. I'm just --
17 I'm just taking issue with the question as it has been
18 posed.

19 MR. FREDERICK CHENOWETH: I -- I share
20 the concern. I thought Mr. Longo -- the issue that he
21 raised was has the -- has the Town received advice
22 with respect to whether or not they're getting fair
23 value, not whether or not they're getting independent
24 legal advice, and I think --

25 THE HONOURABLE FRANK MARROCCO: Well --

1 MR. FREDERICK CHENOWETH: -- they're
2 two (2) different things.

3 THE HONOURABLE FRANK MARROCCO: --
4 well I think he's --

5 MR. FREDERICK CHENOWETH: How was a
6 lawyer --

7 THE HONOURABLE FRANK MARROCCO: -- I
8 think he's -- I think when he's asking if they
9 received advice, that -- that it's receiving fair
10 value, he's implying that he's con -- he's questioning
11 whether they have received that advice and -- and
12 whether they -- well, I'm not going to go too much
13 further down that road.

14 Can you find a way to ask a question
15 without using the words "independent"?

16 MR. JOHN MATHER: Yes, I should be
17 able to.

18 THE HONOURABLE FRANK MARROCCO: All
19 right.

20

21 CONTINUED BY MR. JOHN MATHER:

22 MR. JOHN MATHER: So you receive an
23 email from the Town solicitor that says:

24 "Has the Town received advice that
25 it is receiving fair value?"

1 There's a subsequent exchange which
2 leads to the Town solicitor saying that Ron and
3 Corrine are representing Collus and not the Town, and
4 that the interests may not be aligned.

5 You -- then we saw your response, which
6 was, as I understood it, the -- their interests are
7 aligned.

8 My question for you is: why didn't you
9 ask Mr. Longo whether or not the Town should be
10 getting additional advice?

11 MR. RICHARD LLOYD: Okay. I want to
12 go on the one (1) aspect of what I cannot comment are
13 the financial aspects of the deal.

14 "Has the Town received advice that
15 it is -- that it is receiving fair
16 market value?"

17 I don't -- I don't take that as looking
18 for legal advice. I take that as looking for
19 accounting advice to make sure that -- that we've dot
20 our 'i's with accounts to make sure that we are
21 getting good value; that we have done a -- a cost
22 analyzation of what Collus is worth, and so on. So I
23 don't take that as legal.

24 You had made the comment about Leo had
25 -- had suggested that Ron and Corrine were working for

1 Collus and not necessarily the Town. I don't see
2 that. He -- I'd like just to see the email where that
3 is.

4 MR. JOHN MATHER: So we can scroll
5 down. Keep going. Keep going.

6 So -- sorry, go up. My apologies.
7 Now, this is an extract of the email, but it's -- Mr.
8 Longo writes:

9 "Ron and Corrine are advising
10 Collus, not the Town. I just wanted
11 to know that their interests not be
12 aligned."

13 And I guess -- maybe I'll put it this
14 way. I just want to know why, at this point, when
15 your lawyer is raising this issue, you didn't take any
16 other -- you -- you didn't take any further steps to
17 explore whether there was a conflict here, and whether
18 more needed to be done?

19 MR. RICHARD LLOYD: And the irony of
20 all of this, it's Leo -- Leo telling us the Town --
21 from Aird & Berlis -- that it may only be partially
22 addressed by Ron and Corrine. It's Leo from Aird &
23 Berlis advising the Town.

24 So I don't know if I've fallen on my
25 head coming in here, but if Leo's advising the Town of

1 this, is he not involved in the Transaction somewhat,
2 or advising us?

3 So, in fact, Aird & Berlis were, in my
4 opinion, looking after the deal, and Aird & Berlis
5 were -- in fact, I think there's even correspondence
6 from Ron saying that he was looking after both the
7 Town's interest and -- and Collus. I believe there's
8 an email somewhere in there -- somewhere, but I -- I
9 just can't understand that -- how Leo can all of a
10 sudden, out of one (1) side of his mouth, saying,
11 well, they may not be resent -- representing you --
12 well, it's the same leg -- the same law firm. Like,
13 I'm -- it doesn't make any sense to me.

14 MR. JOHN MATHER: So you were relying
15 on Leo to tell you --

16 MR. RICHARD LLOYD: I was relying on --

17 MR. JOHN MATHER: -- if there was a
18 problem?

19 MR. RICHARD LLOYD: -- all -- Aird &
20 Berlis.

21 MR. JOHN MATHER: Okay. So if we
22 could go to paragraph 500.

23

24 (BRIEF PAUSE)

25

1 MR. JOHN MATHER: So we see here that
2 at 6:29 PM, on January 19th, 2012, Mr. Houghton sent a
3 final version of the bylaw that we have been
4 discussing to Mayor Cooper, Ms. Almas, Ms. Wingrove,
5 yourself, and Dean Muncaster. And we see that
6 ultimately, the requirement that the Town solicitor
7 report back to Council before the -- he had -- this
8 version removed the requirement that the Town
9 solicitor report back to Council before the closing of
10 the transaction.

11 And then if we go down to the next
12 paragraph, Mr. Bonwick emails Mayor Cooper, yourself,
13 and Mr. Houghton, stating:

14 "Ed mentioned that the Mayor had
15 asked for a motion to be available
16 for a meeting this afternoon for
17 review by CAO, clerk, and Ed. I
18 would respectfully suggest that the
19 Mayor bring in Rick and Leo, either
20 in person or online. This will
21 provide an opportunity to provide
22 clear direction to Leo and the CAO
23 from both members of the review
24 team, who also happen to be mayor
25 and deputy mayor. If the mayor

1 believes this is to be a reasonable
2 approach, I would suggest it make --
3 it must take place this afternoon."

4 At this point in time, why did you
5 understand that Mr. Bonwick was involved in
6 discussions about meeting with the Town's lawyer?

7 MR. RICHARD LLOYD: This was after the
8 decision was made, I believe, that we were going with
9 PowerStream publicly. I'm not sure the date on it,
10 but I think it was after the fact. And it was public,
11 and I think we were working a lot closer with
12 PowerStream, then, coming to a conclusion to put the
13 deal together.

14 MR. JOHN MATHER: Did you understand
15 Mr. Bonwick was representing PowerStream at this
16 point?

17 MR. RICHARD LLOYD: Going back to the
18 June 29th meeting, it was very clear to us that he was
19 working for PowerStream. And I think this is just
20 continuing on from what we were told.

21 MR. JOHN MATHER: So was it your
22 understanding at this time that Mr. Bonwick is sending
23 this email in his capacity as a consultant for
24 PowerStream?

25 MR. RICHARD LLOYD: That's correct.

1 MR. JOHN MATHER: Why would it be okay
2 for PowerStream's consultant to be involved in and
3 making suggestions about meetings with the Town's
4 lawyer?

5 MR. RICHARD LLOYD: That would be a
6 good question to ask PowerStream, because I have no
7 idea.

8 MR. JOHN MATHER: Did it concern you
9 at the time?

10 MR. RICHARD LLOYD: I never even gave
11 it a second thought, to be honest with you.

12 MR. JOHN MATHER: So in this -- in
13 this email, Mr. Bonwick is making suggestions on how a
14 meeting should proceed and -- and then how it can
15 provide clear direction to Leo and the CAO.

16 In making these suggestions, did you
17 understand that Mr. Bonwick was advancing
18 PowerStream's interests?

19 MR. RICHARD LLOYD: Again,
20 PowerStream's interests were already determined, I
21 believe, at this point in time, and I think what -- my
22 conclusion on -- on reading this -- and I don't really
23 remember the email -- but my conclusion on the -- the
24 whole thing is that he was trying to move forward to
25 get the deal put together and put it all -- finalize

1 it on behalf of PowerStream.

2 And if I can comment a little bit
3 further?

4 MR. JOHN MATHER: Sure.

5 MR. RICHARD LLOYD: I don't ever
6 remember giving any clear direction to Leo, no.

7 MR. JOHN MATHER: Well, that leads to
8 my next question, which is: do you remember attending
9 a meeting around January 19th, 2012, with the
10 individuals identified in this email?

11 MR. RICHARD LLOYD: I don't remember,
12 no.

13 MR. JOHN MATHER: Ms. Wingrove, in her
14 evidence, said that this meeting -- she recalled this
15 meeting occurring, and that at this meeting, her
16 recollection was that you had no appetite to include
17 the provision that there be a further report back to
18 Council.

19 Does that sound accurate?

20 MR. RICHARD LLOYD: As I said
21 previous, 100 percent, that was out of the norm. Once
22 -- once -- as I stated earlier, once that we
23 determined that -- that we were going to pass an
24 authorization bylaw to authorize the mayor and -- and
25 clerk to sign the appropriate papers, it's then in the

1 administration of the clerk's department, which,
2 again, this isn't an unusual transaction.

3 They do it all the time. There is
4 absolutely no reason that you would have -- I think it
5 was, in my opinion, that perhaps Kim didn't know what
6 the clerk's department was all about, or didn't have
7 confidence in her. I have no idea, but there was no
8 reason that it had to come back to Council, other than
9 if you're going to have a ceremonial -- ceremonial
10 signature because the clerk puts all the
11 documentations together. They do all the
12 administration.

13 I have no idea, and it was never
14 explained to me, why she wanted it to come back to
15 council.

16 MR. JOHN MATHER: So if we go to
17 paragraph 502, we see Mr. Bonwick sends an email at
18 7:02 p.m. of the same day, January 29th -- sorry,
19 January 19th reporting on the meeting to Mr. Glicksman
20 and Mr. Nolan. And it appears he's reporting on what
21 occurred at the meeting that was contemplated in the
22 previous email.

23 Did you provide Mr. Bonwick with
24 information about that meeting?

25 MR. RICHARD LLOYD: I don't think so,

1 no.

2

3 (BRIEF PAUSE)

4

5 MR. JOHN MATHER: So I would like to
6 talk about --

7 MR. RICHARD LLOYD: I forget.

8 MR. JOHN MATHER: I understand that
9 you have to leave at 12:30.

10 MR. RICHARD LLOYD: Thank you.

11 MR. JOHN MATHER: Is that --

12 MR. RICHARD LLOYD: At 12:30, that's
13 right.

14 MR. JOHN MATHER: Is that still the
15 case?

16 MR. RICHARD LLOYD: Yeah, the -- it's
17 great, yeah.

18 MR. JOHN MATHER: Okay.

19 MR. RICHARD LLOYD: Thank you. And
20 thank you for the --

21 THE HONOURABLE FRANK MARROCCO: Yes.

22 And -- and if -- if it gets to be 12:30, you speak up.

23 And I'll try to remember.

24 MR. RICHARD LLOYD: Okay. Thank you.

25 I really appreciate it. Thank you.

1 CONTINUED BY MR. JOHN MATHER:

2 MR. JOHN MATHER: So I want to ask you
3 some questions about the termination of Kim Wingrove.
4 Can we load TOC119889?

5

6 (BRIEF PAUSE)

7

8 MR. JOHN MATHER: And I believe
9 there's an attachment to this email. If we could open
10 that.

11

12 (BRIEF PAUSE)

13

14 MR. JOHN MATHER: Okay. So just for
15 the benefit of the record, it's TOC119889.1. And if
16 we could scroll down to the bottom of the email chain.
17 So this is an email from you to Ms. Cooper and Mr.
18 Bonwick on March 10th, 2012. And you write:

19 "Sandra, I would really like to meet
20 with you and Paul ASAP. I need to
21 discuss my concerns I have about
22 Kim. I have had -- I have had
23 enough and the lack of -- and the
24 lack of ability. I am so pissed, I
25 want to deal with it ASAP. I

1 haven't really expressed how I feel
2 yet, but I feel if we don't deal
3 with her, I'm going to explode.
4 Thanks, Rick."

5 Do you remember sending this email to
6 Ms. Cooper and Mr. Bonwick?

7 MR. RICHARD LLOYD: What I do remember
8 is the mayor reaming me out for -- including Mr.
9 Bonwick, in the email. And this was in March 2012. I
10 was frustrated when I did it. And I apologized to the
11 mayor because I generally collect my thoughts before I
12 -- I send something like this, but I was not very
13 happy. And I can't even remember what it was about
14 now.

15 MR. JOHN MATHER: So I was going to
16 ask if you recall what prompted this email?

17 MR. RICHARD LLOYD: No, I don't. I
18 don't now. This was on a Saturday I think I sent it,
19 yeah.

20 MR. JOHN MATHER: So I understand you
21 said that the mayor reamed you out for including Mr.
22 Bonwick, but why did you include Mr. Bonwick?

23 MR. RICHARD LLOYD: I know that Mr.
24 Bonwick did advise her -- his sister somewhat.
25 Staffing issues aren't easy, HR issues. That's why

1 you have an HR department. I would always wish not to
2 have to -- to deal with HR issues, period.

3 When it's the head of the Town, you
4 don't have an HR department to go to. You don't have
5 other department heads to -- to -- when you're
6 frustrated to be able to discuss it with.

7 I think I was pretty well at my end by
8 the look of that email. And, again, it was
9 inappropriate that included anybody else in it; I did.
10 Why did I do it? I don't know. I just know Paul does
11 advise his sister, which -- which happens, and I
12 shouldn't have.

13 MR. JOHN MATHER: Why shouldn't you
14 have not included him?

15 MR. RICHARD LLOYD: Well, just, again,
16 I don't want to throw staff under the bus. Mr.
17 Bonwick wasn't on council. And you know something? I
18 shouldn't have -- have included him in an email about
19 a staff person. I generally don't. I -- again, I --
20 I support staff. I -- I think we've got a great staff
21 in the Town of Collingwood.

22 We had a weak link here. She was on by
23 contract. We terminated her contract. Council
24 decided to in the end; gave the appropriate severance
25 according to the contract.

1 And I just wish Ms. Wingrove the best.
2 She was given the opportunity to -- to resign, as you
3 know. And the only reason that opportunity was given
4 there, because sometimes it's a lot easier when you're
5 going for your next job that I resign from that one
6 rather than being let go or terminated.

7 MR. JOHN MATHER: So going back to
8 this email, you said that you understood that Mr.
9 Bonwick sometimes advised Ms. Cooper.

10 Were you hoping that he would advise
11 Ms. Cooper with respect to Ms. Wingrove?

12 MR. RICHARD LLOYD: I was so
13 frustrated and -- at that point in time, I wasn't
14 expecting anything. I just wanted to vent. And
15 that's what I did with this email. Never did have a
16 meeting until later with the mayor about it.

17 But she phoned me right away and said -
18 - I won't repeat exactly the words, but that it's in
19 appropriate to -- and I -- she was right --

20 MR. JOHN MATHER: Did she say why it
21 was inappropriate?

22 MR. RICHARD LLOYD: -- that I
23 shouldn't have included Paul Bonwick in it and if I've
24 got an issue with the staff, contact her directly and
25 we'll have a meeting about it, and she was right.

1 And it was -- it was inappropriate that
2 I acted the way I did. I was very angry. And I -- to
3 now, eight (8) years later, I don't even know what it
4 was about, but...

5 MR. JOHN MATHER: So this is March
6 10th, 2012.

7 MR. RICHARD LLOYD: That's right.

8 MR. JOHN MATHER: The council meeting
9 where it is decided that Ms. Wingrove's employment
10 will be terminated is April 2nd, 2012.

11 What conversations or discussions did
12 you have between those two (2) dates about Ms.
13 Wingrove?

14 MR. RICHARD LLOYD: With...?

15 MR. JOHN MATHER: With anyone on
16 council.

17 MR. RICHARD LLOYD: I don't -- I think
18 I cooled me jets after a while and -- and got myself
19 so I was fine. I don't -- I don't think there was any
20 other conversations. I know that other staff,
21 especially council -- some of the councillors were
22 having issues.

23 And I -- again, I don't know if there
24 was personal issues with Kim at home or anything like
25 that, but it -- it just wasn't working out. It was --

1 it wasn't -- it wasn't great.

2 And I'm not going to throw Kim under
3 the bus. She has great abilities. She came from the
4 Province. I think we were the first municipality she
5 ever worked for, so no doubt there's a huge learning
6 curve. And, you know, I -- I really don't want to get
7 into all the particulars other than what under oath I
8 have to -- to answer.

9 MR. JOHN MATHER: So if we could go to
10 paragraph 582 of the Foundation Document.

11

12 (BRIEF PAUSE)

13

14 MR. JOHN MATHER: So we see that Ms.
15 Wingrove was given notice of termination on April 3rd,
16 2012. And if we scroll up to the next paragraph, so
17 to 581, we see that there was -- at the April 2nd
18 council meeting there was a move to a close session,
19 which is what I referred to.

20 I take it this is the council meeting
21 where the decision was made to terminate Kim Wingrove.
22 Is that correct?

23

24 (BRIEF PAUSE)

25

1 MR. RICHARD LLOYD: I -- I don't know.
2 I'm just assuming that -- I'm reading above it is the
3 problem I'm having. I'm seeing:

4 "Council discharges CAO Wingrove.
5 Ed Houghton is appointed as acting
6 CAO for the Town." So.

7 MR. JOHN MATHER: So sorry, and that
8 heading is not what my question's about. I showed you
9 the previous paragraph that said, "Ms. Wingrove was
10 given her notice of termination --

11 MR. RICHARD LLOYD: Okay.

12 MR. JOHN MATHER: -- on April 3rd."
13 And there's an in camera council meeting the day
14 before that where they move in camera -- sorry, a
15 regular council meeting where they moved in camera and
16 discussed performance review for the Town CAO.

17 So I'm asking if this is the council
18 meeting where it was decided that Ms. Wingrove would
19 be terminated?

20 MR. RICHARD LLOYD: I can only assume
21 it was that meeting.

22 MR. JOHN MATHER: Was the decision
23 made at a council meeting?

24 MR. RICHARD LLOYD: The decision no
25 doubt would be in camera because it was a personal

1 personnel matter. Again, in camera meetings, the
2 minutes are very limited, as you know. The vote
3 wouldn't be -- it wouldn't be a vote.

4 MR. JOHN MATHER: So that wasn't my
5 question. My question was, and I'll put it to you a
6 different way, how did council decide to terminate Kim
7 Wingrove?

8 MR. RICHARD LLOYD: Unanimously or
9 near unanimous that was at the meeting, the discussion
10 -- open discussion, issues. If you've ever terminated
11 anybody, you would know that you'd be dealing with --
12 with all the issues that -- that would make up the
13 termination, why you would want to terminate them.

14 MR. JOHN MATHER: And so that decision
15 was made at a council meeting?

16 MR. RICHARD LLOYD: In camera.

17 MR. JOHN MATHER: Understood, at an in
18 -- at an in camera session in a council meeting?

19 MR. RICHARD LLOYD: I believe so, yes;
20 it would have to be.

21 MR. JOHN MATHER: And it's possible
22 it's this one we're looking at?

23 MR. RICHARD LLOYD: That's right. And
24 the only problem is I don't see that -- it says at the
25 Town council meeting. I don't know if there's an in

1 camera session. There should be in camera minutes.

2 That's why I'm hesitant on it.

3 MR. JOHN MATHER: I'm simply asking
4 what your recollection was. And I understand it to be
5 that there was an in camera session at a council
6 meeting where the decision was made to terminate Kim
7 Wingrove?

8 MR. RICHARD LLOYD: Totally agree with
9 you, yes.

10 MR. JOHN MATHER: Okay. Who -- who
11 initiated the -- the topic to determine whether or not
12 there would be -- let me rephrase. Who in -- who put
13 forward the motion to have Ms. Wingrove terminated?

14 MR. RICHARD LLOYD: That's unfair.
15 There's -- again, in the in camera meetings there's no
16 motions. And I'm not trying to be silly with it.
17 Under the Municipal Act, they're not -- you're not
18 supposed to be able to do that.

19 I know that -- that -- no doubt that I
20 was aggressive about it or talking about it. Whether
21 I was the one that made the motion, I -- I have no
22 idea at this point. I don't know what minutes of in
23 camera session will tell. That's the --

24 MR. JOHN MATHER: Okay. And I'm just
25 seeking your recollection on who raised the idea at

1 council.

2 MR. RICHARD LLOYD: It was -- when it
3 comes in to in camera, the chair of the meeting is --
4 is obviously the Mayor. The issue would have been
5 brought up, the CAO. And then there would be
6 discussion.

7 MR. JOHN MATHER: So --

8 MR. RICHARD LLOYD: And --

9 MR. JOHN MATHER: So -- I don't mean to
10 cut you off. But on the -- you said the issue would
11 have been brought up?

12 MR. RICHARD LLOYD: It would have been
13 on the agenda.

14 MR. JOHN MATHER: Okay. Do remember
15 who requested it would be on the agenda?

16 MR. RICHARD LLOYD: On the agenda
17 would be a personnel -- personal matter. I don't know
18 which council member, whether it was -- whether it was
19 me or who it was, to deal with the personnel matter.

20 MR. JOHN MATHER: Might it have been
21 you?

22 MR. RICHARD LLOYD: Pardon me?

23 MR. JOHN MATHER: Is it possible it
24 was you who put it --

25 MR. RICHARD LLOYD: Oh, yes, quite

1 possible, yeah. Yeah.

2 MR. JOHN MATHER: But you don't
3 recall?

4 MR. RICHARD LLOYD: I don't -- that
5 fine detail I don't remember. I -- I remember that,
6 obviously, we went in camera. Obviously, a decision
7 was made. And in the end, a decision of -- of nine
8 (9) councillors or eight (8) councillors, whoever was
9 there, would -- would make the -- the determination.

10 MR. JOHN MATHER: Okay. When the
11 determination was made did council have Ms. Wingrove's
12 replacement in mind?

13 MR. RICHARD LLOYD: That very night?

14 MR. JOHN MATHER: Yes.

15 MR. RICHARD LLOYD: I think it was
16 stressful enough to think of -- of dealing with --
17 with the HR issue. I would think that that night
18 there also was thinking, okay, we need to have
19 somebody interim to -- to steer the ship.

20 And I -- I would think -- I can't
21 remember, but I would think that Ed Houghton was
22 discussed at that point.

23 MR. JOHN MATHER: So you think Ed
24 Houghton was discussed. Do you recall Mr. -- spe --
25 do you specifically recall whether there was a

1 discussion about Mr. Houghton?

2 MR. RICHARD LLOYD: I'm speculating,
3 put it that way. I'm speculating that -- that there
4 was discussion. I don't think we would -- we would
5 let our CAO go without a plan.

6 MR. JOHN MATHER: Okay. So you don't
7 think you would let the CAO go without a plan. Do you
8 recall if there was a plan?

9 MR. RICHARD LLOYD: I think the -- I
10 believe that the plan was that Mr. Ed Houghton would
11 be the acting CAO until we could fill that seat.

12 MR. JOHN MATHER: Do you remember who
13 put forward the idea that Mr. Houghton could be an
14 acting CAO?

15 MR. RICHARD LLOYD: It was an
16 in-camera meeting eight (8) years ago, but possibly
17 me, possibly the mayor. It could have been possibly
18 any of the -- the other eight (8) councillors. I have
19 -- or seven (7) councillors.

20 MR. JOHN MATHER: Do you remember when
21 you first discussed with Ed Houghton about the
22 possibility of him becoming acting CAO?

23 MR. RICHARD LLOYD: I know I discussed
24 after -- immediately after. Ed was reluctant to take
25 it. I remember trying to convince him because it was

1 only a short-term. We needed somebody.

2 And quite frankly, the clerk was really
3 good, and the clerk's department is so busy that we
4 didn't look at her to take the position at that point,
5 but feel that she has the ability that she could be a
6 CAO.

7 And other than that, there was no one
8 else that -- that -- you know, looking at the whole
9 town, that really could do it. And I don't like to
10 say, well, he was a last resort, but I don't know
11 anybody else in the town that had any qualifications
12 of management that -- that could've done the job other
13 than Ed Houghton at the time.

14 MR. JOHN MATHER: Do you know what
15 Council did to look into what options were available?

16 MR. RICHARD LLOYD: I think it was
17 very quickly done, giving them time to look at options
18 to fill that position. It was very clear to us that
19 Mr. Houghton somewhat reluctantly agreed to take on
20 the position only for a short-term because, again, he
21 was busy with -- with the other things he was doing.
22 And that was what our intention was.

23 MR. JOHN MATHER: Other than
24 Mr. Houghton and I think you mentioned Ms. Almas, do
25 you know if you or anyone else on Council considered

1 any other options?

2 MR. RICHARD LLOYD: I don't think
3 anybody did at that point within the -- the town
4 family. Outside, yes, but not within -- within the --

5 MR. JOHN MATHER: And who's the "town
6 family"?

7 MR. RICHARD LLOYD: Collus, all the
8 Collus Solutions, PUC, public works, pretty well all
9 the entities of the Town of Collingwood.

10 MR. JOHN MATHER: So if we go to
11 paragraph 584.

12

13 (BRIEF PAUSE)

14

15 MR. JOHN MATHER: So this is an email
16 April 9th, 2012, so six (6) days after Ms. Wingrove
17 was given her notice of termination. It's an email
18 that you sent to Mr. Houghton, and you offered to help
19 him in his new role.

20 Do you recall -- if you need to take a
21 second to read it -- but my question is, do you recall
22 sending Mr. Houghton this email?

23 MR. RICHARD LLOYD: I don't, but I --
24 I see that it's here, and I obviously did send it.

25 MR. JOHN MATHER: At this point in

1 time, you, it appears, know that Mr. Houghton is going
2 to be appointed CAO. Who else would've known?

3 MR. RICHARD LLOYD: All the Council,
4 some of the staff. I think he was already doing work
5 within the Town at that point, trying to set up a
6 management team, and so on. So it was really no
7 secret at that point.

8 MR. JOHN MATHER: Okay. And how was
9 the rest of Council informed?

10 MR. RICHARD LLOYD: The meeting --
11 whether it was that in-camera meeting or whatever --
12 that it was agreed that Ed Houghton, if -- if he'd
13 take on the position, would be the interim CAO for the
14 town of Collingwood.

15 MR. JOHN MATHER: So that's -- is that
16 something you recall, or is that what you're --

17 MR. RICHARD LLOYD: I -- I recall
18 that, yes.

19 MR. JOHN MATHER: So if we look at
20 this email, you say in the third paragraph:

21 "Glad to see someone finally
22 steering the ship."

23 Do you see that?

24 MR. RICHARD LLOYD:

25 "Glad to see someone finally

1 steering the ship."

2 That's right. Yeah.

3 MR. JOHN MATHER: And what did you
4 mean by that?

5 MR. RICHARD LLOYD: Somebody that can
6 give clear direction, not unlike His Worship here;
7 looking after the -- the -- this whole meeting;
8 somebody that is in charge; somebody that -- that is
9 steering the ship.

10 MR. JOHN MATHER: Okay. And then --
11 so if we open the document -- actually scroll down.

12

13 (BRIEF PAUSE)

14

15 MR. JOHN MATHER: No, okay. So open
16 the document TOC138988.1.

17

18 (BRIEF PAUSE)

19

20 MR. JOHN MATHER: So scroll down a
21 little bit. So this is the email we were looking at
22 from you to Mr. Houghton.

23 MR. RICHARD LLOYD: Okay.

24 MR. JOHN MATHER: And then if you
25 scroll up, we see that you forwarded it to

1 Mr. Bonwick.

2 MR. RICHARD LLOYD: Yeah.

3 MR. JOHN MATHER: Why did you forward
4 this email to Mr. Bonwick?

5 MR. RICHARD LLOYD: We -- I was -- I
6 had talked with Mr. Bonwick to try and convince Ed to
7 take on the position 'cause I knew they were friends.
8 And he did agree to take it on, and I just was letting
9 Mr. Bonwick know that -- that he took it on.

10 But I did ask it -- because again, Paul
11 is good friends -- or Bonwick's a good friend of
12 Houghton. I was trying every level I could, including
13 other staff, to try and convince Ed to take it on
14 because he was very reluctant to take on the role.

15 MR. JOHN MATHER: So can you tell me
16 more about the conversation you had with Mr. Bonwick?

17 MR. RICHARD LLOYD: I can't remember
18 the whole conversation. I was answering what I -- I
19 had done but --

20 MR. JOHN MATHER: And was that
21 conversation before you sent this email to him?

22 MR. RICHARD LLOYD: Before this email,
23 yes. There was a conversation I had with Mr. Bonwick
24 about assisting to try and make Ed more comfortable to
25 take on the senior role at this point in time.

1 MR. JOHN MATHER: And what in that
2 conversation -- in that conversation, what do you
3 recall you told Mr. Bonwick about the ongoing
4 considerations for an interim CAO?

5 MR. RICHARD LLOYD: I just simply
6 would've said to him that I'm trying to convince Ed to
7 take on the interim CAO's position. He's being very
8 reluctant. If you can help me, please do.

9 MR. JOHN MATHER: At that point, had
10 Mr. -- did Mr. Bonwick know, again to your
11 understanding, that Mr. Houghton was in consideration
12 for the acting CAO position?

13 MR. RICHARD LLOYD: I don't know if he
14 did -- or if -- because I had told him. I have no
15 idea. Yeah.

16 MR. JOHN MATHER: And, again, why
17 would you be speaking to a person who was not staff or
18 on Council or in the town family about who -- about
19 the next CAO?

20 MR. RICHARD LLOYD: A friend. It's no
21 different than sometimes when -- when you're
22 recruiting someone, you go to everybody you can to try
23 and recruit it. Ed being reluctant to take it -- and
24 I think we were somewhat in a -- a problem, not having
25 a CAO.

1 I think the Municipal Act reads that we
2 must have a CAO, and we must have a -- a clerk. I
3 think that's the two (2) things that qualifies as a
4 municipality. So we didn't want to be without a CAO
5 for any time, because the legislation makes it very
6 clear, you must have a CAO.

7 So again, we -- we made the decision.
8 It may have been rash about Kim -- Ms. Wingrove. It
9 was quickly. We had to respond to have a CAO.
10 Ed Houghton was the best candidate. We had to
11 convince him. I felt we had to convince him because
12 he wasn't -- he was very reluctant. He took it
13 reluctantly and for -- you know, it was just an acting
14 position for a short-term. It was supposed to have
15 been three (3) months.

16 MR. JOHN MATHER: So if we could go
17 back to paragraph 585 from the Foundation Document.

18

19 (BRIEF PAUSE)

20

21 MR. JOHN MATHER: So we saw that you
22 sent an email to Mr. Houghton in which you said, among
23 other things, glad to have someone finally steering
24 the ship. We saw that you forwarded that on to
25 Mr. Bonwick.

1 And then we have Mr. Houghton now
2 responding to that email, so directly to you. And
3 then -- so he says he needs to be given officially the
4 job so we can get on with this work at hand.

5 At this point, was Mr. Houghton not
6 officially the acting CAO?

7 MR. RICHARD LLOYD: No. The bylaw, I
8 think, was the following week.

9 MR. JOHN MATHER: And then we go to
10 the next paragraph, you respond.

11 MR. RICHARD LLOYD: Yeah.

12 MR. JOHN MATHER: And you say right
13 now we have a CAO until tomorrow, and then my hope
14 is -- was that Sandra would announce at department
15 heads that you were an interim CAO, and then a press
16 release stating that Ms. Wingrove had resigned,
17 et cetera.

18 MR. RICHARD LLOYD: That's correct.

19 MR. JOHN MATHER: Okay. So at this
20 point in time, I take it, staff didn't know that
21 Ms. Wingrove was no longer the CAO.

22 MR. RICHARD LLOYD: At this point in
23 time, they did know officially.

24 MR. JOHN MATHER: They -- they did
25 know officially?

1 MR. RICHARD LLOYD: According to this
2 email, it was hoped that -- announce it to department
3 heads that the interim CAO and a press release would
4 be stating that Ms. Wingrove has resigned.

5 MR. JOHN MATHER: So at this point --
6 and I understand this to be contemplating a press
7 release to go out tomorrow -- so when you're sending
8 this email to Mr. Houghton, I understand it, that it's
9 not been officially stated that Ms. Wingrove was no
10 longer the CAO.

11 MR. RICHARD LLOYD: I don't -- I -- I
12 have no idea.

13 MR. JOHN MATHER: Okay. So at the end
14 of the email you say:

15 "As I'm sure you are aware --"

16 And then in all caps:

17 "-- I WILL BE STAYING INVOLVED ON
18 THIS, AS WELL AS ALL ISSUES GOING
19 FORWARD."

20 MR. RICHARD LLOYD: Yeah.

21 MR. JOHN MATHER: Do you recall what
22 you meant by that?

23 MR. RICHARD LLOYD: No. But I -- I
24 would -- I believe that it was to assist Ed in any way
25 I could. So this issue, any other issues, I'll stay

1 involved to help you.

2 MR. JOHN MATHER: So you were a -- a
3 general offer of support for Ed going forward.

4 MR. RICHARD LLOYD: A hundred percent.

5 MR. JOHN MATHER: Did you make any
6 similar offers to support to Ms. Wingrove when she was
7 CAO?

8 MR. RICHARD LLOYD: Ms. Wingrove was
9 already on staff whenever I came on Council. She was
10 hired by the previous Council.

11 There is no time that I would sit down
12 with any CAO already in the position, other than they
13 would know I would support whatever way I could. So
14 the answer, I guess -- sorry -- is no.

15 MR. JOHN MATHER: Thank you. So going
16 down to paragraph 587. So Mr. Houghton then responds
17 to you, and it says -- writing:

18 "Good job for you. 'Acting' CAO is
19 better than interim CAO because that
20 indicates a time. The other can be
21 until you and Council wishes to
22 change."

23 At this point in time, when it appears
24 that Mr. Houghton is about to be officially announced
25 as acting CAO, how long did you understand his term to

1 be, or how long did you think he'd be in the position?

2 MR. RICHARD LLOYD: As I said
3 previously, three (3) months is what I thought that we
4 were hoping to have.

5 MR. JOHN MATHER: So I'm looking at
6 the time, Your Honour. I may have very briefly more
7 questions for Mr. Lloyd. I'm wondering if we take --
8 I'm going to move on to something else. If we --

9 THE HONOURABLE FRANK MARROCCO: We
10 will stop --

11 MR. JOHN MATHER: Stop.

12 THE HONOURABLE FRANK MARROCCO:
13 -- we'll stop now.

14 I just wanted to ask you one (1)
15 question. And in paragraph 586, you say, "I WILL BE
16 STAYING INVOLVED," and you put that in capitals. Why
17 did you do that?

18 MR. RICHARD LLOYD: I capped it only
19 because of the insecurity that Ed seemed to have going
20 into the position, to make sure that he was fully
21 aware that -- that I would be involved. I wanted to
22 emphasize it because, again, he was reluctant to take
23 on the CAO's position.

24 THE HONOURABLE FRANK MARROCCO: All
25 right. Well, we will -- we will break. Mr. Chadwick

1 is coming. We asked Mr. Chadwick to be available by
2 2:00, so lunch will be a little longer today than
3 normal.

4 MR. RICHARD LLOYD: And if I could
5 ask, when -- am I back tomorrow morning at 10:00?

6 MR. JOHN MATHER: We're starting
7 tomorrow at 9:00.

8 MR. RICHARD LLOYD: Nine's fine.
9 Yeah. So I'll be back here at 9:00, is that's okay?

10 THE HONOURABLE FRANK MARROCCO: Yes.

11 MR. RICHARD LLOYD: Okay. Thank you.
12 Thank you.

13

14 --- Upon recessing at 12:28 p.m.

15 --- Upon resuming at 2:01 p.m.

16

17 THE HONOURABLE FRANK MARROCCO: Well,
18 we're off to an inauspicious start. I didn't bring my
19 notes with me, and the door was locked, and I couldn't
20 get in. But other than that, we're ready to proceed.

21 You can go ahead. I'll -- I'll --
22 yeah.

23 MS. KATE MCGRANN: So our next witness
24 will be Ian Chadwick.

25

1 IAN CHADWICK, Affirmed

2

3 EXAMINATION-IN-CHIEF MS. KATE MCGRANN:

4 MS. KATE MCGRANN: Good afternoon, Mr.
5 Chadwick.

6 MR. IAN CHADWICK: Good afternoon.

7 MS. KATE MCGRANN: To begin, would you
8 give us a brief overview of your education and work
9 experience, please?

10 MR. IAN CHADWICK: How far back would
11 you like me to go?

12 MS. KATE MCGRANN: How about a summary
13 of your work experience that you felt was relevant to
14 the work you did on Town Council, and the work that
15 you were doing for Compenso Communications?

16 MR. IAN CHADWICK: I worked as -- in
17 local media for about a dozen years. I was a reporter
18 and editor with the Enterprise Bulletin newspaper.

19 For about eight (8) years, I was a
20 local correspondent for CBC radio's Ontario Morning
21 for a dozen years. I did some media work for Rogers
22 TV as a host for the Politically Speaking TV show. I
23 also ran a successful local franchise, a UPS store
24 franchise for eleven (11) years, giving me some
25 business experience.

1 MS. KATE MCGRANN: The media
2 experience that you've just described, during what
3 years did it -- were you doing that work?

4 MR. IAN CHADWICK: From early 1991 to
5 about 2002/2003 that I worked in local media.

6 MS. KATE MCGRANN: And the franchise
7 that you were managing, what years were you running
8 that business?

9 MR. IAN CHADWICK: From 1999 to 2010.

10 MS. KATE MCGRANN: And then what are
11 you doing currently?

12 MR. IAN CHADWICK: Currently, I am
13 semi-retired. I do some part-time work for a
14 nonprofit group; that's the Ontario Municipal Water
15 Association.

16 MS. KATE MCGRANN: And what is it that
17 you do for them?

18 MR. IAN CHADWICK: I do communications
19 work. I do a -- a media scan every week of news
20 stories about water. I manage their website. I do
21 some articles for them for related water and industry
22 related magazines and for the website.

23 MS. KATE MCGRANN: Okay. I understand
24 that Ed Houghton is also working for that
25 organization. Is that correct?

1 MR. IAN CHADWICK: That's correct. He
2 is the CEO and I'm just one (1) of the workers.

3 MS. KATE MCGRANN: Turning to your
4 time as a member of Council during the 2010 and 2014
5 Council period, would you describe to us what you
6 understood your role and responsibilities to be as a
7 member of Council during that time?

8 MR. IAN CHADWICK: Council members are
9 elected to serve the greater good, to -- to look at
10 the int -- interests of the entire community, to
11 provide service and support, to be liaisons between
12 residents and the -- the Town bureaucracy, to try to
13 maintain budgets, to try to maintain the lifestyle of
14 the community, to try to make sure that the
15 community's needs are met, and to make sure that
16 policies, bylaws, and processes are in place to keep
17 the community going.

18 MS. KATE MCGRANN: When you say that
19 Councillors are there to be a liaison between the
20 community and bureaucracy, how did you do that liaison
21 work as a Councillor?

22 MR. IAN CHADWICK: Well, Councillors
23 are always open to being called by residents, to being
24 spoken to, and -- and I'm sure every Councillor has
25 had the experience of being approached at a grocery

1 store, at a theatre, on the main street, having issues
2 raised.

3 Issues can be as small a pothole in
4 front of their house to something larger like the need
5 for more swimming time, or more ice time, that sort of
6 thing. We're always open to -- to having community
7 groups approach us. We're always open to attending
8 community events, where people talk to you, or they
9 bring their issues up. For example, a -- a charity
10 might be running an event, then they bring their
11 issues up before you, that sort of thing.

12 MS. KATE MCGRANN: Okay. So you've
13 described to me how you would be receiving information
14 from the community. What routes do you then use to
15 get that information to staff?

16 MR. IAN CHADWICK: Several different
17 ways. And sometimes it can be brought up in Council,
18 in an open meeting, and it can be raised -- for
19 example, there'd be a special event, or there'd be a
20 special activity, a special interest that gets raised
21 at -- at Council for discussion, and then it gets
22 passed on to staff for action or for a staff report.

23 Sometimes it's just a matter of passing
24 those interests or those concerns on to the staff
25 member directory. For example, if somebody says

1 they've got a -- a pothole in front of their house,
2 and -- and cars might be in danger of -- of breaking
3 an axle, and we just send that off to the director of
4 Works, and let them deal with it.

5 MS. KATE MCGRANN: In the case of
6 taking information and sending it directly to the
7 staff member, was it your understanding that there
8 were staff members who were meant to be the recipients
9 of those messages and then -- then make sure that it
10 was dealt with by the appropriate person?

11 Were there contact people that you were
12 intended to use to share that information as a
13 Councillor?

14 MR. IAN CHADWICK: Yes, but it was
15 also -- it was understood that Council and individual
16 Councillors -- did not give direction to staff, but
17 rather kept them informed.

18 MS. KATE MCGRANN: Okay. So two (2)
19 questions about that.

20 MR. IAN CHADWICK: Sure.

21 MS. KATE MCGRANN: Who were -- who was
22 designated -- or who did you understand on staff you
23 were to pass information along to so that staff could
24 deal with it?

25 MR. IAN CHADWICK: It would -- it

1 would usually be to department heads, sometimes
2 directly to the CAO, but normal protocol that I recall
3 trying to follow was to make sure that the CAO and any
4 related department head would be copied with something
5 that would be relevant, but always the CAO would be
6 copied with something you sent to a department head.

7 MS. KATE MCGRANN: And then you made a
8 comment -- and unfortunately, I can't read my own
9 handwriting -- about what's -- what Council could do,
10 a list of what it couldn't do.

11 How did Council communicate decisions,
12 instructions, and directions to staff?

13 MR. IAN CHADWICK: That would be done
14 at a Council meeting, either in -- in the open, as,
15 for example, a -- a recommendation, or passing a
16 motion, or it would be done -- if it was in camera,
17 direction would be given, then that would normally be
18 approved outside in public session, at least a generic
19 form of approval would be provided.

20 MS. KATE MCGRANN: Was it the case
21 that individual Councillors could provide instructions
22 or directions to staff members directly?

23 MR. IAN CHADWICK: That was not --
24 that -- that's not a normal process. And unless it --
25 unless a department had asked specifically for

1 somebody to -- to help them with something, that would
2 not be normally done.

3 MS. KATE MCGRANN: During your time as
4 a Councillor, during the 2010 to 2014 Council period,
5 what was your working relationship with Town staff
6 like?

7 MR. IAN CHADWICK: I would say cordial
8 and professional.

9 MS. KATE MCGRANN: Who on staff did
10 you find yourself dealing the most with?

11 MR. IAN CHADWICK: Department heads,
12 mostly that would -- and the CAO and the clerk. It --
13 it wasn't a common practice to deal with -- at -- at
14 least in my experience -- to deal directly with a -- a
15 staff member underneath a department head unless there
16 was something very specific, and -- and the department
17 head was already informed about it.

18 MS. KATE MCGRANN: We have heard
19 evidence from Ms. Wingrove and Ms. Almas about in
20 particular your relationship with Ms. Wingrove.
21 Before I summarize it, have you been following the
22 hearings?

23 Are you aware of evidence that's been
24 given about your relationship with Ms. Wingrove?

25 MR. IAN CHADWICK: I have read the

1 transcript, yes.

2 MS. KATE MCGRANN: So I will -- this
3 will be my summary, but both Ms. Almas and Ms.
4 Wingrove spoke to criticism that you had of Ms.
5 Wingrove that you shared with her directly. Ms. Almas
6 used the word "bullying." Ms. Wingrove referred to
7 critique.

8 What is your reaction to that evidence?

9 MR. IAN CHADWICK: Well, my first
10 comment would be that having a difference of opinion
11 should not be considered bullying. If you have a
12 difference of opinion with someone, you should express
13 it, and the role of a councillor is also to try to
14 make sure you are fully informed and you're fully
15 aware of all the consequences, all of the issues
16 raised.

17 I find it a little curious that during
18 the time, and -- and both of them and myself served
19 under two (2) different mayors, they never raised it
20 with those mayors, who would have dealt with it and
21 made sure that that -- that there was no bullying
22 going on, and they apparently didn't raise it with
23 anybody in the HR office, who would have done exactly
24 the same, and in all of that time they never raised it
25 with me.

1 As for the comment that I was always
2 asking for clarification, I think that is the
3 responsibility of a councillor. It is the due
4 diligence of a member of Council to make sure they
5 understand all the information, that the information
6 is being presented in a way that the public will
7 understand, that they understand, that it's complete,
8 that there aren't any questions that are going to come
9 up later on about that information.

10 And the question of critiquing somebody
11 by email, I think it's -- it's -- is a far more proper
12 way for a Council member, if they have a concern or
13 they have an issue about, say, a staff report or what
14 information is being provided, to share those concerns
15 via email rather than doing it in a public session
16 where it would be perceived as adversarial and
17 confrontational, because Council should not appear to
18 be confrontational with staff.

19 So to save it all up for the public
20 meeting, it does tend to look like you're confronting
21 them and challenging them, and it shows that there's a
22 divide, but if you raise those issues in email, that
23 is -- that -- and usually those emails were shared
24 with other members of -- for example, with the mayor,
25 other members of staff, or other members of Council.

1 So it's not a private discussion. It's
2 a discussion about things that involves all of
3 Council.

4 MS. KATE MCGRANN: Were you surprised
5 by Ms. Wingrove's account of her experience of working
6 with you?

7 MR. IAN CHADWICK: Surprised and
8 disappointed, because that's not my recollection of
9 events.

10 MS. KATE MCGRANN: During the 2010 to
11 2014 Council term, did you have any professional or
12 social relationships with the other members of Council
13 outside the work that you were doing together on Town
14 Council?

15 MR. IAN CHADWICK: Nothing out -- no
16 social relationships, no parties. I don't play golf,
17 so I -- I miss out on all of that fun. Aside from
18 attending the things that councils normally get
19 invited to attend, such as -- such as public events,
20 not particularly, no. I can't recall -- we didn't
21 have dinners, that sort of thing, together.

22 MS. KATE MCGRANN: We have heard some
23 evidence that there were -- that information discussed
24 in -- in camera Council meetings wasn't necessarily
25 kept completely confidential all of the time.

1 MR. IAN CHADWICK: Sorry, could you
2 speak up a bit louder, please?

3 MS. KATE MCGRANN: I can do my best.
4 We have heard some evidence that information that was
5 discussed in in camera Council meetings wasn't
6 necessarily kept completely confidential at all times.

7 Is that something that you're familiar
8 with?

9 MR. IAN CHADWICK: Yes, and I'm sure
10 you know that, especially in a small town, nothing is
11 absolutely 100 percent confidential and people do talk
12 to spouses, talk to friends, and talk to family, even
13 if it's not deliberately attempting to -- to confide
14 confidential information, but is -- it is a small
15 town. People know a lot of things.

16 When I was on the media, I kind of
17 depended upon having some of that information provided
18 and sometimes members of Council would provide it to
19 the media in order to prevent a premature story being
20 released, which would have incorrect information.
21 They would let us know a little bit about what was
22 going on so that we were prepared for the meeting --
23 for -- for the story to come out and would not be
24 making a fool of ourselves or a fool Council by
25 presenting wrong information.

1 MS. KATE MCGRANN: During the time
2 that you were sitting on Council, during the period
3 between 2010 and 2014, was the sharing of information
4 discussed in in camera meetings outside of those
5 meetings of particular concern or problem for Council?

6 MR. IAN CHADWICK: It's always being
7 discussed by Council, because things get out and get -
8 - there's also a rumour market in -- in the community
9 that sometimes guesses the right thing. They often
10 guess the wrong thing, but they sometimes guess
11 correctly. So people are always concerned about
12 information getting out.

13 Mostly it was concern about, what I
14 recall, I should say, mostly was concern about
15 information about real estate and property deals
16 getting out and -- and being let out to the public or
17 to the real estate firms.

18 MS. KATE MCGRANN: What steps did
19 Council take to try to address concerns about the
20 sharing of confidential information outside of in --
21 in camera meetings?

22 MR. IAN CHADWICK: Well, I recall -- I
23 recall the mayor perhaps chastising us a couple of
24 times and other staff members mentioning it, but there
25 was no punitive measures taken. It really is up to

1 the conscience and -- and the morality, the ethics of
2 the individual, to make sure that they're not sharing
3 information that would affect the community in a
4 negative way.

5 MS. KATE MCGRANN: Do you remember it
6 being an issue of particular or unusual concern, the
7 sharing of confidential information outside of in
8 camera meetings?

9 MR. IAN CHADWICK: No, I'm sorry, I
10 don't, and the three (3) terms times I sat, it was
11 always pretty much the same thing.

12 MS. KATE MCGRANN: To your knowledge,
13 do you remember during the 2010 to 2014 term being
14 aware that there were leaks of confidential
15 information about the Collus Power RFP or sale within
16 the community?

17 MR. IAN CHADWICK: No, I was not aware
18 of any of those.

19 MS. KATE MCGRANN: I apologize if this
20 question sounds redundant, but you sat on Council, you
21 were not a member of the strategic task team that was
22 appointed to put together and review the RFP, is that
23 right?

24 MR. IAN CHADWICK: No, I was not.

25 MS. KATE MCGRANN: Do you recall

1 receiving -- actually, oh -- I apologize, I'll come
2 back to that later.

3 If we could turn to paragraph 209 of
4 the Foundation Document.

5

6 (BRIEF PAUSE)

7

8 MS. KATE MCGRANN: So paragraph 209
9 describes a June 27th, 2011, Council meeting during
10 which Mr. Houghton makes an in camera presentation to
11 Council about a study that Collus was doing to
12 investigate strategic opportunities.

13 From what we've seen in the documents,
14 it appears that this is the first time that that
15 information is shared with Council about Collus
16 looking at its ownership options, and in particular
17 looking at a strategic partnership option.

18 When do you first recall hearing that
19 sale of some or all of Collus was being contemplated?

20 MR. IAN CHADWICK: To the best of my
21 recollection, it was at the May Council meeting in
22 which the Board of Directors presented the business
23 plan for Collus, and they did so in public and they
24 did discuss -- I believe it was the Chair of the
25 Board, Dean Muncaster, who talked about looking at the

1 options and explained that they had -- they had hired
2 KPMG to look at different options and give them some
3 ideas about where to go.

4 MS. KATE MCGRANN: So we have a video
5 of that meeting. There's a transcript available.
6 We've reviewed it. We don't see a reference to KPMG.
7 I understand you're speaking about your recollection
8 of that meeting.

9 Can you tell me more about what you
10 remember Mr. Muncaster saying about retaining KPMG?

11 MR. IAN CHADWICK: No, I'm sorry, I
12 can't remember anything specifically about KPMG but I
13 do remember he used a phrase -- sorry.

14 I do remember that was a phrase that we
15 should be looking at our options while it was still a
16 seller's market and not when it was a buyer's market,
17 and this is because -- this is a year of a provincial
18 election. We were told that all three (3) parties of
19 that election were looking at reducing the number of
20 LDCs in the province, and before any legislated
21 changes came through that forced us into action, we
22 should be looking at our options beforehand.

23 MS. KATE MCGRANN: Do you remember
24 when he made that statement, what you interpreted that
25 to mean?

1 MR. IAN CHADWICK: Nothing more than -
2 - than we should be proactive and -- and Council's
3 role is always to be proactive rather than reactive,
4 and we should be proactive in looking at what options
5 we had, whether there were -- whether there was
6 anything viable that would make a difference and that
7 for the betterment of the community.

8 MS. KATE MCGRANN: Do you remember
9 after hearing Mr. Muncaster speak and, in
10 particularly, make that comment, whether you
11 understood any specific steps were being taken with
12 respect to the utility?

13 MR. IAN CHADWICK: As far as I recall,
14 this was all going to be just exploratory. They were
15 creating a strategic planning task force to look into
16 it and come back to council with options. And we were
17 not doing anything until we had all of the options
18 explored and a viable choice presented to us.

19 MS. KATE MCGRANN: Okay. So I'm going
20 to turn your attention back to the June 27th meeting
21 but continue to speak with you about your memory of
22 the May meeting, as well.

23 We see from the documents that Mr.
24 Houghton makes a slide presentation in which he
25 outlines several options that are available and

1 proposes that one (1) in particular, the strategic
2 partnership option, be examined by a strategic task
3 force.

4 Are -- your memory that you've
5 described to us, do you specifically recall that being
6 from the May meeting or is it possible that it could
7 be from this June 27th meeting?

8 MR. IAN CHADWICK: Sorry, I -- I tend
9 to conflate those two (2) meetings together as to what
10 was being said. But I do remember that there was --
11 there -- there was talk that strategic partnership was
12 the preferred choice.

13 One (1) of the comments made, and I'm
14 not sure whether it was made at that point in camera
15 or publically, but it was widely discussed among
16 members of council that we did not want to sell more
17 than 50 percent.

18 We did not want to lose control of the
19 utility, lose control of services and rates;
20 therefore, the option of selling completely was not
21 well received by council.

22 MS. KATE MCGRANN: I'm going to ask
23 that we move down in a little bit in the Foundation
24 Document. There are two (2) slides pictured above
25 paragraph 214. I'd like to show you the first one.

1 This slide on your screen is from the
2 presentation that Mr. Houghton made on June 27th in
3 camera to council. You see that it's got four (4)
4 points under the heading, "Next steps."

5 If you look at the first point, there's
6 a discussion of Mr. Houghton speaking with potential
7 strategic partners to determine and stimulate levels
8 of interest. It mentions a possible preparation of an
9 expression of interest.

10 Point number 3 discusses establishing a
11 team comprised of members of the Collus Power Board.
12 Mr. Houghton, Mr. Fryer, CAO Wingrove and a council
13 representative to meet with interested strategic
14 partners, prepare an RFP and call the RFP.

15 Is this consistent with your memory of
16 the -- the presentation you received?

17 MR. IAN CHADWICK: Yes, it is.

18

19 (BRIEF PAUSE)

20

21 MS. KATE MCGRANN: When we look at the
22 minutes from this in camera portion of the June 27th
23 meeting we don't see any record of any decision,
24 consensus agreement, indication, direction from
25 council to proceed with the next steps that are set

1 out in this slide.

2 Do you remember how -- or what council
3 -- what indication, if any, council gave to Collus to
4 -- to move forward with this proposed plan?

5 MR. IAN CHADWICK: I -- in my
6 recollection, the discussions were about getting
7 Collus to move forward and come back with a more
8 concrete idea for a strategic planning team because
9 the team was going to take it from there for us.

10 MS. KATE MCGRANN: So, from your
11 recollection, was the only decision before council the
12 formation of the strategic team?

13 MR. IAN CHADWICK: Yes. But I -- I
14 believe the responsibility for creating that team was
15 given to Collus or the Collus Board at the time. It
16 would involve members of -- of the Town staff and
17 council, but it was not our responsibility to create
18 the team.

19 MS. KATE MCGRANN: Do you remember how
20 council agreed to and authorized Collus to assemble
21 that team?

22 MR. IAN CHADWICK: No, I don't recall
23 anything specific. We might have given -- it was
24 likely we gave direction to staff, in camera to staff,
25 to follow through on that.

1 MS. KATE MCGRANN: If council had
2 given direction to staff would you expect that that
3 direction would be reflected in the minutes from the
4 meeting?

5 MR. IAN CHADWICK: Quite often, when
6 we came out of an in camera session, and I -- this was
7 true all the time, both when I covered it in the media
8 and when I sat on council. Quite often, there would
9 be a motion that was generic in format that did not
10 give away any details. It would along the lines of
11 direct staff to follow through the recommendations
12 made in camera.

13 I -- if there wasn't one (1), you'd
14 have to -- and sorry, you'd have to ask the clerk why
15 there wasn't any direction. That would be the
16 responsibility of the clerk and the former CAO to make
17 sure that those kinds of things were in the minutes.

18 MS. KATE MCGRANN: We've reviewed
19 agendas from council meetings. And it appears from
20 the agendas that one (1) of the items that shows up
21 regularly is approval of minutes from prior meetings.

22 As members of council, it's part of
23 your role to review and approve the minutes of your
24 prior meetings?

25 MR. IAN CHADWICK: Yes, it is. We

1 would get the minutes with the agenda package. And
2 then people would read through the minutes and make
3 sure that the right people voted and the right things
4 were said, et cetera.

5 MS. KATE MCGRANN: And was part of
6 that exercise to ensure that items that ought to have
7 been noted in the minutes were in fact noted in the
8 minutes?

9 MR. IAN CHADWICK: Generally, yes.

10 MS. KATE MCGRANN: Do you recall
11 receiving a presentation from KPMG about a valuation
12 they did of Col -- oh, sorry, yes?

13 MR. IAN CHADWICK: Sorry, could I just
14 back up a little bit?

15 MS. KATE MCGRANN: Yes.

16 MR. IAN CHADWICK: And I don't
17 remember how the structure was eight (8) years ago
18 but, quite often, the minutes would not appear in the
19 next meeting but sometimes would appear the second or
20 third meeting afterwards.

21 For example, if you only had one (1)
22 council meeting in a month, but then you have a
23 committee of the whole meeting, one (1) or two (2) of
24 those in-between, it might be two (2) to three (3)
25 weeks before you actually saw the minutes.

1 So the chance of somebody not noticing
2 anything or forgetting something in the interim -- we
3 didn't see -- see them in a draft format. We only saw
4 them in a final format in the agenda.

5 MS. KATE MCGRANN: I understand that
6 you said that you saw them in a final format. But did
7 you understand that it was part of your job as a
8 councillor to review that and, if you saw issues with
9 the final format minutes, raise them?

10 MR. IAN CHADWICK: Yes, it was.

11 MS. KATE MCGRANN: Do you recall
12 receiving a presentation, either a presented slide
13 presentation in-person or just receiving materials
14 from KPMG with respect to a valuation that they did of
15 Collus Power?

16 MR. IAN CHADWICK: I don't recall
17 receiving it directly at all. I've seen it since.
18 I've seen that material since, but I don't recall re -
19 - seeing it all during the time that I was on council.

20 MS. KATE MCGRANN: And similarly, do
21 you recall receiving a presentation or materials or a
22 report setting out KPMG's assessment of potential
23 ownership options for Collus Power?

24 MR. IAN CHADWICK: No, I do not.

25

1 (BRIEF PAUSE)

2

3 MS. KATE MCGRANN: Turning from your
4 work on council for a second to other work that you
5 were doing during the 2010 to 2014 time period, it's
6 our understanding that you did some work for Paul
7 Bonwick's company, Compenso Communications Inc.

8 Is that right?

9 MR. IAN CHADWICK: Yes, that's
10 correct.

11 MS. KATE MCGRANN: What kind of work
12 were you doing for him?

13 MR. IAN CHADWICK: Well, in March of
14 2011 I was hired to create and present a workshop for
15 First Nations chiefs and the staff in New Brunswick on
16 a media relations, and it was held in Moncton, New
17 Brunswick.

18 And then, in August, I began to do a
19 news wire scan to look at publically accessible news
20 stories, editorials, blogs, social media, that kind of
21 thing, as what was being said about the energy sector.
22 And that included a broad range of topics in the
23 energy sector, from green energy to political changes
24 to just what energy companies were doing themselves.

25 MS. KATE MCGRANN: Starting with the

1 work that you were doing March 2011 --

2 MR. IAN CHADWICK: Yes.

3 MS. KATE MCGRANN: -- how did you come
4 to be doing that work with Mr. Bonwick?

5 MR. IAN CHADWICK: Mr. Bonwick
6 contacted me and asked me if I'd be interested in --
7 in putting one (1) together.

8 MS. KATE MCGRANN: Do you know why he
9 contacted you to do that work?

10 MR. IAN CHADWICK: Well, I can't speak
11 for Mr. Bonwick, but I certainly have had the
12 experience in the media. I've been a writer for the
13 last forty (40) years. I'm fairly accustomed to
14 talking in front of people. I've -- my apologies.
15 I'll try to bring it a bit closer.

16 I -- I've had experience. I've given
17 workshops. I used to teach courses, so I -- I have
18 the experience, so I'm assuming that, especially in a
19 small town, there's not a -- not a big group of people
20 that have all that experience in -- in a small group
21 or in just one (1) person. So I -- I can only assume
22 that he liked what he saw in my experience.

23 MS. KATE MCGRANN: And similarly, with
24 respect to the news scan work that you started doing
25 in August 2011, a slightly different exercise than the

1 --

2 MR. IAN CHADWICK: M-hm.

3 MS. KATE MCGRANN: -- than the media
4 workshop. How did you come to be doing that work for
5 Mr. Bonwick?

6 MR. IAN CHADWICK: Well, Mr. Bonwick
7 contacted me -- and I believe it was late July -- and
8 asked me if I could put together a weekly collation
9 of -- of news stories and -- and editorials and issues
10 about the energy sector.

11 MS. KATE MCGRANN: What did you
12 understand about why he wanted you to do that
13 particular kind of news scan work about the energy
14 sector?

15 MR. IAN CHADWICK: Well, as -- as I
16 recall, he told me he had two clients in the energy
17 sector and -- and was possibly looking for more. And
18 he wanted -- wanted to keep them in -- informed about
19 changes in the industry and what was going on because
20 everybody was concerned about the political changes
21 that were coming.

22 But also, this was a time when the
23 green energy was very big. The Ontario government had
24 released less than a year before their first long-term
25 energy plan, so green energy was very big on the

1 horizon. There were political changes coming in the
2 nature of LDCs.

3 And as far as I recall back then, there
4 was nobody doing this kind of weekly summation, but I
5 can't be sure because I wasn't involved in the energy
6 sector before then.

7 But to keep track of what was going on,
8 both locally and across the province and, in some
9 cases, across the country, looking for stories, that
10 kind of thing, that he could then put together and --
11 and send to his clients.

12 MS. KATE MCGRANN: When you began
13 working for him, did he tell you who his two clients
14 were?

15 MR. IAN CHADWICK: Yes, he did. He
16 was very clear. He said PowerStream, and I believe it
17 was Blackstone Energy.

18 MS. KATE MCGRANN: About how much time
19 a week would the news scan work that you were doing
20 take?

21 MR. IAN CHADWICK: It would depend
22 upon the week and how much news there was, but it
23 would take me anywhere from four (4) to
24 seven (7) hours a week to put it together, 'cause I'd
25 have to read all the stories, go through online, do

1 numerous Google searches, collate all these stories,
2 and then put them together, and send them off.

3 But it would take, I'd say, probably
4 the least amount of time, it would take four (4) to
5 five (5) hours a week minimum.

6 MS. KATE MCGRANN: And what were the
7 terms on which you were doing that work for him?

8 MR. IAN CHADWICK: I billed him once a
9 month for a fixed amount.

10 MS. KATE MCGRANN: Did you have any
11 understanding or agreement as to how long you would be
12 doing this work for him?

13 MR. IAN CHADWICK: Yes, I did. It was
14 only to go on to the end of the year. Now because at
15 that point, there'd be a new government in place and
16 that was the only -- that was as far as he wanted me
17 to do it.

18 MS. KATE MCGRANN: Were the terms of
19 your employment -- the rate that you charged, the
20 length of time that you were to be doing this work --
21 set out in any written agreement as between the two of
22 you?

23 MR. IAN CHADWICK: No, we didn't have
24 a written agreement. I estimated how long it would
25 take me on the rates that I was charging at the time,

1 and I quoted an amount, and I stuck to that amount.

2 MS. KATE MCGRANN: If we could
3 turn --

4 MR. IAN CHADWICK: So did he, by the
5 way.

6 MS. KATE MCGRANN: Sorry. I -- I
7 spoke over you, and I didn't hear.

8 MR. IAN CHADWICK: Sorry. So did he.
9 He -- we both stuck to that amount, and that was the
10 fixed rate.

11 MS. KATE MCGRANN: Was there any
12 particular reason that those terms weren't reduced to
13 writing?

14 MR. IAN CHADWICK: Sorry. Could you
15 say that again, please?

16 MS. KATE MCGRANN: Was there any
17 particular reason that those -- those terms of the
18 work that you were doing for Mr. Bonwick were not
19 reduced to writing, set out in a written contract or
20 an agreement or an email or something like that?

21 MR. IAN CHADWICK: Not for that -- no
22 particular reason for that. I -- I'm not -- I'm not
23 in a position to -- to say why he didn't offer a
24 contract for that, I know he did offer a contract for
25 other things for doing a -- the media relations

1 workshop with the -- with the idea that we would
2 expand that and take that on to other municipalities
3 of other First Nations.

4 But for this, this was just a
5 short-term project. I don't see why there would have
6 to be a contract. There's -- the information that was
7 being gathered was all public domain or in the -- in
8 the public domain. It was all easily available to
9 anybody. So it's not like I was doing something that
10 was particularly private or confidential.

11 MS. KATE MCGRANN: It looks like at
12 some point during the time that you were working for
13 Mr. Bonwick, you are given a Compensio Communications
14 email account. Do you remember that?

15 MR. IAN CHADWICK: I -- I remember
16 having it, but I don't remember ever using it.
17 Originally, I believe the idea was to expand the media
18 relations workshop into something larger in which he
19 would have resource people he would be able to call
20 on, people who identify and -- and advertize and say
21 who the -- who these are, and so that people would
22 understand they have credentials behind them. As far
23 as I recall, I never ended up using it.

24 MS. KATE MCGRANN: Okay. Fair to say
25 that the email address is assigned to you so that if

1 you did move forward to continue to do that work, you
2 could present as a -- as if you were part of the same
3 group working on the same thing?

4 MR. IAN CHADWICK: Yes. And -- and as
5 I recall, there were other people listed on -- on
6 Mr. Bonwick's website to -- as -- as resource people
7 for -- for credentials.

8 MS. KATE MCGRANN: And I think you
9 mentioned that you don't recall using that email
10 address, if I got that right?

11 MR. IAN CHADWICK: No.

12 MS. KATE MCGRANN: Any reason why you
13 didn't use it?

14 MR. IAN CHADWICK: At that point, I
15 probably -- I had a Council email; I had a personal
16 email; I had a Gmail account; and possibly even
17 others. I just didn't use it, just didn't have any --
18 nobody -- as far as I know, nobody ever sent anything
19 to me.

20 MS. KATE MCGRANN: Coming back to
21 Mr. Bonwick's two clients and -- and him identifying
22 them to you in August when you began working for
23 him -- August 2011 -- what did you understand
24 Mr. Bonwick was doing for those companies?

25 MR. IAN CHADWICK: The only thing I

1 really understood, he was doing some -- some
2 consulting and some information work, public relations
3 work.

4 MS. KATE MCGRANN: Consulting and
5 public relations are two terms that can mean different
6 things to different people. What kind of -- what did
7 you think he was doing when he was consulting for
8 these companies?

9 MR. IAN CHADWICK: I didn't ask, and
10 at that time, neither of those companies names had
11 ever appeared on -- on anything I had ever seen
12 before. So I -- my -- my concern was what job I was
13 going to do for him, not what he was doing for
14 somebody else.

15 MS. KATE MCGRANN: And I don't mean to
16 belabour the point, but when you say you understood he
17 was doing consulting, you didn't ask --

18 MR. IAN CHADWICK: No.

19 MS. KATE MCGRANN: What -- what, in
20 your mind, did you think that involved?

21 MR. IAN CHADWICK: Consulting on the
22 energy sector. Mr. Bonwick has a lot of contacts in
23 government and a lot of contracts across the province
24 in different industries. He -- he's a good -- being a
25 good resource person for a lot of different people, a

1 lot of companies and First Nations. He's done a lot
2 of consulting work for them.

3 Consulting can mean a lot of different
4 things to a lot of different people. I assume that he
5 was doing for -- for the energy sector what he does
6 generally for everybody else.

7 MS. KATE MCGRANN: And what is it that
8 he does generally for everybody else?

9 MR. IAN CHADWICK: Oh, he -- he talks
10 to the government. He -- he acts as liaison between
11 government bureaucracies and between individuals or
12 First Nations people. He's -- he facilitates meetings
13 with people. He arranges things. He provides --
14 obviously from the service I was giving to him, he
15 provides information from outside to other people.

16 MS. KATE MCGRANN: The description of
17 the kinds of tasks that you just laid out for us,
18 would it be a similar kind of work that you envisioned
19 him doing when you understood he was doing public
20 relations work for these two companies?

21 MR. IAN CHADWICK: No. I understood
22 he -- he was likely to do public relations work
23 because I knew he was doing some of that for the
24 First Nations people that he worked with. I didn't
25 ask him specifically what task he was doing. As I

1 said, neither of those two companies were known to me
2 at the time. I had no idea who they were.

3 I had to look both of them up just to
4 find out who they were and to -- just to make sure
5 that when I was going through these scans on the -- in
6 the news and in -- online that if their names popped
7 up that I would be aware of them; that I would make
8 sure that if any stories had them in it that I would
9 include them in the newswire.

10 MS. KATE MCGRANN: So we've looked at
11 a June 27th --

12 MR. IAN CHADWICK: M-hm.

13 MS. KATE MCGRANN: -- in-camera
14 meeting where Council received a presentation that
15 Collus Power is going to start looking for a strategic
16 partner.

17 MR. IAN CHADWICK: M-hm.

18 MS. KATE MCGRANN: When you began
19 working for Mr. Bonwick in August 2011 doing the
20 energy sector news scans and you understand that he
21 was working for two energy sector clients, did you
22 consider at the time whether his work may include work
23 related to the search for a strategic partner that
24 Collus Power was undertaking?

25 MR. IAN CHADWICK: No, I didn't, but

1 you have to understand at that point Council had not
2 been presented with anything to make a decision on,
3 aside from creating a team to look at this
4 information.

5 The RFP was not released until October
6 of that year. So this is three or four months before
7 that, Council had not heard any names of any potential
8 partners, Council didn't have any idea where -- who a
9 strategic partner might be, how that might work, and -
10 - and to be fair, most of Council had really little to
11 -- to no information about how the energy sector
12 worked aside from the -- the annual business plan that
13 was brought to -- to Council by Collus, we really
14 didn't understand it. That was just a little bit at
15 arm's length. We didn't really get any detailed
16 information about it.

17 And who a strategic partner might be,
18 how that might work. All of those details were never
19 presented until much later.

20 MS. KATE MCGRANN: What was your
21 relationship with Mr. Bonwick like, outside of the
22 work that you were doing for him?

23 MR. IAN CHADWICK: Like I said, I
24 don't play golf, so I don't travel in a lot of his
25 circles.

1 It was professional. We didn't have a
2 social life. I've -- I've known Paul for many years
3 through media, but we're -- we're not friends, we're -
4 - we had a business relationship. We didn't
5 socialize, we didn't go to dinners or we didn't go
6 golfing, as I said, together.

7 Most of our communication, actually,
8 was pretty much through e-mail during -- during that
9 time period.

10 MS. KATE MCGRANN: The next -- the
11 next update we see Council receiving with respect to
12 the Collus Power strategic partner project is in
13 October of 2011.

14 Do you recall whether you received any
15 information or updates on what Collus Power was doing
16 with respect to a strategic partner between the June
17 27th in-camera meeting and the beginning of October?

18 MR. IAN CHADWICK: As far as I recall
19 there was no information provided.

20 MS. KATE MCGRANN: If we can turn to
21 paragraph 288 of the Foundation document.

22 Could you scroll up a couple of
23 paragraphs. Actually, I'll just tell you when to
24 stop. There, that's perfect. Thank you.

25 So this paragraph describes that on

1 October 3rd, 2011, Collus Power provides an in-camera
2 update to Town Council, and this presentation
3 describes the bidding process envisioned for a Collus
4 Power shares and the RFP that is going to be issued,
5 along with the evaluation criteria and the waiting
6 that's being assigned to financial and nonfinancial
7 components.

8 Do you recall receiving an update like
9 this?

10 MR. IAN CHADWICK: As well as I can,
11 eight years later, yes.

12 MS. KATE MCGRANN: I'm going to ask
13 that the slide presentation be shown on the screen, so
14 that's document ALE5133.0003. And I'd like to go to
15 slide 11, please.

16 So in this update that was given to
17 Council on October 3rd, one of the pieces of
18 information that was provided was this timeline that's
19 centred at the second bullet point here.

20 It identifies that the RFP is going to
21 be released on October 4, so the next day.

22 MR. IAN CHADWICK: Yes.

23 MS. KATE MCGRANN: The RFP will be
24 called on November 16th, the findings of the RFP will
25 be presented to the Collus Board on December 2nd, to

1 Council in-camera on December 5th. And then it
2 indicates a resolution by Council, if appropriate, to
3 take place on December 12th.

4 Do you recall whether you had been
5 provided with this timeline information before this
6 October 3rd, 2011 meeting?

7 MR. IAN CHADWICK: No, I don't believe
8 we were provided that. When I say "we", I don't
9 believe anybody on Council -- not on the strategic
10 planning team was provided that information. I
11 certainly wasn't.

12 MS. KATE MCGRANN: At this point in
13 time, Council is now being advised that an RFP is
14 going to be released to look for a strategic partner.

15 Did you think about the work that you
16 were doing for Mr. Bonwick and that Mr. Bonwick in
17 turn was doing for PowerStream, did you consider
18 whether Mr. Bonwick may be involved in -- in
19 responding to this RFP with PowerStream?

20 MR. IAN CHADWICK: By that point I
21 knew a little bit more about PowerStream, that they
22 were a fairly aggressive, outgoing company, LDC in --
23 in the industry.

24 And I realize that in future I would
25 probably have to stand aside from the table, just in

1 case they got involved in any of the -- any of the
2 bidding or any further process.

3 But not specifically that they were
4 going to bid, I had no -- I had no idea about that at
5 the time.

6 MS. KATE MCGRANN: Did you consider
7 whether you should, in advance of this in-camera
8 portion, whether you should declare a potential
9 conflict and recuse yourself from this section of the
10 meeting?

11 MR. IAN CHADWICK: Excuse me, of this
12 -- of this meeting, of the October meeting?

13 MS. KATE MCGRANN: Yes.

14 MR. IAN CHADWICK: No, I didn't
15 because an RFP is not specific to any company and not
16 specific to any business, it's an exploratory process,
17 exploratory device used to get information back so
18 that we can find out what's going on.

19 No, I didn't. I didn't think it was --
20 it would be appropriate at that point.

21 MS. KATE MCGRANN: Was it the case
22 that you felt that because new decisions weren't being
23 made at this meeting, that you didn't need to recuse
24 yourself? This is still an information receiving
25 exercise, not a decision-making exercise?

1 MR. IAN CHADWICK: Yes, that's
2 correct. I -- I did not feel that -- that sending out
3 an RFP was making a decision that was either
4 irrevocable or would -- would affect the community at
5 that point, because no decision had been made to -- to
6 sell anything, and certainly nothing had come in. So
7 we had no idea what would be offered.

8 MS. KATE MCGRANN: Similar to the June
9 27th, 2011 meeting, the minutes of this meeting don't
10 reflect any authorization agreement, decision,
11 direction from Council to issue the RFP or take this
12 next step down -- down this path.

13 Do you recall if Council authorized the
14 release of the RFP at this meeting?

15 MR. IAN CHADWICK: I don't recall the
16 specific direction, but I'm assuming the fact that the
17 RFP was released and it was all put together that we
18 must have given them the go-ahead, because otherwise
19 they would not have been able to release it on the
20 next day.

21 Whether that was reflected in the
22 minutes or not, again, you'd have to take that up with
23 either the clerk or the former CAO as to why it wasn't
24 there.

25 MS. KATE MCGRANN: Why -- why would an

1 absence of direction from Council stop the release of
2 the RFP on October 4th?

3 MR. IAN CHADWICK: I -- Council, the
4 Town being the sole shareholder for Collus would --
5 would have to make that decision to -- to tell him to
6 go ahead. Without direction from Council they
7 couldn't do it on their own because they couldn't sell
8 it, they couldn't sell even a portion of it without
9 approval from Council. If Council wasn't going to let
10 them send out an RFP, they weren't going to be able to
11 sell anything.

12 So Council would have had to approve
13 sending out an RFP.

14 MS. KATE MCGRANN: Okay, I understand
15 why Council approval would be required to effect a
16 sale, but I'm not sure I understand why the absence of
17 a Council approval would stop the release of an RFP
18 document.

19 MR. IAN CHADWICK: Well, I'm not a
20 lawyer, but I would assume that the -- that the legal
21 process would not allow the sole shareholder of the
22 company -- sorry, would not allow the company to -- to
23 even approach a sale without having the approval of
24 the sole shareholder.

25 MS. KATE MCGRANN: Is it the case that

1 you don't recall Council agreeing to or directing
2 Collus Power to release this RFP, but by the very fact
3 that it was released you assume that there must've
4 been authorization given?

5 MR. IAN CHADWICK: I recall we had a
6 discussion, and to the best of my recollection, it was
7 unanimous agreement to go ahead with an RFP. I don't
8 recall any dissension whatsoever, up until this point,
9 about selling.

10 So -- or about, sorry, about sending
11 out an RFP. So at this point Council had always been
12 in approval of following through the process because
13 the process is not, as I said earlier, it wasn't
14 irrevocable, we weren't selling it, we were just
15 getting the information back so we could make a
16 decision.

17 MS. KATE MCGRANN: What do you
18 remember about how -- how Council signalled its
19 unanimous agreement to proceeding with the RFP? Was
20 there a show of hands or did -- were people asked to
21 stand or sit?

22 MR. IAN CHADWICK: Generally in-camera
23 the -- there would be a show of hands. As I said, it
24 was quite often that -- that would follow up with a
25 public declaration to -- to follow through on that,

1 but usually it was a show of hands in-camera.

2 MS. KATE MCGRANN: Okay, so I
3 understand that usually it was a show of hands in-
4 camera and with respect to this particular meeting on
5 October 3rd, 2011, in which you learn about the RFP
6 that's to be released the next day, do you recall a
7 show of hands being taken with respect to whether it
8 should go or not.

9 MR. IAN CHADWICK: Sorry, I don't
10 recall that specific meeting and that specific show of
11 hands.

12 MS. KATE MCGRANN: Moving forward in
13 time, I'd like to look at paragraph 371 of the
14 Foundation Document.

15

16 (BRIEF PAUSE)

17

18 MS. KATE MCGRANN: This paragraph
19 describes an exchange on November 14th, 2011. As it
20 pertains to you, Mr. Houghton asked you to review a
21 draft press release about the bid process.

22 He sends you an email with the subject
23 line, "A favour." And he asks you to take a look at
24 it. We can call up the email in a second. But my
25 first question for you is, was this an unusual request

1 for you to receive, reviewing a draft press release or
2 other communication?

3 MR. IAN CHADWICK: No, it wasn't. I
4 had done it several times for other members of staff
5 previously, including the former planner, Gord
6 Russell, and for former planner, Robert Voigt. As a
7 matter of fact, I edited his entire urban design
8 guidelines manual.

9 We -- at that point, the Town did not
10 have a communications officer and did not have anybody
11 with the experience or the education to do any copy
12 editing. And that's basically what I would be asked
13 to do, not -- not to look at content, but to make sure
14 that -- that the punctuation, the grammar, the style,
15 et cetera, were consistent and clear, there were no
16 spelling mistakes, that sort of thing.

17 MS. KATE MCGRANN: Do you remember
18 receiving this request for assistance in particular?

19 MR. IAN CHADWICK: Not in particular.

20 MS. KATE MCGRANN: Okay. I was going
21 to ask you if -- if when you received this you thought
22 it was unusual or you had any --

23 MR. IAN CHADWICK: No.

24 MS. KATE MCGRANN: -- had any concerns
25 about it?

1 MR. IAN CHADWICK: No, I don't --
2 didn't. And when --

3 MS. KATE MCGRANN: Do you remem --

4 MR. IAN CHADWICK: Excuse me. If I
5 can say that in a small -- in a small town with small
6 council, people bring all sorts of different skills to
7 the table, and -- and you try to use those skills to
8 the benefit of the community.

9 Some people -- the former deputy mayor
10 was a contractor. He knew lots of things about
11 contacting, about building, about design, about --
12 about infrastructure, so the staff would sometimes
13 turn to him.

14 Former counsel Lloyd was in marketing
15 and -- and advertising, so people could talk to him
16 about that. Former councillor, Dale West, but big in
17 sports. People could talk to him about that.

18 I was from media, had an experience as
19 a writer, as an editor, so turning to me and asking me
20 to help out with something was perfectly natural, and
21 -- and it should be the good -- that's the good way
22 council should work with its staff if the staff feel
23 comfortable about saying can you look -- can you help
24 with something because it shows that you're working
25 together on things.

1 MS. KATE MCGRANN: Do you remember
2 what your response to this request to review the draft
3 press release as a favour was?

4 MR. IAN CHADWICK: I -- I would have
5 just gone through it, made my editing changes, made my
6 notes and sent it back.

7 MS. KATE MCGRANN: And I'm reacting to
8 the fact that you said that you would have done this.
9 Do you have a specific recollection of doing that?

10 MR. IAN CHADWICK: No, and it --
11 because it wasn't the -- the first time. And again,
12 something that's eight (8) years ago, it's a little
13 hard to remember exactly pressing the send button on -
14 - on a particular piece of email.

15 MS. KATE MCGRANN: You can see from
16 this paragraph that Mr. Houghton and Mr. Bonwick are
17 discussing this press release. Were you aware that it
18 was a topic of conversation as between the two (2) of
19 them when -- when you were asked to review it?

20 MR. IAN CHADWICK: No. And none of
21 that was shared with me.

22 MS. KATE MCGRANN: And more generally,
23 stepping back, to your knowledge at the time, were Mr.
24 Bonwick and Mr. Houghton discussing the RFP process at
25 -- on any level?

1 MR. IAN CHADWICK: I was unaware of
2 that.

3 MS. KATE MCGRANN: The next update --

4 MR. IAN CHADWICK: If -- if I -- if I
5 can interrupt here with -- with a comment. Having --
6 having read through the Foundation Document and
7 reading the stuff and reading the material has come
8 out later, I'm aware now that the strategic planning
9 team approached different potential partners and spoke
10 to them.

11 So for the part -- for those people
12 that had been spoken to, I don't -- I don't know
13 because I wasn't part of those discussions, but I'm
14 pretty sure they knew that this process was going
15 through and how it was working so that people involved
16 in PowerStream or people involved in Hydro One or
17 Veridian or any of the others would have known that
18 this was the way that -- that council was looking at
19 going, would have known how the process worked.

20 It's not exactly a secret process to
21 send out an RFP, so I -- I don't see why anybody
22 wouldn't be talking with these potential partners to
23 tell them that it's coming through, that council's
24 approved it, that it's going to be coming out because,
25 even though we had an in camera meeting, the process

1 is going to become public.

2 And there was -- the RFPs were sent
3 out. And we -- of course, I didn't find this out
4 until much later, but the RFPs were only sent out to
5 those -- those potential partners. It wasn't broad
6 spectrum sent out to everybody in the industry, it was
7 only sent out to those.

8 So I don't see why they wouldn't have
9 talked to them. I don't see why they wouldn't have
10 kept them informed so that they could be prepared and
11 they could -- they could produce the best RFP because
12 it's in the best interest of the Town of Collingwood,
13 it's the best interest of the people of Collingwood to
14 have the best partner for that utility.

15 MR. WILLIAM MCDOWELL: Commissioner,
16 if I could just make a nunc pro tunc objection there.
17 You know, that's a terrific submission. I'm not sure
18 it was evidence responsive to the question.

19 THE HONOURABLE FRANK MARROCCO: It
20 wasn't responsive to the question, not in the
21 slightest.

22 MR. IAN CHADWICK: My apologies.
23 And...

24

25 CONTINUED BY MS. KATE MCGRANN:

1 MS. KATE MCGRANN: I'd like to turn to
2 the next update we see council receiving, which is on
3 November 17th, 2011. If we could turn to paragraph
4 373 of the Foundation Document.

5

6 (BRIEF PAUSE)

7

8 MS. KATE MCGRANN: So from what we can
9 see, after the October 3rd, 2003, in camera update to
10 council, the next update is on November 17th, 2000,
11 again, ele -- again, in a closed session.

12 At this point, council's informed that
13 Collus staff were preparing to issue a press release
14 announcing public inf -- a public information session
15 regarding the RFP process on November 22nd, 2011.

16 Do you recall whether you received any
17 updates on the RFP either from Collus Power or
18 otherwise between October 3rd, 2011, and November
19 17th, 2011, other than the draft press release you
20 reviewed?

21 MR. IAN CHADWICK: Not that I recall.
22 I don't recall seeing any particular document between
23 those two (2) meetings.

24 MS. KATE MCGRANN: And the press
25 release and the subsequent public information session

1 held on November 22nd, 2011, appear to be the first
2 public notice that is given of the RFP process for
3 Collus Power.

4 Are you aware of an earlier public
5 notice given of the fact that an RFP was going to be
6 issued or had been issued?

7 MR. IAN CHADWICK: I had thought we --
8 there was a second meeting, a town hall thing, but I
9 don't see record of it, so perhaps I'm conflating it
10 with something else. But I do recall the public
11 meeting.

12 MS. KATE MCGRANN: Okay. Do you
13 recall any public announcement or notice of the RFP
14 process or consideration of ownership options for
15 Collus Power before the public meeting?

16 MR. IAN CHADWICK: I don't recall any
17 details. I do know that local media did have -- have
18 some stories, that we were going through the process
19 and that -- that we were looking at -- at the
20 different options, but I don't recall any particular
21 details, certainly not -- none of the partners were
22 ever named.

23 MS. KATE MCGRANN: And the media
24 pieces that you're referring to there, do you have a
25 specific recollection of those being published before

1 the press release you reviewed was released?

2 MR. IAN CHADWICK: I believe there
3 were a couple of stories in the Enterprise bulletin
4 and the Collingwood connection. And it may -- excuse
5 me, it may have -- you'd -- you'd have to confirm with
6 the radio station, but the mayor had a regular radio
7 show on -- on the -- The Peak FM, and she may have
8 even mentioned it there.

9 It wasn't a secretive process that we
10 were looking at it. The details may have been in
11 camera because of legal issues and confidentiality
12 over -- over legal issues to do with the Corporations
13 Act, but it wasn't a secret that we were looking at
14 those partnerships.

15 MS. KATE MCGRANN: Well, sir, what I'm
16 looking for is your recollection. You said, "May
17 have," several times in what you just said there. I
18 would like to know if you recall that the fact that an
19 RFP had been put out for a strategic public --
20 strategic partner for Collus partner -- Power had been
21 made public before this news release.

22 MR. IAN CHADWICK: I don't recall.

23

24 (BRIEF PAUSE)

25

1 MS. KATE MCGRANN: The next time we
2 see information being brought to council about the RFP
3 process for Collus Power is in an in camera meeting on
4 December 5th, 2011. I ask that we turn to paragraph
5 437 of the foundation document.

6 While that's being pulled up, a
7 question I have for you is, do you recall receiving
8 any updates or information about the Collus Power RFP
9 between the public meeting on November 22nd and the
10 December 5th, 2011, council meeting?

11 MR. IAN CHADWICK: I did not receive
12 anything that I recall.

13 MS. KATE MCGRANN: Well, the minutes
14 record that you declared a pecuniary interest with
15 respect to the in camera discussion because you
16 provided consulting services for electricity se --
17 sector clients.

18 The minutes said that you indicated
19 that you would not be participating in the in camera
20 discussion until it was known whether your client had
21 submitted an RFP for the Collus partnership
22 discussion.

23 Is that consistent with what you
24 remember of that meeting?

25 MR. IAN CHADWICK: Yes, it is.

1 MS. KATE MCGRANN: When did you learn
2 that PowerStream had submitted a response to the RFP?

3 MR. IAN CHADWICK: It was in mid to
4 late January of 2012, approximately five (5) to six
5 (6) weeks later.

6 MS. KATE MCGRANN: How did you learn
7 that PowerStream had submitted a bid to the RFP?

8 MR. IAN CHADWICK: It was -- we were
9 making the announcement that PowerStream was going to
10 be the strategic partner.

11 MS. KATE MCGRANN: And do you recall
12 if that was -- it had already been decided absolutely
13 that PowerStream was going to be the strategic
14 partner, a decision had already been made completely,
15 or whether they were a preferred proponent that was
16 going to be negotiating with Collus Power?

17 MR. IAN CHADWICK: I -- I was not
18 present at the in camera meeting, so I can't tell you
19 what the decision was. You -- when it came out, it
20 appeared to be that they were the chosen partner. Any
21 subsequent negotiations I was not aware of.

22 MS. KATE MCGRANN: During the period
23 between October 3rd, when you learned that an RFP was
24 going to be released, and mid-January, when you
25 learned that PowerStream had submitted an RFP, did you

1 think of asking Mr. Bonwick whether PowerStream was a
2 participant in the RFP process or whether it's
3 something you should have been mindful of in your role
4 as councillor?

5 MR. IAN CHADWICK: No, I didn't -- I
6 didn't ask him. And the -- the RFPs, as until mid-
7 November -- I think it was November 14th or November
8 16th, when they had a deadline to be received.
9 Council didn't get anything until the December 5th
10 meeting.

11 So there was -- there was no
12 interaction between council and -- and the process
13 after the RFPs were sent out. So, no, I -- I didn't
14 think to ask him. And I -- I didn't really want to
15 bring that up at that point because there was no
16 decision being made on anything.

17 MS. KATE MCGRANN: If you were going
18 to declare a conflict because one (1) of your clients
19 may be participating in the RFP, why wouldn't you take
20 the extra step of asking the person who's interfacing
21 between you and -- and PowerStream whether this was a
22 real conflict you needed to be concerned about?

23 Why not arm yourself with the
24 information and make an informed decision?

25 MR. IAN CHADWICK: Well, thank you.

1 20/20 hindsight might -- might be a wonderful thing to
2 have, but, unfortunately, I lack it. From the sending
3 out of the RFP, which I considered to be a -- for the
4 community benefit.

5 And, as I said, until it came up on
6 December 5th, there was no opportunity, no reason to
7 co -- declare a conflict because the discussions
8 didn't come up that I recall at all at council either
9 about the RFP or about the -- about the decision to
10 sell.

11 There was a discussion about the
12 process, but I don't -- but that's not specific to any
13 company or any business.

14 MS. KATE MCGRANN: Okay. After you
15 declare a conflict of interest on December 5th, or a
16 potential conflict of interest really because you
17 didn't know whether your client had --

18 MR. IAN CHADWICK: Right.

19 MS. KATE MCGRANN: -- submitted it or
20 not, at this point, you've already declared a
21 conflict. You've indicated that you don't have the
22 necessary information to -- to advise how you'll
23 proceed going forward. Why not find out then?

24 MR. IAN CHADWICK: Because the
25 information was confidential. And for me to go in

1 another way to find out if it was -- to find out if it
2 was submitted or that kind of -- of relationship, what
3 I believe violate the -- the council's oath of -- of
4 confidentiality.

5 And I'm not supposed to find this out
6 by another way. If it's made public, then I have
7 access to the information. But I'm not supposed to go
8 around something else to find out if they're involved
9 in it.

10 Council made a decision that once that
11 decision was made, I had to stay out of it while I
12 still had a pecuniary interest.

13 MR. PAUL BONWICK: Excuse me, Your
14 Honour, if --

15 THE HONOURABLE FRANK MARROCCO: Yes.

16 MR. PAUL BONWICK: -- if I may. I
17 just wanted to seek some clarification before I was
18 objecting to a comment. I understood Ms. McGrann to
19 suggest that Mr. Chadwick was dealing with his client.
20 I was -- could you provide clarification? I may have
21 misheard that.

22 MS. KATE MCGRANN: What I was asking
23 was why he didn't ask you, the person who was
24 interfacing between him and PowerStream, the ultimate
25 client, whether or not PowerStream had bid.

1 MR. PAUL BONWICK: Thank you. That's
2 not how I understood the question to be asked. And
3 I'll answer that when I'm up on the stand.

4 MR. IAN CHADWICK: If I may add to
5 that. Also, that was also their confidential
6 information. And -- and that would not be information
7 that I think they would want to share with somebody,
8 especially somebody who had declared a conflict of
9 interest.

10

11 CONTINUED BY MS. KATE MCGRANN:

12 MS. KATE MCGRANN: Well, sir, what
13 would the harm be in asking? I'm sure PowerStream can
14 tell you if that was information that wasn't available
15 for you.

16 MR. IAN CHADWICK: Well, as I said,
17 that might be wonderful to have 20/20 hindsight to --
18 to determine that but, at the time, I did not think it
19 was appropriate.

20

21 (BRIEF PAUSE)

22

23 MS. KATE MCGRANN: Justice Marrocco,
24 I'm just looking at the time. I'm moving on to a new
25 topic. I'm happy to proceed.

1 THE HONOURABLE FRANK MARROCCO: Okay.

2 We'll take ten (10) minutes.

3

4

5 --- Upon recessing at 3:06 p.m.

6 --- Upon resuming at 3:16 p.m.

7

8 CONTINUED BY MS. KATE MCGRANN:

9 MS. KATE MCGRANN: Mr. Chadwick,

10 earlier this afternoon, we were discussing the terms

11 of the media scan work you were doing for Mr. Bonwick.

12 You had mentioned that it was understood between the

13 two (2) of you that the work would continue until the

14 end of the year.

15 I'm going to ask that paragraph 11 of

16 summary document 1-5 be pulled up on the screen.

17

18 (BRIEF PAUSE)

19

20 MS. KATE MCGRANN: This paragraph

21 describes that on December 30th, 2011, you sent an

22 invoice and energy sector review to Mr. Bonwick. And

23 in the email that you sent it with, you stated, "Hope

24 I can do more work for you in 2012."

25 Do you remember sending that email?

1 MR. IAN CHADWICK: Yes.

2 MS. KATE MCGRANN: I'm going to ask
3 that the summary document 1-5 be marked as the next
4 Exhibit.

5 THE HONOURABLE FRANK MARROCCO: So
6 ordered.

7

8 CONTINUED BY MS. KATE MCGRANN:

9 MS. KATE MCGRANN: Other than that
10 energy sector review work you were doing for Mr.
11 Bonwick, what other sources of income did you have as
12 at the end of December 2011, beginning of January
13 2012?

14 MR. IAN CHADWICK: As far as I recall,
15 it was just my Council salary, which I believe was
16 about eighteen thousand dollars (\$18,000) a year at
17 that time.

18 MS. KATE MCGRANN: On December 30th,
19 as we just looked at, you had said to Mr. Bonwick in
20 an email, "Hope I can do more work for you in 2012."
21 On January 4th, 2012, you sent him another email,
22 asking, "Any other work I can help with?"

23 Do you recall if you received a
24 response from Mr. Bonwick to your January 4th, 2012
25 email?

1 MR. IAN CHADWICK: I don't believe I
2 did.

3 MS. KATE MCGRANN: Do you recall if
4 you began doing work for Mr. Bonwick again in January
5 of 2012?

6 MR. IAN CHADWICK: Not in January of
7 2012.

8 MS. KATE MCGRANN: I'm going to turn
9 back to the Foundation Document, paragraph 488.

10

11 (BRIEF PAUSE)

12

13 MS. KATE MCGRANN: This paragraph
14 describes a closure in Council session of a Town
15 Council meeting on January 16th, 2012, in which
16 Council received a negotiating -- negotiation update
17 from Ron Clark of Aird & Berlis with respect to the
18 recommended Collus strategic partner.

19 Do you remember attending this meeting?

20 MR. IAN CHADWICK: I don't remember
21 the details of the meeting, but the record shows that
22 I was there, so I -- I recall vaguely being at the
23 meeting.

24 MS. KATE MCGRANN: Do you recall why
25 you didn't declare a conflict and recuse yourself at

1 this meeting as you had on December 5th?

2 MR. IAN CHADWICK: Yes, because as I
3 read -- as I read the Confl -- the Municipal Conflict
4 of Interest Act, since I was no longer working for
5 anybody who had any sort of interest, I no longer had
6 a direct or indirect pecuniary interest.

7 MS. KATE MCGRANN: It's my
8 understanding -- and I'm going to take you to the
9 paragraph in the Foundation Document that references
10 it; it's paragraph 531 -- that you didn't receive
11 payment for the work that you had done in December
12 2011 until towards the end of January, after January
13 24th, 2012.

14 Does that accord with your memory?

15 MR. IAN CHADWICK: Yes, it does.

16 MS. KATE MCGRANN: Did the fact that
17 you hadn't yet been paid by Mr. Bonwick form part of
18 your consideration of whether or not you were in a
19 conflict of interest with respect to the January 16th
20 meeting?

21 MR. IAN CHADWICK: No, I didn't,
22 because I had sent him a final document and a final
23 invoice for the -- the work done in December, and as
24 you can see by the previous note, had said:

25 "This is the final one. I'm hoping

1 -- hope I can do some work for you
2 later."

3 So as far as I was concerned, I was not
4 working for him.

5 MS. KATE MCGRANN: Did you speak to
6 anyone -- or ask anyone for any advice about your
7 determination that you were not in conflict of
8 interest while you're waiting for payment, but not
9 actively doing work for Mr. Bonwick?

10 MR. IAN CHADWICK: No, I didn't.

11

12 (BRIEF PAUSE)

13

14 MS. KATE MCGRANN: And I think you
15 said that you don't have a -- a detailed recollection
16 of the January 16th meeting. What do you remember of
17 that meeting, if anything?

18 MR. IAN CHADWICK: I remember we had a
19 presentation which was an update about the decision
20 that had been made in -- in December, and where it was
21 going. I didn't remember the details of it.

22 MS. KATE MCGRANN: And was that the
23 first information that you had about the decision that
24 had been made in December at the -- pardon me, in
25 camera meeting that you didn't attend?

1 MR. IAN CHADWICK: Yes, it was.

2 MS. KATE MCGRANN: Do you remember
3 what your reaction was learning of the decision that
4 had been made?

5 MR. IAN CHADWICK: I think I expressed
6 it in the -- in the next meeting, when it came up
7 publicly, that I was quite happy to see that -- that
8 we had made a decision, and we're moving forward with
9 it, because I had been in favour of moving forward all
10 the way along.

11 Regardless of who was chosen, I had
12 thought that it was the right decision to make.

13 MS. KATE MCGRANN: We're going to turn
14 to discussing the next meeting right now. Actually,
15 was on January 23rd, 2012 -- wrong, January 24th, my
16 mistake, 2012. If we could turn to paragraph 531 of
17 the Foundation Document.

18 MR. IAN CHADWICK: Excuse me, could --
19 the number is five (5) --

20 MS. KATE MCGRANN: Five hundred and
21 thirty-one (531).

22 MR. IAN CHADWICK: Five thirty-one
23 (531). Thank you.

24

25 (BRIEF PAUSE)

1 MS. KATE MCGRANN: And in fact, I'm
2 actually going to back us up to paragraph 527.

3

4 (BRIEF PAUSE)

5

6 MS. KATE MCGRANN: Five-hundred and
7 twenty-seven (527) describes an email exchange that
8 you had with Mr. Bonwick, it looks like shortly before
9 and just during the -- the Council meeting. This is a
10 public Council meeting.

11 At 4:53 p.m., on the 23rd, you write
12 him, saying, "I'm at Council right now. Can we chat
13 tomorrow?" At 5:11 p.m., after the Council meeting
14 has commenced, Mr. Bonwick responds to you. And part
15 of what he says is:

16 "I was going to ask you to speak to
17 industry trends and leading the way.
18 You likely know more about the
19 industry than others at the table."

20 Do you remember if you received this
21 email from Mr. Bonwick during the Council meeting?

22 MR. IAN CHADWICK: Yes, I did.

23 MS. KATE MCGRANN: If you go up a
24 paragraph to paragraph 526, this outlines a statement
25 that you make at the Council meeting at 5:49 p.m.

1 Do you remember if you had received the
2 email from Mr. Bonwick before you made this statement
3 at the Council meeting?

4 MR. IAN CHADWICK: No, I don't recall
5 if I received it before then or afterwards. It was
6 generally the practice not to read through emails
7 during the Council meeting.

8 MS. KATE MCGRANN: Why was that?

9 MR. IAN CHADWICK: Just because they
10 were distractions, and -- and it was bad protocol to
11 be answering -- respond to and answering emails,
12 although it wasn't necessarily followed rigorously.

13 MS. KATE MCGRANN: Was this a -- a
14 personal practice or was this a -- an endeavour that
15 was a Council-wide endeavour?

16 MR. IAN CHADWICK: It -- it was
17 generally -- it was a Council endeavour, and it -- not
18 just with that Council; with previous Councils. In
19 some cases, people close their laptops during the
20 meetings, some kept them open, but generally didn't
21 respond to outside emails during the meeting.

22 MS. KATE MCGRANN: Do you know if your
23 correspondence with Mr. Bonwick had any impact on
24 whether you chose to speak, or what you decided to say
25 at this meeting?

1 MR. IAN CHADWICK: No, it wouldn't,
2 because as I said, I had been in favour of the process
3 and in favour of making a decision for a strategic
4 partner all the way along, and in the last previous
5 four (4) months, I'd been following the industry
6 trends and -- and in the industry in general through
7 doing the -- the news scan. So I could see that it
8 was probably a good decision from the industry point
9 of view as well, at least from my -- from my
10 perspective.

11 MS. KATE MCGRANN: At this point in
12 time, you had been doing work for Mr. Bonwick, or
13 providing him with -- with news scans for his client,
14 PowerStream, for a number of months, but you're not
15 currently working for them. We've seen that you have
16 asked for additional work before this meeting.

17 Was the prospect of -- of obtaining
18 additional work something you considered when you
19 decided whether to speak or what to say at this
20 meeting?

21 MR. IAN CHADWICK: No. I actually
22 like to do the work, and -- and there aren't a lot of
23 good work opportunities out there for a retired
24 editor/writer in a small community, so anybody who
25 might be able to provide one would be somebody I would

1 like to approach.

2 MS. KATE MCGRANN: If we could now
3 turn to paragraph 531.

4

5 (BRIEF PAUSE)

6

7 MS. KATE MCGRANN: This paragraph
8 describes an email exchange between you and Mr.
9 Bonwick the day after the Council meeting at which the
10 PowerStream share sale is approved.

11 You email Mr. Bonwick and ask him if he
12 still wants to chat. You -- there's a discussion
13 about picking up the final check. You mentioned that
14 it had been -- it'll be a month, and Mr. Bonwick
15 responds:

16 "Yes, we should meet. I'd like to
17 discuss -- discuss growth strategy
18 as well. They are interested in
19 expansion that requires more
20 monitoring."

21 Do you remember this email exchange?

22 MR. IAN CHADWICK: Yes, I do.

23 MS. KATE MCGRANN: Did your interest
24 in obtaining additional work at all affect your
25 approach to the Collus Power/PowerStream deal?

1 MR. IAN CHADWICK: No, it didn't.

2 MS. KATE MCGRANN: Can you see how a
3 third party, looking in may have questions about how
4 your employment -- the fact that you were looking for
5 further employment at this time, may have affected the
6 decisions that you made about the Collus
7 Power/PowerStream deal?

8 MR. IAN CHADWICK: Well, I can't speak
9 for any third party or what they might suppose, but
10 again, lacking 20/20 hindsight, it might have been
11 appropriate to wait a day, perhaps, but nonetheless, I
12 like to work. I was looking for work.

13 MS. KATE MCGRANN: And I'm not asking
14 you to -- I'm not asking you to guess what a third
15 party would say. I'm saying, could you understand why
16 someone looking on this may have concerns or questions
17 about whether there was an impact on your decision?

18 MR. IAN CHADWICK: I can now, yes.

19 MS. KATE MCGRANN: And when you say it
20 may have been appropriate to wait a day, wait a day to
21 do what?

22 MR. IAN CHADWICK: To contact Mr.
23 Bonwick and see if he had more work.

24 MS. KATE MCGRANN: What difference do
25 you think a day would make?

1 MR. IAN CHADWICK: Because this was on
2 the same day as the -- the day we had approved the --

3 MS. KATE MCGRANN: But it's the day
4 after.

5 MR. IAN CHADWICK: -- the -- the day
6 after?

7 MS. KATE MCGRANN: It's the day after.

8 MR. IAN CHADWICK: Okay. Then I
9 apologize. I take that back. I -- then it was the
10 day after, then I wouldn't have waited a day. I
11 thought this was during that meeting -- or after that
12 meeting, but.

13 MS. KATE MCGRANN: And again, I guess
14 the question is, what -- what difference would a day
15 make?

16 MR. IAN CHADWICK: It wouldn't. I'm
17 sorry. I -- I apologize, then, for mistaking the
18 days.

19 MS. KATE MCGRANN: And I'm correct
20 that you did vote in favour for -- in favour of the
21 Collus Power/PowerStream --

22 MR. IAN CHADWICK: Yes.

23 MS. KATE MCGRANN: -- deal, or the
24 Collus/PowerStream deal, I should say?

25 Am I correct --

1 MR. IAN CHADWICK: Excuse me, if -- if
2 I can correct, as I recall, that was not -- that was
3 to vote to approve what Council had approved
4 previously in camera, was -- so it wasn't to make the
5 decision for the sale. It was to approve a Council
6 decision that had already been made.

7 MS. KATE MCGRANN: Is that distinction
8 important to you --

9 MR. IAN CHADWICK: Yes.

10 MS. KATE MCGRANN: -- in terms of
11 whether or not you would declare a conflict?

12 MR. IAN CHADWICK: Yes, it is, because
13 if the -- if the decision had been to approve the sale
14 specifically, I would have declared a conflict, but to
15 approve a Council decision that's already been made
16 was, in my mind, a -- a different kind of vote.

17 MS. KATE MCGRANN: Help me understand
18 the difference that you see there.

19 MR. IAN CHADWICK: Because all I'm
20 doing is ratifying a Council decision, a decision that
21 was actually made by eight (8) people previously, and
22 made based on their information, based on -- on the
23 time they spent with it. All I was doing was agreeing
24 that they probably made the right decision.

25 MS. KATE MCGRANN: And why did that

1 address any concerns about conflict of interest you
2 had?

3 MR. IAN CHADWICK: Because as I
4 understand it, in -- in the Conf -- Municipal Conflict
5 of Interest Act. It says if the -- if the member is
6 employed, so current tense, not past tense, is -- is
7 employed -- at that point, I wasn't employed by
8 anybody -- but it also says there are exceptions for -
9 - for areas where there's a -- a general interest in
10 such a thing as a utility, and I believe that those
11 applied.

12 So that you -- you can vote for
13 something such as a utility where there is a general
14 interest in the community, where you share an interest
15 with all the other electors. And since I wasn't
16 employed by anybody aside from the Town, I believe
17 that that applied.

18 MS. KATE MCGRANN: During your time as
19 a Councillor at the 2010 to 2014 Council term, was it
20 your understanding that your obligation to identify
21 and appropriately address conflicts of interest began
22 and ended with the text of the Municipal Conflict of
23 Interest Act?

24 MR. IAN CHADWICK: Yes. The law is
25 the law. The law supersedes everything else,

1 supersedes Code of Conduct, Code of Ethics. It is the
2 law and that's the law of the land. It is not up to
3 Council to determine or any individual councillor to
4 determine whether or not there are other shades of
5 that law.

6 MS. KATE MCGRANN: What was the basis
7 for the understanding that you just explained to us
8 there?

9 MR. IAN CHADWICK: I believe that the
10 provincial law was -- was -- was written to cover all
11 -- all contingencies and all aspects of it and that we
12 should follow -- we should follow provincial law.

13 The law isn't about a shade. It's not
14 about the spirit of it. It's about the letter of the
15 law. You have to follow the letter of the law.

16 The other thing about the Municipal
17 Conflict of Interest Act is that unlike -- unlike
18 other acts, like unlike the Planning Act, unlike the
19 Municipal Act, there's nobody in Town Hall that you
20 can go and ask for advice on, about the -- about the
21 law. It's really left up to the conscience of the
22 individual whether or not you apply it correctly, and
23 there is a mechanism afterwards by which people can
24 contest it if you made the wrong choice.

25 But with the Planning Act I can go to a

1 planner and ask all sorts of details about the
2 Planning Act, whether I'm a builder, whether I'm a
3 councillor. The Municipal Act, I can act -- ask the
4 clerk; bylaws, I can ask the clerk; but the -- but the
5 Municipal Conflict of Interest Act, they don't give
6 advice on.

7 MS. KATE MCGRANN: During --

8 MR. IAN CHADWICK: You have to go
9 outside.

10 MS. KATE MCGRANN: During your time --
11 okay, so a couple of things, I think. I'm sorry that
12 I spoke over you. I thought you were done. I think
13 you said you would have to go outside.

14 What do you mean, you would have to go
15 outside? Who would you go to?

16 MR. IAN CHADWICK: You would have to
17 go to a municipal lawyer, an independent municipal
18 lawyer, one who wasn't employed by the Town, or
19 somebody experienced in municipal law. I'm not
20 familiar with anybody in the Town of Collingwood that
21 has all of that experience.

22 MS. KATE MCGRANN: Did you find that
23 the lack of a closely geographically located lawyer
24 with that experience was an impediment to you
25 obtaining advice or information that you needed?

1 MR. IAN CHADWICK: Partly; also the
2 cost. When you -- when you're bringing home about
3 \$12,000 a year, going to a lawyer who's going to
4 charge 4 -- \$600 an hour to give you advice, is also a
5 bit of a constraint.

6 MS. KATE MCGRANN: Was it the case
7 when you were making decisions about how to deal with
8 your relationship with PowerStream during this time
9 that you felt that that there was advice that you
10 needed or could have benefitted from that you couldn't
11 obtain?

12 MR. IAN CHADWICK: In general, having
13 a person on Town staff who could provide advice about
14 the Municipal Conflict of Interest Act is always
15 beneficial, but to be clear -- to clarify your point,
16 I never dealt with PowerStream. I never dealt
17 directly with PowerStream. I dealt with Mr. Bonwick,
18 whose client was PowerStream.

19 MS. KATE MCGRANN: Okay.

20 MR. IAN CHADWICK: And my interest
21 would only be indirect, not direct.

22 MS. KATE MCGRANN: During the time
23 that you had an indirect relationship through Mr.
24 Bonwick with PowerStream, and let's back away from
25 that even further, during the time that you were

1 dealing with decisions or information brought to
2 Council about the Collus Power RFP, all the way
3 through to the January 23rd meeting and beyond, was it
4 the case that you felt that there was advice or
5 information that you needed that you couldn't get
6 because you couldn't locate someone to give it to you
7 or because you couldn't afford it?

8 MR. IAN CHADWICK: It was -- it was
9 somewhat of both.

10 MS. KATE MCGRANN: Did you speak to
11 anybody about that need that wasn't being met?

12 MR. IAN CHADWICK: I had spoken, not
13 about this particular incident, but I had spoken in
14 the past to the clerk and to a former CAO about
15 getting advice on Municipal Conflict of Interest Act,
16 and -- and when councils are newly elected, they're
17 usually given some basic advice about -- from the
18 Town's legal firm or from the clerk, about -- about
19 laws and getting advice, and that's just one of -- one
20 of those rabbit holes that we fall into.

21 MS. KATE MCGRANN: Well, turning back
22 to your experience and the decisions that you made
23 about how to deal with choices as a councillor in a
24 town, I want to make sure that I first of all
25 understand you, is it the case that there was

1 information or advice that you needed that you felt
2 you couldn't access because you couldn't afford it or
3 otherwise?

4 MR. IAN CHADWICK: I would have liked
5 to have had -- had advice at the time from a Town
6 staff person who would be well-versed and that could
7 give advice without putting themselves into legal
8 jeopardy about giving that advice.

9 But, of course, the decision is always
10 up to the individual. It's up to the individual's
11 conscience, and that's a decision I made based on my
12 understanding regardless of what advice I had
13 received, that was the decision I made, and whether
14 it's right or wrong, that was based upon my
15 understanding of the situation and on what the
16 Municipal Act said.

17 MS. KATE MCGRANN: Did you speak to
18 anybody about the fact that there was information or
19 advice that you felt that you needed that you couldn't
20 get?

21 MR. IAN CHADWICK: No, I didn't, not
22 that I recall speaking --

23 MS. KATE MCGRANN: It appears from
24 the documents that starting again in February of 2011
25 you began working for Mr. Bonwick, again providing

1 news scans for his clients. Is that correct?

2 MR. IAN CHADWICK: That's correct.

3 MS. KATE MCGRANN: Do you remember how
4 long you continued to do that work for?

5 MR. IAN CHADWICK: Till, I believe,
6 the end of 2013.

7 MS. KATE MCGRANN: And do you remember
8 why you stopped doing that work?

9 MR. IAN CHADWICK: I believe Mr.
10 Bonwick made the decision to stop it, that the clients
11 no long -- no longer wanted it. The -- the news scan
12 I was doing also was not just about the energy sector,
13 by the way. It was about the energy and the mining
14 sector, so it expanded to -- and I believe at the time
15 he was looking to expand his client base into the
16 mining sector, therefore providing information to
17 them.

18 MS. KATE MCGRANN: I have to correct
19 something that I said in my question to you, which
20 would then affect your answer.

21 I said you began working for him in
22 February 2011. I meant February 2012.

23 MR. IAN CHADWICK: 2012.

24 MS. KATE MCGRANN: Does that change
25 anything --

1 MR. IAN CHADWICK: Yes. That's --

2 MS. KATE MCGRANN: -- that you said?

3 MR. IAN CHADWICK: -- it was February
4 2012.

5 MS. KATE MCGRANN: If we could turn to
6 paragraph 23 of Summary Document 1-5.

7

8 (BRIEF PAUSE)

9

10 MS. KATE MCGRANN: Paragraph 23
11 discusses that on March 2nd, 2013, you sent Mr.
12 Bonwick an email letting him know that Compenso's
13 website still had a page listing for you, and you give
14 him some information about how to remove that page
15 from the Compenso website.

16 Do you remember doing that?

17 MR. IAN CHADWICK: Yes.

18 MS. KATE MCGRANN: Why did you do
19 that?

20 MR. IAN CHADWICK: As I recall, the --
21 my name and, as I mentioned earlier, a couple of other
22 people's names had been listed on the website as -- as
23 references and as resource people. During the -- that
24 period, there was a considerable amount of abuse on
25 local blogs and social media about my and other

1 people's relationship with Paul Bonwick, and it was
2 becoming abusive and nasty and -- and Mr. Bonwick had
3 asked his IT person to take them down, but as I recall
4 it just removed the link and didn't remove the page,
5 so the page was still available to anybody who went to
6 the particular URL, and then I sent him an email
7 explaining how the -- the technical aspects of
8 removing the page as opposed to just the link.

9 MS. KATE MCGRANN: And then if we look
10 down at paragraph 24 and 25, it looks from the records
11 we've seen that that you continue to provide paid
12 services to Compenso through to April 25th, 2014.
13 That appears to be the last invoice you send over.

14 Is that consistent with what you
15 remember?

16 MR. IAN CHADWICK: Yes, I believe so.

17 MS. KATE MCGRANN: A couple of
18 questions about items that come up after the
19 transaction is completed. If we could look at
20 paragraph 707 in the Foundation Document.

21

22 (BRIEF PAUSE)

23

24 MS. KATE MCGRANN: In 2013, looks like
25 if -- Council brought KPMG in to do an organization

1 review.

2 Do you recall that?

3 MR. IAN CHADWICK: Yes, I do.

4 MS. KATE MCGRANN: Mr. Peever of KPMG

5 gave a presentation. It appears that that

6 presentation addressed, amongst other things, having

7 non-staff members work on the Collingwood Executive

8 Management Team. I understand the Executive

9 Management Team was a -- a team of people who were

10 assisting Mr. Houghton in his role as acting CAO.

11 Is that what you understand that team

12 did?

13 MR. IAN CHADWICK: Yes.

14 MS. KATE MCGRANN: Do you remember Mr.

15 Peever having comments on the membership of non-staff

16 people on that team?

17 MR. IAN CHADWICK: Yes, I do.

18 MS. KATE MCGRANN: Do you -- this

19 paragraph discusses you bringing a motion to have Town

20 solicit a legal opinion on the benefits and

21 liabilities of having non-Collingwood employees work

22 on the Executive Management Team.

23 Do you remember bringing that motion?

24 MR. IAN CHADWICK: Yes, I do.

25 MS. KATE MCGRANN: Why did you do

1 that?

2 MR. IAN CHADWICK: I believe I was
3 just doing due diligence as a member of Council. Mr.
4 Peever was a consultant but not a lawyer, and his
5 recommendation was based upon his -- his experience,
6 but I wanted to have a -- a further understanding of
7 what the liabilities and/or -- and/or benefits would
8 be of having these -- the people who are currently on
9 the Executive Management Team continue to be employed.

10 MS. KATE MCGRANN: Did you --

11 MR. IAN CHADWICK: I shouldn't say
12 employed. Continued to be used by the Town. I don't
13 believe they were paid separately from that.

14 MS. KATE MCGRANN: Did you, yourself,
15 have a view on whether or not it was a good idea to
16 have non-staff members on the Town Executive
17 Management Team?

18 MR. IAN CHADWICK: I didn't have a
19 particularly personal opinion whether it was good or
20 bad, if that's what you're asking, but I believe that
21 in order to make a -- a fully informed decision,
22 Council had to have all the information available and
23 a legal one was necessary for us to make a balanced
24 and fully informed decision.

25 MS. KATE MCGRANN: And looking ahead

1 to paragraph 710 of this document, it appears that
2 KPMG sent around a short survey and asked all
3 Collingwood councillors to complete the survey. It
4 appears that you declined to complete the survey.

5 Do you remember that?

6 MR. IAN CHADWICK: Yes, I do.

7 MS. KATE MCGRANN: And why did you
8 declined to complete the survey?

9 MR. IAN CHADWICK: Because the survey
10 was inadequate to serve the needs of both Council and
11 the community, and if you read my email that's
12 included in that, I went to great lengths to explain
13 why it didn't provide adequate choices or adequate --
14 adequate information.

15 Doing surveys is a science. It's not -
16 - not a hobby. It's not something you can do properly
17 just casually. The data has to be quantifiable, the
18 data has to have all -- the questions have to have all
19 of the appropriate choices.

20 When that survey was put together,
21 Council was not -- it was not asked what kind of
22 questions we would like to see, what kind of choices
23 we would like to have on it. It was just presented to
24 us. And from my experience in -- in -- in dealing
25 with -- with data, it was inadequate to provide the

1 kind of information and the kind of information
2 required for decision-making later on. So I refused
3 to answer because it just didn't -- didn't provide
4 what I believe we needed to have.

5 MS. KATE MCGRANN: What harm did you
6 see in filling out the survey that you identify as
7 inadequate?

8 MR. IAN CHADWICK: Wrong information,
9 partial information, or simply inadequate data is not
10 what Council should have, it's not what staff should
11 have, it's not what a consultant should have, to make
12 a recommendation. You have to have the most complete,
13 most comprehensive, and the most solid data.

14 MS. KATE MCGRANN: The last thing that
15 I want to ask you questions about is the time line
16 that you created. You've provided a time line to the
17 Inquiry. I've taken a look at it. It makes
18 references to a number of documents.

19 I'd like to understand what it
20 represents and what steps you took to put it together.
21 So the first question is, is the time line limited to
22 your recollection of the events that you were there
23 and present for or does it contain more information
24 than that?

25 MR. IAN CHADWICK: It contains more

1 information but it's based upon my recollection and my
2 interpretation of events.

3 MS. KATE MCGRANN: In addition to your
4 recollection and interpretation of events, what other
5 sources of information form the basis for that time
6 line?

7 MR. IAN CHADWICK: Predominantly they
8 are publicly available sources. They are news
9 reports, articles that appeared in a paper or on loc -
10 - on websites of local media. They're industry
11 reports, long-term planning. There are -- some of
12 them were added that were documents that were provided
13 to this Inquiry.

14 MS. KATE MCGRANN: Over what period of
15 time did you put this time line together?

16 MR. IAN CHADWICK: Originally I wrote
17 it probably about two (2) years -- two (2) years ago
18 and I had cobbled it together over a period of about a
19 month or two (2), originally as a -- as a blog post to
20 try to put together everything I remembered about the
21 -- the process of the sale.

22 MS. KATE MCGRANN: You listed a number
23 of different sources there. Does the time line
24 include only direct quotes from those sources or does
25 it also include your interpretation and analysis of

1 the information set out in them?

2 MR. IAN CHADWICK: I attempted to
3 differentiate the direct quotes by either a -- a pull-
4 quote area with a bar or some bullet points to -- that
5 were taken directly from reports or from documents
6 that I had received.

7 MS. KATE MCGRANN: As I've looked at
8 it and based on your description to me, the time line
9 presents as somewhat of an investigative report.

10 Is that a fair characterization of that
11 document?

12 MR. IAN CHADWICK: As much of an
13 investigative report as a one-time reporter might have
14 done, yes.

15 MS. KATE MCGRANN: Other than the
16 formatting that you have done to identify pull quotes
17 or block quotes, is a reader of your time line able to
18 easily differentiate what information is coming from
19 your direct recollection and what information is
20 coming from the source documents and your
21 interpretation and analysis of the information in
22 them?

23 MR. IAN CHADWICK: I hope so. There
24 are footnotes on pretty much every page which identify
25 documents, and when there is a direct quote there's

1 usually a footnote identifying where the source of
2 that is from, and the pull-quotes are stylistically
3 differentiated to make it different. I believe if you
4 read the introduction, it should note that as well,
5 but if it doesn't then I apologize.

6 MS. KATE MCGRANN: And so where
7 there's a piece of information that's footnoted, is it
8 fair to assume that that information comes from the
9 source that's footnoted and not from your
10 recollection?

11 MR. IAN CHADWICK: Yes, that's true.

12

13 (BRIEF PAUSE)

14

15 MS. KATE MCGRANN: Thank you very
16 much, Mr. Chadwick. Those are my questions.

17 MR. IAN CHADWICK: Thank you.

18 THE HONOURABLE FRANK MARROCCO: Have
19 you -- have you decided on the order of cross-
20 examination or do you want a couple of minutes to do
21 that, if you haven't?

22 MR. WILLIAM MCDOWELL: Why don't we do
23 that, Chief Justice.

24

25 --- Upon recessing at 3:50 p.m.

1 --- Upon resuming at 3:54 p.m.

2

3 MR. WILLIAM MCDOWELL: Commissioner,
4 here's how we propose to proceed. I will begin my
5 examination. I think it will take the -- if I'm
6 guessing forty (40) minutes or just under.

7 A number of documents were delivered to
8 us relating to this witness today and I may have very
9 few questions in the morning for those.

10 THE HONOURABLE FRANK MARROCCO: So
11 then we'll take forty (40) minutes of the questioning
12 today and don't conclude your cross-examination until
13 tomorrow morning.

14 MR. WILLIAM MCDOWELL: Thank you. And
15 frankly, I'm not sure how much -- how much longer my
16 voice would hang in there anyways so.

17 THE HONOURABLE FRANK MARROCCO: All
18 right.

19 MR. WILLIAM MCDOWELL: I appreciate
20 it.

21 THE HONOURABLE FRANK MARROCCO: All
22 right. Well, I'm somewhat flexible. Mr. McDowell, if
23 it reaches a point where you want to stop, then just
24 say so.

25 MR. WILLIAM MCDOWELL: Okay.

1 CROSS-EXAMINATION BY MR. WILLIAM MCDOWELL:

2 MR. WILLIAM MCDOWELL: So, let me ask
3 you some questions about something that came up
4 towards the end of your examination, Mr. Chadwick.

5 As a counsellor, you thought that your
6 conflict-of-interest obligations were spelled out in
7 the Municipal Conflict of Interest Act?

8 MR. IAN CHADWICK: Yes, that's true.

9 MR. WILLIAM MCDOWELL: Right. And
10 just for short, I'll call it the MCIA. And they were
11 limited to that and then the limit was effectively
12 what your conscience told you in relation to the
13 legislation.

14 MR. IAN CHADWICK: Yes.

15 MR. WILLIAM MCDOWELL: And you said
16 something about the public benefit in relation to
17 discussions about conflict of interest.

18 And my understanding is whether
19 something to be voted on is or isn't -- to benefit the
20 public really is nothing to do with the analysis of
21 conflict of interest. You agree?

22 MR. IAN CHADWICK: No, because under
23 the Conflict of Interest Act it does give some
24 exceptions as to where -- when you don't have a
25 conflict of interest and perhaps I confused the way

1 it's written, but it does say that if you have
2 interests in common with the electorate, then you
3 don't have a conflict.

4 MR. WILLIAM MCDOWELL: Right, but I
5 think that has to do with if, for example, you're
6 voting on creating an enormous park at the edge of
7 town and your interest is no different than that of
8 any other elector, that's always been my understanding
9 of that idea.

10 MR. IAN CHADWICK: Well, again, sorry,
11 I -- I can only apologize that my -- my interpretation
12 may not match yours, but that's what I got from
13 reading the Act and the Act says very specifically --
14 uses of this term is in the employment of somebody.
15 It doesn't say "was," so that was my interpretation.

16 MR. WILLIAM MCDOWELL: Okay, we'll
17 come back to it. Do we have the text of the Act? It's
18 one of the documents, I can't remember.

19 MR. RYAN BREEDON: It's ALE50204.

20 MR. WILLIAM MCDOWELL: ALE50204.

21

22 (BRIEF PAUSE)

23

24 MR. WILLIAM MCDOWELL: All right, so
25 if we can scroll down so there are definitions here

1 and I remember having an in - indirect pecuniary
2 interest. And then I guess what you were talking
3 about is 2B, the member is a partner or a person or is
4 in the employment of the person that has a pecuniary
5 interest.

6 MR. IAN CHADWICK: Yes, sir.

7 MR. WILLIAM MCDOWELL: That's in the
8 present text, right? Present tense rather, sorry.

9 But -- so I just want to understand
10 where that came from, and that's where you got that
11 understanding.

12 MR. IAN CHADWICK: Yes, sir.

13 MR. WILLIAM MCDOWELL: Okay.

14 And could we look at the declaration of
15 office, which is TOC555939.

16

17 (BRIEF PAUSE)

18

19 MR. WILLIAM MCDOWELL: This is the one
20 from Ms. Cooper. You signed a similar one, I assume?

21 MR. IAN CHADWICK: Yes.

22 MR. WILLIAM MCDOWELL: All right.

23 So if we go to the bottom of this
24 document. Hang on, scroll up. I just wanted to see
25 what one of these looks like. Keep going up, I want

1 to see the bottom. There.

2 So they make the solemn promise and
3 declaration, conscientiously believing it to be true,
4 and knowing that it is of the same force and effect as
5 if made under oath.

6 You see that?

7 MR. IAN CHADWICK: Yes, sir.

8 MR. WILLIAM MCDOWELL: Right. So
9 these are obligations that you have to take seriously,
10 I take it?

11 MR. IAN CHADWICK: Yes, sir.

12 MR. WILLIAM MCDOWELL: They create
13 legal obligations?

14 MR. IAN CHADWICK: Yes, sir.

15 MR. WILLIAM MCDOWELL: Okay. And one
16 of those, you don't have to go through this, but one
17 of those is to deal with matters impartially, I take
18 it.

19 MR. IAN CHADWICK: It -- it may be.
20 It's been a long time since I signed one so I can't
21 tell you the --

22 THE HONOURABLE FRANK MARROCCO: Well,
23 just scroll up a bit so that we can find it.

24 MR. WILLIAM MCDOWELL: So the first
25 one, I will truly, faithfully, and impartially

1 exercise this office.

2 That's one of them.

3 MR. IAN CHADWICK: Yes.

4 MR. WILLIAM MCDOWELL: And then there
5 is the disclosure of particular interest, which says
6 in accordance with the Municipal Conflict of Interest
7 Act. You see that?

8 MR. IAN CHADWICK: Yes.

9 MR. WILLIAM MCDOWELL: All right.

10 And I wanted to show you another
11 document, and I -- it's probably one that you haven't
12 seen, but this is TOC 555940.

13 So just for some background, this was
14 another municipal inquiry, inquiry into the Municipal
15 Act.

16 MR. IAN CHADWICK: M-hmm.

17 MR. WILLIAM MCDOWELL: By actually the
18 predecessor of Associate Chief Justice Marrocco,
19 Associate Chief Justice Cunningham.

20 And just to speed this up, if we go
21 right to page 10, and then scroll up a little bit so
22 you get the whole quote, go to page 9, sorry.

23 So he's -- he's talking about an old
24 case there. And he's talking about Members of Council
25 and their obligations. He says optics are important.

1 Have you ever understood that to be the case, optics
2 being important?

3 MR. IAN CHADWICK: Sorry, if you could
4 speak a little bit louder, sir.

5 MR. WILLIAM MCDOWELL: Optics are
6 important?

7 MR. IAN CHADWICK: Yes, sir.

8 MR. WILLIAM MCDOWELL: You agree with
9 that?

10 MR. IAN CHADWICK: Yes, sir.

11 MR. WILLIAM MCDOWELL: All right.

12 And then he says in the middle of the
13 paragraph there:

14 "Suffice it to say that members of
15 Council and staff are not to use
16 their office to promote private
17 interests, whether their own, or
18 those of relatives or friends."

19 You see that?

20 MR. IAN CHADWICK: Yes, I do.

21 MR. WILLIAM MCDOWELL: And do you
22 agree with that as a legal obligation?

23 MR. IAN CHADWICK: Yes, sir.

24 MR. WILLIAM MCDOWELL: And then he
25 carries on: "That is not only the common law, but the

1 common sense standard by which the conduct of
2 municipal representatives ought to be judged."

3 So I take it you -- you -- this is the
4 first time you've ever seen this decision?

5 MR. IAN CHADWICK: Yes, I have,
6 haven't seen it before.

7 MR. WILLIAM MCDOWELL: All right.

8 But that, just so you know where I'm
9 going with some of this, at the end of this inquiry on
10 behalf of the Town we're going to say that the law is
11 not just what's in the MCIA, it's also what's in the
12 common law, the -- the law that judges create.

13 Do you understand that -- that notion?

14 MR. IAN CHADWICK: Yes, sir. I can't
15 -- I can't presuppose what's going to be in the
16 decision at the end, but I --

17 MR. WILLIAM MCDOWELL: Me neither.

18 MR. IAN CHADWICK: But I do understand
19 and I -- I trust that the examination of how Council
20 members have access to information and advice about
21 the Municipal Conflict of Interest Act might be
22 improved.

23 MR. WILLIAM MCDOWELL: Right. I think
24 that that's going to be common ground between us.

25 And then if we go down to the following

1 page, so page 10, Commissioner Cunningham said it must
2 always be an objective test what should a reasonable
3 person have done in similar circumstances. And then
4 in a final note, he points out that the mayor in that
5 instance agreed faithfully and impartially exercised
6 this office. She did not simply say she would abide
7 by the Municipal Conflict of Interest Act.

8 Do you see that?

9 MR. IAN CHADWICK: Yes, sir, I see it.

10 MR. WILLIAM MCDOWELL: So, correct me
11 if I'm wrong, but -- but this notion, the -- the ideas
12 set out in this decision, these weren't things in
13 which you were briefed as a member of Council when you
14 took office?

15 MR. IAN CHADWICK: Not this particular
16 text over this decision, no.

17 MR. WILLIAM MCDOWELL: Okay. Then the
18 code of conduct, in the interests of time I won't take
19 you through, but did you consider that the code of
20 conduct created legal obligations for you?

21 MR. IAN CHADWICK: Yes, sir.

22 MR. WILLIAM MCDOWELL: And in your
23 evidence you seem to say well, whatever the code of
24 conduct says, you know, what I'm governed by is the
25 Act.

1 But I want to be fair to you, do you --
2 do you think that they each create a legal obligation?

3 MR. IAN CHADWICK: The -- the code of
4 conduct cannot supersede the Act, if the Act says one
5 thing and the code of conduct has any grey area in it
6 that is -- that might contravene or -- my perspective
7 of course -- might contravene that Act or might give
8 you some leeway, I believe you have to go back to the
9 Act.

10 And -- and in all fairness, I did
11 consider this and I did read the Act and I did think
12 long and hard about it, but believed I was not in a
13 position of conflict. I had no personal gain, I was
14 not employed by anybody --

15 MR. WILLIAM MCDOWELL: We'll -- we'll
16 get to that. We'll get to that.

17 But you agree with me that the code of
18 conduct can create additional obligations beyond those
19 in the Act?

20 MR. IAN CHADWICK: It -- it creates a
21 moral and ethical obligation, yes.

22 MR. WILLIAM MCDOWELL: But not a legal
23 obligation?

24 MR. IAN CHADWICK: I'm not a lawyer, I
25 have a hard time answering that.

1 MR. WILLIAM MCDOWELL: Okay, well I
2 am, I think the answer is yes, but -- but you're the
3 witness, so -- so we'll carrying on from that.

4 So to move on quickly through a number
5 of these things, because my friend who is the
6 commission counsel covered this -- a lot of this very
7 carefully, but I wanted to move to CJI580. Let's just
8 move down the chain here. So hang on. Whoops, there
9 we go.

10 How did your meeting with PowerStream
11 go? So this is at the end of January. Are they
12 interested in further work?

13 And then scrolling up again we have Mr.
14 Bonwick's response.

15 They want me to present a six-month
16 plan, including monitoring from provincial government.
17 To be clear about this, the "they" in both of those e-
18 mails is PowerStream?

19 MR. IAN CHADWICK: I believe so, yes.

20 MR. WILLIAM MCDOWELL: And you're
21 asking whether PowerStream is interested in other work
22 from you. This is in January.

23 MR. IAN CHADWICK: End of January,
24 yes.

25 MR. WILLIAM MCDOWELL: Okay, and this

1 is what, four or five days after the -- after the
2 vote, is that correct?

3 MR. IAN CHADWICK: That's correct.

4 MR. WILLIAM MCDOWELL: And Mr. Bonwick
5 seems to suggest please keep going until we chat.

6 He -- he seems to think you've been
7 doing work throughout this period.

8 MR. IAN CHADWICK: I can't speak for
9 Mr. Bonwick --

10 MR. WILLIAM MCDOWELL: No, of course.

11 MR. IAN CHADWICK: -- but I certainly
12 sent him a final invoice and he gave me a final cheque
13 for it, so.

14 MR. WILLIAM MCDOWELL: All right.

15 So just to put this in perspective, you
16 thought that at the December 5th Council meeting you
17 had a conflict of interest because at that point you
18 did have a pecuniary interest because you were doing
19 work for one of the proponents, namely PowerStream,
20 correct?

21 MR. IAN CHADWICK: One of the
22 potential proponents. I -- I had no information that
23 -- to that point that PowerStream was involved, but
24 the potential that they could have been was why I
25 declared a conflict.

1 MR. WILLIAM MCDOWELL: Okay. On that
2 footing alone, that -- that because -- you know, you
3 put it that you thought it might be likely that they
4 would be a proponent?

5 MR. IAN CHADWICK: I had no idea if
6 they were -- that it was -- 'likely' would be your
7 words, not mine. The potential that they could be was
8 there.

9 MR. WILLIAM MCDOWELL: Right. And you
10 were monitoring the energy sector all the way through
11 this, I take it?

12 MR. IAN CHADWICK: Yes.

13 MR. WILLIAM MCDOWELL: And PowerStream
14 if the provider utility in the neighbouring
15 municipality of Barrie, I take it?

16 MR. IAN CHADWICK: Barrie, Vaughan, I
17 believe, Richmond Hill. At that point, they were an
18 amalgamation of three (3) municipalities, three (3)
19 municipal utilities, I believe.

20 MR. WILLIAM MCDOWELL: Right. But if
21 there -- if Barrie is one (1) of them that suggests
22 that if, you know, Collingwood is putting its utility
23 up for sale, that, you know, somebody reading the
24 clippings might think that they'd be a likely bidder?

25 MR. IAN CHADWICK: The -- if I may.

1 MR. WILLIAM MCDOWELL: Sure.

2 MR. IAN CHADWICK: When I was doing
3 this, I had no idea who would be a bidder. But I did
4 realize during the process a lot more about the
5 industry, that there were -- that there were several
6 larger players in the industry who were much more
7 likely to be than some of the smaller utilities.

8 For example, it was unlikely that say a
9 small utility that had four thousand (4,000) clients
10 would be bidding on it, whereas much more likely that
11 somebody like Hydro One --

12 MR. WILLIAM MCDOWELL: Right.

13 MR. IAN CHADWICK: -- would be bidding
14 on it. So to -- to take myself out of the -- out of
15 the picture so I didn't have any conflict in the
16 decision-making process, I declared a conflict.

17 MR. WILLIAM MCDOWELL: All right. So
18 you declared a conflict. And we can agree that once
19 you resumed doing work for PowerStream, that would be
20 in February I take it --

21 OBJ MS. BELINDA BAIN: I'm sorry, Your
22 Honour, just I do object to the phraseology that Mr.
23 Chadwick was going to work for PowerStream. I think
24 his evidence has been that he was doing work for
25 Compenso.

1

2 CONTINUED BY MR. WILLIAM MCDOWELL:

3

MR. WILLIAM MCDOWELL: Well, you were
4 doing work for Compenso which was providing it for
5 PowerStream?

6

MR. IAN CHADWICK: And for other
7 clients, yes, sir.

8

MR. WILLIAM MCDOWELL: Right, but one
9 (1) of them was PowerStream?

10

MR. IAN CHADWICK: As far as I
11 understand, yes, --

12

MR. WILLIAM MCDOWELL: So in that
13 sense, you were doing work for PowerStream?

14

MR. IAN CHADWICK: I was doing work
15 for Compenso.

16

MR. WILLIAM MCDOWELL: Right, which
17 was being furnished to PowerStream?

18

MR. IAN CHADWICK: As I understand,
19 yes.

20

MR. WILLIAM MCDOWELL: And being paid
21 for by PowerStream on occasion?

22

MR. IAN CHADWICK: I was not paid by
23 PowerStream for anything.

24

MR. WILLIAM MCDOWELL: No. But do you
25 know whether Mr. Bonwick was being paid by

1 PowerStream?

2 MR. IAN CHADWICK: I found from the
3 Foundation Documents. But aside from the fact that I
4 knew he was working for them, I would assume he's not
5 working for free, so he would be paid, but the -- the
6 nature and the discussion and the amounts he was being
7 paid were not known to me.

8 MR. WILLIAM MCDOWELL: Right. And the
9 -- no, I think that's fair. But -- but the idea that
10 your work was also being paid for for PowerStream,
11 having looked at the Foundation Document, I -- I take
12 it from your previous answer that you thought -- you
13 think now that that's the case?

14 MR. IAN CHADWICK: Sorry, I'm -- I'm a
15 little confused.

16 MR. WILLIAM MCDOWELL: You now -- you
17 now think that PowerStream is paying for your work?

18 MR. IAN CHADWICK: No. Mr. Bonwick
19 was paying for my work and I invoiced him.

20 MR. WILLIAM MCDOWELL: Well --

21 MR. IAN CHADWICK: I invoiced him
22 directly. I didn't -- regardless of what PowerStream
23 was paying Mr. Bonwick, he was paying me.

24 MR. WILLIAM MCDOWELL: Your work
25 product, to your knowledge, was being used by

1 PowerStream though?

2 MR. IAN CHADWICK: Yeah, it was being
3 -- I read by PowerStream. How it was being used, I
4 have no idea.

5 MR. WILLIAM MCDOWELL: All right.

6 MR. IAN CHADWICK: And I don't know
7 who it went to or -- or how it was being used or even
8 if it ended up in the -- in the delete bin in -- in
9 their email.

10 MR. WILLIAM MCDOWELL: Right. Well,
11 Mr. Bonwick kept paying you for it?

12 MR. IAN CHADWICK: He did.

13 MR. WILLIAM MCDOWELL: So --

14 MR. IAN CHADWICK: As long as I
15 invoiced him, yes.

16 MR. WILLIAM MCDOWELL: Had value to
17 somebody, I take it. Now, when the council meeting
18 comes up in January there is work which you have done
19 for Mr. Bonwick which is unpaid, right?

20 MR. IAN CHADWICK: Yeah. I hadn't
21 picked up the cheque. He may have written the cheque
22 much earlier. I just didn't get around --

23 MR. WILLIAM MCDOWELL: Oh, that's all
24 right.

25 MR. IAN CHADWICK: -- to picking it

1 up.

2 MR. WILLIAM MCDOWELL: But, I mean,
3 the -- the point is that some of that work was being
4 done for PowerStream. You knew that by then, right?

5 MR. IAN CHADWICK: I think you're
6 asking the same question, sir. I -- all the work I
7 was doing was for Compenso. What -- what he did with
8 it and how it was used by anybody else I do not have
9 any knowledge of.

10 MR. WILLIAM MCDOWELL: Once you knew
11 that PowerStream was a bidder --

12 MR. IAN CHADWICK: Yes.

13 MR. WILLIAM MCDOWELL: -- right, if in
14 the month of January you were still doing work for
15 PowerStream -- or for Compenso, you would have
16 declared a conflict of interest?

17 MR. IAN CHADWICK: Yes, I would have.

18 MR. WILLIAM MCDOWELL: Right. So the
19 situation is you had done work in December, before
20 then, but leading up to December. And on that
21 footing, you had declared a conflict because
22 PowerStream might be a bidder, right?

23 MR. IAN CHADWICK: Because there was a
24 potential that they could be involved in the bid, yes.

25 MR. WILLIAM MCDOWELL: By January, we

1 know -- by the council meeting, we know, obviously,
2 they are a bidder?

3 MR. IAN CHADWICK: Yes.

4 MR. WILLIAM MCDOWELL: You haven't
5 been paid for the prior work, correct?

6 MR. IAN CHADWICK: That's correct, I
7 had not -- well, I -- I had not picked up the cheque
8 or cashed it.

9 MR. WILLIAM MCDOWELL: All right. And
10 this --

11 MR. IAN CHADWICK: Whether it being
12 paid, I can't tell you.

13 MR. WILLIAM MCDOWELL: All right. The
14 December 20 -- sorry, the January 28th email you're
15 looking for other work --

16 MR. IAN CHADWICK: Yes, sir.

17 MR. WILLIAM MCDOWELL: -- from
18 PowerStream?

19 MR. IAN CHADWICK: I was aware --
20 quite aware at the time that -- that PowerStream had -
21 - had been a bidder. And it doesn't take -- it
22 doesn't take a lot to put --

23 MR. WILLIAM MCDOWELL: But that's not
24 my question. My question is, you were looking for
25 work?

1 MR. IAN CHADWICK: I was asking if
2 PowerStream had more work. I knew that -- Mr. Bonwick
3 was very clear --

4 MR. WILLIAM MCDOWELL: Hang on. Just
5 --

6 MR. IAN CHADWICK: -- at very
7 beginning.

8 MR. WILLIAM MCDOWELL: Let me just --
9 well, the old line, stop interrupting me when I'm
10 interrupting you.

11

12 CONTINUED BY MR. WILLIAM MCDOWELL:

13 MR. WILLIAM MCDOWELL: But in this
14 chain of emails, let's scroll down to your question.
15 Your question is, Are they interested -- interested in
16 further work.

17 MR. IAN CHADWICK: Yes.

18 MR. WILLIAM MCDOWELL: Is PowerStream
19 interested in giving me, Ian Chadwick, further work?

20 MR. IAN CHADWICK: No, sir, I'm asking
21 Mr. Bonwick if Com -- if -- if PowerStream is going to
22 give -- get him to give me more work.

23 MR. WILLIAM MCDOWELL: Right. But in
24 any event, the originator of the work is going to be
25 PowerStream?

1 MR. IAN CHADWICK: No. I'm the
2 originator of the work. They're only the recipient.

3 MR. WILLIAM MCDOWELL: Well, sorry,
4 the commissioner of the work is going to be
5 PowerStream?

6 MR. IAN CHADWICK: From my perspective
7 --

8 MR. WILLIAM MCDOWELL: The person
9 requesting the work is going to be PowerStream?

10 MR. IAN CHADWICK: From my
11 perspective, the com -- the commission of the work is
12 Compenso. And how he gets paid and who commissions it
13 from him was not my business.

14 MR. WILLIAM MCDOWELL: Right. But what
15 was your business was you wanted to see whether
16 PowerStream was interested in more work that you would
17 do?

18 MR. IAN CHADWICK: Yes.

19 MR. WILLIAM MCDOWELL: Right. So what
20 I understand then is that there is a window of time in
21 which you don't have a conflict of interest but you
22 did have in December and you would have had in
23 relation to any council decision in February or going
24 forward. Is that fair?

25 MR. IAN CHADWICK: If -- if I hadn't

1 been working for him? Yes.

2 MR. WILLIAM MCDOWELL: But -- and
3 again, I appreciate you're not a lawyer. But thinking
4 about it, if you are owed money and you are desirous
5 of getting further work from PowerStream, is that not
6 a kind of pecuniary interest?

7 MR. IAN CHADWICK: As you say, I'm not
8 a lawyer, so I --

9 MR. WILLIAM MCDOWELL: Oh, you've said
10 it a bunch of times.

11 MR. IAN CHADWICK: When I considered
12 the choices and what was going on, I had no knowledge
13 and no evidence that I would be getting further work.
14 Of course, I'm asking for work because I need income.
15 I have this curiously old-fashioned belief that I
16 should work for a living and pay my way through --
17 through the world, so.

18 And there's not a lot of employers for
19 my skill set in the Town of Collingwood, so, yes, I'm
20 looking for work. But I had no knowledge there was
21 any coming up when I made that decision. And when I -
22 - when I did have an evidence of -- of work I declared
23 a conflict.

24 MR. WILLIAM MCDOWELL: All right.

25

1 (BRIEF PAUSE)

2

3 MR. WILLIAM MCDOWELL: And again, with
4 -- and having in mind that optics are important, it
5 does seem unfortunate that at a time when you're
6 looking to get paid by Mr. Bonwick for work that was
7 commissioned by PowerStream Mr. Bonwick is sending you
8 talking points to be used in the council meeting?

9 MR. IAN CHADWICK: Excuse me, that's
10 incorrect. Mr. Bonwick did not send me talking
11 points. The email says that he thought I should talk
12 about the industry trends in general, and I didn't
13 respond to it and it didn't give me any details.

14 And when I did make my comment, I spoke
15 in generic terms, in very general terms, about the
16 industry trend and why I thought it was a good
17 decision that council had been making and going
18 forward with.

19 MR. WILLIAM MCDOWELL: I understand
20 that. But at some distance, some years later, that
21 does seem to be a bit unfortunate, doesn't it, that
22 Mr. Bonwick --

23 MR. IAN CHADWICK: Well --

24 MR. WILLIAM MCDOWELL: -- is sending
25 you things that he suggests that you should say on

1 behalf of his client seeking approval from council?

2 MR. IAN CHADWICK: Mr. Bonwick did not
3 say anything about his clients whatsoever. He just
4 spoke about the industry trends and going forward
5 because, as he knew it and as -- as I knew, having
6 spent four (4) months doing a news scan of that, I was
7 probably better equipped than anybody else at that
8 table to talk about industry trends or -- or the
9 political pressures.

10 MR. WILLIAM MCDOWELL: Well, come on.
11 Are you telling His Honour here that the reason Mr.
12 Bonwick sent you that was just a free floating
13 thought? It wasn't connected to the brief he had for
14 PowerStream? Is that your evidence?

15 MR. IAN CHADWICK: I cannot speak for
16 Mr. Bonwick. I can only speak for myself. And the
17 comments I made were not about any particular company,
18 they were about the process and about the industry in
19 general.

20 MR. WILLIAM MCDOWELL: And at the time
21 that you --

22

23 (BRIEF PAUSE)

24

25 CONTINUED BY MR. WILLIAM MCDOWELL:

1 MR. WILLIAM MCDOWELL: But at the time
2 -- one (1) more question about this. At the time that
3 you read his email, did you not think that his email
4 was being sent to you in his role as an advocate for
5 PowerStream?

6 MR. IAN CHADWICK: Oh, very -- very
7 likely, but that was -- that was his job. It doesn't
8 mean it's necessarily going to change my view or
9 change my -- my vote.

10 MR. WILLIAM MCDOWELL: No, I
11 appreciate that.

12 MR. IAN CHADWICK: I made the decision
13 that I wasn't in conflict without any consultation
14 with -- with Mr. Bonwick or with anybody else.

15

16 (BRIEF PAUSE)

17

18 MR. WILLIAM MCDOWELL: Commissioner,
19 given those answers, frankly, given the state of my
20 voice, I would propose to conclude there. And, as I
21 say, I may have a very few questions in the morning.

22 THE HONOURABLE FRANK MARROCCO: That's
23 -- that's fine. Let's just recap about tomorrow
24 morning. We're going to start at nine o'clock. And
25 we're going to finish at -- at 1:30. When we come

1 back at nine o'clock, Mr. Lloyd is going to be back in
2 the box, and then Mr. Chadwick --

3 MR. WILLIAM MCDOWELL: All right.

4 THE HONOURABLE FRANK MARROCCO: -- so
5 everybody's clear what the drill is --

6 MR. WILLIAM MCDOWELL: Thanks. I
7 appreciate it.

8 THE HONOURABLE FRANK MARROCCO: --
9 tomorrow. Tomorrow nine o'clock.

10 MR. WILLIAM MCDOWELL: Do you want to
11 give the witness the caution about his evidence just--

12 THE HONOURABLE FRANK MARROCCO: Well,
13 just, Mr. Chadwick, you're still being cross-examined.
14 You should not discuss with anyone the evidence that
15 you've given. It could lead to a misunderstanding
16 about your credibility.

17 MR. IAN CHADWICK: Thank you.

18

19 (WITNESS RETIRES)

20

21 --- Upon adjourning at 4:20 p.m.

22 Certified Correct,

23

24 _____

25 Wendy Woodworth, Ms.

<hr/> \$ \$10 79:10 \$12,000 198:3 \$14 79:7 \$15 79:7 \$18,000 183:16 \$600 198:4 \$90,000 26:24 <hr/> 0 00 29:11 <hr/> 1 1 5:11 11:3,16,2 3,24 13:19 14:1,5 17:16,18 33:13 34:25 40:1,11 41:2 42:13 66:15 67:2,6,21 68:3 93:12 95:10 124:14 128:2 142:1,13 145:13,20 146:21,23 149:7,21 178:18 223:21 225:9 235:2 1:30 235:25 10 10:21,25 11:21,23	12:1 13:3,4 14:2 17:15,17 182:2 216:21 219:1 10:00 5:1 125:5 100 99:21 136:11 10th 102:18 106:6 11 126:24 161:15 182:15 11:10 67:12 11:24 67:13 12:28 125:14 12:30 101:9,12, 22 126 3:9 12th 76:23 77:2 81:19 162:3 13th 81:24 14 24:1 14th 35:20 46:16,24 54:13 167:19 178:7 15 24:1 1-5 4:22 182:16 183:3 202:6 16th 85:11 161:24	178:8 184:15 185:19 186:16 17th 173:3,10, 19 18 21:1,2 23:25 1991 127:4 1999 127:9 19th 96:2 99:9 100:19 1st 1:22 <hr/> 2 2 5:10 85:13,14 90:5 92:2 106:12 120:3 130:18 133:19 142:9,24 146:23,24 170:18 173:23 182:13 208:17,19 2:00 125:2 2:01 125:15 20 229:14 20/20 179:1 181:17 192:10 2000 173:10 2002/2003 127:5 2003 173:9 2010 127:9 128:4	132:4 135:10 137:3 138:13 148:5 195:19 2011 16:8,9 27:4 31:6 43:16,20, 22 46:16,24 51:11 53:13 54:13 56:23 57:3 69:12 72:19 139:9 148:14 149:1,25 155:23 158:19 160:13 161:1 162:6 164:9 167:5,19 173:3,15, 18,19 174:1 176:4,10 182:21 183:12 185:12 200:24 201:22 2012 76:23 77:3 81:24 85:11 96:2 99:9 102:18 103:9 106:6,10 107:16 115:16 177:4 182:24	183:13,20 ,21,24 184:5,7,1 5 185:13 187:15,16 201:22,23 202:4 2013 201:6 202:11 203:24 2014 128:4 132:4 135:11 137:3 138:13 148:5 195:19 203:12 2019 1:22 209 139:3,8 20th 51:11 211 3:10 214 142:25 22nd 173:15 174:1 176:9 23 202:6,10 236 3:14 23rd 5:11,16,2 5 16:8 187:15 188:11 199:3 24 203:10 24th 185:13 187:15 25 11:16 27:16 62:12 80:15
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