



Public Hearing

Audience publique

Commissioner / Commissaire

The Honourable / L'honorable
C. William Hourigan

VOLUME 14

Held at :

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100 Thomas More Private
Second Floor Courtroom
Ottawa, Ontario
K1N 1E3

Thursday, June 30, 2022

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OLRTC (Ottawa Light Rail Transit Group General Partnership)

+

RTM (Rideau Transit Maintenance General Partnership)

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STV

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Ottawa, Ontario

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--- Upon commencing on Thursday, June 30, 2022, at 9:00 a.m.

THE REGISTRAR: Good morning. The hearing is now resumed.

The Honourable Justice William Hourigan is presiding.

COMMISSIONER HOURIGAN: Good morning. We are now on

Day 14 of the hearings. As we discussed yesterday, on occasion, counsel examined more than one witness at a time. We have panels. Today is -- we're starting with a panel. It's Mr. Derek Wynne of SEMP and Mr. Sergio Mammoliti from TUV/Rhineland/ISA. So are the witnesses there.

MR. SERGIO MAMMOLITI: I am. Sergio here.

COMMISSIONER HOURIGAN: All right.

MR. DEREK WYNNE: I am. Derek here.

COMMISSIONER HOURIGAN: I can here both of you. I can't see you, so just stand by. Okay, Mr. Wynne, I can see. And Mr. Mammoliti, I have your name up on the screen but I can't see you. I've got just an icon.

MR. SERGIO MAMMOLITI: Yeah. I'm trying to sort that out myself. I've got the camera started.

COMMISSIONER HOURIGAN: Okay.

MR. SERGIO MAMMOLITI: I don't know why it's not showing anything. Let me just make sure. No. Ah, there we go. That's probably better.

COMMISSIONER HOURIGAN: We still can't see you.

MR. SERGIO MAMMOLITI: Really? Hm, okay, let's try again.

(SHORT PAUSE)

COMMISSIONER HOURIGAN: All right, what we'll do is we'll just take a few minutes until you get set up. As the only non-engineer, I don't -- I feel like I add very little to this analysis, so we'll just take a few minutes. Thanks.

MR. SERGIO MAMMOLITI: All right, thank you.

THE REGISTRAR: All rise. The Commission will recess for a few

1 minutes.

2 --- Upon recessing at 9:04 a.m.

3 --- Upon resuming at 9:13 a.m.

4 **COMMISSIONER HOURIGAN:** Okay, so we're all sorted out.

5 The first thing we need to do is have you either swear an oath to tell the truth or affirm to
6 tell the truth. Mr. Wynne, which do you prefer?

7 **MR. DEREK WYNNE:** I'll swear to tell the truth.

8 **COMMISSIONER HOURIGAN:** All right. Standby.

9 **--- MR. DEREK WYNNE, Sworn**

10 **COMMISSIONER HOURIGAN:** Mr. Mammoliti, what do you
11 prefer? Mr. Mammoliti, which do you prefer, swear an oath or affirm?

12 **MR. SERGIO MAMMOLITI:** Affirm, please.

13 **THE REGISTRAR:** Do you solemnly affirm that the evidence to be
14 given by you to this hearing shall be the truth, the whole truth and nothing but the truth?

15 **--- MR. SERGIO MAMMOLITI, Affirmed**

16 **COMMISSIONER HOURIGAN:** All right, very good. You'll be
17 asked questions first by Commission counsel; so let's proceed.

18 **--- EXAMINATION IN-CHIEF BY MR. ANTHONY IMBESI:**

19 **MR. ANTHONY IMBESI:** Yes, good morning gentlemen, my name
20 is Anthony Imbesi; I'm Commission counsel. So as you know you'll be testifying as a
21 panel today. I have questions that I will pose to each of you individually and I have
22 some questions that I'll pose to the two of you. When I'm asking a question I will
23 indicate who the question is directed to in the hopes that nobody is speaking over each
24 other and that we have a clean transcript for the record.

25 So I'm going to begin today just by asking each of you individually
26 questions just to establish your roles on the project and from there we're going to move
27 into the early stages of the project, your involvement in the project and the status of the
28 systems' engineering and safety assurance and then we'll take a look at some of the

1 documents that you've delivered throughout your time on the project.

2 So beginning first with you, Mr. Wynne, I understand that you're an
3 engineer and co-founder of a company called "SEMP Limited", S-E-M-P?

4 **MR. DEREK WYNNE:** Yes, I am.

5 **MR. ANTHONY IMBESI:** And as I understand it, SEMP is a
6 "Systems Engineering and Systems Assurance Consulting" firm?

7 **MR. DEREK WYNNE:** It is.

8 **MR. ANTHONY IMBESI:** And you've been involved in the rail
9 sector, as I understand it, for approximately 25 years?

10 **MR. DEREK WYNNE:** Yeah, 25 plus, yeah.

11 **MR. ANTHONY IMBESI:** And you deal primarily with systems
12 engineering and assurance as it relates to railways and as I understand that, at a high
13 level that includes the design, integration and management of the various systems on a
14 railway project?

15 **MR. DEREK WYNNE:** Yes.

16 **MR. ANTHONY IMBESI:** And it includes identifying mitigating
17 tracing hazards?

18 **MR. DEREK WYNNE:** Yes.

19 **MR. ANTHONY IMBESI:** And generally ensuring that system
20 integration testing is ultimately completed and traced back to the project requirements?

21 **MR. DEREK WYNNE:** Project requirements and also derived
22 requirements that derive from doing safety analysis, yes.

23 **MR. ANTHONY IMBESI:** Right. And it includes aspects such as
24 requirements' management, verification, validation, safety RAM, which stands for
25 "Reliability, Availability and Maintainability"?

26 **MR. DEREK WYNNE:** Yes.

27 **MR. ANTHONY IMBESI:** And the purpose, generally speaking, of
28 all of this, is to ensure that there's an integrated, safe and operational railway at the end

1 of the day?

2 **MR. DEREK WYNNE:** Yeah, absolutely.

3 **MR. ANTHONY IMBESI:** And I think you'd agree with me that
4 systems engineering and integration are critical processes for railway projects?

5 **MR. DEREK WYNNE:** I would.

6 **MR. ANTHONY IMBESI:** And as I understand it, you were
7 involved in the Ottawa LRT project from about October of 2017 to approximately
8 October of 2019 following revenue service availability?

9 **MR. DEREK WYNNE:** Yes.

10 **MR. ANTHONY IMBESI:** And you were retained or your company
11 was retained by OLRTC?

12 **MR. DEREK WYNNE:** Yes.

13 **MR. ANTHONY IMBESI:** And the initial scope of your
14 engagement was with respect to assessing the status of OLRT's system, engineering
15 and assurance processes?

16 **MR. DEREK WYNNE:** Yes, it was. We performed a health check.

17 **MR. ANTHONY IMBESI:** Right. And then I understand your
18 scope evolved from there to assist OLRTC in preparing and implementing proper
19 systems, engineer and management plans and other assurance documents?

20 **MR. DEREK WYNNE:** Yeah, it came in several phases. There
21 was the health check reports and an engagement workshop and then management
22 plans although at such a late stage of the project management plans are talking a good
23 story but it's very light and really we need to address the challenge of the shortfall which
24 was the next work that started around about March 2018 and continued from there
25 through to achieving revenue service.

26 **MR. ANTHONY IMBESI:** Okay. Thank you. And I'll certainly be
27 taking you through that in more detail.

28 And so, Mr. Mammoliti, as I understand you're employed by a

1 company called "TUV Rhineland"?

2 **MR. SERGIO MAMMOLITI:** That's correct..

3 **MR. DEREK WYNNE:** And you have approximately 30 years
4 experience in railway systems, primarily regarding safety?

5 **MR. SERGIO MAMMOLITI:** Correct, yes.

6 **MR. ANTHONY IMBESI:** And as I understand it, TUV Rhineland
7 was retained by the City of Ottawa, the project owner, in the summer of 2017 as the
8 independent safety auditor?

9 **MR. SERGIO MAMMOLITI:** Correct.

10 **MR. ANTHONY IMBESI:** And you were the representative of TUV
11 Rhineland for the safety audit process; is that correct?

12 **MR. SERGIO MAMMOLITI:** Yes, I was the lead, the point of
13 contact, yes.

14 **MR. ANTHONY IMBESI:** Okay. And just at a high level, so in
15 terms of the role of the independent safety auditor or the "ISA" as we see in some of the
16 documentation, that's to perform an independent audit of the systems, engineering and
17 insurance documentation to ensure the system meets the safety requirements of the
18 project agreement?

19 **MR. SERGIO MAMMOLITI:** Yeah, I believe that's exactly what it
20 said in the project agreement, is it not?

21 **MR. ANTHONY IMBESI:** It might very well be, sir. The purpose of
22 that is to ensure that, again, that the railway is designed, constructed, tested and
23 commissioned to meet the project safety requirements; is that fair?

24 **MR. SERGIO MAMMOLITI:** Correct, yeah. It was around the
25 project safety requirements, correct.

26 **MR. ANTHONY IMBESI:** And in terms of your role as the ISA or
27 representative of the ISA, that role did not include assessing the sufficiency of those
28 safety requirements in the project agreement; is that fair?

1 **MR. SERGIO MAMMOLITI:** Yes and no. I mean it is imperative on
2 us to point out any shortcomings we might see. Strictly speaking, we're ensuring the
3 process is being followed. Part of the problem with doing a technical review is that we
4 don't have access to a lot of the information that would help when assessing that, so –
5 it's largely process focussed but if we do see something technical, of course we say
6 something.

7 **MR. ANTHONY IMBESI:** Of course. And so in terms of the
8 process focussed, it's an audit function that you're performing; correct?

9 **MR. SERGIO MAMMOLITI:** Correct.

10 **MR. ANTHONY IMBESI:** Is that generally a review of the project
11 company's processes and procedures, to ensure from your perspective the
12 implementation of those safety requirements?

13 **MR. SERGIO MAMMOLITI:** It's several things; that's the start of it,
14 do they have a process to do this effectively, and then it's following through and seeing
15 are they following their process, are they generating the artifacts that they say they're
16 doing, are they holding reviews they say they're going to do? All of this leading to the
17 confidence that the system is safe at the end, yes.

18 **MR. ANTHONY IMBESI:** And in terms of your involvement, you
19 and the ISA are not involved in the actual witnessing of the implementations of the
20 safety processes beyond at the high level that you just described?

21 **MR. SERGIO MAMMOLITI:** Yes, correct.

22 **MR. ANTHONY IMBESI:** Am I understanding it correctly, that it's
23 primarily a document-based audit function for the most part?

24 **MR. SERGIO MAMMOLITI:** Yeah, almost entirely actually, yes.

25 **MR. ANTHONY IMBESI:** So you would not be involved in the
26 testing and commissioning or the trial running?

27 **MR. SERGIO MAMMOLITI:** No, no, we would get reports and
28 such of that, but that's not to say we can't be invited, but that's generally not our remit,

1 no.

2 **MR. ANTHONY IMBESI:** No. And on this project, as I understand
3 it, you weren't involved in those processes?

4 **MR. SERGIO MAMMOLITI:** Correct.

5 **MR. ANTHONY IMBESI:** And you're not inspecting the system in
6 any regard either; are you?

7 **MR. SERGIO MAMMOLITI:** No. No, that's a different role again.

8 **MR. ANTHONY IMBESI:** And we'll come to this in more detail but
9 I understand that you authored a series of five reports, audit reports?

10 **MR. SERGIO MAMMOLITI:** Correct.

11 **MR. ANTHONY IMBESI:** And that concluded with revision five
12 which you issued on September 13th of 2019 which concluded that the system was safe
13 – excuse me, was fit for passenger-carrying operations from a safety perspective?

14 **MR. SERGIO MAMMOLITI:** Correct.

15 **MR. ANTHONY IMBESI:** And in the context of your safety audit,
16 it's assumed that the system is built to design; is that correct?

17 **MR. SERGIO MAMMOLITI:** Oh yes, always.

18 **MR. ANTHONY IMBESI:** And your focus in your reporting is on
19 safety; so the independent safety auditor is not concerned with the reliability of the
20 system in terms of whether it could meet – or would meet the operational requirements
21 of the project agreement?

22 **MR. SERGIO MAMMOLITI:** The operational requirements? No,
23 that's not a concern. The train could take hours to get end to end and as long as its
24 safe it would be – it would pass our audit, let's say, the safety audit part of it.

25 **MR. ANTHONY IMBESI:** Right. And I think you gave the
26 evidence in your formal interview that if the train doesn't move, it's as safe as can be?

27 **MR. SERGIO MAMMOLITI:** **MR. ANTHONY IMBESI:** That's
28 correct, yes.

1 **MR. ANTHONY IMBESI:** And in terms of some of the limitations
2 on your role, as I understand it you don't consider whether the parties are capable of
3 implementing the safety plans and systems that are in place on paper; is that fair?

4 **MR. SERGIO MAMMOLITI:** Yes and no. I mean, we don't do
5 competency audits of the individuals, for example, Alstoms, the Thales', the EJV. But
6 we are looking for evidence, again, that the processes are being followed, which you
7 can infer from that they are competent at what they're doing.

8 **MR. ANTHONY IMBESI:** Right. So if you see a competent
9 process outlined paper, that's primarily what you're looking for in your role?

10 **MR. SERGIO MAMMOLITI:** And evidence that it's being followed,
11 yes.

12 **MR. ANTHONY IMBESI:** Right. But is it fair that you're not looking
13 at whether the operator, for example, is in a position to adequately operate the system
14 following revenue service?

15 **MR. SERGIO MAMMOLITI:** That was not in our scope, no.

16 **MR. ANTHONY IMBESI:** Right. And as well, you're not looking at
17 whether the maintainer is in a position to adequately maintain the system, following
18 revenue service?

19 **MR. SERGIO MAMMOLITI:** In this case, correct, yeah. RTM are --
20 we don't -- transport maintenance is not part of our scope.

21 **MR. ANTHONY IMBESI:** And your role never expanded beyond
22 the function of the independent safety auditor; is that correct?

23 **MR. SERGIO MAMMOLITI:** Correct.

24 **MR. ANTHONY IMBESI:** Okay. And so turning back to the both of
25 you, I'd like to discuss the involvement that you both had on the project into the fall of
26 2017, after you were both engaged.

27 So Mr. Wynne, as I understand it, you were approached by Sean
28 Derry, who's the OLRTC assurance manager, and that led to your involvement in the

1 project?

2 **MR. DEREK WYNNE:** That's correct.

3 **MR. ANTHONY IMBESI:** And you gave evidence in your formal
4 interview with Commission counsel that Mr. Derry had indicated to you that he did not
5 feel the system's engineering and assurance was being adequately addressed; is that
6 your recollection?

7 **MR. DEREK WYNNE:** That is correct.

8 **MR. ANTHONY IMBESI:** And so what was communicated to you
9 at that time by Mr. Derry?

10 **MR. DEREK WYNNE:** So there were several conversations. The
11 reason Mr. Derry referred to ourselves, a former colleague of mine, someone I trained
12 almost a -- well, a dozen years earlier and who'd worked for me in London
13 Underground, moved to Canada and was involved in the project and saw all of the
14 deficiencies. He and Sean had had numerous conversations about how to address the
15 shortfall. Both were of the conclusion that myself and colleagues would probably be the
16 best answer to recovering that project, given that that's the sort of thing that I've done
17 before for London Underground and other major infrastructure projects.

18 The conversations that we have, a lot of it related to Sean and
19 obtaining permission for Sean to engage us because there was a lot of resistance to
20 actually addressing the shortfalls. I think there was a significant misunderstanding
21 about the extent of the shortfall and the impact it would have as the project approached
22 attempting revenue service.

23 **MR. ANTHONY IMBESI:** Okay. And the resistance that you're
24 speaking of, was that resistance within OLRTC to address some of these issues?

25 **MR. DEREK WYNNE:** Yes, yes.

26 **MR. ANTHONY IMBESI:** Right. And I would like to take you
27 through -- you had made reference already to the health check report that you prepared
28 in November of 2017.

1 Now, if we could pull up Document RJV11498, please? So can you
2 just scroll down, just slightly?

3 So Mr. Wynn, you recognize this document? This is the health
4 check report ---

5 **MR. DEREK WYNNE:** Yeah.

6 **MR. ANTHONY IMBESI:** --- that you had prepared?

7 **MR. DEREK WYNNE:** Very much so, yeah.

8 **MR. ANTHONY IMBESI:** This was prepared in November of 2017,
9 correct?

10 **MR. DEREK WYNNE:** Yes, yes.

11 **MR. ANTHONY IMBESI:** And if we could turn to page 3? So
12 there's a reference to:

13 "The City's SA has been requested by OLRTC to
14 provide the interim assessment of OLRTC progress in
15 light of the OLRTC 180-day notice of revenue service
16 availability." (As read)

17 **MR. DEREK WYNNE:** Yes.

18 **MR. ANTHONY IMBESI:** First off, Mr. Mammoliti, is the reference
19 to the City's SA, is that you as the safety auditor?

20 **MR. SERGIO MAMMOLITI:** I believe that's who Derek meant in
21 this, yes.

22 **MR. ANTHONY IMBESI:** Yeah. And at that time, Mr. Mammoliti,
23 had you been asked to provide an interim assessment of OLRTC's progress in light of
24 that notice?

25 **MR. SERGIO MAMMOLITI:** That's correct, yes.

26 **MR. ANTHONY IMBESI:** And if we look at paragraph 3, it speaks
27 about the intent of the systems engineering health check, and specifically, if we turn
28 down to the second-last paragraph -- if we could scroll down slightly -- so:

1 "Summarizing the level of systems engineering on the
2 project to date is considered to be substantially below
3 the minimum acceptable level for a project of this size
4 and complexity." (As read)

5 And it goes on from there.

6 Mr. Wynne, could you just explain for us, at a high level, what you
7 had observed at this time with respect to the systems engineering and safety
8 assurance, and why you reached the conclusions that you did in this report?

9 **MR. DEREK WYNNE:** Yeah. So the first thing to understand,
10 systems engineering is a complex amalgam of many specialist subordinate disciplines.
11 We mentioned it before, requirements, V&V, safety, RAM, and there are more, AMC,
12 human factors, et cetera.

13 Firstly, any activities in these particular subordinates, the
14 subordinate level, were not integrated as they should be. The second thing was, none
15 of these subordinate specialisms was being done particularly well, if being done at all.
16 At this late stage of a project, some of these activities, their influence has diminished,
17 but safety, you can never not address. Frankly, I thought the safety process had -- in
18 terms of its maturity, had virtually not been started, and it was more about health and
19 safety, which is very different than engineering safety.

20 Requirements management was more of a documentation process
21 rather than an understanding of not just Project Agreement requirements, but also any
22 derived safety-derived RAM, et cetera.

23 And I think the final thing I would say as well, this lack of integration
24 of these subordinate systems engineering activities also was reflected in the way the
25 design was being created in that we had a lot of design work packages, the -- almost
26 like the major components of the system, but there was very little evidence of those
27 design teams working together, coordinating together, and delivering back a holistic
28 integrated railway solution, and it was more about each of the individual bits.

1 And this is why I wrote this text. It was very, very difficult at that
2 moment in time to confirm that this railway would be fit for purpose.

3 **MR. ANTHONY IMBESI:** Right. And you've just given us quite a
4 bit of information there, but one thing I'd like to ask you about, as I understand it, you
5 just mentioned that systems -- the systems assurance -- or sorry, the safety assurance
6 processes had not yet been started, or not to a significant degree?

7 **MR. DEREK WYNNE:** Yeah. This project was meant to be
8 conducted in accordance with CENELEC standards 50126 (8) and (9). And a thorough
9 understanding of those standards shows that whilst agreeing the requirement set,
10 you've already started preliminary hazard analysis to identify safety risks. The
11 mitigation of those safety risks, once agreed, become derived safety requirements, and
12 therefore, inform the requirement set that the design is developed to satisfy.

13 It was evident that that hadn't been done, and that safety was going
14 to be a start at the end of design, as our design safe.

15 So already, safety was on the back foot, and that is -- whilst that
16 might be possible for standard civils construction where we do assessments to code, it
17 is certainly not sufficient when you're building large complex systems such as the
18 Confederation Line.

19 **MR. ANTHONY IMBESI:** Right. And so I think, as I understand
20 what you're saying, that the safety assurance process on complex systems such a
21 railway, that's really a bottom up process as opposed to a top down; does our ultimate
22 design comply with safety requirements?

23 **MR. DEREK WYNNE:** It's the other way around. We should start
24 doing safety analysis from the moment we have one page worth of objectives and see
25 that all the way through from sort of a holistic railway level view, to the primary systems,
26 to the components, and then all the way back as we realize the design, and ultimately,
27 the construction and integration test.

28 **MR. ANTHONY IMBESI:** And that's what you felt was lacking or

1 almost non-existent at this point in time?

2 **MR. DEREK WYNNE:** Very much so. And then to -- just to link a
3 couple of topics together to just aid -- safety features which satisfy derived safety
4 requirements are worthless unless those features are available. And therefore, we get
5 into the relationship of safety and availability. Availability is driven by liability and
6 maintainability, but also how you operate and maintain. And if you were to look at
7 CENELEC 50126, they keep updating the standard, but it's usually one of the very first
8 figures. I think it's Figure 2 at the moment. That shows you the relationship between
9 safety availability, reliability, maintainability, operations, and maintenance. And
10 therefore, even if safety had been progressed satisfactorily, there was a similar lack of
11 evidence that appropriate RAM analysis had been undertaken as well, right, in support
12 of that safety.

13 So we were already falling over in many different areas

14 **MR. ANTHONY IMBESI:** Okay. Thank you. And I will, in a little
15 bit, get you to explain for us in a little bit more detail those specific standards and the
16 RAM analysis in particular.

17 But for the moment, Mr. Mammoliti, as I understand it, did you
18 agree with the findings of Mr. Wynne in his health check and what he's just articulated?

19 **MR. SERGIO MAMMOLITI:** Yes. We found much the same, that
20 the safety requirements hadn't been developed and could not be traced to the design
21 elements, the construction elements that incorporated those requirements.

22 **MR. ANTHONY IMBESI:** And you had issued Revision 1 of your
23 safety audit report on November 22nd, 2017, and I won't draw your attention to it unless
24 you need it to refresh your memory. But for the record, it's COM2085. And in there you
25 reference the conclusions of the health check and you go on to say that -- and I'm
26 quoting from it now:

27 "There is no evidence to indicate that the safety
28 requirements of the Project Agreement have been

1 identified and expanded upon to a level that is
2 sufficient for their allocation to be applicable
3 subsystems of the OLRT.” (As read)

4 And then you go on to say that:

5 “This is contrary to industry best practices, and
6 frustrates the audit of the safety cases.” (As read)

7 Could you just explain for us what you mean by your conclusions
8 there?

9 **MR. SERGIO MAMMOLITI:** Okay. So much the same as what
10 Derek was saying there in that you can’t follow the requirements out of the Project
11 Agreement into the design. So very much what he just said there before. Insofar as
12 frustrating the safety case, again much like Derek just said. The front activities of this
13 are deriving the hazards down to what does the design need to do to mitigate the
14 control loop. And then what integrates the system and there validates that these
15 functions are built as designed. And so that’s the safety case, is the conclusion of that.
16 Did you build what you say you -- what you designed, right? And does it meet the
17 stakeholders’ -- the requirements of the Project Agreement?

18 Without having identified the requirements at the beginning, you
19 can’t conclude the system is safe because you have no evidence to show that those
20 requirements were derived and built into the design. So you can’t write a safety case
21 around it; hence the frustration. You can’t get there from here.

22 **MR. ANTHONY IMBESI:** And I have a question that I’ll put to both
23 of you. I’ll start with you, Mr. Mammoliti.

24 So at this point in time, was there ever a concern that the project
25 systems engineering and safety assurance could not be rehabilitated in a sufficient way
26 to meet the project safety requirements?

27 **MR. SERGIO MAMMOLITI:** So I’ll go first. No. The real concern
28 was the time, of course. Because it hadn’t been started at the appropriate stages back

1 in the design phase we were well past design and into construction at this point. So
2 there would be limited opportunities to put design features in and there may be reliance
3 on operating procedures and such to -- for the safety. But could it be rehabilitated? No,
4 I wasn't concerned about that. Alstom is a known supplier; they're a mature supplier of
5 rail vehicles. Thales is a mature supplier of signalling systems. The EJV team, SNC
6 Lavalin, this is not their first railroad, so there was the confidence that they would be
7 able to do this. It was a matter of when, not if.

8 **MR. ANTHONY IMBESI:** Mr. Wynne, did you have any concerns
9 in that respect?

10 **MR. DEREK WYNNE:** So I think much as Sergio just said, the time
11 scale and costs are the predominant factors when looking at this sort of recovery. And
12 any construction that's already occurred -- it's very difficult to change that so what
13 happens then is you have to adjust other aspects of the system in order to cope with
14 what's already constructed.

15 And it's not uncommon for a railway to have operational
16 restrictions. It's just very disappointing when you are creating a new railway that you
17 start with a plethora of operational restrictions and make it difficult to meet the overall
18 objectives which drove the business case for a particular railway.

19 So a combination of time and cost, and overall satisfaction of the
20 aim to deliver this critical asset are always concerns. And I think the other aspects
21 again that I would mention in here is when you've got an organization that's under
22 pressure to deliver and it's clearly going to miss the original contractual Revenue
23 Service Availability, the pressures on time and cost increase significantly.

24 So it's always difficult. It's always a compromise and a balance but
25 at the same time we were confident that we could maintain the integrity in the process,
26 regardless of the start point, and actually do a piece of work that demonstrates that this
27 railway could be operated safely, which is actually what we did.

28 **MR. ANTHONY IMBESI:** Right. And I'm going to take you both

1 through some of the operating restrictions later this morning, but you had made the
2 comment that it's always a concern and disappointing, especially on a new railway, if it
3 has to begin with a number of operating restrictions and standard operating procedures.

4 Without getting into the details of what those were in this case, was
5 that your view that there were more operating restrictions and standard operating
6 procedures than you would like to see on a new railway?

7 **MR. DEREK WYNNE:** I think I'd answer that, if I may, twofold. I
8 think there were more restriction, yes. But some of the restrictions that were there were
9 restrictions you would have on any railway. Instead of the category the concern was in
10 this instance we had to make the restrictions more onerous which placed the norm on
11 maintenance activities as well. So there's two parts to that one.

12 **MR. ANTHONY IMBESI:** Okay. And we will get into the
13 operational restrictions and how that impacted maintenance a little later this morning.

14 If we could turn now to Document RJB11496. If we could scroll
15 down, please.

16 And so, Mr. Wynne, this is a systems engineering and assurance
17 technical audit of the engineering joint venture.

18 **MR. DEREK WYNNE:** M'hm.

19 **MR. ANTHONY IMBESI:** And this is a document you or SEMP
20 would have prepared on June 29th, 2018?

21 **MR. DEREK WYNNE:** Yeah.

22 **MR. ANTHONY IMBESI:** And as the Commission has heard, the
23 EJV or the Engineering Joint Venture is a subcontractor to OLRTC that was doing much
24 of the design. And is it fair to say the purpose of this audit was to audit the Engineering
25 Joint Venture's systems engineering work that had been done up to that point in time?

26 **MR. DEREK WYNNE:** Yes. So this is one of the series of three
27 audits that were conducted, one of Thales, one of Alstom, and one of the EJV. Each of
28 these designed to go and look at -- when you create a systems assurance case, the

1 engineering safety assurance case, you look for two aspects. One is a process
2 argument which Sergio referred to earlier. A checking process has been adequately
3 documented and then followed.

4 And then the other aspect is have you actually got the --- what's
5 called the product evidence which is the actual design data. This audit was designed to
6 look at those processes and ensure that they've been followed and make sure those
7 processes were actually compliant with the standards. So that was the purpose of this,
8 yeah.

9 **MR. ANTHONY IMBESI:** Okay. And if we could turn to page 7,
10 please. And so, Mr. Wynne, you had alluded to this earlier when you were talking about
11 standards. But if we're looking in the second paragraph there it says:

12 "The EJV project was not compliant with 15288 or
13 50126." (As read)

14 I take it that's ISO IEC 15288, and EN 50126?

15 **MR. DEREK WYNNE:** Correct.

16 **MR. ANTHONY IMBESI:** And those are the standards that you
17 were referencing to us before?

18 **MR. DEREK WYNNE:** So 50126 is part of the CENELEC's suite.
19 Also 50128 and -9 for nomenclature terms is normally people will say CENELEC
20 050126 but we mean all that suite of standards.

21 And 15288 is a replacement for IEEE 1220 and this is the
22 internationally recognized standard for doing systems engineering, and you should
23 apply both of these standards side by side.

24 **MR. ANTHONY IMBESI:** Right. And so, just at a high level, do
25 these standards require those processes and procedures that you've already identified
26 for us in a fair amount of detail?

27 **MR. DEREK WYNNE:** Yes, absolutely.

28 **MR. ANTHONY IMBESI:** Okay. Is there any other component to

1 these standards beyond what you've explained to us already that the Commission
2 should be aware of?

3 **MR. DEREK WYNNE:** No, these are very much -- 15288 is very
4 much systems engineering lifecycle processes, so it deals with topics of requirements,
5 VMV, interface management, et cetera. 50126 looks to the same sort of development
6 process but very much with a safety in RAM bent to it, and therefore a thorough
7 understanding of at least when and would actually -- what should generate a very robust
8 approach to developing major infrastructure.

9 **MR. ANTHONY IMBESI:** Right. And was it your understanding
10 that these standards were requirements for this project?

11 **MR. DEREK WYNNE:** Definitely the satellite ones, the 50126.
12 15288, I would have to go back and check my notes, but as an international standard
13 and a ISO-accredited firm providing the design, they should be fully cognizant of and
14 compliant with 15288, so I think that's just a normal standard of doing business if this is
15 the fieldwork you undertake.

16 **MR. ANTHONY IMBESI:** Right. That's a best practice?

17 **MR. DEREK WYNNE:** Yeah, absolutely.

18 **MR. ANTHONY IMBESI:** Okay. And Mr. Mammoliti, I take it you'd
19 be familiar with these standards as well?

20 **MR. SERGIO MAMMOLITI:** That's correct, yes.

21 **MR. ANTHONY IMBESI:** Right. And had you seen this audit at the
22 time that it was prepared?

23 **MR. SERGIO MAMMOLITI:** The EJV Audit?

24 **MR. ANTHONY IMBESI:** Yes.

25 **MR. SERGIO MAMMOLITI:** Well, I certainly participated in it. I
26 was at the audit as an observer. I don't recall if I saw the report. Probably, but I don't
27 recall, actually.

28 **MR. ANTHONY IMBESI:** Well, whether you saw the report at the

1 time or not, are you able to tell us, did you share SEMP and Mr. Wynne's view that the
2 engineering joint venture and OLRTC were not compliant with these standards at that
3 point in time?

4 **MR. SERGIO MAMMOLITI:** Yes.

5 **MR. ANTHONY IMBESI:** And is it fair to say -- and this question's
6 directed at both of you, but I'll start with you, Mr. Mammoliti. So this conclusion was
7 reached in June of 2018, which was one month following the original revenue service
8 availability date. Would you agree with me this is quite late in a project to have these
9 issues with systems engineering and assurance?

10 **MR. SERGIO MAMMOLITI:** Yeah. In fact, that was basically the
11 statement we made in that Revision 1 of the Audit Report, that they weren't following
12 industry best practice.

13 **MR. ANTHONY IMBESI:** And Mr. Wynne, I take it you'd share that
14 view as well?

15 **MR. DEREK WYNNE:** Absolutely.

16 **MR. ANTHONY IMBESI:** Okay. And -- we could take that
17 document down, please, Mitchell. Thank you. And so, Mr. Wynne, I'll start with you.
18 So following these findings and everything that you've just described to us, as a high
19 level, could you just explain for us how SEMP went about developing a program to
20 rehabilitate the systems engineering and assurances processes?

21 **MR. DEREK WYNNE:** Yeah, so system engineering on large
22 infrastructure projects, there are a few terms. So top-down, the correct way. Bottom-
23 up, which is about reverse engineering from the solution to find out what the
24 requirements were. Or middle-out, which is you've started and you've realized that you
25 need to backtrack but also still make progress.

26 And the approach taken here for Confederation Line was middle-
27 out but very much at the bottom-up approach. So we were creating a robust
28 requirement set with all of the derived requirements and all of the VMV and acceptance

1 criteria to demonstrate those requirements were satisfied whilst construction was
2 occurring. We also undertook to seek evidence of all of those requirements through into
3 the design and we monitored design at construction and at test and integration to show
4 that all requirements had been satisfied, and where not satisfied, then we were -- that
5 we were recording that, even down to all of the construction snags. I think at one point,
6 there were 39,000 snags that were preventing testing from completing thoroughly, and
7 so on.

8 So -- and throughout all of that process, we were conducting the
9 safety analysis to create the derived safety requirements and then the various other
10 waypoints, interface, hazard analyses, failure modes analyses, et cetera, culminating in
11 an operational and supportability hazard analysis, "Can the railway be operated safely?"

12 And that's the whole process that we went through and facilitated a
13 multi-party hazard review panel which had maintainer and operator, as well as the
14 constructor, all part of that process in order that we followed the best process we could
15 to demonstrate that the design and the construction was appropriate. And where the
16 two were misaligned, that's where we started to look at, "Can we change or do we have
17 to create operational restrictions?"

18 **MR. ANTHONY IMBESI:** Okay. And we've seen reference to a
19 shift to a risk-based approach. Does that accord with your recollection?

20 **MR. DEREK WYNNE:** Yes, very much so. So we -- I mentioned
21 before about a process argument versus a product argument. So to do full systems
22 engineering, as per the standards for everything single component of railway, would be
23 cost and time prohibitive, so you have to focus your effort. And this is where risk-based
24 assurance comes in. Risk, in this regard, can be considered new and novel technology,
25 complexity, novice designer or supplier, and so on. And of course, safety and/or
26 mission critical nature of a particular component of the design.

27 So, for instance, if a professional engineer is designing a concrete
28 base, I wouldn't see the need to do requirements in VMV on that concrete base. I

1 would trust that engineer of record, a professional engineer, can do that and sign that
2 off without me getting involved. I just want to see the certificate.

3 If we are looking at something entirely more complex, say the fire
4 life safety system, and specially there, the tunnel ventilation system, I want to see the
5 design from start to finish, as well as I want to see the engineer of record signatures.
6 And the reason I cited the tunnel ventilation system, I personally audited that one from
7 requirements all the way through witnessing that being tested.

8 **MR. ANTHONY IMBESI:** Okay. So -- and just so we understand,
9 then, so how does this risk-based approach differ from what would ordinarily be
10 undertaken on these types of projects?

11 **MR. DEREK WYNNE:** So -- yeah, so most large rail infrastructure
12 programs do apply a risk-based approach. Certainly in the UK, I've applied this for
13 multiple large upgrade programs with London Underground and with Network Rail. And
14 one of those was national re-signalling.

15 Like, to give you an idea of that, just the main East Coast Line
16 would require the retraining of 46,000 drivers when it's re-signalled. So, you know, this
17 has been applied on a very large scale elsewhere. Currently, the same approach on
18 California Highspeed Rail. So it is a valid way of managing of the effort, of making sure
19 the effort is applied in the areas where it needs to be. But at the same time, not
20 overburdening the constructor to do work where it's not adding any value. It's not going
21 to influence the safety or the outcome. So yeah, very valid approach.

22 **MR. ANTHONY IMBESI:** And Mr. Mammoliti -- and we'll see later
23 in your Revision 5 of your Safety Audit Report, you do reference the risk-based
24 approach that was undertaken?

25 **MR. SERGIO MAMMOLITI:** M'hm, correct.

26 **MR. ANTHONY IMBESI:** And so did you have any concerns that a
27 risk-based approach was being utilized on this project?

28 **MR. SERGIO MAMMOLITI:** No, as Derek said, that's -- that's

1 standard. It's not uncommon in the rail industry. The -- it's like triaging, right? You do
2 an assessment and see where your highest areas of risks are and focus there. To the
3 tunnel ventilation, like Mr. Wynne was saying there, it crossed -- excuse me -- a number
4 of interfaces to, you know, go from the train to the control system, to the SCADA, to the
5 lodger controller, to the actual fans. So that, for example, given the number interfaces
6 involved, would pop up in a risk-based assurance approach because each of those
7 parts have to work, right, so it's a long chain. And much like Mr. Wynne said, the
8 novelty of the approach or the, again, complexity if it's a novice supplier. So, no -- that's
9 a fair approach to take.

10 **MR. ANTHONY IMBESI:** So we've heard from Mr. Wynne as to
11 the approach that he and OLRTC were taking following the health check and the EJV
12 audit that we had just looked at. So I'd just like to hear from you, Mr. Mammoliti, what
13 was your level of involvement on the project following November 2017 when we saw the
14 health check and moving forward from there?

15 **MR. SERGIO MAMMOLITI:** Well, we stayed on throughout -- til
16 September 14th, I believe was the opening date. So, yeah, we weren't -- to this risk-
17 based approach and the time pressures, we were working in lock step with the design
18 team that it was sent to ensure that there wouldn't be any delays, you know? As
19 they're doing something, we're doing our assessment. Again, this is to help to move
20 things along more quickly so, yeah, we were there right through to the opening day.

21 **MR. ANTHONY IMBESI:** So your role has everything on the
22 systems, engineering and assurance side was progressing, you were evaluating or
23 assessing that as it was being done to make sure that it was going to ultimately meet
24 your requirements to deliver your final report to get the railway open?

25 **MR. SERGIO MAMMOLITI:** Correct.

26 **MR. ANTHONY IMBESI:** And if we could please turn to document
27 ALS0012333. Scroll down.

28 This is a reliability, availability, maintainability report, a RAM report,

1 prepared by OLRTC; this is revision 2, May 23rd, 2019. Mr. Wynne, you were involved
2 in the preparation of this document; I see your name there.

3 **MR. DEREK WYNNE:** Yeah, I signed this one off, yeah.

4 **MR. ANTHONY IMBESI:** And so as I understand it, this is one of
5 the reports that would ultimately form part of the overall engineering, safety and
6 assurance case; correct?

7 **MR. DEREK WYNNE:** Correct.

8 **MR. ANTHONY IMBESI:** And you've touched on this already with
9 respect to what RAM is. At a high level is it fair to say it's used to identify performance
10 targets for the system to ensure that the systems, as they're designed, are sufficient to
11 meet the operational requirements?

12 **MR. DEREK WYNNE:** Yes. So if you need service availability of
13 say 100 per cent, which would be nice, every time you get down to a lower level
14 component you need to understand the mean time between failures, and what you do
15 with the mean time between failures. You aggregate all of those together and you can
16 create a mean time between service affecting failure for an overall system. That is
17 pretty much the nature of the analysis that was done here in order that we could
18 understand the reliability, availability, maintainability of systems such as the tunnel
19 ventilation system. And, therefore, this is one of those topics that not only drove an
20 understanding of restrictions and maintenance schedules, but also established
21 confidence in the availability of crucial safety features.

22 **MR. ANTHONY IMBESI:** Right. And just so we all understand
23 what you're speaking about, when we're talking about reliability, availability and
24 maintainability, all of that is coming from a safety perspective; correct?

25 **MR. DEREK WYNNE:** So predominantly safety; that's the number
26 one objective, but then you have a second objective, which is enterprise or mission
27 critical which is that you can actually operate a railway, otherwise there's no point
28 making this significant investment.

1 **MR. ANTHONY IMBESI:** Right. And when you're talking about
2 being able to operate a railway, are you speaking about, you know, reliability, availability
3 and maintainability in the sense of being able to meet the operational requirements of
4 the project agreement or just in the sense of being able to run the system; whether or
5 not that meets the operational requirements is a separate discussion.

6 **MR. DEREK WYNNE:** So the first target is obviously to meet the
7 objectives of the project agreement, but the secondary – and objectives are objectives;
8 that's what we strive to meet, then there's the reality of what you can actually meet and
9 this is the fallback. Are we able to provide a service that actually makes sense and
10 delivers the overall need of the project? So one of the features of doing requirements
11 work when we're involved earlier enough from a business-case, is a benefits mapping
12 through to the initial high level customer objective requirements. A project I was looking
13 at recently in Toronto, because there had been a change of rolling stock selected,
14 different passenger loads, we actually had to redevelop the benefits mapping in order to
15 justify the project could go ahead.

16 So there are – I wouldn't say there are specifically fixed targets; it's
17 about viability and suitability of providing the service. The Confederation Line is about
18 moving the passenger volume, particularly in peak hours and we need to be able to do
19 that in a reliable and available way and that, therefore, requires maintenance to be
20 conducted on a regular periodic basis to make that possible. There is never ever in
21 railway terms, a "perfect" infrastructure.

22 On day one when a railway is brand new shiny – it's already been
23 used through its testing operation, but this infrastructure lasts for many years and it's
24 what you do in years two, three, four, five et cetera to maintain an infrastructure. So
25 there is a significant emphasis here on understanding how to maintain, how would you
26 do asset renewals and so on. So very much the start of the process that you'd expect
27 the maintainer and the operator to understand and move forward with it.

28 **MR. ANTHONY IMBESI:** And, Mr. Mammoliti, as I understand it,

1 RAM is one of the components that forms part of the overall safety case for the project?

2 **MR. SERGIO MAMMOLITI:** Yes, that's correct.

3 **MR. ANTHONY IMBESI:** And so you would have reviewed this
4 report as part of your overall ---

5 **MR. SERGIO MAMMOLITI:** Yes, we did.

6 **MR. ANTHONY IMBESI:** And if we could turn to page three. And
7 specifically the third last paragraph it says: "Availability modelling provides evidence that
8 the Ottawa Confederation Line, Phase 1 is capable of achieving an operational service
9 availability of 99.07 per cent, however this is considered to be based upon conservative
10 assumptions and steady state operational performance is considered to exceed this
11 level."

12 And so – and then you go at the last paragraph, Mr. Wynne, in this
13 report it says: "It is considered that the Ottawa Confederation Line, Phase 1
14 infrastructure is adequately reliable and suitable for the onset of RSA", which refers to
15 revenue service availability?

16 **MR. DEREK WYNNE:** I do, yeah.

17 **MR. ANTHONY IMBESI:** And so the conclusion of this report is
18 ultimately that the system infrastructure is sufficiently reliable for revenue service
19 availability; is that fair?

20 **MR. DEREK WYNNE:** Yes.

21 **MR. ANTHONY IMBESI:** And in speaking of the parameters then
22 of the analysis of this report, this is based on an analysis of the capability of the system
23 to achieve the required reliability?

24 **MR. DEREK WYNNE:** So this is based on all the products that
25 were selected, so the commercially off-the-shelf projects, be that cabling or ethernet
26 switches to give a couple of examples, and assembling all of that information. It's also
27 based on the maintenance that is needed, very much like when you procure a car, if you
28 don't maintain it, your weekly checks and tire pressures, oil levels and so on, you should

1 not expect to have a reliable operation. The railway is exactly the same in this regard,
2 so this document is considering, as I think it shows you a little further up, the second
3 paragraph. We talk about failure modes, effects, analysis modelling. Railways are fault
4 tolerant so from a threatened vulnerability point of view, each of the stations on
5 Confederation is monitored through CCTV. No space in the station is not covered by at
6 least two cameras, so you can have graceful degradation if you lose a camera; yes, that
7 effects the reliability but it doesn't stop you operating the railway because you can still
8 see what's going on in that station. And these are all the considerations that go into the
9 making of this report, and that's why we were able to make these statements.

10 **MR. ANTHONY IMBESI:** And is it fair, just so that the
11 Commission understands, is this based on design reliability as opposed to operational
12 reliability?

13 **MR. DEREK WYNNE:** So this is assessing the design, yes, but
14 this is what the design was expected to realize.

15 **MR. ANTHONY IMBESI:** Right. So it's not necessarily the as-built
16 condition of the system, it's based on the design?

17 **MR. DEREK WYNNE:** Correct.

18 **MR. ANTHONY IMBESI:** And Mr. Mammoliti, we've heard the
19 description of the overall report and the RAM requirements from Mr. Wynne, but could
20 you just explain for us how the RAM analysis is relevant to the overall project safety
21 case?

22 And specifically, I'd like to hear from you as to how the reliability
23 focus in RAM differs from the variability of the systems operational performance.

24 **MR. SERGIO MAMMOLITI:** Well, they're closely tied. The -- while
25 I facetiously said that a stopped train is a safe train, it is until the passengers get off,
26 right, and then start walking the tracks.

27 So in order to achieve the safety benefits of your system, it has to
28 be available, and that requires it to be reliable.

1 And so that's really the tie-in to the safety aspect of things now.

2 This reliability analysis is very concerned; it's concerned with
3 everything, right, escalators, lights, every little bit and bob on this project.

4 The -- from the safety perspective, we're more concerned with the
5 safety critical aspects of the system as opposed to what Mr. Wynne said, the mission
6 critical aspects, right? So the focus tends to be more on the safety critical aspects, and
7 their reliability.

8 The other tie-in is that these reliability predictions inform how the
9 system has to behave to maintain safety, right? So redundant maintenance, do I need
10 two of these, for example, in order to maintain safety? That's -- it's a very -- it's a
11 different facet of the same gem, if you will.

12 **MR. ANTHONY IMBESI:** Okay. And if we could please go to page
13 7?

14 And so Mr, Wynne, when we're looking at the -- what this report
15 includes, I'd like to focus on what it does not include.

16 And if we could scroll down, please? I'm looking at section 1.2.2
17 where it mentions specific exclusions, and specifically, the third bullet point where it
18 references that being excluded from this report is a detailed RAM assessment of the
19 rolling stock.

20 **MR. DEREK WYNNE:** Yeah.

21 **MR. ANTHONY IMBESI:** And so I'd just like for you explain to us --
22 well, firstly to clarify that. So in reaching the conclusion that we saw in the summary in
23 terms of the overall conclusion that the system was sufficiently reliable for revenue
24 service, am I understanding correctly that this does not include an analysis of the
25 reliability and maintainability of the vehicles?

26 **MR. DEREK WYNNE:** So the vehicle reliability go back to my
27 mention of engineer of record. So Alstom, a large, reputable organization, with all of its
28 quality accreditations, coupled with the audits that were conducted, and finding to

1 provide a -- their warranty of the vehicle's compliance, its safety, and its reliability
2 available to maintain ability, also coupled with the maintenance contract that was placed
3 on them, so even if this vehicle had more failures, it was incumbent on them to
4 undertake that maintenance at their own expense in order to achieve the service. This
5 is why this vehicle was left out of this particular report.

6 **MR. ANTHONY IMBESI:** And so when we're talking about the
7 project documentation, globally then, as I understand it now from your explanation, the
8 rolling stock was left out of this particular report. Is there anything that you, OLRTC,
9 would be looking at then to confirm the reliability, availability, and maintainability of the
10 rolling stock in particular?

11 **MR. DEREK WYNNE:** So the various audits that were undertaken,
12 again, are about following the process. Certainly, out of the audits I was involved in
13 personally, we were exploring down safety provisions, including the fire test, and looking
14 at the heat generated by this particular vehicle, making sure that the -- that's within the
15 parameters that the tunnel ventilation system was designed to cope with.

16 Similarly, in terms of all of the reliability evidence, I think the other
17 aspect we should consider as well is Alstom Citadis is a vehicle type that's in use
18 elsewhere in the world, and there is a lot of actual evidence in terms of this vehicle's
19 performance that was available as well. So this was not -- as it were, there was already
20 third-party evidence available to show the actual performance of this vehicle, and
21 therefore, that the reliability, maintainability requirements were being satisfied.

22 So it was -- so again, if we want to look at risk-based assurance,
23 here's an example of where you can step back from doing a very detailed assessment
24 as OLRTC, because there is all of this information already available.

25 **MR. ANTHONY IMBESI:** Okay. So then, in your view, when you
26 were involved in this, it was unnecessary to do that type of analysis with respect to the
27 rolling stock for the reasons that you have just given us?

28 **MR. DEREK WYNNE:** Yes. Yeah.

1 **MR. ANTHONY IMBESI:** Okay. And so then, it's fair then for us to
2 understand that such an analysis wasn't done on this project?

3 **MR. DEREK WYNNE:** Well, no. So okay. A detailed RAM
4 analysis should have been done by Alstom.

5 **MR. ANTHONY IMBESI:** Okay.

6 **MR. DEREK WYNNE:** And I believe it had been done by Alstom.
7 We then take the output from that analysis and plug that into what we do here. But we
8 certainly don't go down and duplicate their efforts. We take their answer.

9 **MR. ANTHONY IMBESI:** And certainly, that's not reflected in this
10 document then. Would that be reflected in the overall engineering safety and assurance
11 case?

12 **MR. DEREK WYNNE:** Yeah. So if you look in the front of the
13 engineering safety assurance case -- could be Figure 1 -- there is a map of all of the
14 information and evidence, and it shows two major building blocks that sit outside of this
15 level of activity from my colleagues and I, and that is to Thales and Alstom, and for the
16 reasons just provided, applicable to both.

17 What we do, however, do -- and I think this is kind of fundamental
18 to understand this -- so when we consider a use case, we consider a use case of the
19 whole railway, which would include the signalling and the vehicle, and we would then
20 explore that use case and whether we've got confidence in that use case being
21 satisfied.

22 So if we need to look at a -- from a safety point of view, if we looked
23 at a fire on the train, that incident, how do we go through from detection through to
24 infrastructure response and safety risks of passengers?

25 That is a whole use case that we would explore, and it includes all
26 aspects of the railway, not just those that were done by OLRTC versus Thales and
27 Alstom.

28 **MR. ANTHONY IMBESI:** Okay. And Mr. Mammoliti, turning to you

1 then, is the approach that was undertaken with respect to this RAM analysis dealing
2 separately with Alstom and Thales for the rolling stock and the signalling system, is that
3 a typical approach, from your perspective, for the safety assurance component of these
4 projects?

5 **MR. SERGIO MAMMOLITI:** Yes, quite normal.

6 **MR. ANTHONY IMBESI:** Okay. So you wouldn't typically expect to
7 see that, the RAM analysis, for example, of the rolling stock, done in a report such as
8 this?

9 **MR. SERGIO MAMMOLITI:** Well, as Mr. Wynne mentioned,
10 Alstom does their own RAM report where they go into the details. I think what's
11 misleading in that, there -- though it is the detailed RAM assessment of the rolling stock,
12 the rolled-up number does impact this railroad level one. What I think he's trying to say
13 in this is that they didn't go look at the nuts and bolts of the rolling stock, but -- and I'm
14 speaking for Mr. Wynne here -- but that is typical.

15 And that's -- again, because a lot of that is intellectual property,
16 Thales or Alstom wouldn't let someone like OLRTC get into that level of detail to do that
17 kind of detailed RAM analysis. So this would be quite normal, yes.

18 **MR. ANTHONY IMBESI:** Yeah. And so is it fair, then, to say -- and
19 this is probably a question directed primarily at you, Mr. Wynne -- is it fair to say that
20 when we're looking at this report, it's not advising that the overall system meets the
21 reliability requirements of revenue service availability and the Project Agreement?

22 **MR. DEREK WYNNE:** No, that's what this report is -- was setting
23 out to do, was to show the level of reliability and availability of the system. But that is a
24 really large complex analysis and is dependent on information provided by others, every
25 supplier providing their data sheet whether they're providing a small component or a
26 large component such as rolling stock, and then aggregating all of that information
27 together. And that's what this document is actually setting out to do.

28 **MR. ANTHONY IMBESI:** Primarily from a design base

1 perspective, right?

2 **MR. DEREK WYNNE:** Yes.

3 **MR. ANTHONY IMBESI:** So if we could turn to Document
4 ALS84164.

5 So Mr. Wynne, this would be the Engineering Safety and
6 Assurance case that you were referring to?

7 **MR. DEREK WYNNE:** Yeah.

8 **MR. ANTHONY IMBESI:** And as we see down at the bottom right,
9 it's Revision 3, dated August 16th, 2019. And so you would have been involved, Mr.
10 Wynne, in the preparation of this document?

11 **MR. DEREK WYNNE:** Yes, very much so.

12 **MR. ANTHONY IMBESI:** And Mr. Mammoliti, we'll turn to your
13 audit report shortly, but you would have reviewed this document and relied upon it in
14 your final safety audit report?

15 **MR. SERGIO MAMMOLITI:** Oh yes, most certainly.

16 **MR. ANTHONY IMBESI:** And if we could turn just to page 3, please.
17 And scroll down. No, I'm sorry, keep going. Scroll down a little bit further, past the --
18 next page, one more, further page. There we go. If we could scroll down just a little bit
19 further.

20 So this is the chart, Mr. Wynne, that you had been referring to?

21 **MR. DEREK WYNNE:** Yes, this is it.

22 **MR. ANTHONY IMBESI:** And so as it's indicated there that the
23 Engineering Safety and Assurance case, that's the highest level document in the suite
24 of overall safety and assurance documents?

25 **MR. DEREK WYNNE:** Yes.

26 **MR. ANTHONY IMBESI:** And so is it air that when we're looking at
27 this document, this summarizes the conclusions and arguments in the various safety
28 and assurance documents to make the overall conclusion that the systems engineering

1 and safety assurance processes are sufficient such that the overall system is ultimately
2 fit for operation?

3 **MR. DEREK WYNNE:** Yes. So if I might ask, can I just direct us to
4 some more information in the document? It might help answer the question. If we can
5 scroll a little further. If we stop at this diagram.

6 So earlier I mentioned both process and product argument. This
7 diagram is showing you underneath the top goal there, "Confederation Line Phase 1 is
8 fit for operation". You see we split into two paths going down this diagram. The product
9 argument to the left; the process argument to the right.

10 If I address the process argument first, the process has been fit for
11 purpose, Sergio and I have both referred to looking at those processes. The audit
12 stream to the far righthand side is determining if those processes were followed and you
13 can see a list of the different audits that will be undertaking and their types.

14 The middle column there, competent people; this is confirmed by
15 those that are registered with professional engineers Ontario, and therefore are signing
16 as owners, as engineer of record in accordance with the *Ontario Engineering Act*. So
17 that is all the process side.

18 For the lefthand side here we've got the products argument starting
19 with the validity of requirements and the traceability of those requirements -- where did
20 they come from, where are they demonstrated to be satisfied. And the requirements
21 satisfaction shows that you're satisfied in design, implementation, testing and
22 commissioning, and finally in operation.

23 The fourth column there, non-interference argument, terrible name
24 but you see it's got safety argument, RAM, threatened vulnerability, cyber security, and
25 a whole raft of other topics.

26 So what this diagram is showing you is a map of all of the
27 information that should be present to deliver an engineering safety and assurance case.

28 This document then impacts every one of these boxes describes ---

1 ---

2 **MR. ANTHONY IMBESI:** Sorry, if we might just determine where
3 that's coming from.

4 **(SHORT PAUSE)**

5 **MR. ANTHONY IMBESI:** There we go.

6 **MR. DEREK WYNNE:** Okay. So what the ESAC is doing then, for
7 each one of these boxes, there is a description of the activities undertaken and then a
8 table that lists out where all of the evidence to demonstrate those activities have been
9 undertaken exists. So this ESAC here is very much the map of all of the assurance
10 evidence for this railway.

11 And if we can now scroll back up to the previous diagram. So the
12 ESAC there is the map and one of the priority documents directly below is the case for
13 safety. That is the document that aggregates all of the safety analysis and
14 considerations. It itself is based on those below and maintenance storage facility, the
15 MSF, stations, the service control centres, tunnels, comms, track and just below that
16 you'll see in the yellow boxes the vehicle signalling goes to our safety cases that were
17 brought in from others whereas all of the other documents here were actually developed
18 by the team.

19 Supporting all of that underneath you see the IHL, Integrated
20 Hazard Log. And its summary report. That actually feeds round the righthand side into
21 the operational restrictions document. Below the operational restrictions you see the
22 operational supportability hazard analysis, the OSHA. And you also see the interface
23 hazard analysis with a particular focus around those three items informing the case for
24 safety, informing the ESAC.

25 On the lefthand side management of competency, who can sign off
26 various things, the overall assurance, and the audit which we just unpacked on the
27 diagram below. And you also see the compliance matrix. And this is the management,
28 design, implementation, and testing and commissioning of every requirement, and

1 ultimately it's all supported by the RAM analysis, the document that we were looking at
2 just before this. So this is the map of what comprises the ESAC.

3 And we get into a lot of topics because case for safety has to think
4 about topics such as threatened vulnerability, cyber, et cetera, and this is the document
5 where you get it all mapped together finally.

6 **MR. ANTHONY IMBESI:** Okay. And just to -- in the interest of
7 time then I'll take you up to the -- if we could go to page 4 which is the conclusions. And
8 we certainly appreciate the level of detail you just provided us to understand this.

9 And I think, if we could scroll down please just so I could see the
10 bullet points as well as the paragraph above, and the larger paragraph above. Okay.
11 Thank you.

12 And so ultimately the collection of all of those different documents
13 and arguments that you had just outlined for us, it ultimately concludes by saying that
14 the system is safe from a system engineering perspective?

15 **MR. DEREK WYNNE:** It -- well, what we've said here, if we look at
16 the bullets. It will be safe once remedial works to resolve have identified deficiencies
17 that have been designated as needs to be competed prior to substantial completion
18 have been resolved. We also look at conditions of Ontario Building Control certificates,
19 Ottawa Fire Service certificates, all that examining system integration test reports, and
20 so on.

21 So this is very much a report, This is why this is the third revision.
22 We are slowly but surely stepping through and resolving all of these issues. We were at
23 the point where we needed to put something -- a robust peg in the ground. That's what
24 this document here is doing and it's saying this railway will be safe but with the following
25 provisos. You must close all of these things out.

26 And I think one of the bullets towards the bottom there -- that the
27 railway is correctly maintained throughout the pre-Revenue Service period. I think as
28 you pointed to, also the need for appropriate maintenance.

1 **MR. ANTHONY IMBESI:** Right. And you've touched exactly on
2 the points that I wanted to take you through. So ultimately what this report is saying is
3 it's safe from a system engineering perspective subject to closing out those remedial
4 works and deficiencies that are outlines in the first two bullets, a number of other
5 requirements then as well, caveats, including correct maintenance of the railway
6 throughout the pre-Revenue Service period.

7 **MR. DEREK WYNNE:** Yeah.

8 **MR. ANTHONY IMBESI:** And would you ultimately have reviewed,
9 or would OLRTC have reviewed whether all of these caveats were satisfied prior to
10 Revenue Service Availability?

11 **MR. DEREK WYNNE:** I believe it was incumbent on them to do so.
12 And if we look at this document in conjunction with the safety certificate and the
13 operational restrictions, I think I made it very clear that that safety certificate and the
14 conditions under which I issued it needed to be upheld. Otherwise they invalidated the
15 certificate.

16 **MR. ANTHONY IMBESI:** Okay. And so you -- I take it, then, that
17 you don't have specific knowledge as to whether all of these caveats had been
18 satisfied?

19 **MR. DEREK WYNNE:** No.

20 **MR. ANTHONY IMBESI:** Okay. Mr. Mammoliti, for your purposes,
21 is it acceptable or typical for the engineering safety and assurance case to contain
22 these types of caveats?

23 **MR. SERGIO MAMMOLITI:** Yes, absolutely.

24 **MR. ANTHONY IMBESI:** Okay.

25 **MR. SERGIO MAMMOLITI:** That's -- yeah.

26 **MR. ANTHONY IMBESI:** And do you have any knowledge, then,
27 as to whether these caveats would have been resolved adequately prior to revenue
28 service availability?

1 **MR. SERGIO MAMMOLITI:** Well, certainly the Ontario Building
2 Code and the fire services would have been. We wouldn't have had a permit to operate
3 otherwise. The deficiencies list was being worked down as we were going, but no, no
4 more so than Mr. Wynne.

5 **MR. ANTHONY IMBESI:** Okay. So that's not something that
6 would specifically need to factor into your overall Safety Audit Report, whether these
7 requirements had been satisfied?

8 **MR. SERGIO MAMMOLITI:** They were communicated, and that's
9 the important part, that everybody knows what they're inheriting here. And yes, it was a
10 -- yes, they needed to manage those.

11 **MR. ANTHONY IMBESI:** Okay. So so long as everyone was
12 aware they needed to manage them, that's sufficient from a safety perspective?

13 **MR. SERGIO MAMMOLITI:** Yeah, and again, not usual, right,
14 because -- and this ongoing throughout the life of the system, too, right. Like the very
15 last on, the as-built configuration base that pins this does not change, right. If you start
16 changing piece parts on it, of course everything's invalidated.

17 **MR. ANTHONY IMBESI:** Okay. And I do understand, then, Mr.
18 Mammoliti, from your evidence in your formal interview with Commission did ask you for
19 some advice regarding deferred retrofits. Do you recall that?

20 **MR. SERGIO MAMMOLITI:** Yes. Yes, they held the deficiencies
21 list I think they were working down, yes.

22 **MR. ANTHONY IMBESI:** And, as I understand your evidence,
23 then, did you communicate to the City that, in your view, there were no safety-related
24 issues that remained with respect to the deficiencies or deferred retrofits?

25 **MR. SERGIO MAMMOLITI:** Well, more to point, that the safety
26 issues defined -- or identified had some mitigating measures against them and in the
27 interim might be -- a good example of that is the cabbed -- the driver, the way he's
28 situated in front of the cab can't see if anyone's caught in the doors. So I think the first

1 few during revenue service, they had -- people stood on the platforms to confirm that for
2 the driver until they got the screen working inside. So there can be deficiencies, but as
3 long as there's an appropriate mitigation measure in place, that's what we were looking
4 for.

5 **MR. ANTHONY IMBESI:** And so, then, I assume, then, by giving
6 the ultimate signoff on the system, you were of the view that to the extent that any
7 outstanding deficiencies that may have impacted safety remained, those were
8 sufficiently mitigated with whatever procedures had been put in place?

9 **MR. SERGIO MAMMOLITI:** Yes. And captured in that operating
10 restrictions document that Mr. Wynne referred to.

11 **MR. ANTHONY IMBESI:** Right. And we'll see that shortly. But
12 before we do that, I'd like to turn to RTG151032. And so this is the term sheet
13 regarding revenue service. Mr. Mammoliti, would you have seen this document as part
14 of the discussions that you had with the City regarding deferred retrofits?

15 **MR. SERGIO MAMMOLITI:** No, not at all.

16 **MR. ANTHONY IMBESI:** Okay. And so if we scroll down to page
17 2 -- so specifically, I'm looking at Item No. 3 where it talks about the completion of trial
18 running. You'd indicated you had no involvement in trial running?

19 **MR. SERGIO MAMMOLITI:** That's correct.

20 **MR. ANTHONY IMBESI:** Okay. And would you have been aware
21 of the trial running requirements?

22 **MR. SERGIO MAMMOLITI:** No.

23 **MR. ANTHONY IMBESI:** Okay. So there's no concern, then, from
24 a safety perspective with respect to the trial running requirements?

25 **MR. SERGIO MAMMOLITI:** Do you mean, like, the 96 percent, 98
26 percent there?

27 **MR. ANTHONY IMBESI:** Right.

28 **MR. SERGIO MAMMOLITI:** Yeah, no, no. That's -- that's ---

1 **MR. ANTHONY IMBESI:** Okay. So if there was to be -- to the
2 extent there might have been a change in the trial running requirements, that doesn't
3 raise any safety concerns?

4 **MR. SERGIO MAMMOLITI:** That's an availability target, not a
5 safety target, so no.

6 **MR. ANTHONY IMBESI:** Okay. It's not something you'd be
7 concerned with?

8 **MR. SERGIO MAMMOLITI:** Correct.

9 **MR. ANTHONY IMBESI:** And if we turn to page 11 -- or sorry,
10 excuse me, page 3, Item No. 11 -- so it's speaking here about safety and regulatory
11 inspection. I'll give you moment if you want to just read that paragraph.

12 **MR. SERGIO MAMMOLITI:** Okay.

13 **MR. ANTHONY IMBESI:** So I guess my question for you, sir -- and
14 I appreciate you hadn't seen this document prior to right now. So it's outlining the need
15 for an updated execution plan with respect to safety and regulatory inspections, and it
16 notes that the provision of this item is not a condition for revenue availability. And my
17 question for you, then, is, if there's an inadequate plan in place, which I understand that
18 this paragraph might be implying, would this not raise a potential safety issue, from your
19 perspective?

20 **MR. SERGIO MAMMOLITI:** I don't understand the context of why
21 it was written this way. I would certainly have asked, "Why is this here?" Regulatory
22 inspections, I mean that's talking about the *Railway Safety Act*, I believe. Yeah, I mean
23 this -- yeah, this would have piqued my interest. I probably would have asked a
24 question about this.

25 **MR. ANTHONY IMBESI:** Okay, and -- but -- and just so I can
26 appreciate, then, what your focus would have been, as part of your overall safety audit,
27 would you have been concerned with ensuring that the appropriate plans were in plan to
28 conduct all necessary safety-related inspections?

1 **MR. SERGIO MAMMOLITI:** Yeah, see, I'm not sure what they
2 mean by that. I mean regulatory inspection, you have to inspect rolling stock. That's a
3 freight, actually. That might not apply here. So that would be my first question; what
4 regulatory inspections are we talking about here.

5 **MR. ANTHONY IMBESI:** Leaving aside this specific -- I'm sorry, I
6 didn't mean to cut you off. But leaving aside specific wording of this paragraph, is there
7 a portion of your consideration of the overall safety case that is concerned with ensuring
8 that all necessary safety inspections are outlined sufficiently in a plan?

9 **MR. SERGIO MAMMOLITI:** Yeah, that's certainly the case. That's
10 typical as well for any railroad, right? It has to be maintained in accordance with the
11 procedures of the suppliers and such. That's not out of the ordinary.

12 **MR. ANTHONY IMBESI:** Okay. And so if there was a concern
13 with respect to the sufficiency of any plan, that would be something that you'd certainly
14 make inquiries about had you been aware of it?

15 **MR. SERGIO MAMMOLITI:** Yeah, certainly, and -- but they did
16 have -- and that's why I question these regulatory -- this is an odd wording. There were
17 inspections and operations and maintenance plans that were provided throughout the
18 project. Mr. Wynne referred to the OSHA there, the operating and support hazard
19 analysis, and they certainly fed into that. So yeah, this is a curious statement. I don't
20 know why this was made.

21 **MR. ANTHONY IMBESI:** Okay. No, I appreciate you had -- you
22 were not familiar with this. If we could turn.

23 **COMMISSIONER HOURIGAN:** We'll take the morning break now,
24 thank you.

25 **MR. ANTHONY IMBESI:** Okay, thank you.

26 **THE REGISTRAR:** Order, all rise. The Commission will recess for
27 15 minutes.

28 --- Upon recessing at 10:31 a.m.

1 --- Upon resuming at 10:49 a.m.

2 **THE REGISTRAR:** The Commission is now resumed.

3 **COMMISSIONER HOURIGAN:** Please proceed.

4 **MR. ANTHONY IMBESI:** Thank you, Mr. Commissioner. So I'd
5 like to turn now to document COM0002079. If we could scroll down just so we could
6 see – so, Mr. Mammoliti, this is geared primarily towards you. This is revision five to
7 your safety audit report?

8 **--- EXHIBIT No. 221:**

9 COM0002079 – Rail Safety Consulting Safety Audit Report
10 Ottawa Stage 1 LRT System 13 September 2019

11 **MR. SERGIO MAMMOLITI:** Yes.

12 **MR. ANTHONY IMBESI:** Dated September 13th, 2019. So that
13 was one day before revenue service; correct?

14 **MR. SERGIO MAMMOLITI:** Correct.

15 **MR. ANTHONY IMBESI:** And if we could turn to page four,
16 please. And as we see here under “scope”, this was the final version of your safety
17 audit report and it was issued in support of passenger carrying operations; correct?

18 **MR. SERGIO MAMMOLITI:** That's correct.

19 **MR. ANTHONY IMBESI:** And so by you issuing this report, you're
20 confirming that based on your audit, which we've talked about a little bit in some detail,
21 the system is safe for passenger carrying operations?

22 **MR. SERGIO MAMMOLITI:** Yeah, if you scroll right to the bottom
23 you'll see that in the conclusions.

24 **MR. ANTHONY IMBESI:** Right. And so let's do that then, please;
25 if we could go to page 16.

26 **MR. SERGIO MAMMOLITI:** That's it right there.

27 **MR. ANTHONY IMBESI:** So that's what you were referring to
28 there, Mr. Mammoliti?

1 **MR. SERGIO MAMMOLITI:** Yeah, yeah, given the scope of the
2 findings as summarized above, this audit report supports the use of the OLRT for
3 passenger carrying operations, yes.

4 **MR. ANTHONY IMBESI:** And so this conclusion is with respect to
5 overall compliance with the safety requirements in the project agreement; right?

6 **MR. SERGIO MAMMOLITI:** Yeah. If you – sorry to make you
7 jump around like this, but if you go back to the table of contents you'll see the basic
8 approach we used right there; so the tasks in section two. So the audit of the safety
9 and security requirements, the management, the subsystem safety cases that show that
10 the requirements have been fulfilled, the operational readiness is 5(a) and then the
11 overall safety case review is 5(b) there. And so, in summary, all – go ahead.

12 **MR. ANTHONY IMBESI:** No, I'd like to hear your answer; so
13 that's essentially a road map of what you undertook for the audit?

14 **MR. SERGIO MAMMOLITI:** Right. So establish requirements, see
15 that they're being managed, see that they are satisfied in the subsystem safety cases,
16 see that they're satisfied in the operational and main safety cases.

17 **MR. ANTHONY IMBESI:** Right. And you do reference a number
18 of documents in this report; would those be all of the documents that you had reviewed
19 for the purpose of your audit or would there be additional materials that you would like?

20 **MR. SERGIO MAMMOLITI:** Oh there was a great slew of things
21 but – so, for example, Mr. Wynne was talking about the engineering safety assurance
22 case and that being a summary of all those individual safety justification reports. So we
23 would have followed the ESAC, just to use the acronym, the "Engineering Safety
24 Assurance Case"; we would have followed the ESAC into each of those safety
25 justification reports, reviewed them and provided comments, but – but, yeah, that's the –
26 in 5(b) there, the main safety case, that's the one we would have looked at and it would
27 have been most relevant to this report.

28 **MR. ANTHONY IMBESI:** And so at the outset when we talked

1 about your role, I think I had described it and I think you agreed, it's an audit function;
2 it's primarily, if not exclusively document-based, but from the sounds of what you're
3 saying it's a fairly comprehensive review that you're undertaking; is that fair?

4 **MR. SERGIO MAMMOLITI:** Yeah, yeah. We follow the threads,
5 right, and make sure they connect up and, you know, they go into designs, the designs
6 are validated, yes, they're built that way and then integrating everything and it all
7 functions well together. Yes, it can be quite involved, yes.

8 **MR. ANTHONY IMBESI:** If we could please go to page 11. And,
9 in particular, I'm looking at the fourth paragraph, so if we could scroll down just a little bit
10 more. And I'll give you a second to take a look at that, Mr. Mammoliti, but what you're
11 referring to is a change in approach, and I take it this is a change to the risk-based
12 assurance methodology that we discussed earlier?

13 **MR. SERGIO MAMMOLITI:** Yeah, that in itself, isn't uncommon;
14 the – and Mr. Wynne alluded to this earlier too. Given when we joined the program in
15 2017, it doesn't make a lot of sense to go back and do a – some of the early works for
16 those various standards, no 882 or IEC 61508. And so that's more to the – the point of
17 this, right? Given the timelines it doesn't make sense to go backwards in time to create
18 a document for the sake of creating a document just because the standard says so.

19 **MR. ANTHONY IMBESI:** And I think what you're confirming here
20 in this paragraph then is, is you've taken a look at the risk-based assurance process
21 that was ultimately undertaken and you were satisfied that potential issues that you
22 identified here didn't materialize in this approach; is that fair?

23 **MR. SERGIO MAMMOLITI:** Correct, yes.

24 **MR. ANTHONY IMBESI:** And before we leave this document, we
25 had spoken a little bit earlier about how your focus was not on whether the operator or
26 maintainer could perform their roles following Revenue Service Availability; do you
27 recall that?

28 **MR. SERGIO MAMMOLITI:** Yes.

1 **MR. ANTHONY IMBESI:** And so I guess my question for you then,
2 sir -- and we don't have the time to go through your entire report, but what I'm
3 wondering then is in light of what you've just indicated, how does the operator's safety
4 case and the maintenance plans, how do they factor into your ultimate final audit
5 report?

6 **MR. SERGIO MAMMOLITI:** The operator safety case was a
7 separate document. I believe that was prepared by Parsons for the City. We certainly
8 reviewed that as well in the overall context of things here. And in terms of -- that would
9 have fed into, I believe, the OSHA, the Operating and Support Hazard Analysis, to
10 ensure that the appropriate standard operating procedures were in place and that
11 training had taken place to those procedures, maintenance and operation ones. So that
12 would have been the extent of our review in that regard.

13 **MR. ANTHONY IMBESI:** So you would have reviewed, then, the
14 documents which included documents prepared from the City's side by Parsons that
15 indicated that everyone has been properly trained and mobilized and ready to
16 commence operations?

17 **MR. SERGIO MAMMOLITI:** Yeah, we saw that operator safety
18 case, yes, as I recall.

19 **MR. ANTHONY IMBESI:** And turning then to the maintenance side
20 of things, what documents would you have seen that were relevant for the purposes of
21 your review in terms of evidence of mobilization of maintenance resources or anything
22 of that nature? Does that form part of this scope?

23 **MR. SERGIO MAMMOLITI:** No, it didn't. I think that was just
24 because of the nature of this contract. That was a different contract with RTM, Rideau
25 Transit Maintenance. Yeah. So it was out of scope.

26 **MR. ANTHONY IMBESI:** A different contract, sorry, in the sense of
27 the ISA had a separate contract or in the sense of the maintenance is subcontracted by
28 RTG to a different entity from OLRTC who is the builder?

1 **MR. SERGIO MAMMOLITI:** No, I believe the way the Project
2 Agreement is written that that wasn't in the scope of the safety requirements and such
3 that we were to audit. I do believe it was a separate contract. I don't recall. I wasn't
4 involved at that stage. Whether that's through RTG or directly through the City, but it
5 was a separate entity.

6 **MR. ANTHONY IMBESI:** Okay.

7 **MR. SERGIO MAMMOLITI:** They were aware of what we were
8 doing and I think Mr. Wynne allude to that earlier too, that they ran these integrated
9 hazard log meetings and so they were aware of what's coming down towards them in
10 terms of requirements operation primarily.

11 **MR. ANTHONY IMBESI:** No, and I certainly appreciate that. I
12 guess what I'm getting at is I wanted to understand what you would have looked at for
13 the purpose of the safety case. Would you have seen any of the maintenance plans, for
14 example?

15 **MR. SERGIO MAMMOLITI:** No.

16 **MR. ANTHONY IMBESI:** Okay. And I take it as well you would be
17 concerned with whether the maintainer has mobilized sufficient resources to undertake
18 and carry out the maintenance work following RSA? That's not part of your scope?

19 **MR. SERGIO MAMMOLITI:** No, it's ---

20 **MR. ANTHONY IMBESI:** I'm sorry, we -- thank you, We lost your
21 audio for a second.

22 **MR. SERGIO MAMMOLITI:** Oh, am I back? Can you hear me?

23 **MR. ANTHONY IMBESI:** We can. So no, that was not part of your
24 scope?

25 **MR. SERGIO MAMMOLITI:** Correct. That was not part of the
26 scope.

27 **MR. ANTHONY IMBESI:** Okay. Thank you.

28 If we could turn to Document number RTM30914. And so while

1 that's queuing up, these documents will be -- these questions will be primarily directed
2 to you, Mr. Wynne. So this is the track safety justification report, if we could scroll
3 down, please. Revision 2, dated August 14th, 2019.

4 Were you involved in the preparation of this document, Mr. Wynne?

5 **MR. DEREK WYNNE:** I had oversight, yes.

6 **MR. ANTHONY IMBESI:** Yes. And as we'll see, ultimately there
7 are some issues and concerns raised with respect to the track and ultimately this
8 translated into certain conditions, restrictions, and limitations which found their way into
9 the operational restrictions document, correct?

10 **MR. DEREK WYNNE:** Yes.

11 **MR. ANTHONY IMBESI:** Okay. In the interest of time I won't -- I
12 don't think I'll bring you to the operational restrictions document but that's what you
13 alluded to before. It's the document that sets out the limitations on the system in order
14 to meet that level of safety assurance that's found in the Engineering Safety and
15 Assurance case, correct?

16 **MR. DEREK WYNNE:** Yes.

17 **MR. ANTHONY IMBESI:** Okay. And Mr. Mammoliti, you would
18 have reviewed this track safety justification report as well as the operational restrictions
19 documents and relied on them for the purposes of your report?

20 **MR. SERGIO MAMMOLITI:** Yeah. I'm certain we've see this
21 document, yes.

22 **MR. ANTHONY IMBESI:** Okay. And so I would like to turn to page
23 42, please. And if we could scroll down, I'd like to see if we could as much of 4.6.1 as
24 possible -- 4.6.2.1.

25 So Mr. Wynne, I'll give you a second to take a look at this and
26 refamiliarize yourself.

27 **MR. DEREK WYNNE:** Okay.

28 **MR. ANTHONY IMBESI:** So I'd just like you to explain to us, as I

1 understand this, this is identifying what I'll term a potential hazard with respect to the
2 rail. Are you familiar with what this is setting out?

3 **MR. DEREK WYNNE:** Yes. So what -- this challenge starts all the
4 way back in the Project Agreement. The Project Agreement specified the use of
5 AREMA or the rail standard, and the softest rail type that that calls up is 310 Brinell
6 which you'll see there in paragraph 2.

7 And that particular type of rail is intended for rail vehicles with 30
8 ton axle loads. The light rail vehicle, by its very name, is light and is only 10 ton per
9 axle, so straightaway we've got a mis-match in the rail and vehicle chosen.

10 Paragraph 3 here is also talking about the wheel profile versus the
11 rail profile and confirming that there is not a direct correlation between the two. So it
12 again causes an amount of compromise. And then towards the bottom here we get into
13 design geometry of comp values and so on and this is talking about curving forces.

14 You've got to think about the bogie under the train, fixed axle
15 lengths, what you're curving, so you adjust the amount of wheel that's in contact with
16 the rail.

17 There is a note in here about rail wear has been seen on the site
18 during track surveillance. This is at U. Ottawa and of the downtown tunnel as you're
19 going from at grade down into Rideau Station. I personally saw that and you can see an
20 amount of smelting on the track. And also quite interesting, you can see an amount of
21 wear on the rail head where the train is seeking its sweet spot. So there is a slight
22 geometric alignment issue there.

23 None of these factors should prevent you from operating the
24 railway safely providing you adhere to the maintenance restrictions and you keep close
25 watch on the rail condition. Those were certainly provisions I put in the operational
26 restrictions document, increased frequency of inspection of the rail and appropriate
27 maintenance.

28 One of the other provisions in there -- and this is a really interesting

1 set of scenarios. A rail vehicle going over the top of the rail effectively it smelts the rail
2 head all the time. When the rail vehicle isn't heavy enough for the rail type, you can get
3 small occlusions in the rail head and if not addressed they propagate until the rail
4 breaks. And this is why I also requested doing an amount of the testing to identify these
5 occlusions. And that informs the need to do rail head grinding. And you can see it's
6 actually referred to at the bottom of paragraph 2 there.

7 So these are conditions that must be dealt with. It doesn't prevent
8 you operating the railway. It just means that you've now increased the burden on
9 maintenance in order that you can safely operate this railway.

10 The misalignment of wheel profile and rail profile wouldn't just affect
11 maintenance on the rail, it would also affect the wheel as well, and you'd expect the
12 wheel sets to need reprofiling of the wheel life on a more frequent basis. So you're life-
13 expiring the asset faster. You're doing more maintenance, a not ideal cost of ownership
14 but doesn't prevent you operating the railway.

15 **MR. ANTHONY IMBESI:** Okay. And so, I guess, put simply, as I
16 understand it, then, what you're saying here is that the rail is too hard, from your
17 perspective, for the vehicle in question.

18 **MR. DEREK WYNNE:** Yes, absolutely.

19 **MR. ANTHONY IMBESI:** Okay. So in talking about potential
20 implications of that -- certainly, you talk about wear to the rail. You've just alluded the
21 fact of issues with the wheel which might necessitate reprofiling. There's also a
22 reference in here to "rolling contact fatigue".

23 **MR. DEREK WYNNE:** M'hm, yeah.

24 **MR. ANTHONY IMBESI:** And perhaps you can explain that for us,
25 but from my understanding, that can lead to rail corrugation; is that fair?

26 **MR. DEREK WYNNE:** Yeah. Yeah.

27 **MR. ANTHONY IMBESI:** Is that the primary consequence of rolling
28 contact fatigue?

1 **MR. DEREK WYNNE:** So there are lots of issues. If you -- without
2 drawing you some diagrams, it's fairly difficult to explain, but you've got to look at the --
3 maybe best if I explain it in terms of a car tire if you look at the amount of rubber in
4 contact with the road. If you put too much air in a tire, and the tire, in profile, starts to
5 look more like a balloon where the centre line of the tire is in contact with the road. So if
6 you drove the car like that, you wear away the tread on the centre but leave lots of tread
7 still to the outside.

8 If you then take that and look at the way that works with the wheel-
9 rail, what's happening is your contact on -- as you sit on top of the railhead, is not as
10 large as maybe you want it to be. And also, because of the different shape, the
11 curvature at the top of the railhead versus the curvature in the wheel-rail profile, again
12 you've got less contact on the wheel flange, so you are putting an amount -- more
13 burden on the -- all of the contact points and you are not spreading the load. So,
14 effectively, this is sort of an exponential focusing of load onto both rail and wheel, and
15 that leads to various sort of conditions that can develop over time, which is what's being
16 referred to here.

17 **MR. ANTHONY IMBESI:** Okay. And are these issues likely to be
18 more prevalent in certain on the rail? So say, for example, is there a greater or lesser
19 likelihood of these issues arising, say, for example, on some of the sharper curves?

20 **MR. DEREK WYNNE:** Yeah, so the sharper curves, you will
21 always get a lot more rail and wheel friction and abrasion on curves. And that is to be
22 expected; that's natural. However, with the less-than-optimal choice rail type and the
23 wheel-rail profile, you compound that natural scenario. The other aspect here as well,
24 looking at the geometric alignments and so on, when the vehicle is moving, even on the
25 straight, if the vehicle is trying to find a sweet spot between the rails, what you're seeing
26 is like a gentle rocking, and therefore you're actually finding this on the straights as well,
27 but you'll see it more pronounced going around the curves.

28 So generally, a challenge all around until the track beds in and the

1 train starts to sit in a sweet spot. The problem with that is, of course, to get to that point,
2 you've already taken a lot of life out of those assets. And this is why the maintenance
3 restrictions were placed.

4 **MR. ANTHONY IMBESI:** And so what are the potential implication,
5 then, of rail corrugation?

6 **MR. DEREK WYNNE:** So there's a couple of thing happening
7 here. The biggest concerns I had -- hard rail is also brittle, so if you're not smelting out
8 the occlusions, then you get rail breaks. Ottawa has suffered rail breaks. So I think
9 that's first indication of this problem. The other challenge that you're going to get here
10 is, because the rail is hard, rather than absorbing vibration from the moving vehicle,
11 effectively, it's in a position where it's reflecting that back.

12 So as for the other issues -- so you've got to look at the nature of
13 the rail type here. This rail is a continuous rail. It's jointed full-length. And part of the
14 reason for that is this is providing part of the grounding of this railway because of the
15 nature of its location. So what you've got then is an amount of expansion and
16 contraction due to natural sort of environmental conditions. In high summer, that rail's
17 going to expand; winter, it's going to contract. And whilst we won't notice to the naked
18 eye, but what you are doing is moving the wear spots as well. So slowly but surely, you
19 are wearing out this rail more than you would otherwise normally do. So all of this --
20 what I am saying is all of it serves to weaken the rail, and/or weaken the vehicle wheels.

21 **MR. ANTHONY IMBESI:** Right. And that's what I wanted to focus
22 on. I take one comment that you just made where you were talking about the rail
23 reflecting vibration, and I take it that's what might have impacts on the vehicle
24 components?

25 **MR. DEREK WYNNE:** Yeah, so Citadis -- the Alstom Citadis is
26 used in many environments around the world, you know, in the Middle East with a
27 constantly high temperature. It's in use in Eastern European countries where they've
28 got a range of climatic conditions similar to -- possibly not as cold as Ottawa but

1 certainly similar. This vehicle does not have problems its wheel bearings and so on.

2 The -- so, in theory, given that the rail type is not absorbing the
3 vibration, it's to be assumed that it's reflected back into the vehicle that is transiting.
4 Now, how much of a factor this plays in affecting the suspension, the wheel bearing, et
5 cetera, there, I would need to do further analysis. I have not had the opportunity to do
6 that, but I would certainly consider that a factor in the -- certainly, looking at some of the
7 reports that I got to see, the amount heat buildup and so on, I think this is a combination
8 of all of the factors that are written about here, and also that vibration going back up into
9 the train.

10 You get an excess buildup of heat, which is not really useful for any
11 of the lubricants in the wheel bearing. It could possibly explain why some of that --
12 there was the burnt smell that was reported, and certainly a -- a start to look at the
13 failure of some of those wheel bearings. So I would certainly see this a real area of
14 concern.

15 **MR. ANTHONY IMBESI:** And just so we understand it -- and you
16 were interviewed by Commission counsel previously, so I do have a bit of
17 understanding of what you evidence is ---

18 **MR. DEREK WYNNE:** Yeah.

19 **MR. ANTHONY IMBESI:** --- but when you're talking about these
20 issues, are you referring to the August 2021 derailment, when you're speaking about
21 the bearing and some of these other issues?

22 **MR. DEREK WYNNE:** Yeah, so, certainly, that derailment -- in
23 fact, there's been a few times. Sometimes it's been due to more in the maintenance
24 storage facility moving a switch whilst a vehicle's going over top of it. That's an
25 operational error. The particular on in August with the -- which seems to have been
26 attributed to a wheel bearing failure, very much, I would say, that is as a result of all this.

27 Light rail -- so one of the -- one of the bits of report I saw coming
28 was looking at putting heat sensor on the bearings, but that is something you do with

1 heavy freight, not something you do with a light rail vehicle. So if the concern is that
2 we've got heat buildup in those bearings, we better ask ourselves, "Why do we get heat
3 buildup? What's causing it?" And all of the conditions that we're talking about here
4 would certainly create energy, and that energy would be dissipated as heat, which
5 you're starting to see at that particular point.

6 **MR. ANTHONY IMBESI:** And we'll turn back to that in a moment
7 because I would like to show you another document. But, for now, before we finish off
8 on this document, if we could turn to page -- I suppose, before we move -- so you'd
9 identified some issues here in this report with respect to the track and the wheel-rail
10 profile. You just explained for us what those are. So, ultimately, as we see here, that
11 culminated with your recommendation that there be additional grinding to be undertaken
12 on the rail as well as additional ultrasonic visual inspection?

13 **MR. DEREK WYNNE:** Yeah.

14 **MR. ANTHONY IMBESI:** And that was to -- those were to -- well,
15 the inspection is to identify some of the concerns that you've listed here, and the rail
16 grinding would be to proactively deal with those concerns; is that fair?

17 **MR. DEREK WYNNE:** Yes, absolutely.

18 **MR. ANTHONY IMBESI:** Okay. And if we could turn to page 51.

19 And so we see here recommendations. And so these are
20 recommendations, ultimately, that are required in order to ensure the overall safety and
21 maintainability of the system?

22 **MR. DEREK WYNNE:** Yeah.

23 **MR. ANTHONY IMBESI:** And I'd like to ask you about a few in
24 particular. And so we'll see in Items 1 and 2, there's reference to the establishment of a
25 working group to monitor wheel and rail wear data?

26 **MR. DEREK WYNNE:** M'hm.

27 **MR. ANTHONY IMBESI:** And so could you just explain, then --
28 well, firstly, the purpose for establishing this group, and what this document outlines as

1 the expectation of what they would look at?

2 **MR. DEREK WYNNE:** Yeah. So large infrastructure, there are two
3 things that -- recommended, and you probably see these things also referred to in most
4 of the safety standards such as CENELEC. So they are FRACAS and DRACAS.

5 So FRACAS is failure recording and corrective action system, and
6 the other is data recording and corrective action system.

7 So what I'm calling for in this here is the latter, is data recording and
8 corrective action system.

9 You can monitor the way rail and the wheel are wearing and the
10 points at which they're wearing. You can start to establish a behaviour pattern. From
11 that, you can start to optimize your maintenance.

12 And at some point in the future, when it comes to doing an asset
13 renewal, you know the areas that you need to pay specific attention to to improve the
14 overall viability of the railway as an enterprise asset.

15 So what we're calling for here is undertake DRACAS, have a
16 working group, make sure that you've got the data, make sure you're analyzing it and
17 you're coming up with appropriate remedial actions until such time as you then take the
18 ultimate remedial action, which is to do a renewal and get the renewal right. And that's
19 the purpose of Item 1 here.

20 **MR. ANTHONY IMBESI:** Right. And so -- and that's to address, at
21 least in part, the issues that we just went through with respect to the track and the wheel
22 rail profile?

23 **MR. DEREK WYNNE:** Yes, absolutely.

24 **MR. ANTHONY IMBESI:** Okay. And we've already touched on
25 this, but the recommendation for the establishment of a working group -- and I think if
26 we scroll down we'll see reference to the increased -- please go to the next page --
27 perhaps it's not set out there in specific detail, but the reference to the working group
28 and the increased inspection and increased grinding, those were recommendations that

1 ultimately made their way into the operational restrictions -- restriction document, and
2 those are restrictions or conditions or limitations that are placed on the railway, and in
3 order for the railway to meet the overall case, those must be followed, is that fair?

4 **MR. DEREK WYNNE:** Yeah, absolutely. If you look at Bullet 2 on
5 this page under "Conclusions", DSR is the derived safety requirement, so all derived
6 safety requirements have been accepted by and transferred to their respective owners
7 and agreed by the hazard review panel, evidenced in Table 5 of the safety requirements
8 metrics.

9 So just to confirm then, a derived safety requirement, if there is a
10 solution that can be obtained via the system, then that is the ideal. Any safety risk that
11 is not mitigated by the system must be transferred to a process and a person or a party
12 that will then mitigate that risk. And those hazard transfer forms are all separated and
13 were agreed and passed on to either operator or maintainer as part of the hazard
14 review panel, which is referred to there.

15 Part of those hazard transfers will include some of the operational
16 restrictions that we've referred to.

17 **MR. ANTHONY IMBESI:** And Mr. Mammoliti, I take it from your
18 evidence, you would have reviewed these documents, so you would have been
19 generally aware of these issues that Mr. Wynne has just discussed?

20 **MR. SERGIO MAMMOLITI:** Yes.

21 **MR. ANTHONY IMBESI:** And so is it fair to say, then, that from
22 your perspective, for the purposes of the safety case, you would take these issues into
23 account, you would take the operational restrictions and the other items that Mr. Wynne
24 mentioned, and based off of all that, you'd still reach the conclusion that the system was
25 safe and reliable; is that fair?

26 **MR. SERGIO MAMMOLITI:** Correct, yeah.

27 **MR. ANTHONY IMBESI:** And so I'd like to take you to Document
28 COM10118.

1 And so these questions will be directed primarily to you, Mr.
2 Wynne.

3 So you may not have seen this document before. It's a root cause
4 analysis prepared by Alstom in respect of LRV 1119 derailment. That's the August of
5 2021 derailment. This report was prepared in May of this year. If we could just scroll
6 down, just to identify the document?

7 I take it you've not seen this document before?

8 **MR. DEREK WYNNE:** No, I've not seen this.

9 **MR. ANTHONY IMBESI:** Okay.

10 **MR. DEREK WYNNE:** This is after my involvement in
11 Confederation Line ended.

12 **MR. ANTHONY IMBESI:** And just to clarify for the record then, you
13 were not involved during the time of the derailment, and you had no involvement in any
14 of the investigations or preparing any reports in respect of the derailment; is that fair?

15 **MR. DEREK WYNNE:** Correct.

16 **MR. ANTHONY IMBESI:** I would just like to turn your attention, if
17 we could go to page 6, and so if we could scroll down just so -- there, that's -- that
18 should -- no, that should be fine.

19 So I'll give you a second to look at this, Mr. Wynne, and I want you
20 to look at this, just in the context of some of the issues that you had just explained for us
21 and the potential implications of some of the track issues.

22 Just have a look at this, and what I'm wondering, sir, is if this is
23 generally consistent or potentially generally consistent with the concerns that you had
24 just outlined that form part of the track safety justification report in the operational
25 restrictions document?

26 **MR. DEREK WYNNE:** Yeah, exactly. What we're -- certainly,
27 paragraph 2 there, excessive transversal loads and forces, certainly recognize that.
28 They -- and certainly, the third paragraph, testing simulations that these loads span are

1 a critical factor in causing the fretting under the bearing of the axle. Certainly,
2 interesting to see high loads on the two motor bogies at the extremities of the train set.

3 **MR. ANTHONY IMBESI:** So is this consistent in any way with the
4 concerns that you had that you explained to us with respect to the track issue?

5 **MR. DEREK WYNNE:** Yeah, absolutely. I think the thing here
6 that's of surprise to me is, I was expecting these challenges to be around the wheel.
7 There was an incidence, one of the -- we did have a cracked wheel which had to be
8 replaced. I do remember noting that.

9 But what's happening here is, the wheel is not taking the brunt of
10 the problem. It's actually being transmitted further into the vehicle, and presenting at
11 the wheel bearing.

12 But this is very much the concern, yeah.

13 **MR. ANTHONY IMBESI:** Thank you. If we could turn to Document
14 COMH0000017?

15 I just have a brief couple of questions for you, Mr. Wynne. So this
16 is ---

17 **--- EXHIBIT No. 222:**

18 COMH0000017 – OLRT-C Rail Wear Hazard January 2019

19 **MR. DEREK WYNNE:** M'hm.

20 **MR. ANTHONY IMBESI:** --- just scroll down slightly -- this is a
21 OLRTC rail wear hazard, a PowerPoint presentation that was prepared by SEMP ---

22 **MR. DEREK WYNNE:** Yeah.

23 **MR. ANTHONY IMBESI:** --- from January of 2019?

24 **MR. DEREK WYNNE:** M'hm.

25 **MR. ANTHONY IMBESI:** And you provided this document to the
26 Commission, correct?

27 **MR. DEREK WYNNE:** Yeah.

28 **MR. ANTHONY IMBESI:** And so this -- just at a high level -- goes

1 into the detail that you have just provided us, but if we could just scroll down to the last
2 page?

3 You'll see in the summary, it essentially outlines for us many of the
4 issues that you had just talked about and potential recommendations. And I take it it is
5 from these -- this document and this summary, these recommendations that ultimately
6 found their way into the track safety justification report in the operational restrictions
7 document?

8 **MR. DEREK WYNNE:** Very much so, yeah.

9 **MR. ANTHONY IMBESI:** And you've already gone through the
10 detail of this, so I'm not going to rehash this with you, but was this presentation ever
11 delivered to OLRTC?

12 **MR. DEREK WYNNE:** So this presentation, no. We had an
13 original track assessment report which caused a great deal of consternation and we
14 worded a more -- well, we provided a more softly-worded report and an awful lot of
15 restrictions rather than that report, which was basically -- well, you'd have said, of
16 saying that there needed to be significant changes.

17 Both options are valid, either fix it before revenue service or
18 maintain it extensively during in-service life. But certainly, the issues and these
19 provisions were very known prior to revenue service, and were presented to many.

20 **MR. ANTHONY IMBESI:** And just so we're clear then, known to
21 whom and who would they have been presented to?

22 **MR. DEREK WYNNE:** So this was very much within OLRTC.
23 Certainly, the engineer of record was the person who had the biggest issue with it, as
24 one of these people. I was certainly contacted by various of the OLRTC Exec
25 Management asking me to calm everyone down and address the situation and this is
26 where we finished up. As it were, the problem wasn't addressed in OLRTC; the
27 problem here -- or what we're finding here, is pass the problem into the maintenance
28 and the maintainer will deal with it, which is acceptable. You know, it is standard for

1 railways to operate with conditions, but – and this goes back to my statement that this is
2 not ideal when you creating a brand new built railway. This is not something I would
3 expect when you've got an existing track that's been in service for a long time and
4 suddenly you put in different rail vehicles over it and you're hammering that
5 infrastructure. But, it's an acceptable way of dealing with the challenge but, for me, it's
6 not ideal when it's a brand new built railway.

7 **MR. ANTHONY IMBESI:** And just to tie that up, you had
8 mentioned two options; one of them is ultimately what occurred. You described it
9 passing it off to the maintainer; what was the first option?

10 **MR. DEREK WYNNE:** To address the incompatibility, it may be a
11 strong word, but that difference between the rail 30tonne axel load versus a 10tonne
12 axel road vehicle. We have a rail profile, so either the wheels on the train will need to
13 change or the rail head changed in order that they are appropriately matched and also
14 readdressing the overall track geometry, et cetera.

15 So ideally we should have done all of these changes . This was
16 operating effectively on the condition assessment to operate because it's a lengthy
17 process to make those changes on while you're trying to deliver the amount of delivery
18 pressure. So the option taken here was to operate on condition – which is what you see
19 on lots of infrastructures. You even see this on – I'm almost frighten to fly, but you do
20 see this on a lot of the big planes as well. Every one of them has got its operation
21 conditions and restrictions. So it's a standard thing; it's not ideal from day one, that's
22 all.

23 **MR. ANTHONY IMBESI:** Right. So when we're talking about the
24 rail, then it was either replace it or pay very close attention to it and maintain it properly?

25 **MR. DEREK WYNNE:** Yeah, absolutely.

26 **MR. ANTHONY IMBESI:** We can take that document down.

27 And just before we move on to some final questions that I have for
28 the two of you, just staying on this issue of restrictions and maintenance, Mr. Wynne in

1 your formal interview with the Commission counsel you spoke about how you returned
2 to the project I believe in the fall of 2021 to address some maintenance issues at RTM.

3 **MR. DEREK WYNNE:** Yeah. So the reason for that following the
4 derailments, the City had asserted to RTM concerns re: the suitability of their safety
5 management system. I was asked to come and take a look and have a conversation
6 with RTM to look at what actually needed to be done. That said, my firm and I were not
7 actually engaged to address anything. So I got a window of visibility into what was
8 happening but was never engaged to resolve any of the issues.

9 **MR. ANTHONY IMBESI:** And one thing that I'd just like to touch
10 on briefly that arose from your interview with Commission counsel, you had mentioned
11 that you came to form the view that RTM may not have had the operational restrictions
12 document?

13 **MR. DEREK WYNNE:** Correct. At the meeting I had with RTM
14 when I mentioned the operational restrictions document, there were people in that room
15 that were not aware of that, the existence of that document. They immediately went to
16 go look for it. The fact the railway had been operating for almost two years and the
17 maintainer hadn't paid attention to the operational restrictions document I think is a
18 challenge, to say the least, particularly as on the safety certificate, if I remember rightly.
19 I actually refer people to follow the operational restrictions document. He might not
20 have found the document, but he should certainly have known about the certificate and
21 the provisions that are based on it. It's not normal to place provisions on a safety
22 certificate, but I was trying to "belt and braces" and make sure that none of these
23 provisions were missed.

24 **MR. ANTHONY IMBESI:** When you're talking about restrictions
25 on the safety certificate, are these the restrictions that we've just been discussing?

26 **MR. DEREK WYNNE:** So I wouldn't have placed these but I would
27 have said, and I do seem to remember stating following all provisions of the operational
28 restrictions, personalized communication devices just in case there were comms issues,

1 et cetera. So I placed a whole series of things that should be done and certainly those
2 called other things that also needed to happen as well. And that was placed on the one
3 page safety certificate and that caused the operational restrictions document.

4 And the operational restrictions document itself wasn't just written
5 for Stage 1 of the Confederation Line, I've placed provisions in there that would also
6 guide – this is a living, breathing asset for the City of Ottawa. And I placed restrictions
7 in there which also addressed how you can extend that railway with the Stage 2 project
8 that's now happening, so that we didn't invalidate the safety case or the cybersecurity
9 case et cetera. So I thought long and hard about the life of this infrastructure, to keep it
10 alive and also prevent future work from comprising it. And all of those provisions have
11 been written in the operational restrictions' document and I referred to it on the safety
12 cert.

13 Part of the reason I put the provision on the safety cert. is lack of
14 confidence in people behaving in a manner that made sure that the safety certificate
15 remained valid, and that's why I pointed to the operational restrictions document there.
16 And clearly, there was a lot of anecdotal understanding now that – if people haven't
17 read the operational restrictions, clearly they wouldn't have followed it, and therefore,
18 we would then have to question whether the safety certificate remains valid.

19 **MR. ANTHONY IMBESI:** And is that based on anything that you
20 observed or was that just based primarily on your understanding that at least certain
21 people in the room with you at your meeting had not seen it. Like have you actually
22 observed that any of these restrictions have not been followed?

23 **MR. DEREK WYNNE:** No, so it's difficult to – unless I was based
24 in Ottawa and monitoring all of their maintenance activities it would be difficult for me to
25 prove they did or they didn't. This was more of the surprise of senior management that
26 these things existed. It created a great deal of concern; if they don't understand or
27 haven't read these documents, it's highly unlikely that they would be managing the
28 maintenance of a railway in accordance with them.

1 **MR. ANTHONY IMBESI:** Right. And obviously being a safety
2 critical document, the overall systems safety is pinned on documents such as the
3 operational safety case?

4 **MR. DEREK WYNNE:** Absolutely.

5 **MR. ANTHONY IMBESI:** Right. And so it's critical to the overall
6 safety case of the project as well as best practices that the operational restrictions
7 document be followed?

8 **MR. DEREK WYNNE:** Yes.

9 **MR. ANTHONY IMBESI:** And I am conscious of time here; we did
10 start a few minutes late, so I would just like to close off just by asking each of you – so
11 at the time of revenue service and when each of you ended your involvement in the
12 project, did you have any outstanding concerns about the safety of the LRT system?

13 **MR. DEREK WYNNE:** If I take that one first. In terms of the – first
14 of all, I would like to describe what constitutes a system. The system is the
15 infrastructure, plus the processes, plus the people. When it came to the system
16 element, I was confident that an experienced operator maintainer could operate that
17 railway by following the instructions.

18 I had no concerns that – I did review the City of Ottawa Safety
19 Management System at the time and I did express concerns that I didn't find fit the
20 purpose and I did at the time have concerns over how the railway would be operated
21 and maintained and I've just explained why I was very specific about placing information
22 on the safety certificate to point towards the operational restrictions document and
23 ensure that those provisions were not overlooked.

24 So my concerns at that point were about the maturity of the
25 organization's undertaking, both the operations and the maintenance.

26 **MR. ANTHONY IMBESI:** And so your concerns were with respect
27 to the organization but you did feel that the system and the infrastructure were safe as
28 they were?

1 **MR. DEREK WYNNE:** If operated by experienced railway
2 operators and maintainers, I believe it would have been operated without the issues it
3 had and certainly safely, yes.

4 **MR. ANTHONY IMBESI:** And Mr. Mammoliti?

5 **MR. SERGIO MAMMOLITI:** Yeah, similar. The -- I didn't have any
6 concerns at the end. I wouldn't have issued the report with the statement that it's fit for
7 purpose otherwise. To Mr. Wynne's point, yeah, the ORD laid out of these
8 requirements, too, for the operations and maintenance of the system so -- and, as he
9 says, between the systems context and the operational context, I felt that was
10 satisfactory, yes.

11 **MR. ANTHONY IMBESI:** Thank you, gentlemen, those are my
12 questions. I appreciate you taking the time to assist us today.

13 **COMMISSIONER HOURIGAN:** All right. Thank you, counsel.
14 So next, gentlemen, you'll have question from the various
15 participants' lawyers. And first up is counsel for the City of Ottawa.

16 **MR. JESSE GARDNER:** Thank you, Mr. Commissioner.

17 **--- CROSS-EXAMINATION BY MR. JESSE GARDNER:**

18 **MR. JESSE GARDNER:** Mr. Mammoliti, I'm going to start with
19 asking some questions of you. I take it -- I understand you were retained by the City of
20 Ottawa on July 2017; is that right?

21 **MR. SERGIO MAMMOLITI:** That's correct, yes.

22 **MR. JESSE GARDNER:** Okay. So we've heard about your
23 mandate, what you were involved in, what you did. In your experience, is it common to
24 bring in an external such as yourself to act an independent safety assessor on a project
25 like this?

26 **MR. SERGIO MAMMOLITI:** It depends on the transit authority.
27 New York City, for example, has their own. It's more common in Europe where
28 CENELEC is more prevalent, but yes.

1 **MR. JESSE GARDNER:** Right. So it's fairly common that there be
2 an independent engineer responsible for assessing safety on a project like this; is that
3 fair?

4 **MR. SERGIO MAMMOLITI:** Yes, that's fair to say, yes.

5 **MR. JESSE GARDNER:** Okay. Now, we know that in your role
6 you developed a Safety Audit Report. And did you -- you know, in that process of
7 reviewing the documentation that led to that Safety Audit Report, you understood that
8 role was independent as between the parties, the City, and OLRTC, and that your
9 conclusions would be independent; is that fair?

10 **MR. SERGIO MAMMOLITI:** That's fair to say, yes.

11 **MR. JESSE GARDNER:** Okay. And if you felt that further
12 documentation or further work was needed to help you arrive at a position to give a
13 positive assessment on safety, you would raise that concern that more documentation
14 or more work was needed; is that fair?

15 **MR. SERGIO MAMMOLITI:** Oh, absolutely, yeah. I'm legally
16 bound to, actually. The *Professional Engineering Act* requires me to.

17 **MR. JESSE GARDNER:** Right. I'd like to now show you a
18 document -- I believe we looked at it earlier but I'm going to ask to look at it again --
19 COW0536897. And Mr. Mammoliti, this is the Safety Audit Report. We actually spent
20 some time on this this morning.

21 **MR. SERGIO MAMMOLITI:** M'hm.

22 **MR. JESSE GARDNER:** Okay. So you'd agree with me, this is --
23 and if we could just scroll down a little bit to see the date, this is the final version of -- or
24 version 5 of your report; is that right?

25 **MR. SERGIO MAMMOLITI:** That's correct.

26 **MR. JESSE GARDNER:** Okay. And if can scroll down to just to
27 the first reference, if you scroll down to the first page -- yeah, there. So I want to just
28 talk to you about the scope of your work. So as per the Safety Auditor Terms of

1 Reference, TUV Rhineland is performing a safety audit to confirm that RTG is compliant
2 with the safety requirement prior to the revenue service availability date. That's your
3 understanding of what the task was; is that right?

4 **MR. SERGIO MAMMOLITI:** Correct, yes.

5 **MR. JESSE GARDNER:** Okay. And you did conclude, I think we
6 heard this morning, that RTG was compliant with the safety requirements by the end of
7 the project; is that fair?

8 **MR. SERGIO MAMMOLITI:** That's fair to say, yes.

9 **MR. JESSE GARDNER:** Okay. And you advised the City of this
10 conclusion? You advised all the parties of your conclusion; is that right?

11 **MR. SERGIO MAMMOLITI:** Correct. Sorry, did you miss that. I
12 said correct, yes/

13 **MR. JESSE GARDNER:** Yes, thank you. Was it -- do you recall in
14 2017 a gentleman by the name of Mr. Sean Derry took on the role of -- I think this is the
15 description of the role -- Director of Systems Engineering for OLRTC, and he led the
16 OLRTC's Systems Engineering Safety Assurance team; do you recall that?

17 **MR. SERGIO MAMMOLITI:** I think he was already on the job by
18 the time I arrive, but yes, I remember Sean.

19 **MR. JESSE GARDNER:** Okay. And was it your recollection that
20 he was brought to help RTG achieve the requirements of the safety certificate.

21 **MR. SERGIO MAMMOLITI:** Oh, I have no idea. Like I said, he
22 was a -- he was there before I and I didn't realize he was brought on for that task. As
23 far as I knew, he was there from day one, but I believe you're right, that he was brought
24 on to help -- in fact, yes, they did bring him from UK, as I recall. SNC-Lavalin brought
25 him from -- to help out with this, yes.

26 **MR. JESSE GARDNER:** Right. So your understanding was that
27 he was there to kind of handle systems assurance and bring it across the finish line for
28 OLRTC; is that fair?

1 **MR. SERGIO MAMMOLITI:** Sure, that's fair to say, yeah.

2 **MR. JESSE GARDNER:** Okay. And we talked about, you know,
3 some of the initial or early issues with safety activities and documentation, some
4 struggle that OLRTC had to get that work done properly. Was it your understanding
5 that Mr. Derry assisted with getting that safety documentation and the processes in
6 place in a way that was satisfactory; is that fair?

7 **MR. SERGIO MAMMOLITI:** Oh, yeah, very much so, yeah.

8 **MR. JESSE GARDNER:** Right. So you saw a steady -- I'm going
9 to suggest to you that you saw a steady improvement in terms of the quality of the
10 safety assurance work that was being performed by OLRTC as compared to when you
11 first looked at what they had done; is that fair?

12 **MR. SERGIO MAMMOLITI:** Correct, yeah. I believe it's -- if you
13 look at Revision 1 of this report, it talks about the safety requirements had not been
14 established, and yeah, they got to the task of getting to that so they could move on with
15 assembling the safety case and other evidences, yes.

16 **MR. JESSE GARDNER:** Okay. So I'm going to discuss with you
17 the conclusions of this report in a moment, but I just wanted to confirm with you that it
18 was never suggested to you by anyone that you interacted with on the project that this
19 system before RSA was not safe for carrying passengers; is that fair? No one
20 suggested that it wasn't safe?

21 **MR. SERGIO MAMMOLITI:** I'm not sure what you mean by that. I
22 mean it's -- it's -- we conclude it's safe until there's evidence to demonstrate it is, right?
23 So we're kind of binary in that way, right? It's not until it is. So until we get those final
24 bits of evidence, it's not, right?

25 **MR. JESSE GARDNER:** So why I don't I rephrase the question for
26 you. Once you concluded that it was safe -- so at that point in time, did anyone raise
27 with that that's wrong; it's not -- the system's actually not safe?

28 **MR. SERGIO MAMMOLITI:** Oh, no, no, certainly not. I would

1 have had a duty to report if that was the case, yeah.

2 **MR. JESSE GARDNER:** Exactly. So you concluded that it was
3 safe for carrying passengers. No one raised that it was not?

4 **MR. SERGIO MAMMOLITI:** Correct.

5 **MR. JESSE GARDNER:** Okay. So I understand that you've
6 reviewed a wide array of technical and operational documents in preparing this Safety
7 Audit Report so I'm not going to take you through all of it, but I just want to touch on
8 some of the conclusions.

9 **MR. SERGIO MAMMOLITI:** M'hm.

10 **MR. JESSE GARDNER:** If we turn to Section 2 of this report, so
11 below -- yeah. Yes, so Task 2 here. This section contains your review and assessment
12 of the documents listed here; is that accurate?

13 **MR. SERGIO MAMMOLITI:** Yeah, they contribute to the task there
14 of the safety and security requirements, yes.

15 **MR. JESSE GARDNER:** So -- and it's fair to say that these
16 documents are reviewed and developed in an iterative process? It's not -- you don't
17 have over a final document and that's it. There's an iterative development of them. Is
18 that right?

19 **MR. SERGIO MAMMOLITI:** Yeah, correct. I mean you can tell
20 that by the revision numbers on these two, right, so yeah.

21 **MR. JESSE GARDNER:** Exactly. And in your industry experience,
22 that's normal, to have an iterative process of these documents; fair?

23 **MR. SERGIO MAMMOLITI:** Yes, quite. Yes.

24 **MR. JESSE GARDNER:** And you'd agree with me that it's also
25 common -- and I think you were touching on this earlier. It's common that a safety audit
26 report like this one is worked on and it's worked on and then it's finalized often near
27 RSA or the launch of a system; isn't that fair? Near the end of the project is when it's
28 finalized?

1 **MR. SERGIO MAMMOLITI:** Oh, absolutely. Yes. How can I say
2 it's ready for passenger service the day you start digging holes in the ground? No, it's
3 very -- it's in lockstep at the end there, yeah.

4 **MR. JESSE GARDNER:** Exactly. Now, beginning in Section 2.1
5 here, I'd like to take you actually -- so this section deals with the safety and security
6 requirements. If we scroll down to the top of page 10 you see the paragraph here:

7 "Consequently, the observations made in earlier
8 versions of this audit report regarding the delayed
9 development of safety requirements have been
10 addressed. The development and implementation of
11 the safety and security requirements are sufficient for
12 passenger carrying operations." (As read)

13 You would agree that that was your conclusion at the time; is that
14 correct?

15 **MR. SERGIO MAMMOLITI:** Yeah, absolutely. Yes, of course.

16 **MR. JESSE GARDNER:** Okay. So the issues that were being
17 addressed or the issues that had come up earlier on had been addressed by Revision 5
18 of your report. Is that fair?

19 **MR. SERGIO MAMMOLITI:** Correct.

20 **MR. JESSE GARDNER:** Okay. I'd like to take you to just below,
21 2.2. This is Task 3, Safety management system and security management system.

22 **MR. SERGIO MAMMOLITI:** M'hm.

23 **MR. JESSE GARDNER:** Now, if we go to the very bottom of this
24 page we see the second sentence in the bottom paragraph.

25 "This standard identifies system safety as being
26 dependent upon not only hazard and safety analyses
27 but also a properly functioning quality assurance and
28 reliability, availability, and maintainability program to

1 ensure that the elements of the railroad that are
2 responsible for the safety are well defined via quality
3 assurance programs and are demonstrated to be
4 reliable via a RAM program in the respective
5 functions.” (As read)

6 So you're explaining what essentially needs to be done to satisfy
7 yourself in terms of this task; is that fair?

8 **MR. SERGIO MAMMOLITI:** Yes. So if you look at that standard,
9 the CENELEC 50126, it's very structured in this respect. You know, there has to be a
10 quality assurance program. It's all well and good to design a system to be safe but if
11 you don't have a quality program to ensure that happens, it's all for nought, right?

12 Similarly with the RAM and Mr. Wynne talked -- touched on this
13 earlier, right? A safe system has to be an available system, right? The safety functions
14 have to be available, hence the RAM part of this. It influences the safety of the system.
15 So yes. And that's essentially what that standard of 50126 states, yeah.

16 **MR. JESSE GARDNER:** Right. And so in satisfying yourself that
17 the safety requirements have been met in relation to this section of the report, one of
18 the documents that you looked at was the case for safety; is that fair?

19 **MR. SERGIO MAMMOLITI:** Yes, that sums everything up, yes.

20 **MR. JESSE GARDNER:** Okay. And I think we looked at that
21 earlier. It was a document that was signed by Mr. Wynne and dated August 14th, 2019.
22 So I'd like to take you to that document and we'll return to this document in a minute.

23 So it's COW0047374, So this is the case for safety.

24 **--- EXHIBIT No. 223:**

25 COW0047374 – OLRTC Confederation Line Phase 1 Case
26 for Safety 14 August 2019

27 **COMMISSIONER HOURIGAN:** Just hang on, one second. Mr.
28 Gardner, just hang on one second. There might be an issue with the document.

1 **MR. JESSE GARDNER:** Okay.

2 **COMMISSIONER HOURIGAN:** All right. We're good. Thanks.

3 **MR. JESSE GARDNER:** Okay. So you recognize this document,
4 Mr. Mammoliti?

5 **MR. SERGIO MAMMOLITI:** Yes.

6 **MR. JESSE GARDNER:** Okay. So I'd like to take you to page 35
7 of the PDF. It's section 7.1 Conclusions.

8 **MR. SERGIO MAMMOLITI:** M'hm.

9 **MR. JESSE GARDNER:** And I'd like to take you to the -- you're
10 familiar with this section, I take it?

11 **MR. SERGIO MAMMOLITI:** It's been a while, but yes.

12 **MR. JESSE GARDNER:** Okay. So I'll take you to the third last
13 bullet from the bottom of this list.

14 **MR. SERGIO MAMMOLITI:** Okay.

15 **MR. JESSE GARDNER:** Please scroll down. Yes, scroll down.
16 So just the third last one, starts with "RAM". It says:

17 "RAM analysis has been undertaken to the extent
18 necessary to demonstrate that the necessary
19 Confederation Line Phase 1 RAM performance
20 inherently meets the safety requirements in the
21 design." (As read)

22 Do you agree with that statement?

23 **MR. SERGIO MAMMOLITI:** I do.

24 **MR. JESSE GARDNER:** Okay. So as a part of, and thinking back
25 to your safety audit report, that third task. As a part of satisfying yourself of the
26 requirements be met there you reviewed the safety case including the conclusion that
27 the RAM analysis was satisfactory; is that fair?

28 **MR. SERGIO MAMMOLITI:** Yeah.

1 **MR. JESSE GARDNER:** Okay. Now I'd like to just flip back to the
2 document, the safety audit report page 10. So that document -- I'll give you the
3 document number. I believe it's COW05 -- perfect, you have it. All right.

4 So I'd like to take you to page 10 and if we scroll down. Sorry, so if
5 we scroll down a little bit. I think it might be on the next page.

6 So I think the conclusion -- and I don't see it right now but I'll read it
7 to you. And let me know if you don't--- if you disagree.

8 “A properly functioning quality assurance and
9 reliability, availability and maintainability RAM
10 program to ensure that the elements of the railroad
11 that are responsible for the safety are well defined
12 and that was in place.” (As read)

13 Would you agree?

14 **MR. SERGIO MAMMOLITI:** Yes.

15 **MR. JESSE GARDNER:** And:

16 “The review of the OLRTC safety management
17 system as described above has demonstrated that
18 the OLRT safety management system has been
19 effective in implementing the system safety
20 requirement as described in section 2.1.” (As read)

21 Do you recall that?

22 **MR. SERGIO MAMMOLITI:** Yes, I do.

23 **MR. JESSE GARDNER:** And we can scroll down, sorry, to page
24 12, paragraph 3. So you see, “To review the OLRT safety management...” that's the
25 paragraph I just read. So that was your conclusion, that this Task 3 had been satisfied;
26 is that fair?

27 **MR. SERGIO MAMMOLITI:** Yeah, there was a sufficient safety
28 management system in place to address these issues, yes.

1 **MR. JESSE GARDNER:** Okay. So if we scroll down to section 2.3
2 and this is page 13 below. Yes, thank you.

3 So you also reviewed the operational restrictions document which
4 we talked about earlier, signed by Mr. Wynne. So you're familiar with that operational
5 restrictions document?

6 **MR. SERGIO MAMMOLITI:** Yes.

7 **MR. JESSE GARDNER:** Okay. And I'll take you to that document
8 just briefly. It's COW0466007. And when the document comes up we'll go to page 3.
9 So this is the Executive Summary. And at the bottom you see:

10 "Based upon evidence presented in the Confederation
11 Line Phase 1 Engineering Safety and Assurance case
12 and subordinate case for safety, and subject to the
13 restrictions, conditions, and limitations described
14 herein being adhered to, the Ottawa Confederation
15 Line 1 railway is considered fit for safe operation."
16 (As read)

17 You understood that to be the conclusion of this document?

18 **MR. SERGIO MAMMOLITI:** Yes.

19 **MR. JESSE GARDNER:** Okay. And so you reviewed this
20 document in satisfying the fourth task, I believe, or Task 5(a) in the -- in your audit
21 report; is that fair?

22 **MR. SERGIO MAMMOLITI:** I don't recall if it was 5(a) or 5(b), but it
23 would have been part of the safety case, yeah.

24 **MR. JESSE GARDNER:** Okay. Now -- and I'll get into this a little
25 bit later, but you'd agree with me that you don't have any evidence today that the
26 recommendations, the content of the recommendations in the operational restrictions
27 document are not being followed? You have no evidence to suggest that; is that fair?

28 **MR. SERGIO MAMMOLITI:** That's correct.

1 **MR. JESSE GARDNER:** Okay. And finally, I'll take you back to the
2 audit report, which I believe we have ready.

3 And so in terms of when we open the audit report, we'll go to page
4 14 of 16 -- m'hm -- and it's COW0536897. Okay. So page 14, and this is Task -- in
5 relation to Task 5(b).

6 So audit main system safety case, so here you're talking about the
7 engineering safety and assurance case, correct?

8 **MR. SERGIO MAMMOLITI:** Right, that's the mothership, yes.

9 **MR. JESSE GARDNER:** Exactly. And you satisfy yourself that the
10 review of the artifacts identified in this audit report, along with the review of the safety
11 case, the engineering safety assurance case itself, are positive and support the
12 assertion that of the ECAC -- or ESAC, that the system is fit for passenger carrying
13 operations. That was your conclusion, right?

14 **MR. SERGIO MAMMOLITI:** Correct.

15 **MR. JESSE GARDNER:** Right. So we agree -- and you looked at
16 it earlier -- this is kind of the top document, the engineering safety assurance case is the
17 top safety document, right?

18 **MR. SERGIO MAMMOLITI:** Right. That's the safety case, the
19 main safety case, yes.

20 **MR. JESSE GARDNER:** Main safety case. And your view that --
21 your conclusion was that the system was ready for passenger carrying operations; it
22 was safe; is that right?

23 **MR. SERGIO MAMMOLITI:** Yes.

24 **MR. JESSE GARDNER:** Okay.

25 **MR. SERGIO MAMMOLITI:** That is correct.

26 **MR. JESSE GARDNER:** So I'd like to just take you to the
27 conclusion of this report. If we scroll down, it's on page 16, is what I'm getting at.

28 So 3.2:

1 "Given the scope and the findings of the safety audit
2 report, as summarized above, the audit report
3 supports the use of the OLRT for passenger carry
4 operations." (As read)

5 This was the message that was given to the City; would you agree,
6 that from a safety perspective, OLRT system is ready for passenger carrying
7 operations?

8 **MR. SERGIO MAMMOLITI:** Yeah, we were satisfied with the body
9 of evidence provided that yes, it was fit for purpose.

10 **MR. JESSE GARDNER:** Okay.

11 Thank you, Mr. Mammoliti.

12 I'd like to now turn to you, Mr. Wynne, to ask you a few questions.

13 I'd like to ask -- so we can take this document down, thank you.

14 Mr. Wynne, SEMPS' mandate related to safety analysis on systems
15 integration issues and drafting certain safety-related documents; is that fair?

16 **MR. DEREK WYNNE:** That was part of our scope, not all of our
17 scope.

18 **MR. JESSE GARDNER:** And what else was a part of your scope?

19 **MR. DEREK WYNNE:** We addressed all of the requirements,
20 management and compliance management, collating all of the evidence coming back
21 from OLRTC. We undertook safety assurance and system assurance and the various
22 audits and provisions, configuration management, the RAM analyses, et cetera, so a full
23 measure of systems engineering and systems assurance from the point at which we got
24 involved.

25 **MR. JESSE GARDNER:** Right, but your mandate was in relation to
26 safety, generally speaking, right? You weren't building parts ---

27 **MR. DEREK WYNNE:** No.

28 **MR. JESSE GARDNER:** --- of the project. It was safety, correct?

1 **MR. DEREK WYNNE:** My mandate was more than safety, so I'll
2 explain it to you. My mandate included compliance against Project Agreement, which
3 by its nature, therefore, includes a mandate for safety.

4 **MR. JESSE GARDNER:** So it was your mandate to ensure that
5 OLRTC complied with every requirement in the PA; is that your evidence?

6 **MR. DEREK WYNNE:** I was not able to -- okay. So I'm going to
7 correct your words again. My mandate was not to ensure compliance. My mandate
8 was to demonstrate that compliance had been achieved. My team were not in a
9 position to be responsible for achieving that compliance. We were there to manage it
10 and provide the evidence back, as it were, provide the system assurance, not actually
11 provide the system that generated the assurance.

12 **MR. JESSE GARDNER:** Right. Okay.

13 And you're not and LRV expert, right? You don't -- you're not an
14 expert in the building of LRVs; is that fair?

15 **MR. DEREK WYNNE:** No. Correct.

16 **MR. JESSE GARDNER:** So that would include assembly and
17 performance of vehicles? That's not your area of expertise?

18 **MR. DEREK WYNNE:** No. My father's yes, not mine.

19 **MR. JESSE GARDNER:** Okay. And also, I take it, not in actually
20 the design and construction of the infrastructure? That's not your area of expertise,
21 right?

22 **MR. DEREK WYNNE:** I am much closer to that aspect of railways
23 than I am to the vehicles. Certainly, in Ottawa, I spent a lot of time out walking the
24 railway when I wasn't in the office, going and exploring the later state of build. And I
25 think it's very important to contextualize where the railway's at and the issues that you
26 see or things that you think could be issues.

27 And I was sat in Vancouver, and I've already been out exploring
28 this railway, even though I'm only working on the control centre for this one, I've already

1 been out and explored all of the railway. So yeah, I'm closer to it, but again, I'm not a
2 constructor. I just want to see the outcome of the construction.

3 **MR. JESSE GARDNER:** I think that's what I'm getting at, Mr.
4 Wynne. I'm just trying to understand your scope. You're there for systems assurance
5 and reviewing compliance, but you're not actually designing the system, fair?

6 **MR. DEREK WYNNE:** Correct.

7 **MR. JESSE GARDNER:** Okay. Thank you.

8 Now, you may have had conversations with individuals at RTM, but
9 you don't work for RTM, and you're not responsible for maintenance, fair?

10 **MR. DEREK WYNNE:** Correct.

11 **MR. JESSE GARDNER:** Okay. So no involvement actually in the
12 performance of maintenance obligations; fair to say?

13 **MR. DEREK WYNNE:** Absolutely.

14 **MR. JESSE GARDNER:** Okay. And so that would mean you're
15 not overseeing day-to-day performance of maintenance obligations or maintenance
16 activities, correct?

17 **MR. DEREK WYNNE:** Correct.

18 **MR. JESSE GARDNER:** Right. Okay. I'd like to talk to you a little
19 bit about trial running.

20 I understand you had some peripheral involvement in trial running,
21 but not on the trial running with -- team, correct?

22 **MR. DEREK WYNNE:** Correct.

23 **MR. JESSE GARDNER:** And as a part of the process, do you
24 recall having issued a safety certificate to allow for the involvement of operational
25 personnel?

26 **MR. DEREK WYNNE:** Yes.

27 **MR. JESSE GARDNER:** I'd like to just show you that document
28 quickly. It's COW0162039.

1 **--- EXHIBIT No. 224:**

2 COW0162039 – SEMP Safety Certificate Trial Running 7
3 June 2019

4 **MR. JESSE GARDNER:** Okay. And it says:

5 "SEMP Limited, on behalf of OLRTC, have applied
6 rigorous system engineering, systems integration, and
7 systems assurance in the form of analysis, reviews,
8 audits, and surveillance to the Confederation Line
9 Phase 1 in order to determine it is safe to undertake
10 trial running of the railway using operations personnel,
11 OC Transpo, and RTM." (As read)

12 Is that right?

13 **MR. DEREK WYNNE:** Yeah.

14 **MR. JESSE GARDNER:** So that was your conclusion, that you
15 had done extensive -- or rigorous, I think, was the word -- analysis and review, and it
16 was safe for the purpose of trial running?

17 **MR. DEREK WYNNE:** Yeah.

18 **MR. JESSE GARDNER:** Correct?

19 **MR. DEREK WYNNE:** Yeah, noting the provisions that have to be
20 adhered to.

21 **MR. JESSE GARDNER:** Right. Okay, thank you.

22 And I'd like to take you now to the reliability, availability,
23 maintainability report which we looked at this morning. It's ALS0012333. I'll take you to
24 page 3. It's the executive summary. And I think we might need it a bit bigger, yeah.

25 So it's the third-last paragraph that I'd like to take you to. Can you
26 see that, Mr. Wynne?

27 **MR. DEREK WYNNE:** I can, although we could do to slide it
28 across the screen, as some of the text is obscured by everyone's pictures. There we

1 go.

2 **MR. JESSE GARDNER:** So it says “Availability modelling
3 provides evidence that the Ottawa Confederation Line 1 is capable of achieving an
4 operational service availability of 99.07 per cent. However, this is considered to be
5 based upon conservative assumptions and steady state operational performance is
6 considered to exceed this level.”

7 And if we go down to the bottom paragraph: “It is considered that
8 the Ottawa Confederation Line Phase 1 infrastructure is adequately reliable and suitable
9 for the onset of revenue service availability. You’d agree that this was the conclusion of
10 this report; is that fair?

11 **MR. DEREK WYNNE:** Correct.

12 **MR. JESSE GARDNER:** So we can take this document down.
13 So is it fair to say based on the two documents we just reviewed, that by late May, early
14 June 2019 SEMP had concluded that the Phase 1 infrastructure is adequately reliable
15 and suitable for the onset of RSA?

16 **MR. DEREK WYNNE:** No, you’re confusing two things here. So
17 you’ve got a RAM analysis report based on the RAM design, which is different than
18 what is realized in construction in the field. The certificate there for trial running and the
19 provisions that I placed on that, are there to guide through trial running whilst lots of
20 deficiencies and snags are still being resolved but with the intent of achieving the overall
21 aim. So you’ve got to look at this as a process through design, through construction,
22 through implementation. There are many swim lanes occurring here and I think you are
23 at the moment mixing two of those swim lanes.

24 **MR. JESSE GARDNER:** Okay. Well, we can look at the
25 document again if you’d like; I’m actually just reading your conclusion in the RAM report,
26 that it’s adequately reliable and suitable of the onset of RSA.

27 **MR. DEREK WYNNE:** Yes.

28 **MR. JESSE GARDNER:** I think you’ll agree that that was the

1 conclusion in that report; is that fair?

2 **MR. DEREK WYNNE:** Absolutely, based on the design this railway
3 is very much fit for that.

4 **MR. JESSE GARDNER:** Okay.

5 **MR. DEREK WYNNE:** But also noting that that requires that
6 construction occur directly and that there are no snags because the snags become
7 conditions and restrictions late on in the day.

8 **MR. JESSE GARDNER:** Right. So I'd like to talk to you about the
9 operational restrictions document. So it's COW0466007. And we'll go to page three
10 when it opens.

11 And I took Mr. Mammoliti here. If you scroll down a little bit, the
12 paragraph "based upon evidence presented in the Confederation Line Phase 1,
13 Engineering, Safety and Assurance case and subordinate case for safety and subject to
14 the restrictions, conditions and limitations described herein being adhered to, the
15 Ottawa Confederation Line, Phase 1 railway is considered fit for safe operation." That
16 was your conclusion; is that fair?

17 **MR. DEREK WYNNE:** Correct.

18 **MR. JESSE GARDNER:** Okay. I'd like to now take you to section
19 7; it's actually the conclusion at page 33 of the report. Okay.

20 And you see the Confederation Line, Phase 1 railway has been
21 demonstrated to be capable of safe operation by a comprehensive review and analysis
22 of the system and hazards against the principles of EN50126, EN20128, EN50129,
23 respectively; is that fair?

24 **MR. DEREK WYNNE:** Yeah.

25 **MR. JESSE GARDNER:** And below I think if we scroll down, the
26 4th bullet, "RAM analysis shown in the Confederation Line, Phase 1, RAM Report,
27 provides confidence that failures and the consequences of failures have been
28 adequately managed and the Confederation Line, Phase 1 is capable delivering long

1 term safe, reliable and cost-effective performance.” Do you see that conclusion?

2 **MR. DEREK WYNNE:** Yeah.

3 **MR. JESSE GARDNER:** And do you agree with that; is that fair,
4 at the time?

5 **MR. DEREK WYNNE:** Absolutely, yeah.

6 **MR. JESSE GARDNER:** Okay. Now I'd like to talk to you a little
7 bit about this operational restrictions document and the evidence you gave earlier on.

8 So in your Commission interview – so we can take this document
9 down actually.

10 In your Commission interview you stated that you don't think
11 anyone at the City, or I suppose, RTM, is following the operational restrictions
12 document; is that right?

13 **MR. DEREK WYNNE:** Yeah.

14 **MR. JESSE GARDNER:** And today we heard evidence from you
15 this morning on this point. And my understanding of your evidence is that you went to
16 one meeting and a few people didn't know about the operational restrictions document,
17 and based on this, you drew the conclusion that the maintainer was not paying attention
18 to the operational restrictions document, that nothing in it had been done, and the safety
19 certificate may no longer be valid; that was your evidence this morning, correct?

20 **MR. DEREK WYNNE:** Correct.

21 **MR. JESSE GARDNER:** Okay. And now you'd agree with me
22 that you have no idea what is being done currently or since launch in terms of
23 maintenance activities or operational procedures by the City; is that fair; you have no
24 direct knowledge?

25 **MR. DEREK WYNNE:** I would agree with that.

26 **MR. JESSE GARDNER:** So your evidence as a licenced
27 engineer, is that the safety certificate might not be valid and you have no direct
28 knowledge of the specific performance of the maintainer or the City in terms of

1 operations; fair?

2 **MR. DEREK WYNNE:** Fair. My observation earlier today is based
3 on people not being aware of the document; they should be very aware of the
4 document, so it doesn't establish confidence, hence is why I said it might have
5 invalidated the safety certificate. That was based on a meeting with RTM. But at the
6 end of the day, the City are responsible for having procured the maintenance service
7 from RTM and should also be cognizant of it and making sure that they're applying it.

8 **MR. JESSE GARDNER:** And did you meet with everyone
9 responsible for maintenance at RTM and Alstom?

10 **MR. DEREK WYNNE:** No, I have not met all of the staff; I met their
11 leadership.

12 **MR. JESSE GARDNER:** Right. So you don't know if the actual
13 staff performing the work is following either the operational restrictions document or the
14 recommendations in that document; you don't actually know if they're doing it; right?

15 **MR. DEREK WYNNE:** Certainly with regard to rail-head grinding
16 and inspection, that was part of my conversation in the room and it was confirmed that
17 no rail-head grinding had been completed since the railway opened.

18 **MR. JESSE GARDNER:** But in terms of the entirety of your
19 recommendations, and you'll agree there's more than one recommendation in that
20 document, you don't have direct knowledge; is that right?

21 **MR. DEREK WYNNE:** Correct.

22 **MR. JESSE GARDNER:** And you're just basing your conclusion
23 on that one meeting; you didn't actually go and do the due diligence to find out if that
24 had been done; is that fair?

25 **MR. DEREK WYNNE:** Correct. I was not engaged to go and do so
26 at the time.

27 **MR. JESSE GARDNER:** Right. You weren't engaged, you
28 weren't involved in that process; fair?

1 **MR. DEREK WYNNE:** Correct.

2 **MR. JESSE GARDNER:** Okay. Now I'm going to suggest to you
3 that we've heard evidence from witnesses from Alstom that the substance of the
4 recommendations in that document have actually been performed; do you have any
5 personal direct evidence that that's not true?

6 **MR. DEREK WYNNE:** Only what's – okay, what's been stated to
7 me by RTM leadership when I met with them last year, that rail-head grinding hadn't
8 been conducted which would be against one of the provisions in my operational
9 restrictions document.

10 **MR. JESSE GARDNER:** Right. So some leadership at RTM told
11 you that, but you don't know if it's actually been done by Alstom or by OLRT or by RTM
12 in terms of the actual folks on site; you don't know that personally, right?

13 **MR. DEREK WYNNE:** Well, no, because I don't walk up and down
14 the railway on a daily basis looking to see who's done what. I have to rely on
15 information that the parties, that they send information to me or state information to me.

16 **MR. JESSE GARDNER:** So there's been evidence put forward in
17 this hearing that Alstom is actually performing some of the recommendations, including
18 ultrasonic testing, monitoring of wheel profile wear rates through visual inspection and
19 monitoring of LRV mounted lubricated performance and others; you don't have any
20 personal direct knowledge that that's not true; fair?

21 **MR. DEREK WYNNE:** I have not seen any records to show that as
22 being done or how frequently, so, no, I can't comment on that.

23 **MR. JESSE GARDNER:** Right. So you don't know either way?

24 **MR. DEREK WYNNE:** No.

25 **MR. JESSE GARDNER:** Okay. Now in terms of the City
26 operations, you're not – you haven't been retained by the City to assist with operations;
27 right?

28 **MR. DEREK WYNNE:** Correct.

1 **MR. JESSE GARDNER:** And you're not involved in the day-to-
2 day operations?

3 **MR. DEREK WYNNE:** No.

4 **MR. JESSE GARDNER:** And you wouldn't review the City's
5 procedures and protocols and what they do in terms of following the recommendations
6 in the operations restrictions document; right? You don't have direct knowledge of that?

7 **MR. DEREK WYNNE:** Not since entering into service, no.

8 **MR. JESSE GARDNER:** Okay. So it's fair to say that your
9 comments about the operations restriction document are based on your discussion with
10 senior leadership at RTM in one meeting, and you don't actually know from personal
11 experience what is being done by the operator or by the maintainer to comply with that
12 document; is that fair?

13 **MR. DEREK WYNNE:** Correct. I go back to my statement earlier.
14 The City are responsible for procuring the maintenance. That's with RTM via RTG who,
15 in turn, are procured from Alstom. RTM was seen to be a significant factor in the middle
16 of that, and when their leadership tell me that they aren't aware of the operational
17 restrictions document, it does establish confidence in me, which is why I made the
18 statement, "I'm concerned that -- about the ongoing validity of my safety certificate."

19 **MR. JESSE GARDNER:** Sure. But it's possible that the actual
20 recommendations, the substance of them, are being followed and that they just don't
21 know about the document. That's possible, right?

22 **MR. DEREK WYNNE:** It's a possibility.

23 **MR. JESSE GARDNER:** Okay, thank you. Those are my
24 questions.

25 **MR. DEREK WYNNE:** Thank you.

26 **COMMISSIONER HOURIGAN:** All right. Next up is
27 RTG/OLRTC/RTM.

28 **--- CROSS-EXAMINATION BY MS. JESSE WRIGHT:**

1 **MS. JESSE WRIGHT:** Good morning, Mr. Wynne and Mr.
2 Mammoliti. My name is Jesse Wright, counsel for the RTG parties. And I have a few
3 questions for Mr. Wynne this morning.

4 So I'd first like to take you to a document, ALS0012477. And this is
5 a Technical Compliance Report, just while we're waiting to pull it up.

6 **MR. DEREK WYNNE:** M'hm.

7 (Short pause)

8 **MS. JESSE WRIGHT:** Perfect, thank you. So we can see in the
9 bottom right-hand corner that this is dated June 27th, 2019.

10 **MR. DEREK WYNNE:** M'hm.

11 **MS. JESSE WRIGHT:** And this is authorized by you, Mr. Wynne?
12 That's your signature there on the first page?

13 **MR. DEREK WYNNE:** Yeah.

14 **MS. JESSE WRIGHT:** Do you recall signing off on this document?

15 **MR. DEREK WYNNE:** Yes.

16 **MS. JESSE WRIGHT:** Okay. And Mr. Operator, if we could just go
17 down to page 2, the executive summary, just at the top, there. So the first line there
18 says:

19 "This document, the Technical Compliance Report,
20 TCR, summarizes compliance of the OLRT Project to
21 the technical schedules of the Project Agreement."
22 (As read).

23 Is that right?

24 **MR. DEREK WYNNE:** Yeah.

25 **MS. JESSE WRIGHT:** Okay. And we can see below that it
26 describes that the report assesses both the design compliance and product compliance
27 with the PA?

28 **MR. DEREK WYNNE:** Yeah.

1 **MS. JESSE WRIGHT:** And so can you just tell us what is design
2 compliance and product compliance?

3 **MR. DEREK WYNNE:** Okay. So if you've got a set of
4 requirements for a solution, normally start with objective requirements, which might be,
5 "We need to move X number of passengers in a portion of time." Requirements get
6 developed. They elicited, developed, derived, et cetera, and you create a much more
7 detail, robust requirement set. So that becomes the first major baseline -- technical
8 baseline, the requirements.

9 Thereafter, you produce a design to those requirements. And your
10 design doesn't necessarily have to be fully compliant with all of those requirements.
11 There will be instances where you've only got partial compliance because very large
12 complex requirement sets, it's unusual that every requirement will be fully compliant.
13 So the document confirming the level of design compliance is the first step.

14 The next step is, once a construction implementation has occurred,
15 and construction needs to meet the design, it's quite common for construction to not be
16 100 percent aligned with the design so there can be a difference between design
17 compliance versus installation or construction compliance. And then, as you go
18 forwards and you do your test and integration, it might be that you realize an amount of
19 functional capability that is also not functioning at that moment in time.

20 So you can have three stages of compliance. And all of the
21 dashboards that we provided throughout our time supporting OLRTC had all three types
22 of compliance showing on them.

23 **MS. JESSE WRIGHT:** Okay. Thanks for that. So I'd like to take
24 you to page 32 of the document ---

25 **MR. DEREK WYNNE:** M'hm.

26 **MS. JESSE WRIGHT:** --- Section 4.4. It's Schedule 15-2, Part 2 of
27 Guideway. And so it was Schedule 15-2 that's a schedule to the Project Agreement
28 that sets out the design and construction requirements; is that right?

1 **MR. DEREK WYNNE:** Yeah.

2 **MS. JESSE WRIGHT:** And Part 2 is the design and construction
3 requirements specifically for the guideway; is that right?

4 **MR. DEREK WYNNE:** Yes.

5 **MS. JESSE WRIGHT:** Okay. And just so that we're clear, the
6 guideway, that means the bed for the tracks, correct?

7 **MR. DEREK WYNNE:** So guideway -- so that would be the track
8 bed. Guideway is everything between the boundary fences.

9 **MS. JESSE WRIGHT:** Okay. But the guideway includes the
10 tracks?

11 **MR. DEREK WYNNE:** Yes. Yes, very much so.

12 **MS. JESSE WRIGHT:** Okay. And so under 4.4(1), Design
13 Compliance, the first sentence reads:

14 "Design compliance statements and evidence for
15 Schedule 15-2, Part 2 have been provided by the
16 engineer of record for track works." (As read).

17 Do you know, is the engineer of record for trackwork, is that Mr.
18 Kevin Vokey?

19 **MR. DEREK WYNNE:** Yes.

20 **MS. JESSE WRIGHT:** Okay. And the next sentence reads:

21 "This design compliance evidence has been analyzed
22 to ensure that..."

23 And then it's bullet three that I'm interested in:

24 "...the evidence provided demonstrates compliance to
25 the requirements sample-check only." (As read).

26 So this means that the engineer of record for trackwork, Mr. Vokey,
27 has provided evidence that OLRT's guideway is compliant with the requirements in
28 Project Agreement; is that right?

1 **MR. DEREK WYNNE:** Yeah, so the routes through here -- once all
2 the requirements from the Project Agreement were captured, noting that there some
3 technical requirements not in the technical schedules -- once the whole set was pulled
4 together, overall, railway level requirements were created to facilitate end-to-end testing
5 of the line. We produced a set of requirements that were focused on the particular
6 design packages, and those requirement set were out -- were sent out to the engineers
7 of record, in this instance, as you've mentioned, Kevin Vokey, and we were looking for -
8 - "Please point us to the evidence that shows that this -- these requirements have been
9 satisfied."

10 And this is where you've got the sample-check only, because we
11 got an amount of -- and if it's not full set, and the difference in the assurance being
12 provided by that engineer of record legally signing his design certificate letter.

13 **MS. JESSE WRIGHT:** Hm, okay. So then it says:

14 "Seven DCLs have been issued in link to the
15 requirements of Schedule 15-2, Part 2." (As read).

16 **MR. DEREK WYNNE:** Yeah.

17 **MS. JESSE WRIGHT:** And these are demonstrating that the
18 design is compliant with the PA?

19 **MR. DEREK WYNNE:** Yeah.

20 **MS. JESSE WRIGHT:** Okay.

21 **MR. DEREK WYNNE:** Yeah.

22 **MS. JESSE WRIGHT:** So you'd agree -- sorry?

23 **MR. DEREK WYNNE:** I just was going to say yeah, absolutely.

24 **MS. JESSE WRIGHT:** Okay. So you'd agree with me that this
25 report is confirming, in June 2019, that the design compliance for the guideway,
26 including the track, meets the requirements of the Project Agreement?

27 **MR. DEREK WYNNE:** I'm basing that statement on the fact I've
28 received from an engineer of record licensed in the Province of Ontario, these ---

1 **MS. JESSE WRIGHT:** Right, okay.

2 **MR. DEREK WYNNE:** --- that it's under the *Professional*
3 *Engineers Act*, that yes, he's met those requirements.

4 **MS. JESSE WRIGHT:** Right, okay. Okay, great. And then, Mr.
5 Operator, if we could just scroll down a little bit so we can 4.2. So this is "Product
6 Compliance" and it says:

7 "The majority of product compliance evidence for
8 guideway and trackwork is based on CCLs and Track
9 Assurance Reports." (As read).

10 So CCLs, those are Construction Certification Letters; is that right?

11 **MR. DEREK WYNNE:** Correct.

12 **MS. JESSE WRIGHT:** And then it lists the three Track Assurance
13 Reports. So Track Assurance Report 1, Tunney's Pasture to Tunnel Portal West; Track
14 Assurance Report 2, Tunnel Portal West to U Ottawa, limit of slab -- is that, I think?

15 **MR. DEREK WYNNE:** Yeah.

16 **MS. JESSE WRIGHT:** And Track Assurance Report 3, limit of
17 slab, U Ottawa to Blair.

18 **MR. DEREK WYNNE:** M'hm.

19 **MS. JESSE WRIGHT:** And then it notes that there is one
20 requirement that is compliant pending due to a deficiency that remains open. So I take
21 it that if lists one requirement as "compliant pending", that means the other
22 requirements are all compliant?

23 **MR. DEREK WYNNE:** Correct.

24 **MS. JESSE WRIGHT:** Okay. And if I could just take you to one
25 more document. It's RTG00111262. And while we're pulling that up, Mr. Wynne, this is
26 Track Assurance Report 1, Tunney's Pasture to Tunnel Portal West.

27 **--- EXHIBIT No. 225:**

28 RTG00111262 – OLRTC Track Assurance Report 1 –

1 Tunney's Pasture to Tunnel Portal West 22 October 2018

2 **MR. DEREK WYNNE:** Okay.

3 Apologies. I'm in the hotel and housekeeping has just arrived.

4 **MS. JESSE WRIGHT:** No problem.

5 **COMMISSIONER HOURIGAN:** By the way, Mr. Wynne, we know
6 that you're in Vancouver, and we appreciate you getting up early for us today.

7 **MR. DEREK WYNNE:** Well, I only flew in yesterday so I'm still on
8 U.K. time, so I was late for ---

9 **COMMISSIONER HOURIGAN:** I don't know what time you're on
10 now, then.

11 **MR. DEREK WYNNE:** Nor do I.

12 **MS. JESSE WRIGHT:** Well, thank you, nonetheless. Regardless
13 what time it is.

14 **MR. DEREK WYNNE:** Yes, okay.

15 **MS. JESSE WRIGHT:** Okay. So we can see in the bottom right
16 hand corner that this is dated October 22nd, 2018.

17 **MR. DEREK WYNNE:** M'hm.

18 **MS. JESSE WRIGHT:** And again, you've authorized this?

19 **MR. DEREK WYNNE:** Yeah.

20 **MS. JESSE WRIGHT:** Do you recall authorizing this?

21 **MR. DEREK WYNNE:** Yes.

22 **MS. JESSE WRIGHT:** Okay. And if I could just take you to page 6
23 of the report, section 3.0 Requirements. So the second section there reads:

24 "There is potentially one non-compliance identified.

25 This relates to the maximum gap that could occur
26 under broken rail conditions. The PA requirement

27 states that a max of 50 mm but the designer report

28 Rev. 03 declares that 55 mm would be the maximum.

1 This would only occur under the most extremely
2 lowest ever reported temperature of -38 degrees
3 Celsius. This non-compliance will need to be
4 accepted by RTG.” (As read)

5 **MR. DEREK WYNNE:** M’hm.

6 **MS. JESSE WRIGHT:** So is this potentially non-compliant item the
7 one that was identified in the technical compliance report that you referred to earlier?

8 **MR. DEREK WYNNE:** It could be. My challenge here is I’ve got a
9 requirement set of about 14,000 requirements and at one point I was tracking 39,000
10 snags against those 14,000 requirements. I would need to go into the data and pin that
11 down. I believe that’s what we’re referring to but I would like the opportunity to go back
12 into the data set to properly confirm that.

13 **MS. JESSE WRIGHT:** Okay. Well, if it was listing -- if the previous
14 technical compliance report that we were looking at earlier was saying that it was relying
15 on the CCLs and the three track assurance reports, and this track assurance report is
16 identifying one potential non-compliance, it’s likely that this is the non-compliance?

17 **MR. DEREK WYNNE:** It’s likely, yes. But if we look back at the
18 other documents, we had a compliance pending status and the compliance pending
19 normally means that there is a snag and we’re waiting for the snag to be resolved
20 before we can assert full compliance which would seem to be subtly different than this
21 because this -- what’s described here, this would have to be -- if that’s a concession to
22 the requirement of 50 mil. We will never be compliant to it if we can only achieve 55 mil.
23 The question is, is that tolerable, especially given that it’s only going to occur under the
24 most extreme low temperature..

25 **MS. JESSE WRIGHT:** Right.

26 **MR. DEREK WYNNE:** So I think there’s a real subtlety in the
27 language there. I would need to absolutely go and check.

28 **MS. JESSE WRIGHT:** Okay. But -- and sorry, we can take this

1 document down now, Mr. Operator.

2 But is it your understanding that aside from this -- what was the
3 word -- compliant pending deficiency potentially related to the maximum gap that it
4 identified there or perhaps related to something else, that other than that one potentially
5 non-compliant item -- the item that is pending, the guideway and the track were both
6 design and product compliant at the time that you signed off on the report?

7 **MR. DEREK WYNNE:** Yes.

8 **MS. JESSE WRIGHT:** Okay. Thank you. And if I could just take
9 you back to a document that Mr. Imbesi took you to. It's COM0010118.

10 And this was the report prepared by Alstom, the derailment and
11 investigation report.

12 **MR. DEREK WYNNE:** M'hm.

13 **MS. JESSE WRIGHT:** Perfect. You recall seeing this earlier?

14 **MR. DEREK WYNNE:** Yeah.

15 **MS. JESSE WRIGHT:** Okay. And if I could just take you to page 6
16 of the document? Okay. And so in the third paragraph, the last line -- sorry, the fourth
17 paragraph. Yes, it says:

18 "It must be stated that the actual as-built track was not
19 in line with the design as stated in the wheel rail
20 interface specifications by OLRTC." (As read)

21 By Mr. Wynne, didn't you certify in the technical compliance report
22 that we just discussed that it was?

23 **MR. DEREK WYNNE:** No. The report you were just reading was
24 about track. This is now about track and train integration. So this is a different level.

25 **MS. JESSE WRIGHT:** Right. But the paragraph -- sorry, I'm just
26 asking you about that specific line there. That the actual as-built track was not in line
27 with the design.

28 **MR. DEREK WYNNE:** Yeah, so what the statement here is, and

1 this is Alstom's wording it's not mine. We mentioned earlier, which we discussed about
2 the difference between the rail profile and the wheel profile which we reported. That is
3 an integration issue which sits a level above the report we were just looking at for track.
4 The report for track is a report track. This is an integration level; it sits a level about
5 that. This is about compatibility of two primary systems, not the suitability of one
6 primary system.

7 **MS. JESSE WRIGHT:** M'hm. Okay.

8 **MR. DEREK WYNNE:** This sits at the integration level that -- and
9 to be frank, and whilst I understand Alstom's report here, we also discussed earlier do I
10 change the track or do I change the wheel profile? Both parties can change in order to
11 achieve appropriate integration. This is written with a particular bent towards the track
12 wasn't suitable for my wheels. I could have written this report if I was OLRTC and said,
13 "Sorry, your wheels aren't suitable for my track."

14 **MS. JESSE WRIGHT:** Right. Okay, thank you. SO we can take
15 that down, Mr. Operator.

16 And I'd like to discuss one more document that Commission
17 counsel asked you about. If we can pull up COMH and I don't think I have to read all
18 the zeroes. I think it's just COMH17, or if you need all the zeroes I think there are five in
19 there.

20 Perfect, thank you.

21 Okay. So this is the PowerPoint presentation, OLRTC rail wear
22 hazard that you discussed earlier. And if we could just go down to Slide 8. Okay. And
23 in the third paragraph there it says:

24 "This means that 90 percent of the OLRTC system
25 has rail that is too hard and potential to become brittle
26 under normal traffic operations unless the correct
27 maintenance tasks are carried out." (As read)

28 **MR. DEREK WYNNE:** M'hm.

1 And Alstom was responsible for designing the wheel/rail interface;
2 is that right?

3 **MR. DEREK WYNNE:** So an interface is an agreement between
4 two parties, because there are two things interacting.

5 **MR. JESSE WRIGHT:** Right.

6 **MR. DEREK WYNNE:** So what you would typically find within an
7 interface that there will be a lead partner in that interface and the respondent. From a
8 solicitor/client – so from an OLRTC point of view, one part of this interface is the
9 responsibility of Alstom, the other part, its design was underneath the engineering joint
10 venture. Both parties are procured by OLRTC who preside over it and should
11 undertake the interface monitoring and making sure that both parties agree. And I think
12 what you're alluding to here is the challenge then of where integration could have been
13 better.

14 **MR. JESSE WRIGHT:** Thank you. And we can take that down,
15 Mr. Operator.

16 Just one last set of questions, Mr. Wynne. So you discussed with
17 Mr. Imbesi that you were initially hired by OLRTC; is that right?

18 **MR. DEREK WYNNE:** Correct.

19 **MR. JESSE WRIGHT:** And so in this role you would have
20 interacted with the City though; is that right?

21 **MR. DEREK WYNNE:** Very much so, yeah.

22 **MR. JESSE WRIGHT:** Okay. And I take it from your interview with
23 Ms. Mainville that SEMP's counterpart at the City was mainly Richard Holder, the
24 Manager for Light Rail Systems and Operational Integration Train Construction; is that
25 right?

26 **MR. DEREK WYNNE:** So within the City, Richard Holder and
27 Garth Wood were the main two parties, but also Robert Friedman in relation to the
28 tunnel and tunnel ventilation system and a few other names on a more infrequent basis,

1 but also representatives of the City's Parsons such as John Hulse.

2 **MR. JESSE WRIGHT:** And so John Hulse, he worked at Parsons?

3 **MR. DEREK WYNNE:** Correct, yeah.

4 **MR. JESSE WRIGHT:** Okay. So I understand that part of SEMP's
5 role was to prepare assurance deliverables; that's right?

6 **MR. DEREK WYNNE:** Yes.

7 **MR. JESSE WRIGHT:** And these insurance deliverables prepared
8 by SEMP were reviewed by the City and their consultants?

9 **MR. DEREK WYNNE:** Correct.

10 **MR. JESSE WRIGHT:** And the City's consultants would provide
11 comments on SEMP's deliverables?

12 **MR. DEREK WYNNE:** Yes.

13 **MR. JESSE WRIGHT:** And so what was your view of the advice
14 that the City was getting; did you think that Parsons was providing valuable advice to
15 the City?

16 **MR. DEREK WYNNE:** I think the best way to answer that question
17 is – of the hundreds of comments received back on deliverables, we probably accepted
18 about 3 per cent of those comments that came through. And in many ways the
19 comments that we accepted were to – if I had been in a less kind frame of mind, I
20 probably would have rejected them, but you know, some of them – they were low-level,
21 low value, not really changing the overall outcome. But other than that, we – none of
22 the comments made a significant impact to the documents that were being produced.

23 **MR. JESSE WRIGHT:** Thank you, Mr. Wynne and Mr. Mammoliti
24 and Mr. Commissioner; those are my questions.

25 **COMMISSIONER HOURIGAN:** Thanks very much. We'll move
26 on then to Alstom.

27 **--- CROSS-EXAMINATION BY MR. CHARLES POWELL:**

28 **MR. CHARLES POWELL:** Yes, thank you, Mr. Commissioner,

1 good morning Mr. Wynne and Mr. Mammoliti, can you hear me?

2 **MR. DEREK WYNNE:** Yeah.

3 **MR. SERGIO MAMMOLITI:** Yeah.

4 **MR. CHARLES POWELL:** Mr. Mammoliti, most of my questions
5 are going to be for Mr. Wynne, so I won't have much to ask you actually. Mr. Wynne,
6 most of my questions are going to be with respect to the operational restrictions
7 document that we've talking about this morning; okay?

8 **MR. DEREK WYNNE:** M'hm.

9 And as you've explained this morning, and in your initial
10 commission interview, through a conversation you had with somebody at RTM you
11 believed that some of the elements of the operational restrictions document were not be
12 followed; is that right?

13 **MR. DEREK WYNNE:** That's the impression I was given,
14 particularly based on the fact that the leadership of RTM weren't even aware of the
15 operational restrictions document.

16 **MR. CHARLES POWELL:** Right. And I think you've already with
17 this as well, but you have no visibility as to whether those elements you have indicated
18 should be taking place, are actually taking place; is that fair?

19 **MR. DEREK WYNNE:** Correct. I've not been engaged to come
20 and conduct that audit. My understanding though, the reason for the conversation was
21 the suitability of the overall safety management system and that would have included
22 these aspects, but that work never went ahead. I believe the Confederation Line got
23 back into service after its prolonged suspension last year.

24 **MR. CHARLES POWELL:** And the individual at RTM that you had
25 this discussion with, do you remember his name? I looked in your transcript of your
26 interview and you didn't have it at the tip of your tongue. Do you remember who it was?

27 **MR. DEREK WYNNE:** I recall the meeting, but there were five or
28 six members of RTM in the room.

1 **MR. CHARLES POWELL:** And one of the issues that you've
2 identified in the operational restrictions document, and you've talked about this this
3 morning, refers to ultrasonic testing of the rail; is that right?

4 **MR. DEREK WYNNE:** Yes.

5 **MR. CHARLES POWELL:** Yeah. And the operational restrictions
6 document, and we can go to it if you want, but I think you'll agree with me that your
7 operational restriction with respect to ultrasonic testing required that it be conducted
8 once every three months for the first two years of operation; is that fair?

9 **MR. DEREK WYNNE:** Correct.

10 **MR. CHARLES POWELL:** Okay. Now Mr. Wynne, have you ever
11 seen Alstom's maintenance subcontract?

12 **MR. DEREK WYNNE:** Never. Never got close to it.

13 **MR. CHARLES POWELL:** I'd like to take you to that if we could,
14 please. It's PRR0000119. And we won't spend long on this, Mr. Wynne, but I'm going
15 to – before the document comes up, this is the subcontract between Alstom and RTM to
16 perform maintenance on the system; okay?

17 **MR. DEREK WYNNE:** M'hm.

18 **MR. CHARLES POWELL:** And when the document comes up, I'll
19 ask the operator if we could go to page 477, please.

20 And, Mr. Wynne, I know you haven't seen this, but this is an
21 obligation and exclusion matrix that's part of Alstom's subcontract, and it identifies
22 which tasks Alstom is supposed to perform, and which tasks are going to be performed
23 by others; okay?

24 **MR. DEREK WYNNE:** Yeah.

25 **MR. CHARLES POWELL:** And I know it's a little bit hard to read,
26 but I can take you to the part I'm looking for. If we can scroll down just a little bit on the
27 screen, and I'm looking for where it says "Appendix "A" – Attachment for Track
28 Maintenance Services", just a little bit further than that. Thank you. If we can zoom in a

1 little so Mr. Wynne can see it.

2 You'll see this part of the appendix deals with track maintenance
3 services; do you see that, Mr. Wynne?

4 **MR. DEREK WYNNE:** I do.

5 **MR. CHARLES POWELL:** Okay. And I'm looking under 2.0
6 Service Requirements, down to (b) and it says there: "Project Co shall conduct
7 maintenance activities to ensure that all tracks meet the fixed component availability
8 standard"; do you see that?

9 **MR. DEREK WYNNE:** Yeah.

10 **MR. CHARLES POWELL:** And if we scroll down to the next page,
11 please, and on the right hand side, the far right column, you can see the remarks; do
12 you see that?

13 **MR. DEREK WYNNE:** M'hm.

14 **MR. CHARLES POWELL:** And the second bullet there says that:
15 "The MSC..", and I'll represent to you that's Alstom, the maintenance subcontractor: "..
16 will be required to conduct ultrasonic rail flaw detection once annually commencing in
17 the third year of operation of the Confederation Line"; do you see that?

18 **MR. DEREK WYNNE:** I do.

19 **MR. CHARLES POWELL:** So I think you'll agree with me that
20 based on this subcontract in any event, the ultrasonic testing was anticipated to take
21 place once a year annually, starting the third year of operation; do you agree with that?

22 **MR. DEREK WYNNE:** I do, yeah, that's clearly from what's in front
23 of me.

24 **MR. CHARLES POWELL:** And I take it you'll also agree with me
25 that your operations restriction document requires ultrasonic testing much more
26 frequently than what was originally anticipated in the subcontract; do you agree with
27 that?

28 **MR. DEREK WYNNE:** I do.

1 **MR. CHARLES POWELL:** All right. And we've already discussed
2 that you don't know the extent to ultrasonic testing that's taking place on the project; is
3 that fair?

4 **MR. DEREK WYNNE:** Correct.

5 **MR. CHARLES POWELL:** All right. Are you familiar, Mr. Wynne,
6 with a company called Herzog?

7 **MR. DEREK WYNNE:** No.

8 **MR. CHARLES POWELL:** Okay, I'm going to represent to you
9 that they were a company retained by Alstom to perform ultrasonic testing in
10 accordance with the requirements set out in your operation restriction document; okay?

11 **MR. DEREK WYNNE:** Okay.

12 **MR. CHARLES POWELL:** And if we can pull up, please,
13 COMH000039. And what we're going to get here, Mr. Wynne, when it comes up, it's
14 going to be an invoice from Herzog Services of Canada Limited, and it's dated October
15 31st, 2019. All right, it's up on the screen; do you see it, Mr. Wynne?

16 **--- EXHIBIT No. 226:**

17 COMH0000039 – Herzog Invoice #11184 Ultrasonic Rail
18 Testing 31 October 2019

19 **MR. DEREK WYNNE:** Yeah.

20 **MR. CHARLES POWELL:** And you'll see there the date of
21 October 31st, 2019?

22 **MR. DEREK WYNNE:** Yeah.

23 **MR. CHARLES POWELL:** And then underneath the description it
24 says "ultrasonic rail testing performed per our service agreement"; do you see that?

25 **MR. DEREK WYNNE:** I do.

26 **MR. CHARLES POWELL:** Okay. And if we can scroll down to
27 page two of this document, please.

28 All right. And here, Mr. Wynne, you can see that there's a daily test

1 log; do you see that? They've got the dates on the left and the miles tested; do you see
2 that?

3 **MR. DEREK WYNNE:** M'hm. Yeah.

4 **MR. CHARLES POWELL:** And it refers to 19. – I believe it's 876
5 miles; do you see that?

6 **MR. DEREK WYNNE:** M'hm.

7 **MR. CHARLES POWELL:** And my understanding is that 19 miles
8 equates to just over 24kms; would you agree with that, maybe a bit more actually?

9 **MR. DEREK WYNNE:** Thereabouts.

10 **MR. CHARLES POWELL:** And if we can go down to page five of
11 this pdf please. All right. And you see here, Mr. Wynne, the test date in the upper right
12 corner is October 27th, 2019; do you see that?

13 **MR. DEREK WYNNE:** Yeah.

14 **MR. CHARLES POWELL:** And in the movement detail it's listing
15 the tracks on which they're performing ultrasonic testing; do you see that?

16 **MR. DEREK WYNNE:** M'hm. I do.

17 **MR. CHARLES POWELL:** And those tracks, I understand,
18 storage track 34, for instance, is part of the MSF; would you agree with that?

19 **MR. DEREK WYNNE:** I would.

20 **MR. CHARLES POWELL:** Okay. And if we can go down to page
21 6, please, of this document?

22 And here, if you look on the right-hand side, there's a column called
23 "Remarks". Do you see that?

24 **MR. DEREK WYNNE:** Yeah.

25 **MR. CHARLES POWELL:** And it says there they've tested Track 1
26 and they'll continue testing Track 2 tomorrow. See that?

27 **MR. DEREK WYNNE:** Yeah.

28 **MR. CHARLES POWELL:** And if we look here, with respect to

1 Track 1 -- and almost in the centre of the screen, Mr. Wynne, you can see that they've
2 tested Track 1, and it shows where they began and they end, 0 to 7.922 miles. Do you
3 see that?

4 **MR. DEREK WYNNE:** M'hm.

5 **MR. CHARLES POWELL:** And again, my quick math makes that
6 about 12 and a half kilometres, maybe a little bit more. Do you agree with that?

7 **MR. DEREK WYNNE:** Yeah.

8 **MR. CHARLES POWELL:** And I take it that you'll agree with me
9 that we've heard other evidence in this hearing that the Confederation Track is about 12
10 kilometres long; would you agree with that?

11 **MR. DEREK WYNNE:** It's a bit longer than 12.

12 **MR. CHARLES POWELL:** A bit longer than 12 kilometres, but it's
13 both ways as well, so it's a total of 24 kilometres of track, right?

14 **MR. DEREK WYNNE:** Okay.

15 **MR. CHARLES POWELL:** So I take it, sir, based on a review of
16 these documents, that the ultrasonic testing that you identified was required every three
17 months, seeing it was performed based on these documents in October 2019, that's just
18 one month after RSA. So they're compliant with your recommendation that it be done
19 every three months so far, correct?

20 **MR. DEREK WYNNE:** To this point, yeah.

21 **MR. CHARLES POWELL:** Yeah, okay.

22 Let's go to COMH000044, please.

23 **--- EXHIBIT No. 227:**

24 COMH0000044 – Herzog Ultrasonic Rail Testing 26 January
25 2020

26 **MR. CHARLES POWELL:** All right. And here's another daily report
27 from Herzog to Alstom, Mr. Wynne, and we see on the right-hand side there it says,
28 "Test date of October 26, 2020". Do you see that?

1 **MR. DEREK WYNNE:** M'hm.

2 **MR. CHARLES POWELL:** And that's about three months after
3 October testing that we just looked at?

4 **MR. DEREK WYNNE:** M'hm.

5 **MR. CHARLES POWELL:** And if we look at the remarks there, it
6 identifies that mainline Track 1 has been complete. Do you see that?

7 **MR. DEREK WYNNE:** Yeah.

8 **MR. CHARLES POWELL:** And Alstom mainlines have been
9 complete.

10 And then it says, "We will be back in mid-May to test the mainline
11 on the yard tracks." Do you see that?

12 **MR. DEREK WYNNE:** M'hm.

13 **MR. CHARLES POWELL:** So again, I think you'll agree with me
14 that three months on, they're doing another ultrasonic testing, based on this document,
15 correct?

16 **MR. DEREK WYNNE:** Yeah. Can you just give me one second?
17 Apologies.

18 Apologies. Just avoiding the vacuum going around the hotel room.

19 **MR. CHARLES POWELL:** That's all right.

20 **MR. DEREK WYNNE:** Could you ask your question again, sorry?

21 **MR. CHARLES POWELL:** I can, yeah. All I asked was, based on
22 this document, you would agree with me that ultrasonic testing was performed three
23 months later, in January, right? We looked at October, and now we're looking at
24 January?

25 **MR. DEREK WYNNE:** Yeah. Absolutely.

26 **MR. CHARLES POWELL:** And then if we could pull up, please,
27 COMH -- oh, sorry, it doesn't matter. It's okay. I have mentioned it before, but it said
28 that they'd be back in mid-May to perform more, okay?

1 **MR. DEREK WYNNE:** Yeah, I noted that, yeah.

2 **MR. CHARLES POWELL:** All right. If we look at COMH000036?
3 All right. And this is an invoice from Herzog to Alstom, and we see
4 the date there, April 30th, 2020. Do you see that?

5 **--- EXHIBIT No. 228:**

6 COMH0000036 – Herzog Invoice #11257 Ultrasonic Rail
7 Testing 30 April 2020

8 **MR. DEREK WYNNE:** Yeah.

9 **MR. CHARLES POWELL:** And then it says -- the same
10 description, "Ultrasonic rail testing performed per our service agreement."

11 Do you see that?

12 **MR. DEREK WYNNE:** Yeah.

13 **MR. CHARLES POWELL:** And if we go down to page 2 of this
14 document, please, and we can see again a summary chart, Mr. Wynne, but on the left-
15 hand side it shows the dates tested were the 18th and 19th of April. Do you agree with
16 that?

17 **MR. DEREK WYNNE:** M'hm.

18 **MR. CHARLES POWELL:** And this is about three months after the
19 January testing, right? They came back a little earlier than May and they came back in
20 April, right?

21 **MR. DEREK WYNNE:** Yeah.

22 **MR. CHARLES POWELL:** And if you look under the column "Miles
23 Tested", we see that they've tested 21.048 miles. Would you agree with that?

24 **MR. DEREK WYNNE:** Yeah.

25 **MR. CHARLES POWELL:** All right. And if we go down to page 6,
26 please, of this document, and here again, Mr. Wynne, we can see that they've
27 completed yard tracks under the remarks on the far right there. Do you see that?

28 **MR. DEREK WYNNE:** M'hm.

1 **MR. CHARLES POWELL:** And you'd agree with me those are the
2 MSF yard tracks?

3 **MR. DEREK WYNNE:** Yeah.

4 **MR. CHARLES POWELL:** And I think that your operational
5 restrictions document asked for ultrasonic rail testing every six months in the yard; do
6 you agree with that?

7 **MR. DEREK WYNNE:** Yeah.

8 **MR. CHARLES POWELL:** Yeah. So we've seen the October one
9 dealt with the yard, and now we've seen the April one dealt with the yard, correct?

10 **MR. DEREK WYNNE:** M'hm. Yeah.

11 **MR. CHARLES POWELL:** And I'll represent to you, Mr. Wynne,
12 that Herzog did come back following these occasions on other occasions to continue
13 ultrasonic testing. I take it that you won't disagree with me on that, right?

14 **MR. DEREK WYNNE:** Correct.

15 **MR. CHARLES POWELL:** All right. And I take it, Mr. Wynne, that
16 having reviewed these reports with me, that the ultrasonic testing requirements set out
17 in your operational restrictions document were actually being performed by Alstom; is
18 that fair?

19 **MR. DEREK WYNNE:** It would appear so.

20 **MR. CHARLES POWELL:** All right. Thank you very much. Those
21 are my questions, Mr. Chair.

22 **COMMISSIONER HOURIGAN:** All right. Thanks very much.
23 Next up is STV.

24 **MS. EILEEN CHURCH CARSON:** Eileen Church Carson for STV
25 Incorporated. We have no questions for this witness.

26 **COMMISSIONER HOURIGAN:** All right. Thank you.
27 Next is Thales.

28 **MR. PETER MANTAS:** Peter Mantas for Thales Group. We have

1 no questions of this witness.

2 **COMMISSIONER HOURIGAN:** All right. Thank you.

3 Next is the Amalgamated Transit Union.

4 **MR. JOHN McLUCKIE:** Good afternoon, Mr. Commissioner.

5 **--- CROSS-EXAMINATION BY MR. JOHN McLUCKIE:**

6 **MR. JOHN McLUCKIE:** Good afternoon, gentlemen. Thank you
7 for joining us today, especially from Vancouver.

8 I represent the union that represents employees at OC Transpo
9 and also Alstom, that maintain buses and trains.

10 I have just a few very quick questions, Mr. Wynne. They're directed
11 to you.

12 In a report that you were taken to with Commission counsel and
13 later with others, you indicated a conclusion that the system was 99.0 percent reliable.
14 And I just want to clarify with you. That was based on the design, as you had identified
15 it through documents, correct?

16 **MR. DEREK WYNNE:** Correct.

17 **MR. JOHN McLUCKIE:** So that conclusion wasn't based on
18 having watched the trains run or seen how their performance was under real-world
19 conditions?

20 **MR. DEREK WYNNE:** Correct. If -- we mentioned the engineering
21 safety assurance case before, and I asked to scroll down to a diagram that showed
22 products and process arguments. The third column on the products argument shows
23 design compliance, construction or implementation, testing, commissioning, and the
24 final box there is evidence gathered from in-service. And my services, my firm's
25 services stopped before we got to monitoring the in-service part. So this is all about the
26 science and what was demonstrated up to revenue service.

27 **MR. JOHN McLUCKIE:** And in fact, it was done prior to the trial
28 running of the trains, which pre-dated revenue service; did it not?

1 **MR. DEREK WYNNE:** It did, yes, because the -- some of the
2 provisions and then the RAM analyses, thus, the overall design, meantime, between
3 service affected failures and so on, were counting periods of time which are beyond the
4 year. It's very difficult to expose those issues within a two-week trial running period.

5 **MR. JOHN McLUCKIE:** I just have one question to focus on
6 something that my colleague just took me to from Alstom. He took me to a number of
7 documents regarding ultrasonic testing, but as I understood your earlier report, there
8 was not just an ultrasonic testing requirement, you also talked about railhead grinding.

9 **MR. DEREK WYNNE:** Yes.

10 **MR. JOHN McLUCKIE:** What is railhead grinding and how
11 important is it to the reliability of the system?

12 **MR. DEREK WYNNE:** So we were discussing earlier, the railhead
13 conditions, if you've got vehicles that are inappropriate weight, so we've got 10-ton axle
14 loads going over a rail designed for 30-ton axle loads, one of the peculiarities is that you
15 will start to get small occlusions in the railhead. If not addressed, they can propagate
16 and become rail breaks.

17 So the purpose of the grinding is to grind away that surface and
18 actually remove those issues. That's if they are identified during the ultrasonic testing.

19 **MR. JOHN McLUCKIE:** And is that a separate and distinct process
20 from the ultrasonic testing that my friend just showed you invoices of?

21 **MR. DEREK WYNNE:** Very much so. One's about identification,
22 one's about remedy.

23 **MR. JOHN McLUCKIE:** Those are all our questions. Thank you.

24 **COMMISSIONER HOURIGAN:** All right. Thank you.

25 Next up is RTGEJV.

26 **MR. MICHAEL VRANTSIDIS:** Thank you, Mr. Commissioner.

27 Michael Vrantsidis for the EJV. We do not have any questions for this panel. Thank
28 you.

1 **COMMISSIONER HOURIGAN:** All right.

2 Next is Transportation Action Canada, Mr. Jeanes?

3 **MR. DAVID JEANES:** Thank you very much. I have five minutes,
4 so I just have a few questions.

5 **--- CROSS-EXAMINATION BY MR. DAVID JEANES:**

6 **MR. DAVID JEANES:** Mr. Wynne, first, when we were looking at
7 the conditions that applied to the ESAC, one of the bullet points was -- the requirement
8 was that the railway is correctly maintained throughout the pre-revenue service period.

9 You've just had a lot of discussion about what happened during the
10 first few months post-revenue service, but we did hear evidence from Alstom earlier in
11 this hearing that there was no infrastructure maintenance done during the three years
12 leading up to RSA.

13 And I don't know whether you knew that, but would that not have
14 been -- would that not have invalidated the conditions of the ESAC?

15 **MR. DEREK WYNNE:** So the -- okay. So again, this is all about
16 timing of when -- because of the urgent nature of pushing to achieve revenue service,
17 documents were produced and certain caveats were put in them to -- "From this point in
18 time, it's safe, but only if you maintain correctly." There were provisions in there as well
19 which were about removing snags and issues. So a lot of the maintenance-type topics
20 which you would have considered were actually being addressed under the snags. And
21 like I said, there were -- at one point, there was 39,000 snags all being managed, and
22 so on.

23 So what -- so what happened beyond that point is -- and both
24 Sergio and myself got into this conversation a little bit before. What snags were there
25 that would affect safety were the primary concern, and thereafter, what affects overall
26 operation would have been my concern. But operating on the condition, and expecting
27 those lesser snags to be resolved once in service.

28 **MR. DAVID JEANES:** So are you saying that even if that rail

1 maintenance had not been done -- and Alstom also talked about ballast tamping not
2 having been done ---

3 **MR. DEREK WYNNE:** M'hm.

4 **MR. DAVID JEANES:** --- that that might have been resolved by
5 the time actual passenger service started?

6 **MR. DEREK WYNNE:** Yeah, absolutely.

7 **MR. DAVID JEANES:** Okay.

8 **MR. DEREK WYNNE:** And in fact, on my personal walks along the
9 railway, the road railers that you'd see going through quite often would remove track
10 stays, so I was further handing those back in and saying, "Go -- please go and put this
11 back in," ---

12 **MR. DAVID JEANES:** Okay.

13 **MR. DEREK WYNNE:** --- from my track walks. Again, it's very,
14 very difficult to take undertake maintenance whilst you've still got a live construction
15 site.

16 **MR. DAVID JEANES:** All right, now ---

17 **MR. DEREK WYNNE:** So it is very challenging.

18 **MR. DAVID JEANES:** Yeah, one more question for you. You were
19 talking about design as-use, for example, that the rail hardness that was selected was
20 not appropriate for the wheel hardness. In one of your documents, cant deficiency was
21 also mentioned ---

22 **MR. DEREK WYNNE:** M'hm.

23 **MR. DAVID JEANES:** --- that there was insufficient cant
24 deficiency. And I'm wondering whether you think that there was a design shortcoming,
25 particularly that this was a railway designed for us to a 100-kilometre-per-hour
26 operation, should the design generally provided more cant deficiency on curves?

27 **MR. DEREK WYNNE:** So the challenge of this is, as you go along
28 the whole alignment, the maximum speed will vary. So when you -- when you're going

1 around some of the tight curves, you wouldn't expect to be doing 100 kilometres per
2 hour; you would be going slower than that. But it's -- so this is -- this is the balance
3 between speed, cant, wear and tear, and so on. And a revisit of those calculations and
4 an adjustment of the geometry would certainly have helped, overall.

5 **MR. DAVID JEANES:** Yeah. And would other systems, generally,
6 have been designed for easier at more normal speeds on curves?

7 **MR. DEREK WYNNE:** Other systems such as?

8 **MR. DAVID JEANES:** Well, other light rail systems.

9 **MR. DEREK WYNNE:** Oh, yeah, absolutely.

10 **MR. DAVID JEANES:** I'm not talking about highspeed rail lines.

11 **MR. DEREK WYNNE:** Yeah, okay. So yeah, if I was to take you to
12 -- for instance, here in Vancouver, or Docklands Light Railway in London, the different
13 systems there, they -- the way they've been designed, the way operate, absolutely. But
14 it doesn't mean that the railway can't be operated now. What it does mean is you
15 harvest data -- we discussed DRACAS -- and you understand the effect of the solution
16 and you seek remedy when you come to renewal or major maintenance, and therefore
17 you can adjust that cant at some point in the future.

18 **MR. DAVID JEANES:** Okay. Now, Mr. Mammoliti, I think I maybe
19 have time for one question. And I just wanted to ask you -- you did mention passenger
20 safety at one point. You said that passengers on a stopped train were safe until the
21 point where they evacuated onto the track. And my question for you is, to what extent
22 was your work concerned with passenger safety? For example, did you look at things
23 like the consequences of emergency braking from high speed where you might have a
24 crowded train with insufficient handholds for the standees, or did you look at the ability
25 to evacuate passengers from a stopped train, including where there might be injuries or
26 disabled passengers?

27 **MR. SERGIO MAMMOLITI:** So insofar as the emergency braking,
28 no. That would have been Alstom's remit in their safety case to address that. And, as

1 Mr. Wynne pointed out, that safety case got incorporated into the ESAC. So that's
2 where that would have been addressed. I wouldn't have had any visibility on that other
3 than to see in the report that it had been considered. Evacuation and egress, yeah, that
4 was something that was considered. The details elude me at the time but this all gets to
5 the tunnel ventilation system and the adequacy of it, and the walkways on the side, and
6 the mobility limitations of passengers. Yeah, that was all considered, yes.

7 **MR. DAVID JEANES:** Okay. I think that's all the time have, so
8 thank you very much.

9 **COMMISSIONER HOURIGAN:** Thank you, Mr. Jeanes. Does
10 counsel for the witness have questions, Mr. Mammoliti's counsel?

11 **MR. KEVIN JOHNSON:** Kevin Johnson here, counsel for the
12 witness. Thank you, Mr. Commissioner. No, I don't have any follow-up questions.

13 **COMMISSIONER HOURIGAN:** Thank you.

14 Re-examination?

15 **MR. JESSE GARDNER:** No, thank you.

16 **COMMISSIONER HOURIGAN:** All right, we'll take the lunch break.

17 **THE REGISTRAR:** All rise. The Commission is adjourned until
18 2:00 p.m.

19 --- Upon recessing at 1:01 p.m.

20 --- Upon resuming at 1:58

21 **THE REGISTRAR:** The hearing has resumed.

22 **COMMISSIONER HOURIGAN:** Good afternoon. Our next witness
23 is Mayor Jim Watson.

24 Mayor Watson, are you there?

25 **THE HONOURABLE MAYOR JIM WATSON:** Yes, I am.

26 **COMMISSIONER HOURIGAN:** Okay, just hang on. We can't see
27 you quite yet. There you are. Okay, terrific. Can you hear us all right?

28 **THE HONOURABLE MAYOR JIM WATSON:** I can, yes.

1 **COMMISSIONER HOURIGAN:** Okay. Mayor Watson, you'll be
2 asked questions by a series of counsel, but before we do that, we need to have you
3 either swear an oath to tell the truth or affirm to tell the truth. Which do you prefer?

4 **THE HONOURABLE MAYOR JIM WATSON:** Affirm is fine.

5 **COMMISSIONER HOURIGAN:** Okay, thank you. Stand by.

6 **--- THE HONOURABLE MAYOR JIM WATSON, Affirmed:**

7 **COMMISSIONER HOURIGAN:** (Mic muted)

8 **--- EXAMINATION IN-CHIEF BY MR. JOHN ADAIR:**

9 **MR. JOHN ADAIR:** Thank you, Mr. Commissioner and good
10 afternoon, Mr. Mayor.

11 **THE HONOURABLE MAYOR JIM WATSON:** Hello.

12 **MR. JOHN ADAIR:** Sorry, forgive me while I set things up. Mr.
13 Mayor, I will, over the course of my examination today potentially call you Mr. Watson
14 on one or two occasions. I mean no disrespect by that. I may just slip into it. So
15 excuse me advance for doing so.

16 **THE HONOURABLE MAYOR JIM WATSON:** No problem.

17 **MR. JOHN ADAIR:** Sir, let's start with some questions about the
18 state of the system in the summer of 2019 as it was heading towards the trial running
19 period, okay, just to situate ourselves?

20 **THE HONOURABLE MAYOR JIM WATSON:** M'hm.

21 **MR. JOHN ADAIR:** And in order to help us understand where
22 things stood in the summer of 2019, I'm going to take us back a little bit, but not for too
23 long, and bring us forward to about June or July. Sir, you'll recall, I'm sure, that RTG
24 had missed several different RSA deadline including, for example, in May and
25 November of 2018. Do you recall that?

26 **THE HONOURABLE MAYOR JIM WATSON:** Yes. In fact, they
27 missed four.

28 **MR. JOHN ADAIR:** Right. And I believe you -- that you have you

1 told us through your formal interview that the fact that they had missed those deadlines
2 caused you some degree of concern.

3 **THE HONOURABLE MAYOR JIM WATSON:** Both concern and
4 frustration, yes.

5 **MR. JOHN ADAIR:** I'm sure both, yes. And in addition to missing
6 those RSA deadline, RTG had also submitted for substantial completion twice and failed
7 twice; do you recall that?

8 **THE HONOURABLE MAYOR JIM WATSON:** I do, yes.

9 **MR. JOHN ADAIR:** And if we can -- well, we don't need to
10 necessarily go to your transcript. You told Commission counsel in your formal interview
11 that that caused you great concern; do you recall that?

12 **THE HONOURABLE MAYOR JIM WATSON:** I do. And it did.

13 **MR. JOHN ADAIR:** And just to give you the timing, sir, the second
14 of those submissions for substantial completion that was rejected took place in May of
15 2019, okay?

16 **THE HONOURABLE MAYOR JIM WATSON:** John, I don't recall
17 the specific date, sorry.

18 **MR. PETER WARDLE:** Sorry, if I can just interject, Mr. Adair.
19 There was only one failed application for substantial completion which was in May of
20 2019. That's admitted in the record.

21 **COMMISSIONER HOURIGAN:** Yeah, you're right, Mr. Wardle. I
22 think there was some confusion about that. So thank you for the clarification.

23 **MR. JOHN ADAIR:** Just to be clear, that's true. And if put my
24 question in a way that that suggested otherwise, Mr. Watson, I apologize. There was
25 one modus of substantial completion submitted not with a full application but just giving
26 notice in the fall of 2018. That didn't go anywhere and then May 2019, there was a
27 formal application that was rejected. And I'm sure if I have that wrong it will get
28 corrected when Mr. Wardle is asking you questions.

1 So Mr. Watson, there will be a couple of times over the course of my
2 examination where I'm just going to give you a date and you can take it from me that
3 the date is accurate. I'm sure, as I said a moment ago, if I have it wrong I will be
4 corrected.

5 And that's why I'm giving you the reminder that the application for
6 substantial completion, the formal application that was rejected was May 2019, so that
7 you can situate yourself.

8 So sir, by the time the project was moving through late June and
9 into July, I take it that you had reasons why you were concerned about the overall state
10 of affairs given the missed deadlines and the failed substantial completion application.

11 **THE HONOURABLE MAYOR JIM WATSON:** That's correct.

12 **MR. JOHN ADAIR:** And then substantial completion itself was
13 applied for again towards the end of July and actually certified on July 26th. And I take it
14 that that would have given you some comfort despite your pre-existing concerns.

15 **THE HONOURABLE MAYOR JIM WATSON:** That's fair, yes.

16 **MR. JOHN ADAIR:** So by the time we start trial running on July
17 29th, there's been a long history of failure but you've also had a recent success on an
18 important issue, correct?

19 **THE HONOURABLE MAYOR JIM WATSON:** Correct.

20 **MR. JOHN ADAIR:** And I take it that both as a result of the
21 importance of the project and as a result of that history you were keenly interested to
22 see how the system performed upon the start of trial running.

23 **THE HONOURABLE MAYOR JIM WATSON:** Yeah, I think the
24 whole Council, the whole city was quite interested, not just me. Obviously of course I
25 was interested. This is a big moment in our City's history.

26 **MR. JOHN ADAIR:** And just pausing there and following up on
27 your comment about other councillors. If they also shared the same concerns you did
28 about the history of what had gone on, you would understand that?

1 **THE HONOURABLE MAYOR JIM WATSON:** Yes. And you
2 know, obviously it was very public, every step of the way. And individual members of
3 Council would certainly come to me and express their concern and I certainly heard it
4 from passengers that were anxious to see the system up and running.

5 **MR. JOHN ADAIR:** Well, in addition to just generally speaking
6 being anxious to see the system up and running, if councillors were to say that they had
7 a very keen interest in seeing what happened as you went into trial running, just as you
8 did, you would understand that?

9 **THE HONOURABLE MAYOR JIM WATSON:** Yes.

10 **MR. JOHN ADAIR:** I'm now going to take you, Mr. Watson,
11 through, in some detail, through the period from July 26th of 2019 through August 30th of
12 2019 and I will tell you, sir, that the reason I'm focused on that time period is because
13 those are the bookends from when substantial completion is achieved to when RSA is
14 achieved, okay?

15 **THE HONOURABLE MAYOR JIM WATSON:** Okay.

16 **MR. JOHN ADAIR:** And I want to look first, sir, at the information
17 you had during that period of time and how you reacted to it.

18 So if we can go first please to a document COW593740.

19 **THE HONOURABLE MAYOR JIM WATSON:** Sorry, I'm not
20 seeing anything.

21 **MR. JOHN ADAIR:** It's okay, Mr. Watson -- sorry, Mr. Mayor, it's
22 going to take a moment before we get it up. That's why I've paused as well.

23 And Mr. Watson, just so you have it -- or Mr. Mayor, I'm sorry -- this
24 is a WhatsApp chat group that existed and the name of the WhatsApp chat group I'm
25 using which is the same one Mr. Manconi used when he created it is LRT Updates. So
26 I if refer to the LRT updates chat group, this is the one I'm referring to. Okay?

27 **THE HONOURABLE MAYOR JIM WATSON:** Sure.

28 **MR. JOHN ADAIR:** And just so we're clear, Mr. Mayor, in terms of

1 who was on this chat initially you can take it that the following people were on this chat.
2 Mr. Manconi, and Mr. Kanellakos, Councillor Hubley, Mr. Arpin, your chief of staff, Mr.
3 Gravel, and Mr. Armbruster, who I understand both worked in your office; is that
4 correct?

5 **THE HONOURABLE MAYOR JIM WATSON:** Yes.

6 **MR. JOHN ADAIR:** And Mr. Steve Box. Those are the people who
7 were on it initially? You were later added and we're going to come to all that. But at
8 this period of time you were not on it. But those people were. Okay?

9 **THE HONOURABLE MAYOR JIM WATSON:** Right.

10 **MR. JOHN ADAIR:** If we go to page 2, please, you'll see an entry
11 there for July the 20th, 5:47 p.m., and another one right underneath that for 6:05 p.m.,
12 Mr. Mayor. And there is a text or a chat message at 5:47 p.m. where Mr. Manconi asks
13 about providing a memo to Council with respect to substantial completion. And then at
14 6:05 p.m. Mr. Gravel responds that you, the Mayor, were okay with the memo from Mr.
15 Manconi to Council.

16 Do you see that?

17 **THE HONOURABLE MAYOR JIM WATSON:** Yes.

18 **MR. JOHN ADAIR:** And so I think we can agree, sir, that although
19 you were not specifically on this chat you were being updated by people in your office
20 as to what was going on with the project and you were also giving them your feedback,
21 correct?

22 **THE HONOURABLE MAYOR JIM WATSON:** Yes.

23 **MR. JOHN ADAIR:** And the reason that your chief of staff and two
24 people from your office were on this chat is for that very purpose, so that they could
25 provide you with updates in an efficient manner and then communicate any input you
26 have back to staff.

27 **THE HONOURABLE MAYOR JIM WATSON:** Yes.

28 **MR. JOHN ADAIR:** Now, sir, July 26th, as I said a moment ago,

1 was substantial completion so if we can go down to the bottom of page 2. There we go.

2 If we can just -- if I can just direct your attention, Mr. Mayor, to July
3 25th, 10:13 a.m.. Mr. Manconi says:

4 "A bunch of updates. First on launch data. Today
5 was the first day where we applied very stringent PA
6 requirements -- constitutes vehicles that are Revenue
7 Service ready. Unfortunately, RTM did not do well.
8 Only four vehicles are on the line. This is an
9 important exercise as it mimics the trial running
10 environment. So they have work to do to ensure
11 vehicles are ready for morning launch." (As read)

12 Just pausing there, you would have been aware of the difficulties
13 that were occurring right around the time of substantial completion because three people
14 in your office including your chief of staff were on that chat, correct?

15 **THE HONOURABLE MAYOR JIM WATSON:** Yeah, I don't know
16 if everything that was on the chat was relayed back to me. But I'm sure most of the
17 more important items would have been.

18 **MR. JOHN ADAIR:** I expect that's right. And what you expected
19 to be doing and what in fact you understood them to be doing is any important
20 information they would take to you and relay back your input.

21 **THE HONOURABLE MAYOR JIM WATSON:** That's right.

22 **MR. JOHN ADAIR:** And we've heard evidence over the course of
23 the Commission, sir, that strict compliance with the Project Agreement was one of the
24 core elements of the City's approach because it helped the City ensure that it got what it
25 paid for. Do you agree with that?

26 **THE HONOURABLE MAYOR JIM WATSON:** Yes.

27 **MR. JOHN ADAIR:** And here we have on the 25th of July strict
28 compliance with the PA requirements is attempted and it doesn't go well, correct?

1 **THE HONOURABLE MAYOR JIM WATSON:** That's what the
2 note says.

3 **MR. JOHN ADAIR:** And I take it that would have caused you some
4 degree of additional concern?

5 **THE HONOURABLE MAYOR JIM WATSON:** It would have, yes.

6 **MR. JOHN ADAIR:** And then if we go to July 26th, please just
7 scrolling down just a little bit. That's good enough. Thank you, Mitchell.

8 At 11:38 a.m. On the next day Mr. Gravel asks Mr. Manconi:

9 "Any news, John?"

10 And then he follows up and says:

11 "Mayor would like to know if substantial completion
12 will be granted today and when trial running can start.
13 Merci."

14 Do you see that?

15 **THE HONOURABLE MAYOR JIM WATSON:** M'hm.

16 **COMMISSIONER HOURIGAN:** Mr. Mayor, you have to say yes or
17 no for the record. You can't say M'hm. That way we get a clean transcript. Okay?

18 **THE HONOURABLE MAYOR JIM WATSON:** Sure.

19 **MR. JOHN ADAIR:** And then thank you, Mr. Mayor. And then Mr.
20 Manconi responds and then at 12:12 Mr. Gravel asks how that morning's launch went
21 and Mr. Manconi responds, you'll see at 12:33. He says, "Five trains."

22 Sorry, Mr. Mayor. Mr. Manconi responds at 12:33. He says:

23 "Five trains. Others did not meet launch criteria."

24 And I take also that news that on the very day of substantial
25 completion only 5 of 15 trains were able to launch would also have caused you some
26 degree of concern.

27 **THE HONOURABLE MAYOR JIM WATSON:** It would have, yes.

28 **MR. JOHN ADAIR:** Now, in fairness to you, Mr. Mayor, if we scroll

1 down to July 26th, 4:38 and 4:40, Mr. Gravel actually asks about the performance of the
2 last few days and whether it will be possible to launch the 15 trains on Monday, which is
3 the day that was set for trial running to begin. And Mr. Manconi responds at 4:40:

4 "Don't worry about that, please. Last few days is not
5 indicative of what they're doing for readiness of trial
6 running."

7 And you would have been informed of that, I take it?

8 **THE HONOURABLE MAYOR JIM WATSON:** I believe so.

9 **MR. JOHN ADAIR:** And so at that point, sir, I think it's probably fair
10 to say that what you had was some reasons to be concerned, given the missed
11 deadlines and the poor starts on the 25th and 26th, but also some reasons to be
12 reassured given that substantial completion was achieved and Mr. Manconi was also
13 reassuring you about what had happened on the 25th and 26th; is that fair?

14 **THE HONOURABLE MAYOR JIM WATSON:** Yes.

15 **MR. JOHN ADAIR:** So I assume that what happens when you
16 have a project of this importance, and you have some reason to be concerned, but,
17 also, you're being reassured by some other factors, and it's something, as I say, that's
18 important to you, what you would do is you would consider the information you were
19 getting, decide whether you were satisfied with it or wanted more information, correct?

20 **THE HONOURABLE MAYOR JIM WATSON:** Well, I would rely on
21 our staff to give me the advice on what the next steps should be. And that's what I did.

22 **MR. JOHN ADAIR:** Right. And included in that, you would least
23 want to make sure you were properly informed?

24 **THE HONOURABLE MAYOR JIM WATSON:** Yes, that was the
25 purpose of asking staff to brief me.

26 **MR. JOHN ADAIR:** Right. And if you were -- if you felt that you
27 needed more information, you would ask for it?

28 **THE HONOURABLE MAYOR JIM WATSON:** Correct.

1 **MR. JOHN ADAIR:** And then what you would do once you had
2 that information is you would consider that information in your own mind and weigh
3 whether there was anything you needed to do or not, correct?

4 **THE HONOURABLE MAYOR JIM WATSON:** Sorry, could you
5 repeat that?

6 **MR. JOHN ADAIR:** Sure, when you have reasons to be concerned
7 about a major infrastructure project, but also some reasons that suggest maybe things
8 are going okay, you would weigh the information you had in your mind and decide for
9 yourself whether you felt that any action on your part was necessary?

10 **THE HONOURABLE MAYOR JIM WATSON:** Well, I was very
11 clear in that period of time leading up to trial running that my number one priority was to
12 ensure that we had a safe, and secure, and reliable system, so safety trumped
13 everything else. So obviously, as time went on and we saw more and more challenges
14 until we finally got trial run completed, I continued to be briefed and express my
15 concerns and ask questions, and relied on the professional staff and consultants that
16 we had to make sure that we had a system that was reliable, and safe, and secure.

17 **MR. JOHN ADAIR:** Right. And if at any point you had -- based on
18 the information you had received, if you had believed that any action was necessary on
19 your part, you would have taken it?

20 **THE HONOURABLE MAYOR JIM WATSON:** Absolutely, I would
21 have. You know, those meetings would have involved the City Manager as well, who
22 ultimately had the final say on go/no go. But obviously, as mayor, and as the CEO of
23 the corporation, I wanted to make sure that whatever system was put out there, it was
24 safe and secure.

25 **MR. JOHN ADAIR:** Sure. And one of the things you did in order to
26 be in a position to act if you needed to be is you made sure you were informed?

27 **THE HONOURABLE MAYOR JIM WATSON:** Yes, correct.

28 **MR. JOHN ADAIR:** Now, if we can scroll down, please, to July 28th

1 at 11:03. Yeah, just at the top of the page there. Thank you, Mitchell. Mr. Mayor, this
2 is the day before trial running starts, just so you have it fresh in your mind. Mr. Manconi
3 says:

4 “RTG has confirmed that trial running will commence
5 tomorrow. I will provide general updates via this app.
6 Official daily results scores are compiled by the team
7 and will be conveyed but please note the process is
8 complex and official daily results are always reported
9 the following day.” (As read).

10 And he explains what he means by that. And we know, of course,
11 from the evidence we’ve heard already, and I’m sure you’re aware, that the first few
12 days of trial running did not go well, correct?

13 **THE HONOURABLE MAYOR JIM WATSON:** That’s correct.

14 **MR. JOHN ADAIR:** And in fact, a restart was required?

15 **THE HONOURABLE MAYOR JIM WATSON:** Yeah, it didn’t go
16 well at all and I can’t recall when the restart took place but I believe one did take place
17 that week.

18 **MR. JOHN ADAIR:** Yeah, after -- just to refresh your memory, Mr.
19 Mayor -- it’s quite good, but just to add a little bit of detail, after the July 31st -- so the
20 first three days went poorly, and then there was a restart, okay?

21 **THE HONOURABLE MAYOR JIM WATSON:** M’hm.

22 **MR. JOHN ADAIR:** And you, of course, were aware of that
23 because of the reports you were getting, among other sources, from this WhatsApp
24 chat?

25 **THE HONOURABLE MAYOR JIM WATSON:** That’s right. And,
26 you know, my office is next door to the City Manager, so we would have seen each
27 other. I’m not sure if I was actually in town. I know around that time I might have been
28 on holidays, but I certainly was kept informed.

1 **MR. JOHN ADAIR:** Right. And it appears from the chat, sir, just
2 so you have the timing, that you went away for a week on or around August 1st. So if
3 we could just go down to August 1st at 8:34 p.m. -- just at the top of that page there,
4 thank you -- you'll see, Mr. Mayor, this is after the decision has been made that a restart
5 is required. And I'll just let you take a minute to read that for yourself.

6 **THE HONOURABLE MAYOR JIM WATSON:** Sorry, is that the
7 8:34:21 reference?

8 **MR. JOHN ADAIR:** Yeah, right at the -- right at the top. And of
9 course, I'm not -- I expect you know this but I'm not asking you to read it out loud. I just
10 want you to have it.

11 **THE HONOURABLE MAYOR JIM WATSON:** M'hm.

12 **MR. JOHN ADAIR:** And so what happened there is you had asked
13 whether it was possible to start on Friday but treat it as a Saturday service, correct?

14 **THE HONOURABLE MAYOR JIM WATSON:** Yes.

15 **MR. JOHN ADAIR:** And the reason you had asked that is it was
16 easier to achieve the performance on a Saturday because fewer trains are on the line?

17 **THE HONOURABLE MAYOR JIM WATSON:** Fewer trains, fewer
18 passengers, correct.

19 **MR. JOHN ADAIR:** And just to be clear, sir, there are no
20 passengers on the line at this time because it's trial running, okay?

21 **THE HONOURABLE MAYOR JIM WATSON:** No. No, I realize
22 that, but you have to take into account that the doors, you know, stay open longer if
23 there's more people on the train.

24 **MR. JOHN ADAIR:** Okay. So quite fair. And I misunderstood your
25 answer; I apologize. But the point is, you had proposed treating the Friday as a
26 Saturday because of the fact that Saturday comes with, effectively, a lower threshold?

27 **THE HONOURABLE MAYOR JIM WATSON:** That's correct.

28 **MR. JOHN ADAIR:** And you did that because you were very intent

1 on getting this trial running pass started?

2 **THE HONOURABLE MAYOR JIM WATSON:** No, I wanted to
3 make sure it got started and, given the fact that we had so many problems the days
4 before, I simply asked, as a suggestion, "Why not start with a Saturday that had a fewer
5 number of trains," and that was viewed as a good idea but technically not possible, so I
6 dropped it.

7 **MR. JOHN ADAIR:** Right. So after three failed days in a row, you
8 suggested effectively dropping the -- lowering the criteria for what was required to have
9 a pass day?

10 **THE HONOURABLE MAYOR JIM WATSON:** Well, changing it
11 because you still had to have, you know, the nine or 12 days, but just to have it start on
12 a Saturday schedule as opposed to a Friday schedule. Saturday was a -- would be
13 fewer passengers, few trains.

14 **MR. JOHN ADAIR:** And you were sufficiently informed and
15 actively involved in this process that you were, in fact, proposing your own ideas about
16 how trial running might be able to go forward?

17 **THE HONOURABLE MAYOR JIM WATSON:** No, I -- you know, I
18 have no expertise and no experience running a train system. This was just something
19 that I thought should be examined and I was told, technically, it's not possible. There
20 was no support for it, so I let it go.

21 **MR. JOHN ADAIR:** And sorry, Mr. Mayor, just to be clear, my
22 question was that -- my suggestion to you in my question was that you were proposing
23 your own ideas. And I think we can agree on that given that it says right here on the
24 page in front of us "the mayor's idea of starting Friday as a Saturday service".

25 **THE HONOURABLE MAYOR JIM WATSON:** Yeah.

26 **MR. JOHN ADAIR:** We can agree that you were, in fact, proposing
27 your own ideas?

28 **THE HONOURABLE MAYOR JIM WATSON:** Well, I would

1 classify it as proposing an idea. It wasn't a series of ideas. And it wasn't a series; it
2 was one idea. It was not accepted, and we moved on.

3 **MR. JOHN ADAIR:** All right. And sir, as you told Commission
4 counsel in your formal interview, the fact that there needed to be a restart after the first
5 three days, that also caused you some concern, correct?

6 **THE HONOURABLE MAYOR JIM WATSON:** Of course, yes.

7 **MR. JOHN ADAIR:** And I'm sure that your reaction to that
8 concerning event included, in part, asking for information about what was happening
9 and why, and then considering that information, correct?

10 **THE HONOURABLE MAYOR JIM WATSON:** Yes.

11 **MR. JOHN ADAIR:** And then, of course, as one always would,
12 deciding what, if anything, you needed to do about it?

13 **THE HONOURABLE MAYOR JIM WATSON:** Right.

14 **MR. JOHN ADAIR:** And then, Mr. Mayor, you may or may or not
15 recall, but I'm going to give you the date just to make this as efficient as possible. The
16 first day on which there was a pass was August 3rd, okay?

17 **THE HONOURABLE MAYOR JIM WATSON:** Okay.

18 **MR. JOHN ADAIR:** And what that means is that there were five
19 consecutive days where the trial running was not a pass before the first day that there
20 was a pass, okay?

21 **THE HONOURABLE MAYOR JIM WATSON:** Okay.

22 **MR. JOHN ADAIR:** And then August 3rd, 4th, 5th, and 6th, those
23 were all pass days; do you recall that, just generally, that there were some -- after a bad
24 start, there were some pass days in a row?

25 **THE HONOURABLE MAYOR JIM WATSON:** I vaguely recall that.
26 I couldn't guarantee what the dates were or the days.

27 **MR. JOHN ADAIR:** Sure. And that's okay. You can -- we have
28 the scorecards available to us, so it's easy for us to drill down on that if and when we

1 need to. But I take it you would have been aware at the time that there were four
2 consecutive pass days?

3 **THE HONOURABLE MAYOR JIM WATSON:** Again, I'm not sure
4 if that was the time I was on holiday so I may not have been in daily contact with the
5 office to get that information, but would have gotten it when I got back.

6 **MR. JOHN ADAIR:** Certainly, when you came back, somebody
7 would have said, "Good news. We've got four consecutive pass days"?

8 **THE HONOURABLE MAYOR JIM WATSON:** I'm sure someone
9 would have given me that information, yes.

10 **MR. JOHN ADAIR:** And then, just so you have it, sir, August 7 and
11 8 were both failures and, in fact, quite bad failures, okay?

12 **THE HONOURABLE MAYOR JIM WATSON:** Okay. I can't recall.
13 That was a couple of years ago and ---

14 **MR. JOHN ADAIR:** I'm sure. I'm happy to take you to the
15 scorecard, and we will see it in a minute, but I just want to go to one last text for a
16 moment here on this chain. If we can go to page 5, please, 8:53 a.m. on August 8th.
17 And you'll see there, Mr. Mayor, Mr. Gravel was asking Mr. Manconi, he says -- sorry,
18 Mr. Manconi is writing to Mr. Gravel. I apologize. He says:

19 "Matt, I understand Mayor wants to know why spare
20 trains not launched. It's because they aren't ready.
21 They didn't have them ready to be launched." (As
22 read).

23 Do you see that?

24 **THE HONOURABLE MAYOR JIM WATSON:** M'hm.

25 **MR. JOHN ADAIR:** And you were asking for that kind of level of
26 detail so that you would understand that if not enough trains were being launched, you
27 would be, for example, asking about things like, "Why aren't we launching spares"?

28 **THE HONOURABLE MAYOR JIM WATSON:** Yeah, that wasn't a

1 -- that wasn't a minor issue. That was a pretty major request, wanting to know why the
2 spares were being used.

3 **MR. JOHN ADAIR:** Right. And again, all part of the process of
4 making sure you are informed?

5 **THE HONOURABLE MAYOR JIM WATSON:** Yes, and my staff
6 as well.

7 **MR. JOHN ADAIR:** Right. And if we can go, please, to a different
8 document now? I'm going to ask Mitchell for COW270758, please and thank you.

9 Mr. Mayor, I don't know one way or the other whether you're
10 familiar with this document. It doesn't much matter. I'm going to use it to situate
11 ourselves in terms of what was going on in or around August 7, 8.

12 So if we can go to page 14, please?

13 And Mr. Mayor, I don't know whether you -- have you seen these
14 score cards before, either during the process or in preparation for giving evidence?

15 **THE HONOURABLE MAYOR JIM WATSON:** I may have seen
16 them from our lawyer, just in the last day or two.

17 **MR. JOHN ADAIR:** Okay. Mr. Mayor, I'm sorry, I'm going to -- I
18 should have qualified that by saying I obviously don't want to know anything you
19 discussed with your lawyer, but these are the daily score cards that were filled out. This
20 one is for August the 7th.

21 And if we could just scroll down a little bit so that we can see the
22 vehicle availability? That's great.

23 And the vehicle availability, you'll see, on the 7th, Mr. Mayor, was
24 85.2 percent. Do you see that?

25 **THE HONOURABLE MAYOR JIM WATSON:** Sorry, can you point
26 that out, please?

27 **MR. JOHN ADAIR:** Yeah. It's in the far-right column, around the
28 middle of the page, bottom third.

1 **THE HONOURABLE MAYOR JIM WATSON:** You have to move
2 your pictures please. (Audio problem). Okay. There it is. Yeah, 85.2.

3 **MR. JOHN ADAIR:** Yeah. Then if we go to the next page, August
4 8th, and just scroll down to the vehicle availability, you're going to see the same thing,
5 essentially, the same number, 85 percent. Do you see that?

6 **THE HONOURABLE MAYOR JIM WATSON:** Yes.

7 **MR. JOHN ADAIR:** And Mr. Mayor, Mr. Michael Morgan gave
8 evidence over the course of the Commission that anything below 89, 90, 91 percent, or
9 even in that range, you've ruined someone's commute, and so I think you and I can
10 probably agree with each other that August 7 and 8 were quite bad days?

11 **THE HONOURABLE MAYOR JIM WATSON:** Yes, according to
12 these score cards, they were.

13 **MR. JOHN ADAIR:** And if we can just now go to one last
14 document on this subject, I'm going to ask for STV2337, please.

15 And Mr. Mayor, just while we're waiting for that, again, without --
16 recognizing that you won't have recall of exactly what you were told on exactly which
17 day -- you would have understood that August 7th and 8th were bad days, correct?

18 **THE HONOURABLE MAYOR JIM WATSON:** Yeah, if I received
19 that information, and saw it cross my desk, yes, it would be considered two bad days.

20 **MR. JOHN ADAIR:** And if the performance of the system on trial
21 running was that far below what Mr. Morgan said would already ruin someone's
22 commute, you would expect that kind of information would be passed on to you,
23 correct?

24 **THE HONOURABLE MAYOR JIM WATSON:** Yes.

25 **MR. JOHN ADAIR:** And if we can go please to page 5 of this.

26 Now, Mr. Mayor, this is a chat group you were not on, so I'm not
27 going to ask you about sort of why people were saying what they were saying or what
28 your interpretation was. I just want to use it for a scheduling point.

1 And at message 103, Mr. Mayor, which Mr. Manconi sent at 12:31
2 p.m. on the 8th of August, he says to Troy, who is Troy Charter, he says, "Troy, I have
3 an emergency briefing with the mayor this afternoon."

4 And then he's asking for information about failures and what is the
5 possibility of making it to the 16th, et cetera, et cetera. Do you see that?

6 **THE HONOURABLE MAYOR JIM WATSON:** Yes.

7 **MR. JOHN ADAIR:** And do you recall, sir, asking Mr. Manconi to
8 come in to your office on the 8th of August for an emergency briefing?

9 **THE HONOURABLE MAYOR JIM WATSON:** Well, I would ask
10 him to come in for many meetings over the course of this project, so I'm sure that was
11 one of many that I had. I can't recall the specific dates that we met. You're telling me
12 it's August 8th, I think, 2019. That's a few years ago. So he was in my office on a fairly
13 regular basis, or I was with him and Steve Kanellakos in Steve's boardroom.

14 **MR. JOHN ADAIR:** All right. So let me just try to distinguish
15 between two things, Mr. Mayor, because I'm sure that you and Mr. Manconi had a
16 number of meetings over the course of the life of this project, and Mr. Kanellakos and all
17 that.

18 The point of distinction I want to draw is, Mr. Manconi called this
19 "an emergency briefing", and I'm going to suggest to you that that distinguishes it from
20 just a normal meeting. Would you agree with that?

21 **THE HONOURABLE MAYOR JIM WATSON:** Well, I don't agree,
22 because I'm not sure what he was referring to as an emergency. I can't recall. You
23 know, any time that there was a major issue, I suppose you could call it emergency
24 meeting, but I'm not sure the context of what he was referring to in that -- is that the
25 WhatsApp, I guess, chat?

26 **MR. JOHN ADAIR:** Yeah. So okay. Let's do it this way.

27 Is it reasonable to assume, sir, that after five consecutive fail days
28 at the start of trial running, and then really bad days on August 7th and 8th, is it

1 reasonable to assume that you would have called Mr. Manconi in to your office to
2 discuss the situation?

3 **THE HONOURABLE MAYOR JIM WATSON:** Most probably, yes.

4 **MR. JOHN ADAIR:** And as you said a moment ago, I think it was --
5 that's because when you have a major issue like that, there needs to be a meeting?

6 **THE HONOURABLE MAYOR JIM WATSON:** Indeed, yes.

7 **MR. JOHN ADAIR:** All right. Now, sir -- and we can take that
8 down, Mitchell. I'm going to ask you for a different document in a moment. I'll just give
9 it to you now so you can get it up. It's back to COW593740.

10 And Mr. Mayor, you told Commission counsel during your formal
11 interview that you were also made aware during trial running that the criteria for what
12 was a pass had changed, correct?

13 **THE HONOURABLE MAYOR JIM WATSON:** Yes.

14 **MR. JOHN ADAIR:** And just so you have it, sir, the date on which
15 that change was made was August 16th, okay? That's the date on which RTG
16 communicated that to the City.

17 **THE HONOURABLE MAYOR JIM WATSON:** Okay.

18 **MR. JOHN ADAIR:** And if we can have that document,
19 COW593740, please, and if we can go to August 17th -- I apologize, Mitchell, I don't
20 have a page on this one -- there we go -- 3:21 p.m., Mr. Mayor, on the 17th of August,
21 Mr. Manconi told you (John Adair and Mayor Watson speaking over one another).

22 **THE HONOURABLE MAYOR JIM WATSON:** You said 3:20 --
23 okay, 3:21, yes.

24 **MR. JOHN ADAIR:** Yeah. It's the addition of the seconds that can
25 sometimes make it hard to identify the time I'm talking about.

26 But Mr. Manconi told your staff, Mr. Arpin, on -- and Mr. Gravel and
27 Mr. Armbruster, on the 17th at 3:21 that August 16th had been a pass. The morning was
28 perfect. They messed up in the afternoon, making the combined score barely a pass.

1 Do you see that?

2 **THE HONOURABLE MAYOR JIM WATSON:** Yes.

3 **MR. JOHN ADAIR:** And so on the very first day that the criteria
4 were lowered, the result was barely a pass, correct?

5 **THE HONOURABLE MAYOR JIM WATSON:** That's what this
6 implies, yes.

7 **MR. JOHN ADAIR:** And you, sir, as a result of three members of
8 your staff, including your chief of staff, being on this WhatsApp chat, were getting real-
9 time updates?

10 **THE HONOURABLE MAYOR JIM WATSON:** We were getting
11 updates. I don't know if it was real time or not.

12 **MR. JOHN ADAIR:** I'm going to suggest to you that when there are
13 multiple texts within hours on the same day giving additional new information, we can
14 fairly characterize that as real time.

15 **THE HONOURABLE MAYOR JIM WATSON:** Yeah, but I'm at a
16 disadvantage. I was not on this chat, so ---

17 **MR. JOHN ADAIR:** All right. You were receiving regular updates
18 from the three members of your staff who were on the chat, correct?

19 **THE HONOURABLE MAYOR JIM WATSON:** Yeah, usually two of
20 the three, that's right.

21 **MR. JOHN ADAIR:** Right. And then if we can scroll down to
22 August 20th, please, just right there -- that's great -- 8:28 a.m.

23 **THE HONOURABLE MAYOR JIM WATSON:** Eight twenty-eight
24 ten (8:28:10)?

25 **MR. JOHN ADAIR:** Yeah, I'm going to give you 8:28:10, Mr.
26 Mayor, but just before we do that, I take it the fact that the criteria had changed on the
27 16th and then the 16th was a bare pass even using the new lower criteria, it caused you
28 some degree of concern?

1 **THE HONOURABLE MAYOR JIM WATSON:** Again, I don't recall
2 that concern. If it passed, I looked at that as a positive, I suspect.

3 **MR. JOHN ADAIR:** Right. And was it just a question of pass/fail,
4 or were you interested in the fact that the criteria had been lowered and then even still,
5 the system barely passed?

6 **THE HONOURABLE MAYOR JIM WATSON:** No. I wanted --
7 obviously, want the highest scores possible. A higher score is a better indicator of the
8 condition of the system. So obviously, a higher score would be better, but as I
9 understand it, the system was put in place, it's a pass/fail, based on certain criteria and
10 signed off every day by a number of experts.

11 **MR. JOHN ADAIR:** Okay. Mr. Mayor, I'm going to show you
12 another document now before we continue in our little chronology here. And blow that
13 up.

14 **--- EXHIBIT No. 229:**

15 COW0443388 – Email from André Brisbois to John Manconi
16 et al. FLAG-REDDIT: 12 update testing from staff 20 August
17 2019

18 **MR. JOHN ADAIR:** And sir, the reason I'm doing it this way is, the
19 WhatsApp chat has certain messages embedded in it that don't show up the way it's
20 been converted into our system. But you can take it from me, because I got it from City
21 council and I'm sure I'll be corrected if I'm wrong, that this is -- that an image of this
22 email is one of the images that was uploaded into the WhatsApp chat.

23 And what you'll see there is a message that was posted to a Reddit
24 forum, okay? You can take it from me that that -- that it was posted to a Reddit forum,
25 and it was posted using a burner phone, or at least that's what it says. I shouldn't go
26 farther than that.

27 And it says:

28 "So using a burner, as I might lose my job on it, but

1 this is too much now. The consortium has still been
2 unable to perform a correct trial run for the
3 Confederation Line, being unable to run the line
4 during 12 perfect days. So far, they have been able
5 to go up to Day 5 or 6, but they are having issues with
6 issue with the Alstom trains. Alstom is now trying to
7 bring all their experts from the world to try to resolve
8 the availability and reliability issues. The consortium
9 is also trying to bring experts not employed by the
10 consortium to support and help fix -- help to fix this
11 mess worst, the City has greed to change the rules of
12 the trial run failures will no longer reset the counter to
13 day zero, but to day "X", whatever was the day "X"
14 when the failure happened. Working in this field, this
15 is simply disgusting and a disgrace. This is just
16 dangerous for the public and should not have been
17 allowed. I wanted to make sure the truth would go out
18 to be able to look at myself in the mirror. Enjoy the
19 mess."

20 And that's the end of the message.

21 Now, Mr. Mayor, this was posted into the "WhatsApp" chat group;
22 was this brought to your attention, sir?

23 **THE HONOURABLE MAYOR JIM WATSON:** No, it wasn't; I think I
24 saw it today for the first time in documents you sent over to my lawyer.

25 **MR. JOHN ADAIR:** And would you have expected your staff who
26 would have seen it, because they were on the "WhatsApp" chat group, to bring something
27 like this to your attention?

28 **THE HONOURABLE MAYOR JIM WATSON:** Not at all. It's a

1 burner phone by an anonymous person on Reddit. That's not exactly the pillar of credibility,
2 so I would expect that they would filter out things like that and not bring me something that's
3 from a burner phone, an admitted burner phone.

4 **MR. JOHN ADAIR:** It's fair to say this would be unimportant because
5 of the source?

6 **THE HONOURABLE MAYOR JIM WATSON:** Well, it lacks
7 credibility, you know, it's on Reddit, it's anonymous and it's a burner phone, so strike three.

8 **MR. JOHN ADAIR:** And therefore unimportant?

9 **THE HONOURABLE MAYOR JIM WATSON:** Yeah, you know, if my
10 staff thought there was any credibility to it I suppose they would have brought it to my
11 attention or to staff's attention, but they didn't. As I said the first time I saw it was when you
12 sent it to my lawyer.

13 **MR. JOHN ADAIR:** I'll ask that that be taken down now and we can
14 go back to COW593740, please, Mitchell, thank you.

15 And if we can just go down to August 20th, which is where we were,
16 just before – you cut out. Mr. Mayor, I'm just going to show you, just so you see it, I showed
17 you 8:28 a.m. and then on August 21st – sorry, I'm going to direct your attention, I should
18 say, to 8:28 a.m. Mr. Manconi says: "Trains launched; had an issue with one train at
19 Tunney's. Sending you all an important message. Please read." And then you see
20 something that is an attachment of a photo that we obviously can't see because it's just a
21 code number for the photo. The photo that was attached here, sir, is a photo of the email I
22 just showed you; okay? You can take that down.

23 **THE HONOURABLE MAYOR JIM WATSON:** Sorry, which?

24 **MR. JOHN ADAIR:** So, Mr. Manconi – I'm sorry?

25 **THE HONOURABLE MAYOR JIM WATSON:** Sorry, what email are
26 you referring to?

27 **MR. JOHN ADAIR:** The burner email that says about changes to trial
28 running criteria and the individual who said they can't look at themselves in the mirror.

1 **THE HONOURABLE MAYOR JIM WATSON:** The Reddit?

2 **MR. JOHN ADAIR:** Yeah, the Reddit email.

3 **THE HONOURABLE MAYOR JIM WATSON:** Yeah.

4 **MR. JOHN ADAIR:** And Mr. Manconi said “Sending you all an
5 important message. Please read.” Do you see that?

6 **THE HONOURABLE MAYOR JIM WATSON:** I do.

7 **MR. JOHN ADAIR:** And does that assist you at all with recalling
8 whether anyone on your staff brought it to your attention?

9 **THE HONOURABLE MAYOR JIM WATSON:** No.

10 **MR. JOHN ADAIR:** Okay. If we can just scroll down, please, to 6:10
11 p.m. At 6:10 p.m. Mr. Manconi says: “They passed yesterday but RTG has introduced a
12 major issue that comprises RSA and launch. Peter and Alstom have been ordered to
13 explain the issue tomorrow to the Mayor and Chair. Serge, I will explain as soon as I have
14 more.” And then on the 21st of August, just a little bit later at 12:11 p.m., the next morning
15 or mid-day, I should say, Mr. Manconi says: “Just finished with Geoff Smith and Peter and
16 yet again we gave them a strategy that gets us through. They are calling their ExCo’s right
17 now”; do you see that?

18 **THE HONOURABLE MAYOR JIM WATSON:** I do, yeah.

19 **MR. JOHN ADAIR:** And did it cause you concern, sir, that the City
20 was yet again having to propose ways to be able to get through trial running?

21 **THE HONOURABLE MAYOR JIM WATSON:** I’m not familiar with
22 what the exact problem was that’s listed on that chat, so I’m at a disadvantage; I can’t tell
23 you that. But I think there was generally a sense that we wanted to be helpful to RTG to
24 see what could be done to ensure that we have a safe launch of the train system, but I don’t
25 recall what the specific was dealing with Geoff Smith and Peter.

26 **MR. JOHN ADAIR:** And helpful also in being able to achieve RSA;
27 correct?

28 **THE HONOURABLE MAYOR JIM WATSON:** I’m sorry?

1 **MR. JOHN ADAIR:** Helpful also in coming up with strategies to
2 achieve RSA; correct?

3 **THE HONOURABLE MAYOR JIM WATSON:** Well, it was in
4 everyone's interest that we have the system up and running and that we enter into RSA
5 and, again, I'm not familiar with what the particular issue was on that particular day, but I
6 think there was a general sense on the part of the City that we wanted to keep the pressure
7 on RTG because we were the customer; they were providing the service, yet it was in our
8 mutual interest that we eventually have the system up and running in a safe and secure
9 fashion.

10 **MR. JOHN ADAIR:** And so, Mr. Mayor, if we can just sort of
11 summarize where things were as of the 21st; we have the concerning start, the concerning
12 restart; we had an emergency briefing on the 8th of August, the criteria get lowered on the
13 16th and that day is barely a pass. We've got somebody who at least presents as having
14 knowledge of the system using a burner phone on a Reddit forum, and then you are told by
15 Mr. Manconi on the 20th that you have to come up with strategies to assist RTG yet again.
16 Did that series of events, sir, put you in a position where you were concerned and troubled
17 all the way through trial running?

18 **THE HONOURABLE MAYOR JIM WATSON:** Well, I would remove
19 the Reddit; I think that's a weak argument, an anonymous Reddit source from a burner
20 phone that – I did not see that until, I believe, today. But obviously over the course of a
21 period, whether it was the testing or getting ready for testing, any delay was obviously a
22 concern because they had missed four deadlines to provide a system to the City of Ottawa.
23 Not one, not two, not three, but four RTG failures, in my opinion, to meet the deadline that
24 they themselves announced. I know there was one time when Mr. Lauch at a Committee
25 meeting boasted about he was going to meet a certain deadline and a member of the
26 Committee asked Mr. Manconi if he believed that number, and I think his answer was "No",
27 he doesn't. So I think there was a lot of skepticism on the part of the City and certainly
28 Council and taxpayers, that we had a situation where RTG promised the moon but didn't

1 deliver until the 5th attempt.

2 **MR. JOHN ADAIR:** Okay. And, sir, I just want to separate out the
3 missed RSA deadlines for a moment and focus your attention on specifically what was
4 happening during trial running, from substantial completion on the 26th of July through to
5 RSA being achieved on the 30th. And I'm going to suggest to you that as a result of the
6 failed days, and the restart, and more failed days, and lowering the criteria, and even still
7 having a bare pass as a result of all that, you would have continued to have some degree of
8 concern all the way through trial running; do you agree with that?

9 **THE HONOURABLE MAYOR JIM WATSON:** Yes, but when they
10 met trial running, then obviously that was a sense of relief.

11 **MR. JOHN ADAIR:** Right. And I'm going to suggest to you, that what
12 you did as a result of the concerning events, is you did what any responsible person in your
13 position would do, you informed yourself of what was happening with as much detail as you
14 were able; you weighed the information you had and then you decided what, if any action
15 was required; correct?

16 **THE HONOURABLE MAYOR JIM WATSON:** Well, in our system,
17 as you know, the City Manager was ultimately responsible for a project. The Transit
18 Manager, Mr. Manconi, reported to him and I was kept in the loop, either through meetings
19 with Mr. Manconi and Mr. Kanellakos or relayed information from my staff. I wasn't involved
20 obviously in the day-to-day operations; we had professionals and skilled people who had
21 that expertise that were responsible for that work, but the information was brought to me as
22 needed, as our staff felt it would be appropriate for me to have the information. So I would
23 consider myself well briefed but I did not dive into the details of the testing system because I
24 didn't have that expertise to bring to the table.

25 **MR. JOHN ADAIR:** And I appreciate all that, but it's not quite what I
26 was getting at, so let me just break it into chunks because my question was a compound
27 one and perhaps therefore unfair.

28 If you had come to the view at any point that action was required on

1 your part, you would have taken action; correct?

2 **THE HONOURABLE MAYOR JIM WATSON:** Correct. If there was
3 something that I saw that was improper or unsafe, then obviously I would want that brought
4 to my attention and I would then meet with the appropriate authorities within the City. Just
5 as I was – I held I think a total of three or four different meetings with the heads of all of the
6 organizations that make up RTG; I pulled them together on, as I said, three or four
7 occasions once or twice in person and the other times on Zoom to express my frustration
8 and anger at the challenges that we had been facing with their system and I found that
9 those meetings did some good for a while. We saw improvements in the system and then
10 they'd slide back down and then I would have to meet with them again. But it was very
11 clear when I was in those meetings, that what would usually happen, just to give you a
12 sense of the format, I would give high level discussion comments on how I would give high
13 level discussion comments on how frustrated we all were with the failures of the system
14 to date. The heads of the organizations would then go round table and apologize and
15 offer explanations and then we'd end up with an action plan as to how we were going to
16 improve the system. And I found that that was part of my role was to pull these
17 presidents and CEOs together, quite frankly, to give them a blast because we were not
18 satisfied with the project that they were responsible for delivering. They'd missed four
19 deadlines. There were problems during the trial running.

20 **MR. JOHN ADAIR:** Mr. Mayor, I want to be respectful but may I
21 just interrupt you for a moment? Do you remember what my question was, sir?

22 **THE HONOURABLE MAYOR JIM WATSON:** Well, I'm talking
23 about --- you asked about information back to me, and part of that information gathering
24 ---

25 **MR. JOHN ADAIR:** Sorry. My question was different. My
26 question was different. Do you recall the question or should I state it again?

27 **THE HONOURABLE MAYOR JIM WATSON:** You can state it
28 again but I'd like to finish my answer.

1 **MR. JOHN ADAIR:** By all means, as long as it's responsive to the
2 question. The question was, if you believed that action needed to be taken at any point
3 during trial running or immediately after, you would have taken action, correct?

4 **THE HONOURABLE MAYOR JIM WATSON:** Yes. And part of
5 that action, before you cut me off, was gathering of these individuals so ---

6 **MR. JOHN ADAIR:** Understood.

7 **THE HONOURABLE MAYOR JIM WATSON:** --- we could get to
8 the bottom of what was the problem. As I mentioned, these individuals who made up
9 RTG, the consortium, all well-known international companies, were quite frankly
10 apologetic. They were embarrassed. They said it's a black eye. I asked them if they'd
11 worked on any other project that's had this number of problems and all of them said,
12 "No, we never have."

13 And we saw some evidence. There was media coverage about
14 these meetings did have some positive impact for a short period of time. You know, we
15 put the fear of God into them. They acted. And then they started to slide again. So I
16 had to meet with them, as I said, three or four occasions and then some bilateral
17 meetings with some of the presidents and CEOs, and ask them what is their game plan
18 to get us ready for passenger service.

19 **MR. JOHN ADAIR:** Thank you. And sir, in order to take action like
20 that or any other action that you might have felt was appropriate, you of course needed
21 to be informed, correct?

22 **THE HONOURABLE MAYOR JIM WATSON:** Yes.

23 **MR. JOHN ADAIR:** And do you agree with me, sir, that you as a
24 result among other things of the WhatsApp chat that your staff were on, where the daily
25 and in some cases hourly updates were being provided, you had more information than
26 the rest of Council did. Do you agree with that?

27 **THE HONOURABLE MAYOR JIM WATSON:** That's a fair
28 statement. That's usually the role of the chair of a committee. In my case I chaired

1 FEDCO which was the committee responsible for LRT construction and other
2 committee chairs. I think Councillor Deans admitted the same, that they usually get
3 more information, more confidential briefings than other members of the committee. So
4 that's a fact.

5 **MR. JOHN ADAIR:** Yeah. So let's drill down and dive into that
6 little bit. You are aware, I'm sure, that Commission counsel had been asking questions
7 about whether the WhatsApp chat was appropriate?

8 **THE HONOURABLE MAYOR JIM WATSON:** Sorry, is that a
9 question?

10 **MR. JOHN ADAIR:** Yeah, I'm asking you if you're aware of that.

11 **THE HONOURABLE MAYOR JIM WATSON:** Aware of the ---

12 **MR. JOHN ADAIR:** That one of the matters that is being tested by
13 Commission counsel through this process is whether this WhatsApp chat was
14 appropriate. You're aware of that, I'm sure.

15 **THE HONOURABLE MAYOR JIM WATSON:** Well, I'm aware of it,
16 yes.

17 **MR. JOHN ADAIR:** All right.

18 **THE HONOURABLE MAYOR JIM WATSON:** Eventually I was
19 part of it.

20 **MR. JOHN ADAIR:** Yeah, and what I want to do is try to
21 understand the reasons why you say that there is nothing at all untoward or
22 inappropriate about this WhatsApp chat, and then we're going to talk about some of
23 those reasons in a little more detail.

24 So the first reason, as I understand it, among others, because I
25 think you've got a few. The first reason as I understand it is that it is regular and
26 ordinary for chairs of committees to be briefed in a way that the rest of the committee is
27 not being briefed in terms of the amount of information being received, right?

28 **THE HONOURABLE MAYOR JIM WATSON:** That's correct.

1 **MR. JOHN ADAIR:** And that's one of the reasons why we
2 shouldn't take any concern with respect to the WhatsApp chat?

3 **THE HONOURABLE MAYOR JIM WATSON:** I don't understand
4 what you point is.

5 **MR. JOHN ADAIR:** It's one of the reasons why the Commissioner
6 should not draw any conclusions that there was anything untoward about the WhatsApp
7 chat because it's just part of process of briefing the chairs.

8 **THE HONOURABLE MAYOR JIM WATSON:** Well, I think if you
9 go through it, and I did my best to go through all of the WhatsApp chat, there was
10 nothing in that that was inappropriate from my perspective. It was a quick way of
11 getting quick answers from staff during a very hectic time in our City's history. We were
12 dealing with floods and tornadoes and many other challenging issues above and
13 beyond LRT, and this was a relatively, as I understand it, new technology that allowed
14 us to communicate quickly to get information back and forth to the most decision
15 makers.

16 **MR. JOHN ADAIR:** And so let me just drill us down on the real
17 essence of this, just so you understand it.

18 It is possible that there is a reason to be concerned about the
19 existence of the WhatsApp chat, not just the content but the existence of a very small
20 group of people receiving information whereas others were not. And I understand the
21 first part of your response tot hat to be, that's what happens with chairs of committees.
22 Do I have that right?

23 **THE HONOURABLE MAYOR JIM WATSON:** Yeah. But if we
24 didn't do it that way, we'd go back to the old—fashioned way of having a meeting which
25 quite frankly was not the most efficient use of time. Mr. Manconi's office was not even
26 in the City Hall building.

27 **MR. JOHN ADAIR:** Right. So another reason why there's nothing
28 untoward or inappropriate about the WhatsApp chat is that it was efficient.

1 **THE HONOURABLE MAYOR JIM WATSON:** That's correct.

2 **MR. JOHN ADAIR:** And it was utilized as a matter of efficiency.

3 **THE HONOURABLE MAYOR JIM WATSON:** Yes.

4 **MR. JOHN ADAIR:** And then I understand that there's -- you made
5 reference to this earlier and Mr. Wardle made reference to it in his questions of Mr.
6 Manconi. A third reason why there's nothing untoward about you receiving information
7 that's different from what others were receiving in this fashion is because you have a
8 special status under the *Municipal Act* and you are in fact the CEO of the corporation.

9 **THE HONOURABLE MAYOR JIM WATSON:** That's correct. I
10 wasn't getting different information. We didn't provide one set of information for me
11 and another set for Council. It was just -- I probably received more information.

12 **MR. JOHN ADAIR:** Fair enough. We'll come to sort of different
13 not, I expect in a little bit but let's go with more for now because that's the
14 characterization you put on it.

15 Any other sort of particular reasons why we should not draw -- the
16 Commissioner should not draw any particular untoward inference from the existence of
17 the WhatsApp chat beyond this is how chairs are briefed, efficiency, and your special
18 status as CEO? Does that basically cover the major reasons?

19 **THE HONOURABLE MAYOR JIM WATSON:** Well, I don't think
20 my position as CEO has anything to do with WhatsApp. I happen to be on the
21 WhatsApp chat eventually because it was an efficient way of getting information to me.
22 As you can imagine, my job involves not just sitting in meetings. I'm out in different
23 community events and people have to get information to me quickly. This is one way of
24 doing it as opposed to, you know, voice mails or emails or let's have another meeting
25 every second hour to discuss a problem with LRT. Instead it was an efficient way of
26 getting information quickly and accurately, back and forth to decision makers who had
27 something to do with trying to find solutions to solve the LRT issue in Ottawa.

28 **MR. JOHN ADAIR:** Sure. And just to be clear, sir, I'm not actually

1 asking whether sort of the existence of WhatsApp as a platform has anything to do with
2 you being CEO. I'm focused on the issue of you having more information than the rest
3 of Council. And I take it one of the reasons why there's nothing wrong with that is
4 because you have a special status as CEO.

5 **THE HONOURABLE MAYOR JIM WATSON:** Well, again, I think
6 as you saw by most of the submissions on WhatsApp were sort of one-off questions or
7 one-off issues. There were very few that were very substantive. Anything that was
8 substantive in nature would be most probably us gathering in meeting or it would be one
9 of the hundreds of memos that went to all members of Council from either Mr. Manconi
10 or Mr. Morgan or Mr. Kanellakos over the course of the period that we're talking about.

11 **MR. JOHN ADAIR:** Sure. And I'm just going to suggest to you, a
12 moment ago you agreed with me that you were getting more information, and just to
13 bring us back there because I've got to keep asking my questions.

14 **THE HONOURABLE MAYOR JIM WATSON:** Yeah, but I ---

15 **MR. JOHN ADAIR:** And you were getting more information and ---

16 **THE HONOURABLE MAYOR JIM WATSON:** --- also said ---

17 **MR. JOHN ADAIR:** Excuse me. Sorry, may I finish?

18 Thank you.

19 One of the reasons you were getting more information is because
20 you have a special status as CEO, correct?

21 **THE HONOURABLE MAYOR JIM WATSON:** Yeah. You've
22 asked that twice. But I've also said it's not different information. Not getting one set of
23 information for myself and another to other members of Council.

24 **MR. JOHN ADAIR:** Fair enough. And I mean, we could quibble
25 about the nomenclature here. More is in fact, by definition would have to be different.
26 But I don't mean the opposite. I just mean you got more and the reasons I understand
27 why it was okay for you to have more, are: you are the CEO; it's a matter of efficiency;
28 and you're also the chair of FEDCO. Do I have that right?

1 **THE HONOURABLE MAYOR JIM WATSON:** That's correct.

2 **MR. JOHN ADAIR:** Right. Now sir, let's just talk just very briefly
3 about efficiency as a reason first, because I struggle with that one, to be candid with
4 you. If it were simply a matter of efficiency, the most efficient thing to do would be to
5 add the other members of FEDCO to the WhatsApp, correct?

6 **THE HONOURABLE MAYOR JIM WATSON:** No.

7 **MR. JOHN ADAIR:** That would be the single most efficient way of
8 sharing information.

9 **THE HONOURABLE MAYOR JIM WATSON:** No, but again, what
10 we were trying to do, which happens with every committee chair, and I think Councillor
11 Deans admitted this in her testimony yesterday, that you get a lot more information as
12 the committee chair because that is part of your responsibility to get properly briefed on
13 items that are coming before the committee so that you can properly chair, preside over
14 the meeting.

15 **MR. JOHN ADAIR:** All right.

16 Now, if we could have Mr. Mayor's transcript up, please, Mitchell.
17 It's TRN63. And yeah, if we can view in the viewer, thank you. If we can go to page 72
18 -- and Mitchell, the page numbers I give you, you'll have to add one each time. Yeah,
19 I've just lost the ability to see on my Zoom. There we go. Thank you.

20 So Mr. Mayor, you recall being interview under oath by Ms.
21 McGrann on the 28th of April?

22 **THE HONOURABLE MAYOR JIM WATSON:** I do.

23 **MR. JOHN ADAIR:** And if we go to line 12, Mitchell, Ms. McGrann
24 was asking you, sir, about the change to the trial running criteria and what you
25 understood about the trial running criteria. And she says, "What's your
26 understanding..." -- I'm going to paraphrase a little bit here; I hope not unfairly -- "...of
27 the source of the criteria?" You say, "I would have no knowledge of that."

28 And then the next exchange is the one I'm interested in. She says:

1 "So you didn't understand where the criteria came
2 from?"

3 And here's your answer, sir:

4 "Well, it is not a question of understanding. I don't
5 think, you know, at my level, which is the -- you know,
6 you are in the crow's nest looking out 30,000 feet. I
7 would not be involved in that level of detail. You
8 know, staff really act as a conduit from the consortium
9 to staff, and staff would brief me and other members
10 of Council as to what is going on but not get into the
11 minutia of, you know, what are the criteria, the scoring
12 system, and so on." (As read).

13 Now, you agree with me that that answer, at the time that you gave
14 it, is not quite accurate because it wasn't the case that staff were briefing you and other
15 members of Council. What was happening is, Mr. Kanellakos and Mr. Manconi, the two
16 key staff members, were giving you daily and, in some cases, hourly updates that the
17 other members of Council were not getting.

18 **THE HONOURABLE MAYOR JIM WATSON:** No, but Mr.
19 Manconi, almost on a regular basis -- at every Transit Commission meeting, or FEDCO
20 meeting, we would get an update on what was going on, the broad view of what was
21 taking place within the project office, the Rail Office, and so on. So to suggest that they
22 weren't getting information -- on my particular quote, I do believe it's the role of elected
23 officials, who do not have the expertise in engineering, for instance, or rail operations, to
24 be in the crow's nest looking out 30,000 feet and allow the staff to do their work.

25 So when it came to, sort of, the 2017 versus 2018 criteria -- you
26 know, nine days versus 12; 98, instead it was 96. All of that information would have
27 been handled by our professional staff and not by the politicians.

28 **MR. JOHN ADAIR:** Let's just separate out two things. In 2017,

1 2018, and even in 2019, I accept that there were meeting of FEDCO where Mr. Manconi
2 briefed, and we're going to see that, but I'm going to give it to you and ask you to take
3 my word for it for now that there was not one meeting of FEDCO between July 10th and
4 September 10th, which means that for the critical period from July 26th to August 30th,
5 FEDCO was not meeting, and FEDCO was not being briefed by Mr. Manconi. Do you
6 accept that?

7 **THE HONOURABLE MAYOR JIM WATSON:** I don't have a
8 record of those meetings so I can't confirm that.

9 **MR. JOHN ADAIR:** All right. And if it's the case that FEDCO was
10 not meeting during that period from July 26th, when substantial completion was
11 achieved, to August 30th, that key trial running period -- if FEDCO was not meeting, then
12 it's not the case that staff was briefing you and members of Council. What was
13 happening is you had a WhatsApp chat that was giving you hour-by-hour updates, and
14 nobody else did except Mr. Hubley, correct?

15 **THE HONOURABLE MAYOR JIM WATSON:** No, on July 22nd, a
16 memo from Mr. Manconi to mayor and members of Council was very clear when it said:

17 "Once RTG has achieved all trial running
18 requirements, staff will inform Council and members
19 of the Transit Commission." (As read).

20 Then on February -- or rather July 10th, a slide deck from FEDCO:

21 "Once RTG has achieved all trial running requirement,
22 staff will inform Council." (As read).

23 And that was a decision taken. There was no opposition to that by
24 any member of committee or Council who attended that meeting. And it was made very
25 clear that we were going to finish all of the trial testing. When it was complete, we
26 would notify Council. And that's, in fact, what they did, I believe, on August 23rd memo
27 from the City Manager to the members of Council and myself. And they outlined the
28 trial running times and RTG said they wanted to not only meet these targets but exceed

1 them.

2 So while there might not have been a meeting -- I can't confirm
3 that. I can't remember if there was a meeting then or not. I take you at your word --
4 there were opportunities that made it very clear that that information would come out at
5 the end of trial running. There was not going to be an hourly update or a daily update.
6 It was going to be done at the end.

7 And as I said, if any member of Council had a concern about that
8 and wanted more information than simply at the end, they would have responded. And
9 we received no correspondence. There were no motions at committee asking for hourly
10 updates, or daily, or semi-daily updates.

11 **MR. JOHN ADAIR:** Sir, we're going to see every single one of
12 those memos in detail, I can assure you. We're not there yet but we are going to see
13 them. Let me ask this question. When was Council told -- because you've got a lot of
14 dates and you clearly have a lot of memos in front of you, when was Council told that
15 you and Mr. Hubley would get hourly and daily updates and nobody else would? When
16 were they told that? Who told them? And where's the memo?

17 **THE HONOURABLE MAYOR JIM WATSON:** I don't believe
18 anyone said that. And there was no memo. There was no communication of that.

19 **MR. JOHN ADAIR:** Council was never told that, were they?

20 **THE HONOURABLE MAYOR JIM WATSON:** They were never
21 told that we had meetings, no.

22 **MR. JOHN ADAIR:** They were never told that there was a private
23 WhatsApp chat group involving you, Mr. Hubley, Mr. Kanellakos, and Mr. Manconi
24 where the two of you got hourly and daily updates and no one else did. They weren't
25 told that, were they?

26 **THE HONOURABLE MAYOR JIM WATSON:** Well, again, we
27 provided them with ---

28 **MR. JOHN ADAIR:** Sir, can you answer the question first and then

1 explain. I don't want to cut you off, but can you just tell me, yes or no, they were told or
2 weren't so I can deal with it and then you can explain?

3 **THE HONOURABLE MAYOR JIM WATSON:** Well, I have no idea
4 if anyone on the WhatsApp chat let anyone else know that there was a WhatsApp chat.
5 I certainly didn't. But it was made very clear at the very beginning that during the trial
6 run testing, we would not be giving hourly or daily update. We would be giving an
7 update at the end of trial running. That was in a slide deck FEDCO and it was in a
8 memo to all members of Council. There was no objection by any member of Council to
9 the fact that that seemed to be a reasonable suggestion that we have the results at the
10 end of the process, not, you know, on a daily or every-second-day approach.

11 **MR. JOHN ADAIR:** And no member Council objected, did they?

12 **THE HONOURABLE MAYOR JIM WATSON:** No.

13 **MR. JOHN ADAIR:** And no member of Council, all of the ones who
14 didn't object, every single one of them, didn't know that this was taking place, did they?

15 **THE HONOURABLE MAYOR JIM WATSON:** I have no idea if
16 they knew if there was a WhatsApp chat or not, but the fact of the matter is that the
17 material that we sent to members of Council clear and very concise, and no member of
18 Council objected. We indicated very clearly in both those documents that I quoted that
19 we would be providing a full and fulsome update, as we did. Mr. Kanellakos did that
20 after the end of trial running -- after the successful end of trial running.

21 **MR. JOHN ADAIR:** All right. And, sir, just ---

22 **THE HONOURABLE MAYOR JIM WATSON:** And think if you ask
23 -- if you ask any member of Council, you will hear back from those who are chairs that
24 more information does in fact go to a chair. The chair acts as a conduit to the staff and
25 helps set the legislative agenda. So yes, I was both chair of the committee responsible,
26 and the mayor and the CEO of the corporation, and there's nothing wrong with me
27 getting more information because I have a city-wide mandate from across the city as
28 opposed to a ward councillor. And the committee chairs, all of whom have been

1 selected by members of Council as a whole, have that added responsibility. They
2 actually get an extra staff person because they have extra duties and extra workload as
3 a result of being a chair of a committee.

4 **MR. JOHN ADAIR:** All right. Could we go to page 74, please, of
5 the transcript. Oh, sorry, we're there. Yeah, can we just go to line 3 and just scroll so
6 that that's at the top -- or down, rather, so that that's at the top of the page. Ms.
7 McGrann also asked you, Mr. Mayor, the trial running is -- to your understanding, I
8 believe it says:

9 "You have got to pass it in order to open to revenue
10 service, right?" (As read).

11 Your answer:

12 "That is my understanding, based on the advice given
13 to me from staff, correct." (As read).

14 Ms. McGrann says:

15 "And did you understand that the performance of the
16 system was being evaluated on a daily basis?" (As
17 read).

18 Your answer:

19 "I assumed it was, yes." (As read).

20 And then, if we scroll down just to the end of the page, Ms. McGrann says:

21 "You didn't know whether it was being evaluated on a
22 daily basis or not at the time?" (As read).

23 And you say:

24 "Well, it was being done on a daily basis. I just
25 assumed that it would be monitored on a daily basis
26 because they had to meet certain criteria in a certain
27 number of days. So again, I don't believe that I got a
28 daily update, necessarily, from staff." (As read).

1 And I'm going to suggest to you, sir, that we now know that that's
2 incorrect as a result of the WhatsApp chat. Would you agree with me?

3 **THE HONOURABLE MAYOR JIM WATSON:** Well, I don't know --
4 well, as you pointed out, I don't know when I joined the WhatsApp chat, so I'm not sure
5 if I would have gotten that information, but my staff would have relayed information in
6 the general sense with how things are going.

7 **MR. JOHN ADAIR:** But you had -- sorry, go ahead ---

8 **THE HONOURABLE MAYOR JIM WATSON:** Sorry, and we
9 would -- if there were problems that rose I would have been brought in to meetings to deal
10 with the issue.

11 **MR. JOHN ADAIR:** Right. And what we know, is that you had three
12 staff, including your Chief of Staff, receiving hourly and daily updates and they were passing
13 the information on to you, correct?

14 **THE HONOURABLE MAYOR JIM WATSON:** Well, again, it was
15 some time ago but I recall very clearly the commitment we made was to provide the public
16 and Council all the information at the end of the process, not on a daily basis. Whether I got
17 it every single day, I can't recall.

18 **MR. JOHN ADAIR:** Why didn't you tell Ms. McGrann, sir, that there
19 was a perfectly appropriate "WhatsApp" chat that was used to update you more frequently
20 than anybody else to take you out of this, you know, no updates until it's finished category
21 and give you your own regular updates; why didn't you tell her that that existed?

22 **THE HONOURABLE MAYOR JIM WATSON:** Well, first and
23 foremost, I was never asked that. I assume if they wanted to know if there were other forms
24 of communication I would have answered that.

25 **MR. JOHN ADAIR:** I'm sorry, Mr. Watson, is it your evidence that
26 you knew there was a "WhatsApp" chat at the time that you were interviewed on the 28th
27 when you said you were getting briefed and counsel was getting briefed and you didn't get
28 updates on a daily basis from staff, that you knew that this "WhatsApp" chat existed but you

1 didn't disclose it to the Commission because the right question wasn't asked; is that what
2 you're saying?

3 **THE HONOURABLE MAYOR JIM WATSON:** No, I'm not even sure
4 if I was on the "WhatsApp" at that point in time; and secondly, you know, if I had been asked
5 about another form of communication I would have said I saw it because I was part of the
6 "WhatsApp" at some point, whether it was after that or not, for the last I guess year or so.

7 **MR. JOHN ADAIR:** Mr. Watson, Mayor Watson, forgive me for being
8 a little bit lawyerly about this, but it's quite important. You were added later, you were
9 added in October which means you had access to the whole thing, because that's the way it
10 works when you get added.

11 **THE HONOURABLE MAYOR JIM WATSON:** Right.

12 **MR. JOHN ADAIR:** And I want to know, very clearly, on this day, I
13 want a clear answer to this, April 28th, 2022 when Ms. McGrann examined you, under oath,
14 did you or did you not recall the existence of that "WhatsApp" chat?

15 **THE HONOURABLE MAYOR JIM WATSON:** No, I didn't mention it.

16 **MR. JOHN ADAIR:** That's not my question. Did you recall that it
17 existed?

18 **THE HONOURABLE MAYOR JIM WATSON:** Well, I knew it existed
19 because as you've pointed out, after October I was part of it, so of course I knew it existed; I
20 was getting messages.

21 **MR. JOHN ADAIR:** And you're aware that the Commission sought
22 access from the City to all relevant documents that might help us understand what was
23 happening, including during the crucial period of trial running; you're aware of that; right?

24 **MR. PETER WARDLE:** Well, I have to object at this point. As Mr.
25 Adair knows, there was an agreement reached between the City and the Commission with
26 respect to what documents would be produced and there's been correspondence with Mr.
27 Adair and his colleagues on that subject. And the "WhatsApp" chat was not included in the
28 documents that were to be produced under that protocol.

1 **MR. JOHN ADAIR:** If I may, Mr. Commissioner?

2 **COMMISSIONER HOURIGAN:** Mr. Adair?

3 **MR. JOHN ADAIR:** Let's do it this way instead, Mr. Mayor, because I
4 don't want to get hung up on the technicalities because that's not going to contribute to the
5 Commission fulfilling its mandate.

6 I'm going to suggest to you, sir, that you knew as plain as it is to every
7 single person in this room, you knew those "WhatsApp" messages were important and you
8 specifically chose not to disclose them; correct?

9 **THE HONOURABLE MAYOR JIM WATSON:** No, that's not correct.

10 **MR. JOHN ADAIR:** Sir, it is plain and obvious that those were
11 important; do you agree with that at least, that they were important?

12 **THE HONOURABLE MAYOR JIM WATSON:** Well, I knew they
13 existed because as I said, I was part of the WhatsApp" after ---

14 **MR. JOHN ADAIR:** Not my question, Mr. Mayor. You knew they
15 were important – an important record of what had happened on a daily basis during trial
16 running; you knew that, sir?

17 **THE HONOURABLE MAYOR JIM WATSON:** Well, again, the
18 bottom line is, that I was privy to that information because I was added on the "WhatsApp"
19 sometime after October, so of course I knew it was out there. But any information that had
20 been asked for by – as my lawyer said, we provided everything that was asked for.

21 **MR. JOHN ADAIR:** Would you do me this service, sir, please, of
22 answering my question. You knew that this was important information that would assist the
23 Commissioner in fulling his mandate? You knew that on the 28th of April; correct?

24 **THE HONOURABLE MAYOR JIM WATSON:** Well, I would suggest
25 ---

26 **MR. JOHN ADAIR:** No, no, "Yes" or "No", sir. We've had enough of
27 the explanations; you knew that was important.

28 **THE HONOURABLE MAYOR JIM WATSON:** No, I didn't think it was

1 that important because it was the tidbits here and there, a sentence here or there, a “yes” or
2 “no” answer, it was not substantive whatsoever. The more substantive information came
3 from the meetings that we had with our suppliers and with our staff.

4 **MR. JOHN ADAIR:** Okay. Well, we’re going to go through that
5 “WhatsApp” in some detail and obviously the Commissioner will have to draw his own
6 conclusions, but let me ask you a different question. You’re aware that Mr. Kanellakos was
7 interviewed under oath by the Commission?

8 **THE HONOURABLE MAYOR JIM WATSON:** I’m aware of that, yes.

9 **MR. JOHN ADAIR:** You’re aware that Mr. Manconi was interviewed
10 under oath by the Commission?

11 **THE HONOURABLE MAYOR JIM WATSON:** Yes.

12 **MR. JOHN ADAIR:** You’re aware that Councillor Hubley was
13 interviewed under oath by the Commission?

14 **THE HONOURABLE MAYOR JIM WATSON:** Yes, a panel.

15 **MR. JOHN ADAIR:** You’re aware that all these people were – not in
16 the panel – I’m sorry, these were the formal interviews that took place prior to the hearings.

17 **THE HONOURABLE MAYOR JIM WATSON:** Okay.

18 **MR. JOHN ADAIR:** And you’re aware that all these people were
19 asked questions about governance and reporting; you generally are aware of that; correct?

20 **THE HONOURABLE MAYOR JIM WATSON:** I didn’t go through
21 every one’s transcript, no, so I can’t comment.

22 **MR. JOHN ADAIR:** Not my question. You were aware that one of
23 the things the Commission is looking at is governance and reporting; correct?

24 **THE HONOURABLE MAYOR JIM WATSON:** I believe so.

25 **MR. JOHN ADAIR:** And every single one of those people I guess
26 apparently decided that the “WhatsApp” chats were not important enough to disclose;
27 correct?

28 **THE HONOURABLE MAYOR JIM WATSON:** Again, I can’t speak

1 for the others.

2 **MR. JOHN ADAIR:** I'm going to suggest to you that what happened
3 is that the people on that "WhatsApp" chat, yourself, Mr. Hubley, Mr. Kanellakos and Mr.
4 Manconi, got together and took a decision not to disclose it intentionally because of the
5 contents; do you agree with that?

6 **THE HONOURABLE MAYOR JIM WATSON:** Not at all, no. I had
7 no discussions about "WhatsApp" with Mr. Kanellakos or Mr. Manconi.

8 **MR. JOHN ADAIR:** Or Mr. Arpin?

9 **THE HONOURABLE MAYOR JIM WATSON:** Or Mr. Arpin.

10 **MR. JOHN ADAIR:** Or Mr. Armbruster or Mr. Gravel?

11 **THE HONOURABLE MAYOR JIM WATSON:** Correct.

12 **MR. JOHN ADAIR:** So there's a Commission of Inquiry and the City
13 of Ottawa discloses 550 odd thousand documents. I can't imagine that there are that many
14 documents in the City's files even, but it discloses 550,000 documents.

15 **THE HONOURABLE MAYOR JIM WATSON:** Right.

16 **MR. JOHN ADAIR:** And all these people get interviewed and they're
17 all asked questions about governance and reporting and somehow not one of them
18 discloses the existence of a "WhatsApp" chat that they all recall and they all know exists.
19 That's what we're to take from all this?

20 **THE HONOURABLE MAYOR JIM WATSON:** That's correct.

21 **MR. JOHN ADAIR:** And it's because the right question wasn't
22 asked?

23 **THE HONOURABLE MAYOR JIM WATSON:** Well, I can't speak for
24 the others; I wasn't in on their interviews, but that was never broached with me in my
25 interview.

26 **MR. JOHN ADAIR:** All right. Can we go to page 31 of the transcript,
27 please? And if we can go to line 11, please. Ms. McGrann asked you, Mr. Watson, about
28 oversight early in your interview and she says, "Can you speak to me about the approach

1 that the City took to oversight of the project?” And your answer is, “Well, there was regular
2 updates by City staff to FEDCO, which is the Committee I Chair.” FEDCO” is the “Finance
3 and Economic Development Committee”. And so we received regular update as did the
4 Transit Commission, but the responsibility for construction actually was with FEDCO and
5 not with the Transit Commission which was responsible for operating.” And then if we could
6 just go on from there – sorry, if we could just go back up for one second, sorry.

7 Just line 17 there, Mr. Mayor: “And so we received regular updates as
8 did the Transit Commission.” And at least in this crucial period from July 26th to August 30th,
9 I’m going to suggest to you that that’s not the case, that FEDCO was not receiving regular
10 updates because there were no meetings during that period; correct?

11 **THE HONOURABLE MAYOR JIM WATSON:** Well, again, I can’t
12 recall if there were no meetings, but as I pointed out there were memos that were given to
13 all members of Council, not just FEDCO members, that indicated that the trial running was
14 completed.

15 **MR. JOHN ADAIR:** And we will come to those, I have assured you of
16 that.

17 If we go down to line 22, sir, Ms. McGrann continues: “So when you
18 say the responsibility for construction was with FEDCO, what do you mean by that?” Your
19 answer, “Well, any project in the City of Ottawa has to have a Host committee that it reports
20 to and so all of the construction for LRT reported to FEDCO as opposed to the
21 Transportation Committee.” And then if we can just go – it says “How did FEDCO” – Ms.
22 McGrann says, “Then how did FEDCO go about fulfilling its oversight and obligations for the
23 project”? Your answer, “Well, through regular meetings and questions by members of the
24 Committee, public delegations that would appear, the standard practice of accountability
25 through the Committee system.” Just pausing there. You described all that, the information
26 I’ve just read back to you, as the standard practice of accountability through the Committee
27 system. Do you see that?

28 **THE HONOURABLE MAYOR JIM WATSON:** Yes.

1 **MR. JOHN ADAIR:** And you'd agree with me, sir, that a private
2 "WhatsApp" chat involving some members of the Committee and not the others is not the
3 standard practice of accountability through the Committee system; I take it you agree with
4 me?

5 **THE HONOURABLE MAYOR JIM WATSON:** No, "WhatsApp" was a
6 tool used to communicate amongst the decision-makers in an efficient fashion. It's used by
7 all groups all around the world and it works well. What my question was, how did -- the
8 question asked by Ms. McGrann is how did FEDCO go about fulfilling its oversight
9 obligations? And that was to the public. We have public meetings. That was -- the
10 public could sign up and speak to FEDCO, questions by members, and that's the
11 standard system that operates here, and quite frankly, in most municipalities around the
12 province.

13 **MR. JOHN ADAIR:** And Ms. McGrann, of course, you'll recall, was
14 quite interested at the outset of the examination about how governance works, how
15 reporting works, how the oversight works. You recall that?

16 **THE HONOURABLE MAYOR JIM WATSON:** I don't. I'd have to
17 go back and look at the ---

18 **MR. JOHN ADAIR:** Sorry, we're just -- I'm just talking about the
19 questions we've just been looking at. She was asking you questions about okay, who
20 was the oversight with, how did they exercise that oversight, how does the reporting
21 structure work? You recall, generally speaking, that that was happening?

22 **THE HONOURABLE MAYOR JIM WATSON:** Yes.

23 **MR. JOHN ADAIR:** And you, of course, understood, on the 28th of
24 April when she was asking you those questions and you were under oath, you
25 understood that what she wanted to do was learn how does the reporting work, who
26 gets what information when, and how, right?

27 **THE HONOURABLE MAYOR JIM WATSON:** Well, she wanted to
28 know how the FEDCO system worked, and I explained that to her.

1 **MR. JOHN ADAIR:** She also asked you how oversight of the
2 project worked, correct?

3 **THE HONOURABLE MAYOR JIM WATSON:** Can you -- where is
4 that on the slide, if you could point that out?

5 **MR. JOHN ADAIR:** Sure. If we go back up to page 31, please,
6 line 11, "Could you speak to me about the approach that the City took to oversight of the
7 project?"

8 She wanted to generally understand how that works, right?

9 **THE HONOURABLE MAYOR JIM WATSON:** That's right,
10 oversight of the construction of the project.

11 **MR. JOHN ADAIR:** Sorry, where does it say the construction
12 phase of the project only?

13 **THE HONOURABLE MAYOR JIM WATSON:** Well, because that's
14 what FEDCO had responsibility for.

15 **MR. JOHN ADAIR:** I'm sorry, did FEDCO's responsibility end
16 when substantial completion was achieved?

17 **THE HONOURABLE MAYOR JIM WATSON:** It ended when the
18 project was handed over to the City, and that ---

19 **MR. JOHN ADAIR:** On August 30th?

20 **THE HONOURABLE MAYOR JIM WATSON:** --- then became the
21 responsibility of the Transit Commission. And then ---

22 **MR. JOHN ADAIR:** Right.

23 **THE HONOURABLE MAYOR JIM WATSON:** --- FEDCO took up
24 the responsibility for the construction of Phase 2 ---

25 **MR. JOHN ADAIR:** Right.

26 **THE HONOURABLE MAYOR JIM WATSON:** --- which we're
27 doing right now.

28 **MR. JOHN ADAIR:** So and handover is August 30th when RSA is

1 achieved, right?

2 **THE HONOURABLE MAYOR JIM WATSON:** Yes. I think it really
3 was more OC took responsibility on the 14th when the first public train service began.

4 **MR. JOHN ADAIR:** On September the 14th?

5 **THE HONOURABLE MAYOR JIM WATSON:** September 14th,
6 right.

7 **MR. JOHN ADAIR:** Right. So FEDCO's responsibility would come
8 to an end sometime around September the 13th?

9 **THE HONOURABLE MAYOR JIM WATSON:** That's right, and it
10 would take up ---

11 **MR. JOHN ADAIR:** And ---

12 **THE HONOURABLE MAYOR JIM WATSON:** --- Phase 2.

13 **MR. JOHN ADAIR:** Right. And among the most important phases
14 of the project -- not the only one that was important -- but among the most important
15 phases of the project was trial running and handover?

16 **THE HONOURABLE MAYOR JIM WATSON:** Sorry, trial running
17 and?

18 **MR. JOHN ADAIR:** Handover.

19 **THE HONOURABLE MAYOR JIM WATSON:** Yes.

20 **MR. JOHN ADAIR:** And so when Ms. McGrann asked you, as you
21 see on the page in front of you, "Could you speak to me about the approach that the
22 City took to oversight of the project?" that obviously included trial running and
23 handover? You understood it that way?

24 **THE HONOURABLE MAYOR JIM WATSON:** Yes, as I say, it's
25 the responsibility of construction.

26 **MR. JOHN ADAIR:** And then when you gave the answers that you
27 did, which we've already reviewed, so I won't repeat them back to you, at no point did
28 you say to Ms. McGrann, "And there was also a private WhatsApp chat group involving

1 Councillor Hubley and Mr. Kanellakos and Mr. Manconi and myself, and that was an
2 important way that we communicated during the period of trial running"? You didn't tell
3 her that?

4 **THE HONOURABLE MAYOR JIM WATSON:** No. This was
5 viewed really as an internal communications platform that we could speak with one
6 another and get information quickly, and pivot quickly, and I -- you know, as I said, you
7 pointed out, I think, I joined it sometime in October.

8 **MR. JOHN ADAIR:** Yeah. And I'm a little bit confused now. Was it
9 an internal communications platform, or was it the way that you were briefed as the
10 Chair of FEDCO, or both?

11 **THE HONOURABLE MAYOR JIM WATSON:** No. I would receive
12 briefing -- I would have a briefing as my capacity as Chair of FEDCO usually the day
13 before FEDCO meeting in person or on Zoom. I wouldn't get a proper briefing on
14 WhatsApp.

15 **MR. JOHN ADAIR:** Right. Precisely. This was not a tool by which
16 you, as Chair, were receiving briefings; this was just an -- as you called it -- an internal
17 communication tool, correct?

18 **THE HONOURABLE MAYOR JIM WATSON:** That's right.

19 **MR. JOHN ADAIR:** And the internal part of that is two councillors,
20 and two only, out of all of the councillors and all the committees and everything else,
21 two, and two only, plus the two key staffers, Mr. Kanellakos and Mr. Manconi, right?

22 **THE HONOURABLE MAYOR JIM WATSON:** That's correct. And
23 Alan Hubley was the councillor because he was the Chair of the Transit Commission
24 that was ---

25 **MR. JOHN ADAIR:** Right.

26 **THE HONOURABLE MAYOR JIM WATSON:** --- take over
27 responsibility for operating, and he was dealing with all of the bus route changes as a
28 result of delays in construction. So he was chosen by Council and it was most

1 appropriate that he'd be part of the information flow, because he had to then go back
2 and ensure that his Commission was properly briefed.

3 **MR. JOHN ADAIR:** Okay. And we're going to come back to that.
4 But just to clarify one thing, Council didn't choose him for inclusion in the WhatsApp
5 group; he was chosen as Chair of the Transit Commission by Council, correct?

6 **THE HONOURABLE MAYOR JIM WATSON:** Yes.

7 **MR. JOHN ADAIR:** Okay. I just wanted to make sure we were
8 clear on that.

9 And let me just come back to a question I asked you a few
10 moments ago. I'm just to ask it one more time. I don't want to belabour it. But you'd
11 agree with me that the process we've just been talking about, this internal
12 communication tool, is very much not the same thing as the standard practice of
13 accountability through the committee system, not at all the same?

14 **THE HONOURABLE MAYOR JIM WATSON:** Sorry, I still don't
15 quite understand your point. The fact is that we used this as a internal communications
16 device to communicate with one another because we were in all different parts of the
17 City and you know, in the case of Mr. Manconi, we couldn't simply go and shut
18 everything down and have meeting after meeting. We needed a quick response, or if
19 there was some information that came out that myself, as Chair of FEDCO needed,
20 then that was one way of getting it. And ultimately, any major decision on the project
21 had to go back to Council. And if you go back through the reams and reams of memos
22 and letters and information briefings that were presented in slide decks, PowerPoint
23 slide decks presented to members of Council, it's in the hundreds. So there was a lot of
24 information, substantive information went out through that -- to committee appearance,
25 committee briefing, or a memo if there were no committee meetings in the interim. And
26 that has been standard practice in our city and I would suggest every other city in the
27 country. That's how information gets out as quickly as possible.

28 **MR. JOHN ADAIR:** Okay. Mr. Mayor, let me just follow up on that.

1 I could take you to the document, but I doubt you'll need me to. Please tell me if you do.

2 You'll recall that in 2011, the City assigned responsibility for the
3 project to FEDCO?

4 **THE HONOURABLE MAYOR JIM WATSON:** Correct.

5 **MR. JOHN ADAIR:** And you'll recall, sir, I hope -- and if not, I'm
6 happy to take you to the document -- that in late 2017, some councillors raised a degree
7 of complaint or concern with Mr. Kanellakos about how information was being shared.
8 Do you recall that?

9 **THE HONOURABLE MAYOR JIM WATSON:** I don't specifically,
10 no.

11 **MR. JOHN ADAIR:** Okay. If we could have please COW104351?

12 **--- EXHIBIT No. 230:**

13 COW0104351 – Email from Steve Kanellakos to Jeff Leiper
14 et al. 15 January 2018

15 **THE HONOURABLE MAYOR JIM WATSON:** Was that the --
16 yeah, I remember seeing that a few days ago.

17 **MR. JOHN ADAIR:** All right. And were you aware, sir, that in late
18 December of 2017, certain councillors were expressing some degree of concern about
19 the information sharing process and whether everyone was getting the right
20 information?

21 **THE HONOURABLE MAYOR JIM WATSON:** I recall this letter,
22 but I don't recall any other letters or memos to me. Whether they went to Mr.
23 Kanellakos, I'm not sure. You'd have to ask him.

24 **MR. JOHN ADAIR:** All right. But so you do ---

25 **THE HONOURABLE MAYOR JIM WATSON:** I only recall this
26 letter.

27 **MR. JOHN ADAIR:** Okay. So you do recall at least one incident,
28 and whether there were others or not, we don't need to worry about for today's

1 purposes, correct?

2 **THE HONOURABLE MAYOR JIM WATSON:** That's correct.

3 **MR. JOHN ADAIR:** All right. And then what you -- what happens
4 shortly after that, sir, is you yourself actually initiated a process of increasing the
5 frequency of updates to FEDCO by proposing that FEDCO start to receive an update on
6 the project every month. Do you recall that?

7 **THE HONOURABLE MAYOR JIM WATSON:** I do, yes.

8 **MR. JOHN ADAIR:** And we can just take a look at the document,
9 please? It's COW442858.

10 **--- EXHIBIT No. 231:**

11 COW0442858 – City of Ottawa Memo from Mayor Watson et
12 al. to Members of Council 14 February 2018

13 **MR. JOHN ADAIR:** And this is a memo, sir, that comes from you,
14 among others. I'm not suggesting there aren't others who are authors of the memo, but
15 it goes to members of Council. The date is February the 14th of 2018. And I'm really
16 only interested in the first paragraph, because I don't want to get into the details of what
17 was happening with the project at that time -- sorry, the first two paragraphs.

18 I'm going to scroll down a little bit, just to have those -- there we go
19 -- front and centre.

20 It says:

21 "As you are aware, Council has set out the general
22 authority to FEDCO on matters that relate to the City's
23 LRT Project Agreement." (As read)

24 And then you say:

25 "In consultation with the Chairs of the Transit
26 Commission and Transportation Committee, we are
27 proposing that FEDCO should receive regular
28 updates on the Confederation Line. We have

1 requested that staff provide a monthly progress
2 update to FEDCO on the construction and launch of
3 the Confederation Line between now and the launch
4 of the LRT service." (As read)

5 Do you see that?

6 **THE HONOURABLE MAYOR JIM WATSON:** Yeah.

7 **MR. JOHN ADAIR:** And that was an effort that you were part of
8 initiating in order to ensure that FEDCO had all the information they needed?

9 **THE HONOURABLE MAYOR JIM WATSON:** Right. And if you
10 scroll up again, it goes on to say:

11 "At this meeting, we have asked staff to provide an
12 overview of the Project Agreement and the various
13 tools available to the City to ensure that taxpayers are
14 protected as we move forward towards the launch of
15 the Confederation Line in 2018." (As read)

16 And then it went on to say:

17 "This includes an overview of the Project Agreement
18 has been structured in its entirety to protect Ottawa
19 taxpayers from crossover runs and delay costs. It's
20 important to note that delay costs will be documented
21 over the course of the coming year, and until the
22 system launches. We encourage members of Council
23 to attend the next FEDCO meeting, FEDCO update
24 on the implementation of the Confederation Line
25 scheduled for March 6th."

26 So this was really our attempt to provide more information but also
27 to keep feet to fire of the -- of our partner or our supplier to ensure that the contract was
28 being respected.

1 **MR. JOHN ADAIR:** Right. And that's actually where I was going,
2 sir. First of all, this is a part -- there's the stuff about your partner and RTG and all that
3 stuff. But it's also you saying to Council, "It's important that FEDCO get regular updates
4 on this," correct?

5 **THE HONOURABLE MAYOR JIM WATSON:** Absolutely.
6 Substantial factual information.

7 **MR. JOHN ADAIR:** And to stay informed.

8 **THE HONOURABLE MAYOR JIM WATSON:** Yes.

9 **MR. JOHN ADAIR:** And then if we go to the meeting of March 6th
10 itself there's a presentation slide deck which is COW435338.

11 **--- EXHIBIT No. 232:**

12 COW0435338 – FEDCO O-Train Confederation Line Project
13 Update 6 March 2018

14 **THE HONOURABLE MAYOR JIM WATSON:** Right.

15 **MR. JOHN ADAIR:** And sir, I'm not going to take you through the
16 whole thing because it would take far too long. But you'll see from the bottom of the
17 screen in front of you, the PDF viewer, that it's 47 pages. And just as an example, if we
18 go you pages 12 to 13, again, I don't intend to ask you questions about the substance of
19 this, Mr. Mayor. I just want to give you it by way of a refresh. There's this description
20 on page 12 of the timelines. And then if we go to page 13 you'll see more detail on the
21 timelines.

22 And my point simply is these monthly briefings that you initiated,
23 provided members of FEDCO with detailed information about what was going on with
24 the project, right?

25 **THE HONOURABLE MAYOR JIM WATSON:** Yes.

26 **MR. JOHN ADAIR:** And that of course is entirely consistent with
27 the City assigning responsibility for the project to FEDCO.

28 **THE HONOURABLE MAYOR JIM WATSON:** That's correct.

1 **MR. JOHN ADAIR:** And entirely consistent with your evidence that
2 the process of giving these updates to FEDCO and allowing robust discussions about
3 what was happening on the project at the FEDCO level is all part of the standard
4 practice of accountability through the committee system.

5 **THE HONOURABLE MAYOR JIM WATSON:** That's correct.

6 **MR. JOHN ADAIR:** And I'm going to suggest to you sir, that you
7 took a similar approach -- the City took a similar approach with Council as a whole,
8 committing to keeping Council updated, correct?

9 **THE HONOURABLE MAYOR JIM WATSON:** Well, we would
10 always invite members of Council who are not members of FEDCO to come to the
11 FEDCO meetings.

12 **MR. JOHN ADAIR:** Right. And then separate from that, even if
13 members of Council decided for whatever reason they wouldn't or couldn't attend a
14 FEDCO meeting, you were also committed to providing Council as a whole with
15 quarterly updates?

16 **THE HONOURABLE MAYOR JIM WATSON:** Yes. The staff
17 would provide those updates.

18 **MR. JOHN ADAIR:** Yeah, and I'm sorry. I didn't mean you
19 personally. But the City committed to providing Council with quarterly updates and that
20 was typically done through memos, correct?

21 **THE HONOURABLE MAYOR JIM WATSON:** That's correct, yes.

22 **MR. JOHN ADAIR:** And if we can just take a look at one of those
23 just to give ourselves the benefit of a little bit of context. It's COW529881

24 **--- EXHIBIT No. 233:**

25 COW0529881 – City of Ottawa Memo from Director O-Train
26 Construction et al. to Mayor and Members of Council 13
27 August 2018

28 **THE HONOURABLE MAYOR JIM WATSON:** Is that the one

1 dated March 8th?

2 **MR. JOHN ADAIR:** This one is August 13th, Mr. Mayor, and I have
3 no interest in asking you about the contents of it because it doesn't matter what the
4 state of the project was for the purposes of my questions on August 13th. I just want to
5 show ou that these memos were the means by which among other thins members of
6 Council were getting updates with respect to this project. Okay?

7 **THE HONOURABLE MAYOR JIM WATSON:** M'hm.

8 **MR. JOHN ADAIR:** So if you take a look at the memo you should
9 see in front of you on the screen -- you'll see the date there, August 13th. And I'm just
10 interested in the opening sentence. It says:

11 "As part of the ongoing commitment to keep Council
12 apprised of the progress of the O-Train Confederation
13 Line Stage 1 and Stage 2 projects, this memo
14 outlines..."

15 And then it goes on from there, right?

16 **THE HONOURABLE MAYOR JIM WATSON:** Yeah.

17 **MR. JOHN ADAIR:** And that is in fact what happened. There was
18 an ongoing commitment by staff to keep Council apprised of the progress of the project,
19 correct?

20 **THE HONOURABLE MAYOR JIM WATSON:** That's right. To
21 provide information from a wholistic point of view that was substantive and that Council
22 members needed because they had questions from their constituents. So that, I felt,
23 was the best forum to do that because, as you know, we don't --- our committees
24 usually only meet once a month and between those a lot can happen and that was why
25 we provided those detailed mems to members of Council. And I received very good
26 feedback from members of Council who said, you know, "Thank goodness. We've now
27 got the information in a substantive quite thorough form." Usually you know, 10 or 11
28 pages long.

1 **MR. JOHN ADAIR:** Sure. And sir, I'm going to now take you back
2 to one thing about FEDCO in terms of these regular monthly meetings that you had
3 committed to, that you and the chairs of the Transit Commission and the Transit
4 Committee had believed were appropriate and had committed to holding.

5 You would agree with me that none of those were held from
6 substantial completion through the end of trial running?

7 **THE HONOURABLE MAYOR JIM WATSON:** Well, I think that
8 took place during the summer and we usually would not have meetings. There would
9 be at least one month where we wouldn't have a meeting. I think I was usually August.
10 So I believe we did have a meeting in September or October.

11 **MR. JOHN ADAIR:** That's right. And just so you have the dates.
12 There was one on July 10th and one on, I believe, September 10th. I might be off by a
13 day; it doesn't much matter. But my point is that from July 26th when substantial
14 completion was achieved through to August 30th, this crucial period of trial running
15 where decisions were being made and there were reasons, as you've already told us,
16 for concern, there was not one FEDCO meeting where this kind of presentation was
17 given and the Q and A could take place and debate could take place about what should
18 happen, right?

19 **THE HONOURABLE MAYOR JIM WATSON:** No. As I said, if you
20 go back over the history of our City Council, we normally do not have those meetings in
21 the summer so it gives members of Council an opportunity to have a holiday.

22 **MR. JOHN ADAIR:** I did go back and I did look at the website and
23 I did notice that every year in August there doesn't appear to be a FEDCO meeting. But I
24 take it, sir, you are not suggesting to the Commissioner that the reason FEDCO couldn't
25 be updated through a meeting during this crucial time period with the presentation and
26 the opportunity to ask questions, the very opportunity you had -- I take it you're not
27 saying that the reason that didn't happen is because people were on holiday and too
28 busy. You're not saying that, are you?

1 **THE HONOURABLE MAYOR JIM WATSON:** No. But again, the
2 trial running was taking place in the summer and it was made clear to both members of
3 Council and the public and the media that we would be reporting out on the success of
4 the completion of trial running at the end of the trial running process. And I could go
5 back to those two memos ---

6 **MR. JOHN ADAIR:** July 10, July 22 are the dates, sir, if that is of
7 any assistance.

8 **THE HONOURABLE MAYOR JIM WATSON:** Yeah, July 22 for
9 the memo and July 10th for the FEDCO briefing.

10 **MR. JOHN ADAIR:** Right. So my question for you is I'm going to
11 suggest to you that the standard practice of accountability through the committee
12 system was completely absent from July 26th to August 30th during perhaps the most
13 crucial time period for this project, correct?

14 **THE HONOURABLE MAYOR JIM WATSON:** No, I wouldn't
15 suggest that it's the most crucial time. I would suggest that we had in place a
16 mechanism to notify members of Council when the trial run was completed successfully.
17 And we in fact did that through a memo from Mr. Kanellakos. So it was very very clear.
18 Members of Council knew in July that a trial running report would be issued at the end
19 of trial running and that's in fact what happened. And Mr. Kanellakos issued a report or
20 a memo on August 23rd, 2019, three pages --- two pages.

21 **MR. JOHN ADAIR:** Yeah. And we ---

22 **COMMISSIONER HOURIGAN:** Counsel, I'm going to interrupt. It's
23 time for the afternoon break.

24 **MR. JOHN ADAIR:** Thank you, Mr. Commissioner.

25 **COMMISSIONER HOURIGAN:** So 15 minutes.

26 **THE REGISTRAR:** Order. All rise.

27 The Commission will recess for 15 minutes.

28 --- Upon recessing at 3:30 p.m.

1 ---- Upon resuming at 3:42 p.m.

2 **THE REGISTRAR:** Order. All rise.

3 The hearing is resumed.

4 **--- THE HONOURABLE MAYOR JIM WATSON, Resumed**

5 **COMMISSIONER HOURIGAN:** All right. Please proceed.

6 **--- EXAMINATION IN-CHIEF BY MR. JOHN ADAIR (cont'd)**

7 **MR. JOHN ADAIR:** Just bear with me one moment, Mr. Watson. I
8 apologize. Hold on.

9 So Mr. Watson, I want to now go to some of the memos that you
10 have referenced in terms of memos that were sent to Council. And I'm going to start,
11 sir, with the July 10th document you've referenced a couple of times. The document ID
12 is COW104281.

13 **--- EXHIBIT No. 234:**

14 COW0104281 – O-Train Confederation Line Project Update
15 10 July 2019

16 **THE HONOURABLE MAYOR JIM WATSON:** The slide there.

17 **MR. JOHN ADAIR:** Yeah, the slide deck, thank you.

18 And just bear with me one second, Mr. Watson , while I get it up on
19 my screen. One would think I wouldn't need to do this when we had our break.

20 But just because you've referred to it, let me spend a moment here.
21 This is, sir, the July 10th slide deck that was presented to FEDCO, correct?

22 **THE HONOURABLE MAYOR JIM WATSON:** That's correct.

23 **MR. JOHN ADAIR:** And if we can just scroll down to page 7 of 16,
24 please. And the last bullet point you'll see there, Mr. Watson, is:

25 "Once RTG has achieved all trial running
26 requirements staff will inform Council."

27 Do you see that?

28 **THE HONOURABLE MAYOR JIM WATSON:** I do, yes.

1 **MR. JOHN ADAIR:** And I take it that's the statement that you've
2 been referring to that Council were told that they would be informed once trial running
3 had been achieved?

4 **THE HONOURABLE MAYOR JIM WATSON:** That and the memo,
5 yes, from ---

6 **MR. JOHN ADAIR:** And -- yeah, and I'm going to come to the
7 memo in a second. I can only have one document on the screen at a time. But when
8 you've been referring to the July 10th presentation and Council being told, that's what
9 you were referring to, correct?

10 **THE HONOURABLE MAYOR JIM WATSON:** That's correct.

11 **MR. JOHN ADAIR:** And you'd agree with me that what that say is
12 that once everything -- once all the trial running requirements have been met, staff
13 would inform Council, correct?

14 **THE HONOURABLE MAYOR JIM WATSON:** That's exactly what
15 it says.

16 **MR. JOHN ADAIR:** And it does not say that Council would not be
17 informed about anything at all. It doesn't say they wouldn't be informed about the status
18 trial running. It doesn't say they wouldn't be informed about restart. It doesn't say they
19 wouldn't be informed about daily progress. It just says, "Once everything's done, we will
20 tell you." That's all.

21 **THE HONOURABLE MAYOR JIM WATSON:** That's right. That
22 was what was agreed upon and, as I said, there was no feedback contrary to that
23 suggestion.

24 **MR. JOHN ADAIR:** Right. And a reasonable FEDCO member, a
25 reasonable Council member reading this document and seeing that statement would
26 assume that if things were going badly enough that there had to be a restart, which you
27 said caused you "great concern", were your words, that they would be still informed of
28 that.

1 **THE HONOURABLE MAYOR JIM WATSON:** Well, again, the
2 whole purpose of this was to allow the staff the space and time to go through the proper
3 trial running. And it was made very clear, if you look at some of the other points on this
4 -- it said, for instance:

5 “On occasion, during trial running, the public might not
6 see trains running on the Confederation Line. This is
7 normal as there are many different systems being
8 tested at different times throughout the period.” (As
9 read).

10 So I think the rational and sensible approach was, until everything
11 is wrapped up, we’re going to announce to the public, and Council, and the media when
12 it’s all complete. And that was clear in black and white on this item on this slide deck as
13 well as the memo to Council who made not have been at the FEDCO meeting.

14 **MR. JOHN ADAIR:** Right. And if we could just come back to my
15 question. A reasonable councillor reviewing that statement, and the others that you’ve
16 read, would nonetheless expect to be informed if things were going badly enough that a
17 restart had to be undertaken, correct?

18 **THE HONOURABLE MAYOR JIM WATSON:** No, I disagree with
19 that. It’s clearly said that we were going to provide all of the information at the end of
20 the process, not in between. It doesn’t say anything about, you know, “If this happens,
21 we should let you know.” It was very clear, once sentence, “Once RTG has achieved all
22 trial running requirements, staff will inform Council,” period.

23 **MR. JOHN ADAIR:** And it does not say that there will be daily
24 updates provided to a select group of Council members.

25 **THE HONOURABLE MAYOR JIM WATSON:** It doesn’t say that,
26 no.

27 **MR. JOHN ADAIR:** And that information was not communicated at
28 any time during that meeting, was it?

1 **THE HONOURABLE MAYOR JIM WATSON:** Not that I'm aware
2 of, not.

3 **MR. JOHN ADAIR:** If we go down to the July 22nd memo, which is
4 COW529052, please.

5 **--- EXHIBIT No. 235:**

6 COW0529052 – City of Ottawa Memo from General
7 Manager, Transportation Services to Mayor and Members of
8 Council et al. 27 July 2019

9 **MR. JOHN ADAIR:** Sorry, this is the memo, I believe, Mr. Watson,
10 you were referring to a moment ago of July -- oh, I'm sorry, there was one on the 22nd
11 that you read from. This is the one on the 27th that comes immediately prior to trial
12 running.

13 **THE HONOURABLE MAYOR JIM WATSON:** No, the one I was
14 referring to was July 22nd.

15 **MR. JOHN ADAIR:** Right, and can come back to that if we need
16 to. I'm going to give you this one just to show you what Council was told two days
17 before trail running was started. And you'll see there the date is the 27th of July. It
18 says:

19 "Further to the memo issued July 22, indicating that
20 RTG had submitted a notice for substantial
21 completion, the purpose of this memo is to advise that
22 both the City and the IC are in agreement that RTG
23 has met all the conditions associated with substantial
24 completion." (As read).

25 And then, if we can scroll down, you see there the paragraph that
26 begins, "Now that substantial completion..." It says:

27 "Now that substantial completion has been confirmed
28 by the independent certifier, RTG plans to begin trial

1 running the week of July 29. As a reminder, the
2 objective of this important next step is to complete 12
3 consecutive days of regularly scheduled service and
4 to confirm system readiness for passenger service by
5 exercising the line.” (As read).

6 And it goes on from there. There’s no mention in this memo sent
7 on the 27th that on the 25th and 26th, you’d only been able to launch 4 of 15 and 5 of 15
8 trains, respectively, correct?

9 **THE HONOURABLE MAYOR JIM WATSON:** Sorry, was that a
10 question?

11 **MR. JOHN ADAIR:** It is.

12 **THE HONOURABLE MAYOR JIM WATSON:** Yeah, if it’s not in
13 the memo, then you’re correct.

14 **MR. JOHN ADAIR:** Right. And so that information that you agreed
15 with me earlier gave you some cause for concern, that they’d only been able to launch a
16 third of the required, and even less than that the other day, that was sent -- that
17 occurred, rather, the day before this memo, was not provided to Council?

18 **THE HONOURABLE MAYOR JIM WATSON:** No, if that was all
19 that was in the memo, that was all that was in the memo, but there was also the one
20 before, on July 22nd, which reiterated, almost in the same language as the slide deck,
21 that once RTG has achieved all trial running requirements, staff will inform Council, and
22 then this was added, “and members of the Transit Commission”.

23 **MR. JOHN ADAIR:** And you’ll see there in the portion I just read to
24 you in the paragraph, “Now that substantial completion has been confirmed...”, you
25 remind Council of one of the criteria for trial running; “As a reminder, the objective of this
26 important next step is to complete 12 consecutive days of regularly service.” And so I’m
27 going to suggest to you that a councillor reading that would assume from the language
28 on the page that the requirement is 12 consecutive days.

1 **THE HONOURABLE MAYOR JIM WATSON:** Yes.

2 **MR. JOHN ADAIR:** Not nine of 12 days.

3 **THE HONOURABLE MAYOR JIM WATSON:** That's correct.

4 **MR. JOHN ADAIR:** And you were told during trial running that the
5 criteria had changed?

6 **THE HONOURABLE MAYOR JIM WATSON:** At some point I
7 received -- I think it might have been Tom Prendergast who made some reference to
8 the fact that no system could meet 98 percent and it would make more sense to set the
9 goal at 96 percent, which was still a very high standard. And at the end of the day, I
10 believe RTG met 97 percent.

11 **MR. JOHN ADAIR:** Right. And you told Commission counsel
12 during your formal interview that you were made aware of the criteria change during trial
13 running; do you recall saying that?

14 **THE HONOURABLE MAYOR JIM WATSON:** Yes.

15 **MR. JOHN ADAIR:** Right. And if we then go to -- oh, no, I'm sorry,
16 just one last thing, sir. There's no mention in this memo the day before trial running
17 starts that you and Mr. Hubley were getting daily and, in some cases, hourly updates?

18 **THE HONOURABLE MAYOR JIM WATSON:** Well, I don't think
19 we were getting hourly updates. That would have been too much. But we were getting
20 regular updates.

21 **MR. JOHN ADAIR:** Yeah, if you can just come back to my
22 question for a minute. There's no mention anywhere in this memo of the WhatsApp
23 chat group that was used to update. Whether you want to quibble about hourly or not,
24 there's not mention of that chat group.

25 **THE HONOURABLE MAYOR JIM WATSON:** That's correct.

26 **MR. JOHN ADAIR:** And in addition to no mention of the chat
27 group, no mention of the fact that you and Councillor Hubley would be the only two
28 people on Council, the only two people who were going to get daily updates?

1 **THE HONOURABLE MAYOR JIM WATSON:** No. But again, if
2 you go back in the history of how our committee system works, the fact of the matter is
3 that committee chairs do get additional information. They do get information ahead of
4 other members of their particular committee. And that was exactly what was happening
5 with this situation. And in the case of having two members -- one, myself as chair of
6 FEDCO, and the other, Councillor Hubley as Chair of Transit.

7 **MR. JOHN ADAIR:** And that's something that all councillors would
8 understand to be appropriate?

9 **THE HONOURABLE MAYOR JIM WATSON:** Certainly, all chairs
10 and vice-chairs, I suspect, would understand that. Whether all members of Council
11 would or not, it was pretty evident that, you know, a member of -- a chair of a committee
12 would get additional information, would get a heads up before he or she had to chair a
13 meeting. So they would see that the chair was better briefed than members of the
14 committee because that was the role that staff had to play to ensure that the committee
15 chair who was chairing the meetings ensured that the meeting went off without too many
16 hitches or glitches.

17 **MR. JOHN ADAIR:** Right. And those briefings, I think you
18 mentioned earlier, would typically take place the day before the meeting so that, as you
19 say, the meeting could go off without a hitch?

20 **THE HONOURABLE MAYOR JIM WATSON:** That's correct.

21 **MR. JOHN ADAIR:** And in this case, it wasn't a question of giving
22 a briefing to a chair the day before a meeting. It was a question of giving you and Mr.
23 Hubley daily updates even though there were no meetings taking place.

24 **THE HONOURABLE MAYOR JIM WATSON:** That's correct. But
25 it would be the same, for instance, during the Covid-19. The Chair of our Public Health
26 Committee would be getting a briefing almost on a daily basis as well when there
27 wouldn't be a committee meeting the next day ---

28 **MR. JOHN ADAIR:** Right.

1 **THE HONOURABLE MAYOR JIM WATSON:** --- because the
2 Chief Medical Officer of Health needed that political support and guidance, and I think
3 most people would assume rightfully so, that if someone was chairing that particular
4 committee meeting, they wouldn't wait for a month and a half to have a meeting, that
5 they would have a series of discussion hourly, if not daily basis with the Medical Officer
6 of Health. It was exactly the same situation with us on this project as it was with Covid
7 and the Chair of Public Health or the Transportation Committee that was responsible for
8 the storm a few weeks ago. That individual would get much more information than a
9 member of Council.

10 **MR. JOHN ADAIR:** Yeah, and if the Chair of the Health Committee
11 was getting information that caused that individual to be concerned on a regular basis
12 about some major project, I'm going to suggest to you that they would share that with
13 the rest of council.

14 **UNKNOWN VOICE:** None of that seemed to matter, as the two of
15 them giggled with each other that morning. Seeing ---

16 **COMMISSIONER HOURIGAN:** I'm sorry. Let's just stop for a
17 second. We have some kind of an issue, technical issue. Let's just see if it goes away.
18 Hang on.

19 **THE COURT REPORTER:** I've muted the participant.

20 **COMMISSIONER HOURIGAN:** All right. Thank you.

21 Mr. Watson, you can still hear us all right?

22 **THE HONOURABLE MAYOR JIM WATSON:** I can, sir.

23 **COMMISSIONER HOURIGAN:** Okay. Let's continue.

24 **MR. JOHN ADAIR:** Sorry about that, Mr. Watson. My question to
25 you, sir, is if the chair of Public Health, during the COVID-19 crisis, was receiving
26 information that was concerning about a city project, you would expect that individual to
27 share that information with council.

28 **THE HONOURABLE MAYOR JIM WATSON:** Again, that would

1 be up to the judgement of the committee chair.

2 **MR. JOHN ADAIR:** Okay. So can we go to the August 7th memo,
3 then, because that's the next memo that goes to anyone and it's one of two that
4 occurred during trial running? It's COW104401, please.

5 Mr. Watson, before I take you into the detail of this memo, I just
6 want to situate us again. August 7th was the day before you called Mr. Manconi into
7 your office for an emergency briefing -- at least using his words, "emergency briefing" --
8 and August 7th was after the restart that you said caused you concern. And on the 8th of
9 August, there had been 11 days of trial running, 4 passes and 7 fails, okay? Just so
10 you have that. You can take that from me; we've been through all that.

11 If you go to paragraph 1 of the memo, it's August the 7th. It goes to
12 mayor and council. It says:

13 "As part of the ongoing commitment to keep council
14 apprised of the progress of the O-Train Light Rail
15 Transit Stage 1 and Stage 2 projects, this
16 memorandum outlines the milestones achieved in Q2
17 and provides an overview of the planned work for the
18 remainder of Q3." (As read)

19 And then the first part is Confederation Line, Stage 1. Stations we
20 don't need to worry about. Guideway we don't need to worry about. If we can go to the
21 top of page 2, please. The top of page 2, sir, is the update on systems, vehicles,
22 testing, and commissioning, and I'm just going to ask you to read those four bullet
23 points to yourself for a moment, please.

24 **(SHORT PAUSE)**

25 **THE HONOURABLE MAYOR JIM WATSON:** Okay.

26 **MR. JOHN ADAIR:** Nowhere in there does it say that the first three
27 consecutive days were a failure causing a restart.

28 **THE HONOURABLE MAYOR JIM WATSON:** No, I didn't see that.

1 **MR. JOHN ADAIR:** That was information that was important and
2 concerning that you had that council did not.

3 **THE HONOURABLE MAYOR JIM WATSON:** I'm just trying to
4 remember the dates.

5 **MR. JOHN ADAIR:** Sure. The first three days of testing that failed
6 were July 20th, 30th, and 31st, and the restart occurred on the 1st.

7 **THE HONOURABLE MAYOR JIM WATSON:** Yeah. Council
8 wouldn't have had that, because we had already agreed that they were going to be
9 provided the full information at the end of the process, not ---

10 **MR. JOHN ADAIR:** Here's a memo, sir. Here's a memo on the 7th
11 of August that expressly purports to be part of the ongoing commitment to keep council
12 informed, and if you read the four bullet points, any reasonable councillor would think
13 testing was going fine, correct?

14 **THE HONOURABLE MAYOR JIM WATSON:** No, because there
15 are a number of -- each of these sections has minor retrofits and minor deficiencies, so
16 it wasn't perfect.

17 **MR. JOHN ADAIR:** Fair enough. I didn't say "perfect"; I said "fine",
18 but let's make sure we're using the same language. I acknowledge that these refer to
19 minor deficiencies, but if you read this, you would not know -- any other councillor,
20 Councillor Deans, Councillor McKenney -- they would not know that the first three days
21 were a fail and that the system had to be put through a restart, correct?

22 **THE HONOURABLE MAYOR JIM WATSON:** That's correct, and
23 if you go down farther, it says:

24 "The following items are required to achieve system
25 optimization: 12 days of trial running, successful
26 demonstration of performance." (As read)

27 **MR. JOHN ADAIR:** Right.

28 **THE HONOURABLE MAYOR JIM WATSON:** They're just stating

1 that as a fact. They're not saying that it's been completed or it's failed, but they're ---

2 **MR. JOHN ADAIR:** I'm not suggesting, sir -- just to be clear, to
3 make sure you don't waste time answering a question I'm not asking, I'm not suggesting
4 to you that that's what was happening here. My suggestion to you is you had
5 information that caused you, as you have told us, "great concern" -- to use a direct
6 quote from your formal interview -- about the restart of the system. And then there's a
7 memo six or seven days later to council that doesn't disclose that information. Do you
8 agree with that?

9 **THE HONOURABLE MAYOR JIM WATSON:** Yeah, but I think
10 again I have to reiterate the fact that we had decided that it was going to report out after
11 the complete testing had been achieved successful -- not before and not during, but at
12 the end of the process. So we were being consistent in what we had told council back
13 in July, and to put information to that effect on this memo defeats the purpose of us
14 saying, "Let's wait until the whole test system is complete, that we pass, and that we
15 can alert and notify members of council and the commission."

16 **MR. JOHN ADAIR:** All right. I'm just a little bit puzzled by that, Mr.
17 Watson.

18 **THE HONOURABLE MAYOR JIM WATSON:** I'm sorry.

19 **MR. JOHN ADAIR:** I'm sorry. I'm just a little bit puzzled by that
20 because the commitment was not to report on testing until it was complete. That's what
21 you're telling us.

22 **THE HONOURABLE MAYOR JIM WATSON:** That's correct.

23 **MR. JOHN ADAIR:** So then why, in the middle of testing, did you
24 deliver a memo as part of the ongoing commitment to update on testing with a heading
25 that says "Testing"? I'm confused.

26 **THE HONOURABLE MAYOR JIM WATSON:** Sorry, where does
27 the ---

28 **MR. JOHN ADAIR:** If the commitment was not to update, why is

1 there a memo on our screen of August 7th with a heading "Testing and Commissioning".

2 **THE HONOURABLE MAYOR JIM WATSON:** Testing of the
3 vehicles.

4 **MR. JOHN ADAIR:** Ah. All right. Council were getting updates,
5 correct? About everything except trial running?

6 **THE HONOURABLE MAYOR JIM WATSON:** No. They got an
7 update on trial running saying that we would release the information after the trial run
8 had been successfully completed, which was outlined in both the slide deck that you
9 and I have referred to as well as the memo. It was very clear cut that we would report
10 out at the end of the process, and when that process came to a successful end, Mr.
11 Kanellakos sent a memo out shortly thereafter advising that the trial testing process had
12 concluded successfully.

13 **MR. JOHN ADAIR:** This memo was the day before the situation
14 was so bad you called Mr. Manconi into your office for what he described as an
15 emergency briefing. You accept that ---

16 **THE HONOURABLE MAYOR JIM WATSON:** Yeah, but I ---

17 **MR. JOHN ADAIR:** --- from a timing perspective?

18 **THE HONOURABLE MAYOR JIM WATSON:** But I did mention
19 that I did not recall what the emergency was.

20 **MR. JOHN ADAIR:** Understood. You told us earlier that you took
21 issue with a characterization in my question. I said you were getting different
22 information than council was getting, and you said:

23 "No. I was getting more but not different. We were
24 always forthright with council." (As read)

25 You didn't get information that was different from what they got. I'm
26 going to suggest to you, looking at the memo on the screen, you knew as of August 7th
27 that the first three days had been a disaster and required a restart. You knew on
28 August 7th that the first five days were all fails. You knew on August 7th that August 7th

1 was a disaster and you were a day away from calling an emergency briefing. And none
2 of that is in this memo, and what you were telling council is very different from what you
3 knew. What you were telling council is "Everything is fine."

4 **THE HONOURABLE MAYOR JIM WATSON:** First of all, Mr.
5 Adair, it's not my memo. You keep referring to it as me telling council, but this is from
6 the rail construction. So I think that fact is important. Secondly -- and I'm repeating
7 myself because you're repeating your question -- the fact is that we were very clear in
8 our communications to members of council that we would report out at the end of the
9 trial run -- not in the beginning, not at the midpoint, not every day, but at the end. And
10 that was repeated at a FEDCO meeting, and it was set out in a memo from I believe Mr.
11 Manconi.

12 We lived up to our commitment that we would deliver that
13 information -- not piecemeal, not a little piece here and little piece there, but the whole
14 package -- to our colleagues on council and to the public, and that is very consistent
15 with what I've been saying since day one.

16 **MR. JOHN ADAIR:** It is consistent with what you've been saying.
17 If we go to the top of the page here, sir, you'll see the memos from the director of the
18 rail construction program and it's to the mayor and members of council. Do you see
19 that?

20 **THE HONOURABLE MAYOR JIM WATSON:** Yes.

21 **MR. JOHN ADAIR:** You were pointing out a moment ago it's not
22 your memo.

23 **THE HONOURABLE MAYOR JIM WATSON:** Right.

24 **MR. JOHN ADAIR:** And you understood, sir, when you received
25 this memo, it was fundamentally different from the information you had. You
26 understood that you had a statutory obligation to keep members of council informed,
27 correct?

28 **THE HONOURABLE MAYOR JIM WATSON:** Well, first of all, it

1 was not different. There was not information that was different. We indicated -- again I
2 repeat myself, but I don't mind because it's very much black and white. Our
3 commitment to members of council was that we would release the information when the
4 test had been completed -- not before, not in the middle of, not during, but at the end of
5 it. And we relayed that to both members of council, through memo, and to members of
6 FEDCO, through a PowerPoint, and at no time did any member of council say, "Please
7 give me access to the daily updates." They seemed all satisfied with the fact that the
8 information was going to be provided once the trial testing had been completed
9 successfully, and I stand by that. I thought it made sense to provide the beginning
10 process and when it would end, and get that information out as quickly as possible after
11 the trial run had completed successfully.

12 **MR. JOHN ADAIR:** Okay. I take it what you would not do -- we
13 can have our debate about whether this was the same information or different
14 information. What you would not do is you would never allow Council to be misled
15 about anything.

16 **THE HONOURABLE MAYOR JIM WATSON:** No. And there was
17 nothing to be misled about when we clearly indicated in the month of July o two different
18 occasions that we would release the information at the end of the process, not at the
19 beginning, not mid way through, not every hour, not every day, but at the end of the
20 process. And we did that. We lived up to that commitment to our colleagues. I think
21 Mr. Kanellakos sent out the note indicating they'd passed the testing process and that
22 information was made public to both Council and members of the media.

23 **MR. JOHN ADAIR:** Okay. Let's go to the next memo if we can,
24 please, which is August the 16th and the Doc ID number for the record is
25 RTC759323.1.2.

26 Mr. Watson, you'll have on your screen there in front of you now, a
27 memo of August 16th.

28 **--- EXHIBIT No. 236:**

1 RTC00759323.001 – City of Ottawa Memo from General
2 Manager, Transportation Services to Mayor and Members of
3 Council 16 August 2019

4 **THE HONOURABLE MAYOR JIM WATSON:** M'hm. Yeah.

5 **MR. JOHN ADAIR:** And this memo goes from Mr. Manconi to
6 members of Council and yourself. And it says -- and this is during trial running, right?
7 Trial running finished on the 23rd?

8 **THE HONOURABLE MAYOR JIM WATSON:** Yes, That's right.

9 **MR. JOHN ADAIR:** So first of all, why was a memo going out to
10 update Council on the status of trial running during trial running if the commitment was
11 not to update Council until after trial running? I don't understand that.

12 **THE HONOURABLE MAYOR JIM WATSON:** Well, it was my
13 understanding that this memo actually was not sent. I was informed by my lawyer ---

14 **MR. JOHN ADAIR:** Sorry, Mr. Watson. I'm sorry. I'm just going to
15 stop you there. It's important you not share with us anything that you were told by the
16 City's lawyer. I don't mean to talk over you but it's just really important that you not do
17 that.

18 **THE HONOURABLE MAYOR JIM WATSON:** Yeah. Well, my
19 understanding was that this memo was not sent out but in fact another memo was sent
20 out on August 16th which Mr. Manconi sent out.

21 **MR. JOHN ADAIR:** Yeah. I think it's the case -- Mr. Mayor, I think
22 it's the case that this is the one that was sent out. But there was a different one that
23 wasn't. But this one was.

24 **THE HONOURABLE MAYOR JIM WATSON:** Yeah, again I stand
25 to be corrected. But my understanding was that it was not sent out and in fact the
26 smaller shorter version was sent out on August 16th, the same day, where it said:

27 "RTG has made significant progress during the trial
28 running period running various scenarios of regularly

1 scheduled service and testing system readiness for
2 passenger service by exercising the Confederation
3 Line system at full functionality. This is a complex
4 and rigorous process where high performance
5 standards must be met. As previously
6 communicated the City expects to open the
7 Confederation Line ...”

8 **MR. JOHN ADAIR:** Sorry, Mr. Mayor. May I just interrupt you
9 because City’s counsel has come on and I just want to have Mr. Wardle, assuming it’s
10 okay with the Commissioner, an opportunity to interject.

11 **COMMISSIONER HOURIGAN:** Yes, Mr. Wardle, go ahead.

12 **MR. PETER WARDLE:** Yeah, thank you, Mr. Commissioner. I
13 just, for the benefit of the witness and Mr. Adair I can confirm that the memo that’s on
14 the screen now is the one that was sent, which is what Mr. Adair had suggested. There
15 was an earlier version which is longer which is also dated August 16th but it’s the shorter
16 version, Mr. Watson, that was sent and that is the one that’s on the screen.

17 **COMMISSIONER HOURIGAN:** Thank you, Mr. Wardle. That’s
18 right.

19 If you look, Mr. Watson, it’s from the general manager of
20 transportation services department. This is the one that went out. Okay?

21 **THE HONOURABLE MAYOR JIM WATSON:** Yeah, it’s three
22 paragraphs, right?

23 **MR. JOHN ADAIR:** Yeah, and Mr. Mayor, obviously it’s quite
24 understandable. There are so many documents here. But can I just ask you --- can I
25 just come back to my question, which is if the commitment was not to update on the
26 status of trial running until it was complete, then why did this memo go out?

27 **THE HONOURABLE MAYOR JIM WATSON:** I have no idea.
28 You’d have to ask Mr. Manconi.

1 **MR. JOHN ADAIR:** It was inconsistent with the commitment that
2 you say was made.

3 **THE HONOURABLE MAYOR JIM WATSON:** That's correct.

4 **MR. JOHN ADAIR:** Okay. So we'll leave that for another day.
5 If you just scroll down on the screen there. That would be great,
6 thank you. Just bear with me one second.

7 Mr. Mayor, you'll see in the second paragraph there it says:

8 "RTG has made significant progress during the trial
9 running period running various scenarios of regularly
10 scheduled service and testing system readiness for
11 passenger service by exercising the Confederation
12 Line system at full functionality."

13 Now, I want to just direct your attention, sir, to the next sentence.

14 "This is a complex and rigorous process where high
15 performance standards must be met as a
16 prerequisite to achieving RSA and opening the
17 Confederation Line to the public."

18 Do you see that?

19 **THE HONOURABLE MAYOR JIM WATSON:** Yes.

20 **MR. JOHN ADAIR:** And this is the very day that the complex and
21 rigorous process with high performance standards -- this is the very day where those
22 high performance standards were in fact lowered to make it easier to meet. Were you
23 aware of that?

24 **THE HONOURABLE MAYOR JIM WATSON:** I was, yes.

25 **MR. JOHN ADAIR:** And why would the Council be told, when
26 there's a representation as to the high performance standards and the rigor of the
27 process, that the standards were being lowered that very day because of the inability to
28 meet them? Why wouldn't they be told that, sir?

1 **THE HONOURABLE MAYOR JIM WATSON:** I don't know. You'd
2 have to ask staff about that because obviously it's their responsibility to keep Council
3 informed. As I mentioned to you, I understood that I think it's Mr. Prendergast; I recall
4 him mentioning something along the lines that to have it at 98 percent would not allow
5 any train system in the world to launch. And when it was explained to me that it should
6 go down to 96, and when eventually I believe RTG met 97 I was satisfied with that.

7 **MR. JOHN ADAIR:** All right. And do you agree with me that this
8 memo to any reasonable reader who knows that the performance standards were
9 lowered that very day -- sorry who doesn't know that the performance standards were
10 lowered that very day, this memo is misleading.

11 **THE HONOURABLE MAYOR JIM WATSON:** I wouldn't say it's
12 misleading. I think he's stating factually what is required to meet the standards in that
13 paragraph. I think he's just stating facts. I don't think he's misleading. Mr. Manconi, I
14 have great respect for. He does not -- I've never see him mislead anyone in his role as
15 transportation general manager.

16 **MR. JOHN ADAIR:** Let's just drill down on two things that you said
17 there.

18 Number one, you recall the memo we looked at before trial running
19 that said "12 consecutive days", the memo that went to Council?

20 **THE HONOURABLE MAYOR JIM WATSON:** Which one was
21 that, was the date?

22 **MR. JOHN ADAIR:** July 27th. We looked at it a few moments ago.
23 I can call it back up if you'd like. But you recall that I showed you a memo that said "12
24 consecutive days"?

25 **THE HONOURABLE MAYOR JIM WATSON:** Yes.

26 **MR. JOHN ADAIR:** And why wasn't Council told on the 16th of
27 August that we've changed from 12 consecutive days to 9 out of 12, after they've been
28 told it was going to be 12 consecutive? Why wouldn't they be told that?

1 **THE HONOURABLE MAYOR JIM WATSON:** Again, that would
2 be a decision made by the staff, not a political ---

3 **MR. JOHN ADAIR:** In terms of what to tell them.

4 **THE HONOURABLE MAYOR JIM WATSON:** Well, in terms of the
5 rationale for the change from 98 to 96 points.

6 **MR. JOHN ADAIR:** And sorry, I think we may have misunderstood
7 one another. I'm not asking why the change was made. We've heard lots of evidence
8 about that. I'm asking why Council wasn't told about the change from 12 consecutive
9 days, which is a direct quote from the last memo ---

10 **THE HONOURABLE MAYOR JIM WATSON:** Right.

11 **MR. JOHN ADAIR:** --- two memos ago, technically, July 27th, 12
12 consecutive days. By this date it's 9 out of 12; why weren't they told?

13 **THE HONOURABLE MAYOR JIM WATSON:** Well, I think they
14 were on the August 23rd. I'm just looking at the August 23rd, 2019 memo to Council
15 from City Manager ---

16 **MR. JOHN ADAIR:** I promise you, we're going to come to that. I'm
17 asking why they weren't told on the 16th and we're going to come to the 23rd and I
18 promise you'll have a chance to talk about that.

19 Why weren't they told on the 16th?

20 **THE HONOURABLE MAYOR JIM WATSON:** Again, that would
21 be a question for Mr. Manconi. He sent the memo out; I didnt.

22 **MR. JOHN ADAIR:** Okay. You have a statutory obligation to keep
23 Council informed so I'm asking you, sir.

24 **THE HONOURABLE MAYOR JIM WATSON:** Yeah, again, you
25 know, I refer you to the August 23rd memo which indicates that changes were made and
26 ---

27 **MR. JOHN ADAIR:** And If I can just come back to my question
28 because we are going to come to the August 23rd. Why didn't you tell Council on

1 August 16th, the day the change occurred and this memo, that doesn't disclose the
2 change, went out. Why didn't you fulfill your statutory obligation to keep Council
3 informed?

4 **THE HONOURABLE MAYOR JIM WATSON:** Well, first and
5 foremost, we had agreed, as I said, that we would release the information when the trial
6 test period was over. And then second to that, I'm looking at the August 23rd memo
7 where the City manager indicated what happened with respect to the 96, 97, 98 percent
8 service availability. So it was ---

9 **MR. JOHN ADAIR:** All right. So let's go to that. It's COW104291.
10 And if we can just get the first sort of three paragraphs up on the
11 screen that would be great. This is the August 23rd memo I think you've just been
12 looking at, Mr. Mayor.

13 **THE HONOURABLE MAYOR JIM WATSON:** Right. Yes.

14 **MR. JOHN ADAIR:** And if we go down to performance targets and
15 just scroll down a little bit. And it says, the bottom paragraph here, "The City of Ottawa
16 established targets." And then we can all read it for ourselves. And it does indicate that
17 the percentage was 96 percent.

18 Do you see that?

19 **THE HONOURABLE MAYOR JIM WATSON:** Yes. 002

20 **MR. JOHN ADAIR:** And Council had never been told previously
21 that the percentage was 98, had they?

22 **THE HONOURABLE MAYOR JIM WATSON:** I don't know if they
23 had or not.

24 **MR. JOHN ADAIR:** And if they hadn't been told that the
25 percentage was 98, they wouldn't know that that was a change, would they?

26 **THE HONOURABLE MAYOR JIM WATSON:** Again, I can't recall,
27 so you'd have to ask staff who were the ones that put the memos together and
28 conducted the testing and released the information.

1 **MR. JOHN ADAIR:** And you'd agree with me that this sentence, for
2 example, "The target for system customer dependability was 96 percent over 9 days
3 during the 12 days of continuous trial running days"?

4 **THE HONOURABLE MAYOR JIM WATSON:** Yeah, that's in
5 (audio skip) paragraph.

6 **MR. JOHN ADAIR:** Yeah. You'd agree with me that that's
7 misleading in terms of the means by which all this came about and what the change
8 was?

9 **THE HONOURABLE MAYOR JIM WATSON:** No, this was what
10 was agreed to. For example, I'm going to read this.

11 "The target for system customer dependability was 96
12 percent over 9 days during the 12 days of continuous
13 trial running." (As read)

14 And if you go onto "Trial Running Outcomes" ---

15 **MR. JOHN ADAIR:** Yeah, let's ---

16 **THE HONOURABLE MAYOR JIM WATSON:** --- right above that:

17 "RTG, as part of their trial running test plans,
18 indicated they wanted to not only meet these targets,
19 but exceed them. RTG talked about the 98 percent
20 service availability, and wanted to assess if they could
21 reach 98 percent the entire 12-day period." (As read)

22 And then it goes on to the sub-headline, "Trial Running Outcomes".

23 "Upon completion of trial running, RTG achieved
24 between 96 to 98 percent service availability over a
25 designated 9-day period as of Monday, August 19th,
26 which is in line with the City's target expectations.
27 Based on a continued operation of the system
28 through to yesterday, August 22nd, 2019, the trail

1 running review team confirms that the 12 days of trial
2 running have been completed with a running average
3 of approximately 97 percent. The achievement of 97
4 percent is a result of a focused effort by all parties to
5 deliver a system that's safe and reliable for the
6 residents of Ottawa. A prospective team to focus on
7 improving and advancing performance of the system
8 while remaining true to the requirements and
9 obligations captured in the project." (As read)

10 And that was said by Steve Kanellakos.

11 **MR. JOHN ADAIR:** Yeah. I'm glad you pointed to the paragraph
12 right above trial running outcomes, "RTG, as part of their trial running test plans."

13 You see there the second sentence?

14 "RTG targeted a figure of 98 percent and wanted to
15 assess if they could reach 98 percent for the entire
16 12-day period." (As read)

17 You see that?

18 **THE HONOURABLE MAYOR JIM WATSON:** Yes.

19 **MR. JOHN ADAIR:** Where does it say that the City agreed before
20 trial running started that that was the appropriate metric and then changed their mind?

21 **THE HONOURABLE MAYOR JIM WATSON:** Again, I don't know.
22 That would have been at the staff level.

23 **MR. JOHN ADAIR:** No, I'm not asking you what happened at staff
24 level or why the change was made; where does it say that the City agreed -- Mr. Holder
25 gave this evidence -- that the City agreed that the metric was going to be 98 percent?
26 Where does it say that?

27 This issue of RTG targeting a particular metric, you agreed on a
28 metric and then you changed it, and Council wasn't told.

1 **THE HONOURABLE MAYOR JIM WATSON:** Yeah, again, I don't
2 have an answer for you because ---

3 **MR. JOHN ADAIR:** Okay.

4 **THE HONOURABLE MAYOR JIM WATSON:** --- this was done by
5 -- at the staff level and obviously, as politicians that don't have expertise in running a
6 train system. We have to rely on those professionals that we hire, and the City
7 manager felt comfortable sending this and signing it under his signature, and ---

8 **MR. JOHN ADAIR:** Okay.

9 **THE HONOURABLE MAYOR JIM WATSON:** --- it lived up to the
10 commitment that we made that it should be provided at the end of the trial test.

11 **MR. JOHN ADAIR:** Yeah. On the subject of you having different
12 information than Council, let me just run through for you the information that you had
13 that Council did not, and then I'm going to ask you a question about it.

14 You knew that there had been a restart and Council -- that caused
15 you concern, and Council did not. You knew that there had been five straight failed
16 days right off the bat, and Council did not. You knew that the criteria -- that the City had
17 agreed on the criteria and then agreed to change it, and Council did not. And you knew
18 about the daily problems of vehicle reliability and maintenance, and Council did not.

19 And I'm going to suggest to you that in fact, you had very different
20 information and Council was not given the straight goods. Do you agree with that?

21 **THE HONOURABLE MAYOR JIM WATSON:** No, I don't. I had
22 additional information, but at the end of the day, my commitment that I made at FEDCO
23 was that the information would come out at the end of the trial test period, and that's
24 exactly what happened. We relayed that to both FEDCO members and through memo
25 to all members of Council.

26 **MR. JOHN ADAIR:** All right. And if we can call up please
27 COW366?

28 And Mr. Watson, just to make sure you have the context for this,

1 this is in fact, a draft memo that was not sent, okay, just because we had the confusion
2 on the other one. I don't want there to be any misunderstanding between us on this
3 one.

4 This is a memo -- a draft memo, I'm going to call it -- that was
5 drafted for July 31st, 2019 by Mr. Manconi. And he says:

6 "Further to the memo issued on the 27th indicating
7 that RTG were beginning trial running activities, the
8 purpose of this memo is to advise that RTG and the
9 Confederation Line trial running team has taken a
10 collaborative decision to pause the trial running for a
11 period of 48 hours." (As read)

12 And you've told us that the pause and restart was concerning to
13 you, correct?

14 **THE HONOURABLE MAYOR JIM WATSON:** That's correct.

15 **MR. JOHN ADAIR:** And Mr. Manconi told us that the reason he
16 drafted this memo in the first place is because he thought this was important information
17 for Council to have. Were you aware that he gave that evidence?

18 **THE HONOURABLE MAYOR JIM WATSON:** I didn't follow his
19 testimony, but I take it at your word.

20 **MR. JOHN ADAIR:** All right. And I'm going to suggest to you that
21 you would also agree that this was important information for Council to have, the
22 information that caused you to be concerned, and the information that required a restart
23 of trial running was important for Council to have, and that's why this memo was
24 drafted.

25 **THE HONOURABLE MAYOR JIM WATSON:** Yeah. I had not
26 seen this memo, so I'm at a disadvantage. It was not shared with me, and my
27 understanding was that it was a draft that was presented to the City manager, and the
28 City manager felt that it was not necessary to send out. So that was a decision by Mr.

1 Kanellakos and I didn't see this memo until this process began.

2 **MR. JOHN ADAIR:** I'm going to suggest to you, sir, that whether
3 you saw the memo or not -- so leave that part aside -- I'm going to suggest to you ---

4 **THE HONOURABLE MAYOR JIM WATSON:** I didn't see the
5 memo. I didn't see ---

6 **MR. JOHN ADAIR:** I mean at the time.

7 **THE HONOURABLE MAYOR JIM WATSON:** At the time.

8 **MR. JOHN ADAIR:** Which is ---

9 **THE HONOURABLE MAYOR JIM WATSON:** Correct.

10 **MR. JOHN ADAIR:** Okay. I'm going to -- whether you decide
11 whether you saw it or you didn't see it, I'm going to suggest to you that you participated
12 in the decision not to update Council on this important information.

13 **THE HONOURABLE MAYOR JIM WATSON:** No. I couldn't have
14 done that because I didn't see the memo at the time, and I found out after, in fact,
15 during this process that, I believe it was Mr. Kanellakos who recommended it not being
16 sent out.

17 **MR. JOHN ADAIR:** And I suggest to you that it's not a question of
18 whether you knew the memo existed or not. You participated in a decision not to share
19 the information with Council. Whether it was through this memo or in any other fashion,
20 you and Mr. Kanellakos and Mr. Hubley and Mr. Manconi decided together that Council
21 would not be told that you had to do a restart?

22 **THE HONOURABLE MAYOR JIM WATSON:** No. What we
23 decided and what was accepted by Council was that the trial run testing would be
24 completed before we'd release the information to members of Council and members of
25 the public. And this was reconfirmed at both FEDCO and a memo to all members of
26 Council.

27 So to suggest that we were holding back this information or that
28 information, it's not true, because we had already agreed that we were not going to go

1 and start offering daily updates when in fact, we'd agreed that it would be at the end of
2 the process, not the beginning or not halfway through. And I think that was my -- I can
3 only speculate. You'll have to ask Mr. Kanellakos, who I have great respect for. You
4 know, he probably felt the same way, that you know, we made a commitment not to
5 release information until it was complete 100 percent, and this went in a different
6 direction. So I assume Mr. Kanellakos would have said, "We're not going to send this
7 because we have already said we'll alert Council when the whole test period is over
8 once and for all, and then all of the information, we can share that with Council," which
9 Mr. Kanellakos did in his memo.

10 **MR. JOHN ADAIR:** And sir, when you say "We decided not to
11 update Council," or "We made a commitment not to provide information to Council until
12 the process was over", who's the "we" in that scenario?

13 **THE HONOURABLE MAYOR JIM WATSON:** Well, it's the people
14 on the WhatsApp chat, the decision makers, Mr. Kanellakos, Mr. Manconi, my chief of
15 staff, and my director of issues management.

16 **MR. JOHN ADAIR:** And yourself and Mr. Hubley?

17 **THE HONOURABLE MAYOR JIM WATSON:** Yes.

18 **MR. JOHN ADAIR:** Okay. So sir, Mr. Manconi gave evidence that
19 one of the reasons why it wasn't appropriate to send this memo, or one of the
20 consequences of sending this memo is that it would lead to too many questions from
21 Council. Were you aware he gave that evidence?

22 **THE HONOURABLE MAYOR JIM WATSON:** No. As I said, I was
23 not able to catch most of Mr. Manconi's presentation.

24 **MR. JOHN ADAIR:** All right. And Ms. -- Councillor Deans gave
25 evidence yesterday that she found it appalling that this memo was not shared. Were
26 you aware of that evidence?

27 **THE HONOURABLE MAYOR JIM WATSON:** Sorry, aware of her
28 being appalled?

1 **MR. JOHN ADAIR:** Of the evidence that she gave yesterday that
2 she found it appalling that this memo would be squashed.

3 **THE HONOURABLE MAYOR JIM WATSON:** I didn't follow the
4 councillors' panel, so I don't know what was said.

5 **MR. JOHN ADAIR:** And who -- which of those two people,
6 assuming that I have stated their evidence correctly, do you agree with? Do you agree
7 with Mr. Manconi, that if you do this, it's a bad idea because councillors will ask too
8 many questions; or do you agree with Ms. Deans, that it's appalling that this memo
9 would be squashed?

10 **THE HONOURABLE MAYOR JIM WATSON:** No, I don't think Mr.
11 Manconi would be afraid of answering tough questions. He's ---

12 **MR. JOHN ADAIR:** Sorry. My question was, which of those two
13 perspectives on the failure to send this memo do you agree with? Do you agree that it
14 was a bad idea to send it because it would lead to too many questions, or do you agree
15 that it was appalling not to send it?

16 **THE HONOURABLE MAYOR JIM WATSON:** No, I disagree with
17 both of those scenarios that, clearly, what we agreed to and what we wanted to fulfill
18 was our commitment to finish the testing. And the moment it was finished, a memo
19 went out from Mr. Kanellakos advising Council that the testing had been completed
20 satisfactorily. And that was the commitment we made. And we made it publicly on two
21 occasions through memo and through a PowerPoint presentation to FEDCO. So that's
22 the --

23 **MR. JOHN ADAIR:** All right.

24 **THE HONOURABLE MAYOR JIM WATSON:** I continue to stand
25 by that because that is exactly what happened.

26 **MR. JOHN ADAIR:** Thank you. Can we take this down, please,
27 and go to COW593740? And if we can go to page 24, please. This is -- Mr. Mayor,
28 you'll recall this is the WhatsApp chat and, by this point, you had been added to it. You

1 might see it on the screen, and we can just leave it there for a minute, there's a couple
2 of references to your name. I'm going to direct your attention, sir, please, to the entry
3 October the 26th, so it's the bottom of the page, 8:43 a.m. If we could just scroll down a
4 little bit, that would be great. Yeah, so it's the second-last entry on the page.

5 Mr. Mayor, you'll see Mr. Manconi sends a message on October
6 the 26th at 8:43 a.m. He says:

7 "Why isn't something pulling that public
8 commissioner..."

9 Which is, I can tell you, Ms. Wright-Gilbert:

10 "...off the air. She is live in CFRA, a call-in asking
11 people to complain about OC Transpo. She is
12 destroying us with misinformation, destroying the
13 brand and accusing us of distorting facts." (As read).

14 And we know that you, and Mr. Hubley, and Mr. Kanellakos, and
15 Mr. Manconi would not ever distort the facts, correct?

16 **THE HONOURABLE MAYOR JIM WATSON:** Correct.

17 **MR. JOHN ADAIR:** Right, we know that because you've told us
18 that. And then he goes on to say:

19 "Also talking about congestion. How is this
20 appropriate or fair?" (As read).

21 Mr. Arpin responds:

22 "We don't have the ability to just pull her off the air but
23 we will talk with Allan..."

24 Which is a reference to Mr. Hubley:

25 "...when he returns about what, if anything can be
26 done." (As read).

27 And then you chime in on the 26th at 8:49 a.m, Mayor Jim Watson:

28 "Are he, and you, and Allan.."

1 I think you're speaking to Serge Arpin:

2 "He and you and Allan and Kirk should meet with her
3 when Allan is back and say, if the attacks on staff
4 don't stop, she will be removed. Use 'attacks on staff'
5 as the issue." (As read).

6 Do you see that?

7 **THE HONOURABLE MAYOR JIM WATSON:** Yes.

8 **MR. JOHN ADAIR:** And what you were suggesting to the other
9 members of this WhatsApp group is that is Ms. Wright-Gilbert didn't stop criticizing OC
10 Transpo, she would be removed a Public Transit Commissioner, correct?

11 **THE HONOURABLE MAYOR JIM WATSON:** Well, my comment
12 was, on -- at 9:14-20 is:

13 "I, too, am furious with here. Best advice, turn off the
14 radio and shut out her nonsense." (As read).

15 **MR. JOHN ADAIR:** Yeah, sorry, could we just go back to the
16 question that I was asking you, please, because it's going to take a very, very long time
17 to get through this if we don't that. At 8:49 a.m., Mayor Jim Watson:

18 "He and you and Allan and Kirk should meet with her
19 when Allan is back and say, if the attacks on staff
20 don't stop, she will be removed. Use 'attacks on staff'
21 as the issue." (As read).

22 And what you were telling your staff to do is to tell the publicly-
23 appointed Transit Commissioner that if she didn't stop criticizing OC Transpo, she'd be
24 removed from the Commission.

25 **THE HONOURABLE MAYOR JIM WATSON:** I can tell you -- I
26 can put that in the context where on numerous occasions when this particular
27 commissioner sent out tweets with false information that caused tremendous grief in the
28 community and a number of personal attacks on the integrity of Mr. Manconi and

1 members of his staff. And we have a code of conduct that that kind of behaviour is not
2 acceptable. And the -- this commissioner, in particular, seemed to enjoy the limelight of
3 media and didn't quite understand her role as a member of the Board of
4 Commissioners.

5 And I know I have them here somewhere, a number of examples
6 where Mr. Manconi, I believe, in his testimony, indicated the times that she was sending
7 out completely false information about a stalled train that would cause people to panic
8 because they were getting information; they thought it was legitimate because it came
9 from an OC Transpo Commission. And no one should put up with that kind of
10 nonsense. And quite frankly, I stand by the commitment to see what we could do if she
11 continued on that route.

12 I don't think that was followed because it would end up -- she would
13 end up becoming a martyr, you know, and woe is -- woe is she. But the fact is, you
14 don't send out false information that gives an extra workload and extra angst to our staff
15 and our passengers, who are our first priority. And also, attacks on staff should not be
16 tolerated, and if someone attacks one professionalism or their integrity, they should held
17 to account and either apologize or do the honourable thing and step down.

18 **MR. JOHN ADAIR:** And sir, you agree with me that one of the
19 reasons you have public members on the Transit Commission is, in part, it assists with
20 ensuring accountability, correct?

21 **THE HONOURABLE MAYOR JIM WATSON:** No, I was the one
22 that established -- it was to put individuals on who used the system so we could have a
23 user's perspective around the table. And for the first two terms of Council, we had
24 excellent Transit Commissioners. They acted responsibly and maturely. They provided
25 great feedback in terms of the regular bus or train rider, and it worked well. And then,
26 unfortunately, this individual applied, was selected, and immediately started, you know,
27 undermining the corporation that she was there to serve. And to send out false
28 information on Twitter does a disservice to those customers that these Citizen

1 Commissions purportedly are supposed to be representing.

2 **MR. JOHN ADAIR:** And as you said a moment ago, you have a
3 code of conduct?

4 **THE HONOURABLE MAYOR JIM WATSON:** Yes.

5 **MR. JOHN ADAIR:** And I assume, also, a system by which
6 commissioners can be removed if they breach that code of conduct?

7 **THE HONOURABLE MAYOR JIM WATSON:** Well, it would be,
8 you know, a Council to revoke the membership because Council appoints all boards
9 and commissioner members, whether they be elected councillors or citizens.

10 **MR. JOHN ADAIR:** Right. And what the process would not be, I'm
11 going to suggest to you, to remove a public commissioner -- the process would not be a
12 WhatsApp chat group among four or five select people deciding that if you don't stop
13 criticizing OC Transpo, you're out. That's probably not the process. Do you agree with
14 that?

15 **THE HONOURABLE MAYOR JIM WATSON:** No, the process
16 would be to make a decision to remove someone would have to be done publicly
17 though Council or through FEDCO, and it would be very much a public exercise. And,
18 you know, that was not followed through in this case.

19 **MR. JOHN ADAIR:** Right, and ---

20 **THE HONOURABLE MAYOR JIM WATSON:** But knowing, in my
21 many discussions with Mr. Manconi, how frustrated he felt with attacks on his staff and
22 on his own person -- and I think you'll agree with me, those kinds -- that kind of
23 behaviour is not acceptable in a civil society.

24 **MR. JOHN ADAIR:** All right. If we can go down to October --
25 sorry, page 27, October 31st. And if we can just scroll down a bit to October 31st, 1:32
26 p.m. Mr. Mayor, let me just give you a minute to situate yourself here. It's about five or
27 six lines up from the bottom.

28 **THE HONOURABLE MAYOR JIM WATSON:** Yeah, "Councillor

1 Fleury's asking...", is that it?

2 **MR. JOHN ADAIR:** Yeah, that what I what going to give to you, so
3 let me just give it to you. Mr. Manconi says to the group:

4 "Councillor Flery is asking for input into the bus
5 funding. I am not engaging." (As read).

6 You response:

7 "Agreed." (As read).

8 And I'm going to suggest to you what happened is Councillor Fleury
9 wanted input to City staff on a City issue, and City staff privately told you, "I'm not going
10 to engage with that councillor," and you said, "I agree."

11 **THE HONOURABLE MAYOR JIM WATSON:** I don't know what --
12 what he was -- what he meant by "into the bus funding". The bus funding comes at
13 budget time so this was -- I suppose, if it was a budget question, he'd have to ask it at
14 budget meeting. I'm not sure one-off -- you know, I'm sure he contacted John through
15 and email, but I don't understand John's reference or Matt's reference is to bus funding.

16 **MR. JOHN ADAIR:** So there are a number of WhatsApp chats I
17 can show you around this time where there were extensive discussions among the
18 people on this group about the need for additional busses and the cost of additional
19 busses. And you, yourself, many times said, "It doesn't matter what it costs. We need
20 to get the busses in place." So bus funding was an issue that was being discussed on
21 the WhatsApp chat, and when Councillor Fleury wanted input, who's not a member of
22 the WhatsApp chat, he was shut down, correct?

23 **THE HONOURABLE MAYOR JIM WATSON:** Well, that's what
24 John Manconi s said, he's not engaging with him. I don't know ---

25 **MR. JOHN ADAIR:** And you agreed with.

26 **THE HONOURABLE MAYOR JIM WATSON:** --- what happened
27 after ---

28 **MR. JOHN ADAIR:** And you agreed ---

1 **THE HONOURABLE MAYOR JIM WATSON:** No, I backed our
2 manager, our general manager, yes.

3 **MR. JOHN ADAIR:** By telling him, “I agree; don’t engage with a
4 councillor who has a question about bus funding. We’ll just settle it on this WhatsApp
5 chat.” I know you didn’t say that, but that’s the implication of what you were doing.

6 **THE HONOURABLE MAYOR JIM WATSON:** No, I didn’t say that.
7 It’s not the implication.

8 **MR. JOHN ADAIR:** It’s the implication of what you were doing.

9 **THE HONOURABLE MAYOR JIM WATSON:** Well, with all due
10 respect, I don’t what his request for bus funding. Did it mean tat he wanted more
11 busses and bus routes in his ward? That was usually the case. It was not overall bus
12 funding. It was, “I need another route on route 5 or route 12 going though, you know,
13 Vanier or Lowertown.” So I have no idea because there’s no context in this as to what
14 the actual request was. And quick frankly, I think Mr. Manconi probably at this time was
15 inundated with calls and emails and the like from different councillors, and I suppose he
16 just got frustrated, like we all do from time to time, and just said he’s not going to
17 engage. Now, that doesn’t mean he’s not going to engage in perpetuity. Maybe on this
18 day at that time there was something going on that he had to focus on, as opposed to
19 getting into a long debate over a bus that was crowded on Laurier Avenue.

20 **MR. JOHN ADAIR:** Right. And if we can just scroll down to page
21 28, November 1st at 7:19 a.m., please. Mr. Mayor, you’ll see there, in the middle of your
22 page:

23 “November 1st 7:19 a.m. Mayor Jim Watson: Please
24 get someone to start sending updates now to
25 Commissioners. I know it’s more work, but we better
26 start communicating with Commissioners, so every
27 major issue/problem sent email.” (As read)

28 I’m not quite sure what that exactly means, but just stopping there,

1 when you're talking about commissioners there, I take it you mean transit
2 commissioners?

3 **THE HONOURABLE MAYOR JIM WATSON:** That's correct.

4 **MR. JOHN ADAIR:** And you were the one deciding -- you and your
5 colleagues on the WhatsApp chat were the ones deciding when commissioners would
6 get updates and when they wouldn't, correct?

7 **THE HONOURABLE MAYOR JIM WATSON:** No. What I was
8 asking for was regular updates. The updates had to come from our staff, and they
9 would decide the content of the material that was going out. It wasn't me. I'm just
10 setting the tone that I think we need to do a better job of communicating with
11 commissioners. Commissioners were not just the citizen members, but the elected
12 officials as well.

13 **MR. JOHN ADAIR:** Yeah, and I think we may have misunderstood
14 one another. I wasn't suggesting that you were going to dictate the content of the
15 updates. What I'm suggesting to you is you and your colleagues on the WhatsApp chat
16 were the ones who decided when people would start receiving updates, correct?

17 **THE HONOURABLE MAYOR JIM WATSON:** I'm not ---

18 **MR. JOHN ADAIR:** Exactly as it says there -- "Please get
19 someone to start sending updates now to Commissioners." Do you see that?

20 **THE HONOURABLE MAYOR JIM WATSON:** Sorry. I'm just
21 trying to find that. Okay, there, yeah. And then it goes down and I think Manconi says:

22 "I sent all Council and Commissioners an email
23 update." (As read)

24 **MR. JOHN ADAIR:** Yeah. And my point is simply that people on
25 this WhatsApp chat were deciding who would get updated and when.

26 **THE HONOURABLE MAYOR JIM WATSON:** Well, of course we
27 decided it was going to be commissioners. When -- we wanted it right away, but that
28 was going to be up to John. He had to draft it and then he had to get it translated and

1 then he had to send it out. So it was left up to him. We're not going to micromanage
2 the way he's going to send a memo out.

3 **MR. JOHN ADAIR:** No, I understand, in terms of the time it takes
4 from the time you give the instructions until the time he sends the memo, it's up to him.

5 **THE HONOURABLE MAYOR JIM WATSON:** Right.

6 **MR. JOHN ADAIR:** But this is November 1st, sir. You see that?

7 **THE HONOURABLE MAYOR JIM WATSON:** Sorry. What time
8 on November 1st?

9 **MR. JOHN ADAIR:** It's 7:19 a.m.

10 **THE HONOURABLE MAYOR JIM WATSON:** "You, chair, and
11 Serge have it."

12 **MR. JOHN ADAIR:** Just above that, sir.

13 **THE HONOURABLE MAYOR JIM WATSON:** "I know it's more
14 work, but we better start communicating ---"

15 **MR. JOHN ADAIR:** Yeah, 7:19 and 33 seconds. I care about the
16 date more than the time, but it's November 1st?

17 **THE HONOURABLE MAYOR JIM WATSON:** That's correct.

18 **MR. JOHN ADAIR:** I'm going to suggest to you, sir, that a better
19 time to start updating commissioners would have been at the end of July when there are
20 three straight failed days of trial running, or in August when you had a restart, or August
21 8th when you had an emergency briefing with Mr. Manconi, or August 16th when you
22 changed the criteria. Do you agree with that?

23 **THE HONOURABLE MAYOR JIM WATSON:** Well, you left out
24 the memos that were sent out in the interim as well.

25 **MR. JOHN ADAIR:** No, no. I'm aware of the memos. I'm
26 suggesting to you that a better time to start sending updates -- rather than waiting until
27 November 1st to decide that now was the time for the commissioners to get updates, a
28 better time would have been August.

1 **THE HONOURABLE MAYOR JIM WATSON:** Well, again,
2 information did go out during that period that you refer to. And of course, I'm a big
3 believer in the more communications, the better. My expression is "over-communicate"
4 with factual information, and that's what we started to see. When we asked, I was the
5 one that asked, along with the transit chair -- the transportation committee chair -- for
6 quarterly updates that staff delivered. And they were very thorough and they contained
7 a great deal of substance. And I think members of council appreciated getting that
8 information because we would only be meeting once a month as a committee.

9 **MR. JOHN ADAIR:** Sorry. If you were a big fan of over-
10 communicating, why did you go along with the commitment not to update anyone during
11 the crucial trial running period? I don't understand that.

12 **THE HONOURABLE MAYOR JIM WATSON:** Well, again,
13 because we made a commitment ---

14 **MR. JOHN ADAIR:** No, no. Why did you go along with the
15 commitment if you were a fan of over-communicating?

16 **THE HONOURABLE MAYOR JIM WATSON:** Well, because I
17 wanted to make sure the information was accurate and correct, not just thrown out
18 quickly. And one of the ways of doing that -- that we agreed to as a council and
19 committee -- was that the information would come out at the end of the process, not
20 midway through. You obviously disagree with that methodology, but the fact of the
21 matter is we committed to that and we lived up to that commitment.

22 **MR. JOHN ADAIR:** Okay, we can take the chat -- hold on one
23 second before we do that. Yeah, we can take the chat down, please. I'm just going to
24 show you very quickly a document that's been referred to.

25 I think this has been referred to, Mr. Commissioner, by a different
26 document number at times, but I'm going to use COW593639, which is the delegation of
27 authority that occurred back in 2012.

28 **--- EXHIBIT No. 237:**

1 COW0593639 – Delegation of Authority

2 **COMMISSIONER HOURIGAN:** Mr. Mayor, just stand by. We're
3 just locating a document, all right?

4 **THE HONOURABLE MAYOR JIM WATSON:** Okay. Thank you.
5 **(SHORT PAUSE)**

6 **MR. JOHN ADAIR:** Mr. Mayor, you probably don't actually
7 remember the content of this, but it will be familiar to you as the type of document that
8 gets produced. It's December the 4th, 2012, a report by Ms. Nancy Schepers with
9 respect to this project. And if we go to page 2 of 69, point number 3, this is the
10 delegation of authority, Mr. Mayor, that occurred with respect to this project.

11 **THE HONOURABLE MAYOR JIM WATSON:** Right. I'm just
12 trying to find it on my own documents because it's easier for me to read.

13 **MR. JOHN ADAIR:** Sure. By all means take your time, and just let
14 us know once you're ready, or if it proves difficult, we can use the screen. It's not a long
15 excerpt and we can make it bigger if that's of assistance.

16 **THE HONOURABLE MAYOR JIM WATSON:** Let me just try to
17 track that down.

18 **(SHORT PAUSE)**

19 **THE HONOURABLE MAYOR JIM WATSON:** I can't find it. Sorry.
20 I know I've seen that document in my ---

21 **MR. JOHN ADAIR:** It's okay, Mr. Mayor. If it's easier, perhaps we
22 can just use the one on the screen. I'm happy to make it bigger.

23 **THE HONOURABLE MAYOR JIM WATSON:** Just remind me of
24 the -- it's a FEDCO agenda ---

25 **MR. JOHN ADAIR:** No, it's a memo that Ms. Schepers wrote to
26 council December 4th, 2012, so quite a long time ago, and it's with respect to this
27 project. It's about 69 pages, so it's going to be a long document.

28 **THE HONOURABLE MAYOR JIM WATSON:** Okay.

1 Unfortunately, I don't have it here with me, but go ahead.

2 **MR. JOHN ADAIR:** We'll use the screen. This is the delegation of
3 authority. It says:

4 "Delegate to the City Manager the authority to
5 negotiate, approve, execute, deliver, amend, and
6 extend the project agreement." (As read)

7 And then it carries on from there. And you agree with me Mr.
8 Kanellakos was given -- I know it wasn't him at the time, but the city manager was given
9 broad authority over the project.

10 **THE HONOURABLE MAYOR JIM WATSON:** Yeah. It was Kent
11 Kirkpatrick at the time.

12 **MR. JOHN ADAIR:** Yeah, and in the time period we're talking
13 about, 2019, it was Mr. Kanellakos.

14 **THE HONOURABLE MAYOR JIM WATSON:** Yes.

15 **MR. JOHN ADAIR:** But in terms of the scope of authority, we've
16 heard already from Mr. Wardle -- and I expect we're going to hear again -- the city
17 manager was given a broad scope of authority, correct?

18 **THE HONOURABLE MAYOR JIM WATSON:** Delegated authority,
19 correct.

20 **MR. JOHN ADAIR:** Yeah, that's what I mean by "given". It was
21 delegated.

22 **THE HONOURABLE MAYOR JIM WATSON:** Yes.

23 **MR. JOHN ADAIR:** And that included managing the project, right?

24 **THE HONOURABLE MAYOR JIM WATSON:** Well, he was the
25 head public servant, so he would be ultimately responsible for all of the deputy city
26 managers reporting back up to him and ---

27 **MR. JOHN ADAIR:** Right, and he would be responsible for
28 deciding what gets shared with council and when, among other things.

1 **THE HONOURABLE MAYOR JIM WATSON:** Generally, yes.

2 **MR. JOHN ADAIR:** And where, sir, does it say in this delegation
3 that authority is given to Mr. Kanellakos, Mr. Manconi, Councillor Hubley, and the mayor
4 acting together via a WhatsApp chat? It doesn't say that, obviously.

5 **THE HONOURABLE MAYOR JIM WATSON:** No, because there's
6 no decision-making authority on WhatsApp. WhatsApp chat is a ---

7 **MR. JOHN ADAIR:** I'm just going to stop you because I think we're
8 miscommunicating with each other, and that's probably my fault.

9 **MR. PETER WARDLE:** Sorry. Mr. Adair, please let the Mayor
10 finish his answer to your question.

11 **MR. JOHN ADAIR:** Sorry. Quite fair.

12 **MR. PETER WARDLE:** Don't interrupt Mr. Mayor, Mr. Adair.

13 **COMMISSIONER HOURIGAN:** Mr. Wardle.

14 **MR. PETER WARDLE:** Please let him finish the answer.

15 **COMMISSIONER HOURIGAN:** Mr. Wardle. I'm going to ask you
16 to take a breath. If you have an objection, you make the objection to me. You don't go
17 into direct communication with counsel, okay? I heard your objection. That's fine.

18 Mr. Mayor, if you want to answer it the way to answer it, go ahead.

19 **THE HONOURABLE MAYOR JIM WATSON:** Thank you, Your
20 Honour.

21 Again, to clarify, WhatsApp is not a decision-making tool. It's an
22 information-sharing tool. If you look at the vast majority of the texts, they're one-word
23 answers: "yes", "no", "proceed". It's not a decision-making tool, so there would be no
24 reference to it in this document.

25 First of all, I don't WhatsApp was around back when this document
26 was put together, so it's a bit of a hypothetical question, and secondly, as I pointed out,
27 the decision-making is made by the council through committee on the recommendation
28 of staff, not by a bunch of chit-chat on WhatsApp, plain and simple. So to try to paint

1 WhatsApp as decision-making, and why isn't it part of this series of recommendations,
2 just doesn't make any sense whatsoever.

3 Bottom line is that these are the words that we have to follow and
4 have to vote on, not -- WhatsApp is like us having a meeting and not producing minutes
5 to every single meeting we have. It's just not done. In order to ensure that the project
6 moves forward, we have to ensure that there's accountability, and the accountability
7 rests at the committee level on these reports that are put together by staff and defended
8 by staff. The public have a chance to comment on them, and then we make a decision
9 at committee. It goes to council and then it's implemented if it's passed, plain and
10 simple. That's the process that we've followed and it's served us well for many, many
11 decades.

12 **MR. JOHN ADAIR:** Right. I did ask my question quite poorly and
13 that's my fault. I wasn't suggesting that WhatsApp was the decision-making tool, but
14 what you told us a few moments ago -- you told the commissioner that the decision not
15 to update council during trial running was made by the people who were on the
16 WhatsApp chat. I'm not suggesting that the chat was the tool. And you said to me the
17 decision was made by Mr. Kanellakos, Mr. Manconi, yourself, and Councillor Hubley.
18 And I'm going to suggest to you that was inconsistent with the delegation of authority.
19 Do you agree?

20 **THE HONOURABLE MAYOR JIM WATSON:** No, I don't.

21 **MR. JOHN ADAIR:** So help me understand this. If the delegation
22 is to the City manager, how is it that you and Mr. Hubley get to participate in deciding
23 what information council gets and doesn't get?

24 **THE HONOURABLE MAYOR JIM WATSON:** Well, because, as
25 we've explained before, committee chairs do get that extra information, extra briefing,
26 extra access to material, and in many instances confidential material before it goes to
27 committee and council. And that's very standard procedure with any municipality in the
28 Province of Ontario. Information is provided. Ultimately, the reason why myself and Mr.

1 Hubley would be engaged is because we are the political representatives on this
2 project. We want to make sure it succeeds. But at the end of the day, the process is
3 that the staff bring forward recommendations, and we vote on them, we debate, we
4 amend them, and then ultimately they're passed and that becomes the bylaw for the
5 City of Ottawa for this project.

6 **MR. JOHN ADAIR:** All right, sir, and are you aware of the fact that
7 the WhatsApp chat between yourself and Councillor Hubley and Mr. Manconi and Mr.
8 Kanellakos and the others was only delivered by the City after the hearings started?

9 **THE HONOURABLE MAYOR JIM WATSON:** I'm not sure when
10 you got them. It would be someone on our staff that would have sent that information to
11 you. I don't know when or who would have done that.

12 **MR. JOHN ADAIR:** Okay. In terms of the mechanics, were you
13 aware -- and you may not be, but were you aware that what happened is STV, the
14 engineering firm, in the course of the hearing, sent commission counsel a different
15 WhatsApp chat that involved Mr. Manconi and some of the other City employees, and
16 that caused commission counsel to request from the City whether there were any
17 additional WhatsApp chats? Were you aware of that request being made?

18 **THE HONOURABLE MAYOR JIM WATSON:** I believe so. I think
19 that acted as the catalyst. I wasn't aware of the other WhatsApp chat and I certainly
20 wasn't on it.

21 **MR. JOHN ADAIR:** Yeah, no, just of yours. I just want to focus on
22 the one you were on, ultimately. You ---

23 **THE HONOURABLE MAYOR JIM WATSON:** Yeah. My
24 understanding is that all of those records were sent to you as a result of that first one
25 that came to light, and then after this your question to our staff -- "What else is out
26 there? -- and my understanding is everything was sent to you on WhatsApp.

27 **MR. JOHN ADAIR:** Right. And so my question for you, sir, is, do
28 you agree with me that if it wasn't for STV producing a different WhatsApp chat, the

1 commissioner would never have been aware of your WhatsApp chat and all the details
2 of it, correct?

3 **THE HONOURABLE MAYOR JIM WATSON:** Most probably, but
4 again, I have to reiterate the fact that WhatsApp is not a decision-making body -- the
5 people that are on that. It's a communications tool to try to make our job more efficient.
6 When we're asked to make decisions, probably several dozen over the course of any
7 couple of hours on a wide variety of issues, it's not just -- for my rail transit project, we
8 are dealing with individuals on WhatsApp. We get information all the time from people
9 on other aspects of the City. The City, as you know, is a very complex organization,
10 and this project was one of many projects that we were juggling at the time.

11 So it was not meant as any kind of a formal or substantive forum,
12 just as a quick phone call is not meant to be minuted and sent around. You have to
13 move at the speed of business, not government, to get this project properly
14 implemented, and as you know, we've had some good success in the last five months.
15 The system started to turn around, and a lot of that is due to the fact that we have
16 pushed our partners very hard to get their act together and do their job to provide the
17 system that our taxpayers are paying for.

18 **MR. JOHN ADAIR:** Right. And if STV, as a result of its
19 participation in this process, had never disclosed to us the different WhatsApp chat,
20 then the public also would not have known about your WhatsApp chat and the various
21 back and forth that occurred on that. I appreciate that it is not a decision-making tool.
22 I'm not calling it a decision-making tool and I'm not suggesting it was a decision-making
23 tool. But the public would not have known about that contemporaneous record of who
24 was doing what and when, would they?

25 **THE HONOURABLE MAYOR JIM WATSON:** Again, I can't
26 speculate on what would have happened if the company did not provide their WhatsApp
27 chat.

28 **MR. JOHN ADAIR:** Right. But you weren't going to disclose it

1 because you'd never been asked the question.

2 **THE HONOURABLE MAYOR JIM WATSON:** Well, it never
3 crossed my mind, to be perfectly honest, because it was simply an
4 information/communications tool to get a quick answer and keep a key leadership group
5 on the project up to speed with activities. And it was never meant to replicate or
6 supplement memos or meetings or formal discussions with colleagues and with other
7 members of staff and the private sector consortium.

8 When I met with the heads of all of the organizations, that was a
9 confidential meeting. I wasn't going to allow the media and members of council to come
10 into the meeting, because the proponents expected it to be confidential. When we were
11 finished, we had a press conference, but we didn't issue minutes; we didn't issue a
12 report. But I did make myself available to the media and explained my frustration and
13 the fact that the groups had been apologizing for their lack of performance. We're
14 starting to see some progress as a result of that pressure. It's still not good enough, but
15 heading in the right direction.

16 **MR. JOHN ADAIR:** All right. Two very last topics -- or two topics,
17 rather, for you, Mr. Mayor, left, and they'll be quick, hopefully.

18 One, sir, just going back to the start a little bit, you'll recall the initial
19 estimate for the project in December of 2009, recognizing that's before you were
20 elected ---

21 **THE HONOURABLE MAYOR JIM WATSON:** Yes.

22 **MR. JOHN ADAIR:** --- was \$2.1 billion.

23 **THE HONOURABLE MAYOR JIM WATSON:** That's correct.

24 **MR. JOHN ADAIR:** And I don't know if you've seen it, but there's a
25 report that Ms. Schepers and Ms. Simulik testified about where that \$2.1 billion was
26 stated and it was stated to be subject to a 25 per cent margin of error. Were you aware
27 of that?

28 **THE HONOURABLE MAYOR JIM WATSON:** Yeah. I believe it

1 was considered a Class D estimate.

2 **MR. JOHN ADAIR:** Yeah, exactly. So the math, of course, is \$500
3 million either way. And then that's December 2009, and then in 2010 you ran for mayor
4 and you were successful, correct?

5 **THE HONOURABLE MAYOR JIM WATSON:** Yes.

6 **MR. JOHN ADAIR:** And then shortly thereafter you made it part of
7 your mandate to bring this project in at that \$2.1-billion budget, correct?

8 **THE HONOURABLE MAYOR JIM WATSON:** That's correct.

9 **MR. JOHN ADAIR:** And we heard from Ms. Simulik that the City
10 could have afforded to pay more, but \$2.1 billion was the price tag that was set and that
11 was the price tag that everyone decided had to be met. Do you agree with that?

12 **THE HONOURABLE MAYOR JIM WATSON:** Yeah. If I can put it
13 in some context, just prior to my election, my predecessor saw the north-south Siemens
14 line, you can call it, was cancelled at a cost of about \$36 million plus additional dollars
15 for land purchases and so on. That set the City back considerably, and then we went
16 forward with the east-west option, which is the plan that we have now. And it was very
17 clear that our federal partners and our provincial partners were capping their
18 contribution at \$600 million, because the original price tag was examined to be about
19 \$1.8 billion. So \$600 million times three is \$1.8 billion. And the province and the
20 federal government were crystal clear that they were not going to go beyond \$600
21 million. So any increase above and beyond the \$2.1 billion was going to be the
22 responsibility of local taxpayers, not shared by the other orders of government.

23 **MR. JOHN ADAIR:** That's essentially the context for why the
24 budget was fixed at \$2.1 billion and there was a designed-to-budget approach that was
25 adopted.

26 **THE HONOURABLE MAYOR JIM WATSON:** Well, also, we knew
27 that these large projects across the country and around the world were consistently over
28 budget, loaded, late -- lots of problems with them -- and the last thing I wanted to do

1 was to see the budget balloon, even though our colleagues, the former treasurer and
2 the former deputy City manager, said there was more money available. I think it sent a
3 very clear signal to those individuals that were bidding on it. Three companies, three
4 consortiums, bid on it. Two came in, I believe, at the \$2.1 billion or lower. The signal
5 was that we were not going to go and get into this charade of, you know, oh, it's going
6 to cost us 3 billion to get what we want done. We set the marker. It was a reasonable
7 amount. We did value engineering. We did see the tunnel move location farther south
8 and less depth and it saved, I think, about \$400 million and we were able to bring the
9 project in at 2.1 billion.

10 So while I was, you know, often referenced to on time, on budget,
11 obviously on time we did not meet that standard. And for that I take full responsibility. I
12 apologize to our riders. But we did keep the budget at 2.1 billion and that's where that
13 number came from. That was the only number that was publicly available at the time
14 even though it was a Class D estimate. I still felt confident that we could bring in the
15 east west 12 and a half kilometers, two and a half underground for the 2.1 billion.

16 **MR. JOHN ADAIR:** I understood. And I'm going to call up one
17 more document, sir, and it will just be a few questions. It's COW593740, page 25. And
18 if I can just direct your attention, Mr. Mayor, to October 27th at 9:25 a.m. which is
19 towards the bottom of the page or I guess in the middle.

20 **THE HONOURABLE MAYOR JIM WATSON:** At 5:28 or 41?

21 **MR. JOHN ADAIR:** Sorry, 9:25 a.m. I'm sorry. So this is the 27th
22 of October, 9:25 a.m.

23 **THE HONOURABLE MAYOR JIM WATSON:** Yeah.

24 **MR. JOHN ADAIR:** There's a statement from you.

25 "Hold all payments to them, and they are not to receive a cent until I personally give you
26 permission."

27 And "them" in that case is RTM.

28 **THE HONOURABLE MAYOR JIM WATSON:** Right.

1 **MR. JOHN ADAIR:** And so here was an example of you making a
2 decision about how the relationship between the City and RTM would be handled
3 unilaterally, correct?

4 **THE HONOURABLE MAYOR JIM WATSON:** No. I was showing
5 my frustration that this organization once again had let us down. And I didn't have any
6 ability to not pay them for the service that they did provide, but my intention was
7 anything above and beyond that we were not to pay them because they'd missed so
8 many days and they weren't going to get paid for that. It was just plain common sense.
9 If you don't deliver the product, why should be paying you.

10 **MR. JOHN ADAIR:** And I suggest to you that while it may well
11 have been common sense, what I'm going to suggest to you is that decision was either
12 appropriately made by Mr. Kanellakos pursuant to the delegation of authority, or to
13 Council, but not to you in this small group that no one else had access to. I'm going to
14 suggest to you that that's a problem.

15 **THE HONOURABLE MAYOR JIM WATSON:** Yeah, it's not a
16 problem. At the end of the day, Mr. Kanellakos and Mr. Manconi understand their roles
17 and responsibilities and they would have full authority to do what they felt was best in
18 the interest of the taxpayers. I took a more aggressive stand and said that we shouldn't
19 be paying for service we're not getting. But at the end of the day, that was a decision
20 made by Mr. Manconi based on legal advice of what minimal amount we had to pay to
21 live up to our end of the bargain, and not a cent more because obviously, as you've
22 gone through and you know this file now more than most other people in Ontario. This
23 is obviously -- our partners did not live up to many of the expectations that we had and
24 we should not be rewarding that behaviour.

25 **MR. JOHN ADAIR:** And sir, you're aware, of course, that one of
26 the problems that has arisen, and in fact plagued the system, is problems with the
27 doors?

28 **THE HONOURABLE MAYOR JIM WATSON:** At the start, yes,

1 that was a big problem.

2 **MR. JOHN ADAIR:** And if we go to page 46, please. If we look at
3 the November 30th entry of 8:24 a.m., you had sent a message just before that to Mr.
4 Manconi about ropes and how a rope barricade might be used to prevent people from
5 crowding around. Mr. Manconi says, at 8:24,

6 "Yeah, Mr. Mayor. I don't recall you mentioning the
7 idea of a rope. You had talked about top stairs at
8 Tunney's which is being implemented. Regardless, it
9 is 100 percent a non-starter. That is against all safety
10 rule, and is not part of the signed off safety case
11 system, et cetera, and nobody could ever implement
12 that."

13 And here's the part I want to just focus on.

14 "You did have the option during the design and bid
15 phase to implement platform doors that are designed
16 to do exactly what you are asking. But that was not
17 affordable in your financial cap. As for the door issue,
18 yesterday was a customer; today I don't know."

19 And he carries on. And I suggest to you that the pressure that you
20 applied to the budget, even though the City could afford more, led to some problems
21 with this project including with respect to the doors.

22 **THE HONOURABLE MAYOR JIM WATSON:** Sorry, I'm just not
23 following.

24 **MR. JOHN ADAIR:** Sure. Take you time. I want to give you -- I
25 want you to have the opportunity to read the full context.

26 **THE HONOURABLE MAYOR JIM WATSON:** I raised the issue at
27 7:49 where I say:

28 "So another door issue. What caused the issue and

1 what is being done today at the yard?”

2 I don't know what that means. Anyways:

3 “To check every single door being used today and
4 their plans to fix and check all the other systems after
5 system shut down. And do we have techs on train on
6 weekends? And if not, why not? And what are the
7 plans to do with these door issues on Monday?
8 Could we action my idea to have rope barricade on
9 trains leaving to stop people from rushing...”

10 **MR. JOHN ADAIR:** I think it's probably “rushing”, yeah.

11 **THE HONOURABLE MAYOR JIM WATSON:** Yeah.

12 “...from rushing down.”

13 The problem in that was what was happening was that people got
14 of the bus. I can explain it from my perspective as a bus train rider at Tunney's Station.
15 So I would come into the station after getting off the No. 87 and then you could see from
16 the platform the trains in one stall or another, and people were rushing to get down the
17 stairs to get into the train, not fully understanding there would be another train in five
18 minutes or four minutes. And they would rush don there and then they'd pry the doors
19 open and that would shut the system down because there was too sensitive a program,
20 as I understand it. And that would then require a tech coming and resetting.

21 So as a result of all of the frustration they did put in a different
22 system that was less sensitive, if I could put it that way, that solved virtually all of the
23 problems of the door.

24 But my frustration was I was suggesting why don't we have the red
25 jacket -- the red vest people -- why don't they be at the top of the stairs and say, “All
26 right. You're not going to make it down. When the one minute mark goes, you're not
27 going to make it down all those stairs then go over and get on the train. Wait til the next
28 train and just go to the platform.”

1 I just thought that was a simple low tech solution to avoid people
2 rushing down because they had to get in that train even though there's another train
3 coming on the other track in less than five minutes.

4 **MR. JOHN ADAIR:** And if we can just come back to my question,
5 because now you do have the context which is helpful.

6 Mr. Manconi says to you that:

7 "... you did have the option during the design and bid
8 phase to implement doors that do exactly what you're
9 asking. But that was not affordable in your financial
10 cap."

11 And my question for you is, do you agree that some of the budget
12 pressures that were applied in the early going led to design choices that became a
13 problem at the back end?

14 **THE HONOURABLE MAYOR JIM WATSON:** Well, in the case of
15 the doors I would say no, that wasn't a problem for the simple reason that were able to
16 find a fix to it that was paid for by the company, as I understand it. They were -- you
17 know, they worked on it for some time. I believe it was a computer program that made
18 the doors less sensitive to jamming and that also gave the driver, the train driver,
19 conductor, the opportunity to come and fix the problem themselves as opposed to
20 waiting for a tech to come and fix it.

21 **MR. JOHN ADAIR:** And Mr. Mayor, just a couple more questions.
22 You understand, sir, that the purpose of this Inquiry is to figure out what went wrong and
23 what could be done better next time?

24 **THE HONOURABLE MAYOR JIM WATSON:** Yeah, and I hope to
25 highlight -- I hope the Commission would highlight what went well, because this is a
26 very complex project, lots of problems with it but lots of good that came out of this and
27 we now have a system that is just reporting 99 percent on-time service. And I've taken
28 the train myself probably a couple hundred times. I've had two incidents. One was a

1 door issue and one was it just stopped and then five minutes it kept going.

2 So of course we want to find out how we can do better. There's no
3 question about that. This process has not been perfect, far from it. There's lots of
4 mistakes, lots of frustrations. But at the end of the day, I think we should also be proud
5 of the fact that we have a system, when it is working, is a very very good system. But
6 we need that reliability and that consistency all the time. And you know, it's great that
7 it's at 99 percent. I want to keep it at 99 percent from here til I'm six feet under.

8 **MR. JOHN ADAIR:** And sir, I'm just going to suggest to you that
9 one of the things that could be done differently next time is less political pressure during
10 that key trial running period or pre-opening period if it's a different type of project, less
11 political pressure to open when the system was experiencing problems. Do you agree
12 with that?

13 **THE HONOURABLE MAYOR JIM WATSON:** Yeah. I would
14 disagree with the concept of the political pressure. I think you have -- we sent over a
15 copy of an article by CBC dated June 18th, 2019. And this was as the result of me
16 calling in all of the heads of organizations that made up RTG as well as Alstom.

17 And I'll just read you a section of this. It says,

18 "Watson said he asked Transportation Manager John
19 Manconi and City Manager, Steve Kanellakos 'to
20 continue to keep RTG's feet to fire over coming days
21 and weeks."

22 "We'll accept nothing less than the high-quality, safe
23 world-class system that we bought on behalf of the
24 Ottawa taxpayers and transit riders.'" (As read)

25 And so was that political pressure, me bringing these people in?
26 No, it was asking for their accountability, why they were letting down our taxpayers and
27 providing consistent with good, reliable service.

28 And then Mr. Lauch, in the same article, said, quoting this article:

1 “The pressure and phone calls from City officials are
2 working,’ said RTG’s CEO, Peter Lauch. ‘We’ve seen
3 a marked improvement in Alstom’s performance in the
4 last few weeks. They’ve brought in global experts
5 from other cities.’” (As read).

6 So that, is it pressure because I’m a politician? You can call it that,
7 but I felt it was my duty and responsibility to push these individuals to live up to the
8 contract that they signed. There was not a gun to their head to get on this project. This
9 was a good piece for them, a good entry into a market that was growing and prospering
10 as we reached over a million population.

11 And of course, it was my responsibility as mayor to keep pressure
12 on them to live up to their end of the deal. We were paying them a lot of money, not just
13 the \$2.1B, but also the 30-year maintenance contract, which was very lucrative for this
14 company. So of course, I was not satisfied with their performance and, of course, I
15 would not be reluctant in future discussions with other mega-project CEOs that, “If
16 you’re not delivering, or if you mess up, you fess up, and get the job done.”

17 **MR. JOHN ADAIR:** And sir, just turning inwardly for a moment,
18 from a governance perspective, what, if anything, do you say the City could do better
19 next time?

20 **THE HONOURABLE MAYOR JIM WATSON:** Well, I think there
21 are a couple of things. First and foremost, we should probably have more of an
22 oversight, independent committee that would look at this contract to make sure it’s
23 implemented. The oversight committee would be half elected officials and half experts
24 that we would pay to give us independent advice above and beyond what are staff are
25 giving us.

26 And this is not meant to be a slight to the staff. I have great
27 confidence, and I still have great confidence in people like John Manconi, and Michael
28 Morgan, and Steve Kanellakos, and the list goes on. They’re top notch, dedicated

1 public servants. But I think every once in a while we need that challenge function,
2 similar to what the Parliamentary Budget Office does on the Hill or the Budget Office on
3 Capital Hill, which is an independent venue for politicians to get unvarnished, objective
4 advice.

5 **MR. JOHN ADAIR:** And that independent ---

6 **THE HONOURABLE MAYOR JIM WATSON:** I'm saying that I
7 think -- sorry, the other ---

8 **MR. JOHN ADAIR:** Sorry, go ahead.

9 **THE HONOURABLE MAYOR JIM WATSON:** The other things is,
10 if you're looking for suggestions, I think the Canadian Content Rule really hobbled us
11 from the beginning where Alstom had to, because of CanCon Rules, I believe imposed
12 by the Provincial Government, required us to assemble the trains in Ottawa, set up an
13 entire assembly system, and put the trains together.

14 There's not a huge reservoir of people who had that kind of
15 experience living in Ottawa. There was no one that I know of who's in the business of
16 putting trains together. And ultimately, with Phase 2, that whole production line of trains
17 was sent off to Brampton. So we ended up just doing it. It was almost a bit of show and
18 tell. And I suspect if you, you know, look into that, it was probably a good reason why
19 we had so many problems with trains.

20 **MR. JOHN ADAIR:** And sir, do you agree with me that the City's
21 governance and decision-making process on this project failed?

22 **THE HONOURABLE MAYOR JIM WATSON:** No. No, because
23 we -- as we saw from report after report, our Council was deeply engaged in pushing
24 back, criticizing, complimenting, when necessary, but holding the feet to the fire. And
25 you go back and see any of those video clips of Council meetings, as well as committee
26 meetings, our members of Council were fully engaged and did a very good job of
27 pushing back some of the nonsense that we heard from the consortium and asking the
28 tough questions. And I think that's the -- the system that we have in place at the

1 municipal level -- I've had the benefit of working provincially and municipally, and there's
2 much greater accountability at this level than there is at the other levels of government
3 because we're the most open book when it comes to governance.

4 **MR. JOHN ADAIR:** Thank you, sir. Those are all my questions for
5 you.

6 **THE HONOURABLE MAYOR JIM WATSON:** Thank you.

7 **COMMISSIONER HOURIGAN:** All right, Mayor Watson. Now we'll
8 move to some questions from some of the participants' counsel.

9 **THE HONOURABLE MAYOR JIM WATSON:** Right.

10 **COMMISSIONER HOURIGAN:** So some may ask questions,
11 some may not. First up is counsel for RTG/OLRTC/RTM.

12 **MS. LINDA ROTHSTEIN:** Thank you, Commissioner.

13 **--- CROSS-EXAMINATION BY MS. LINDA ROTHSTEIN:**

14 **MS. LINDA ROTHSTEIN:** Good afternoon, Mayor Watson. My
15 name is Linda Rothstein. I am one of the RTG parties and I just ---

16 **THE HONOURABLE MAYOR JIM WATSON:** Hello.

17 **MS. LINDA ROTHSTEIN:** Hello. I just want to pick up some of the
18 things you were saying just in the last few minutes to Mr. Adair and to the

19 Commissioner because I think my client has a similar view of you about where we sit
20 today. So if we can step back from some of the problems that you discussed with Mr.
21 Adair and look at the whole picture, look at, you know, where the system is today, June
22 30th, 2022, I got the impression, Mayor Watson, that, sitting here today, you're proud of
23 a lot of what's been accomplished by this system for the City of Ottawa; is that fair?

24 **THE HONOURABLE MAYOR JIM WATSON:** Yes, absolutely. I
25 know -- you know, I'm not going to speak to the legal issues that are -- your company
26 and the City are dealing with, but I certainly am very pleased that we've, after many,
27 many months, seen significant improvement in the service. The last -- I was just looking
28 for the note here -- the last not I received from Renée Amilcar, the President -- or the

1 Président -- or Director of OC Transpo -- General Manager, OC Transpo, we're now at
2 99 percent for the last -- service delivery for the last four to five months. So that's a
3 marked improvement. We want to see that consistently at that level. That's what I think
4 we bought the system for.

5 **MS. LINDA ROTHSTEIN:** Yeah, my note is that the system
6 reliability service -- the service reliability is actually currently 98-point -- 99.8 percent.
7 Does that make sense. Is that what you've heard as well?

8 **THE HONOURABLE MAYOR JIM WATSON:** Yes. Yes, I thought
9 it was 99 percent. But if it's 99.8, that's even better.

10 **MS. LINDA ROTHSTEIN:** Right. And the trains themselves,
11 there's no doubt, are high-tech and sophisticated vehicles that are pleasant to ride in, as
12 you often do, sir?

13 **THE HONOURABLE MAYOR JIM WATSON:** Yeah, I've said it
14 time and time again. I think some people smirk at it when I say, but the reality is, when
15 the train is working -- I took it in this morning, for instance. No problem at all. My bus
16 was on time. It connected to the train. The service was 5 minutes, which was great.
17 When it's working, it's a dream to be on that.

18 **MS. LINDA ROTHSTEIN:** Right.

19 **THE HONOURABLE MAYOR JIM WATSON:** But when it's not
20 working, it is very frustrating and very, you know -- frustrating is the best word to explain
21 it. And I -- you know, as I said, I've only been in, you know, I think two or three times
22 when the train has failed, once with a door issue, another it just stopped, and I can't
23 remember the third one. But, you know, we've seen a marked improvement, but that
24 doesn't take away from the fact that we've had a couple of years of real challenges.

25 **MS. LINDA ROTHSTEIN:** Lots of people have characterized the
26 system as actually world-class. Do you agree with that characterization?

27 **THE HONOURABLE MAYOR JIM WATSON:** Yeah. You know, I
28 think that wording is thrown around a lot. You know, world-class compared to, you

1 know, what? I guess other transit systems. Ours, I think, you know, it's a start. It's 12
2 and a half kilometres. We have really exciting plans to go farther east, west, and south.

3 **MS. LINDA ROTHSTEIN:** I've got that. Mayor, you know what?
4 We don't have a lot of time. So if I ask you a question about whether you agree with a
5 characterization, you can say yes or no or why not, but I think we can't just keep going.
6 So I'm going ask you to try and refrain from long answers where that's possible, please,
7 okay?

8 **THE HONOURABLE MAYOR JIM WATSON:** Well, life is not --
9 unfortunately, life is not yes or no. So I'm going to have to expand, if necessary.

10 **MS. LINDA ROTHSTEIN:** Absolutely, but I heard you agree with
11 me that that characterization seemed fair to you, so that's why I stopped you, sir. And,
12 you know, having a world-class train system was something that you saw when you
13 were running for re-election for the mayor. That was something that you aspired to and
14 campaigned on, wasn't it, Mayor Watson?

15 **THE HONOURABLE MAYOR JIM WATSON:** It was, correct.

16 **MS. LINDA ROTHSTEIN:** And I take it, sir, that you recognized
17 way back then that having a world-class rail system for Ottawa could, in many ways, be
18 transformative for the City; is that fair?

19 **THE HONOURABLE MAYOR JIM WATSON:** Yes, absolutely,
20 particularly the downtown core.

21 **MS. LINDA ROTHSTEIN:** Yeah. But am I right, sir -- I just want to
22 understand -- having made it part of your mayoralty election campaign, did it follow from
23 that that you had to actually take some significant political ownership for bringing that
24 system home, for getting it done? Is that a fair way of looking at it?

25 **THE HONOURABLE MAYOR JIM WATSON:** Well, the reality is
26 that when it's going well, politicians take all the credit. When it doesn't go so well, they
27 should also take some of the blame.

28 **MS. LINDA ROTHSTEIN:** Right. But I hear you to accept that. I

1 hear you to have told Mr. Adair that you accept that having said this is what you wanted
2 to deliver for the City of Ottawa, you took some political ownership of that project; isn't
3 that fair?

4 **THE HONOURABLE MAYOR JIM WATSON:** Yeah, I think people
5 recognize, as the mayor of the -- you know, I get blamed for -- I'm going to accept that
6 and I -- you know, take credit when things go right. But you're correct.

7 **MS. LINDA ROTHSTEIN:** And as a result of that, I'm going to
8 suggest to you, Mayor Watson, that you became more involved on this particular file
9 than some others. I'm not accusing you at the moment of over-involvement, I'm simply
10 suggesting to you, from everything that you've discussed with Mr. Adair over the course
11 of your evidence, and with Commission counsel in your interview, that you, sir, made a
12 point of being very involved in this file, fair?

13 **THE HONOURABLE MAYOR JIM WATSON:** Yeah, but I wouldn't
14 say it's the number one preoccupation or file. I was dealing with Covid-19, which was a
15 bigger issue; and the truck convoy, which was a devastating situation, so ---

16 **MS. LINDA ROTHSTEIN:** I got it.

17 **THE HONOURABLE MAYOR JIM WATSON:** --- it was one our
18 top five hot files, if you will.

19 **MS. LINDA ROTHSTEIN:** Okay. But again, sir, I got the very
20 specific question. I've just asked you if you were very involved. I didn't suggest it was
21 your number one file yet, and believe me, I will ask those specific questions.

22 But you'll agree with me that you were very involved and that as a
23 result of that, you spent some time educating yourself about transit systems to the
24 extent a lay person can. That also fair, isn't it?

25 **THE HONOURABLE MAYOR JIM WATSON:** No. I wouldn't say I
26 was micromanaging the system. I got involved ---

27 **MS. LINDA ROTHSTEIN:** I don't think I asked you that. I said I
28 asked you, sir, whether or not you spent some time educating yourself about transit

1 systems. You surely did that, Mayor Watson?

2 **THE HONOURABLE MAYOR JIM WATSON:** Well, I read
3 hundreds of reports that were produced by our staff and of course, that was the basis of
4 my decision making, based on the professional advice from our staff. So of course, I
5 was ---

6 **MS. LINDA ROTHSTEIN:** Right.

7 **THE HONOURABLE MAYOR JIM WATSON:** --- engaged in the
8 file.

9 **MS. LINDA ROTHSTEIN:** Sir, it's the right thing to do. Again, I
10 don't think you need to worry about it. You spent some time educating yourself about
11 what a transit system did, and it could do and couldn't do, correct?

12 **THE HONOURABLE MAYOR JIM WATSON:** Yes, but at the
13 same time, I don't profess to be an expert at all. I don't have an engineering degree. I
14 think most politicians are generalists. They have to rely on the expert staff, and one of
15 the things I asked for before this proceedings went forward was who were the experts
16 that we hired? And we had a really topnotch list of individuals that were working on
17 these projects including on your side of the table, lots of people that brought a lot of
18 experience to the table. And when I met the CEOs, you know, whether it was SNC or
19 Alstom or RTG or Thales, I was impressed with those individuals. They wanted this
20 project to succeed.

21 **MS. LINDA ROTHSTEIN:** Right. No, I hear you on that, sir. You
22 weren't an expert and you don't purport to be making expert scientific and technical
23 decisions. You have to rely on others to do their jobs well, right, sir?

24 **THE HONOURABLE MAYOR JIM WATSON:** Correct.

25 **MS. LINDA ROTHSTEIN:** And in fact, we can draw from what
26 you've just told us, that you cared about this project, that you educated yourself about
27 this project, but that you recognized that you weren't yourself an expert, that you relied
28 on those people to do their jobs objectively; isn't that also fair? In other words, to use

1 their very best objective judgement to come to the scientific and technical conclusions
2 that were necessary to make the decisions they were making; isn't that fair?

3 **THE HONOURABLE MAYOR JIM WATSON:** Of course.

4 **MS. LINDA ROTHSTEIN:** Okay. And you, sir, you delved into the
5 substance and the details to ensure that you understood and could evaluate the advice
6 and decisions that others were putting before you; is that fair?

7 **THE HONOURABLE MAYOR JIM WATSON:** Well, I wanted to
8 make sure I fully understood why RTG missed four deadlines, for instance, for revenue
9 service availability. That was obviously a preoccupation and concern of mine, so yes,
10 you're correct. I had an interest in those kinds of answers why this process had a lot of
11 false starts.

12 **MS. LINDA ROTHSTEIN:** Right. So good. You anticipated
13 exactly where I was going, so you're well prepared.

14 Fair to say that as a result of the education that you've told us you
15 conducted and the seriousness with which you took this project, that you weren't naïve.
16 You appreciated, I'm going to suggest to you, Mayor Watson, that from the outset of this
17 project, that it was going to be complex, it was going to be expensive, and it was going
18 to be difficult. But that's fair, isn't it?

19 **THE HONOURABLE MAYOR JIM WATSON:** Well, there's no
20 question it was going to be complex. We're building a system in a built-up area. That
21 was the first time a full, you know, BRT system was transferred in North America to an
22 LRT system, so we were pioneers, to a certain degree.

23 And we knew that it was going to be complex. We didn't really
24 have any -- most of us had no idea how many challenges and false starts and problems
25 that would occur to RSA. That's for sure.

26 **MS. LINDA ROTHSTEIN:** Okay. But you agree that you knew at
27 some stage that during the construction phase of a complex, you've told me, transit
28 project like this, the most diligent transit constructors and developers in the world will

1 encounter, from time to time, an unexpected event or hurdle; is that right?

2 **THE HONOURABLE MAYOR JIM WATSON:** Well, the short
3 answer is yes, but I think you have to put it in context. The reality is that we all
4 expected there were going to be problems. Look at the Metro system in -- the Big Dig in
5 Boston and the Chunnel and the work done at the Metro system in Montreal, the TTC,
6 always problems. But I think were a disproportionate number of problems with this
7 project compared to other similar projects, and that was the message I got back when I
8 had a meeting with the CEOs where they all admitted ---

9 **MS. LINDA ROTHSTEIN:** You're getting ahead of me. You're
10 getting ahead of us. Let's just stay with ---

11 **THE HONOURABLE MAYOR JIM WATSON:** With all due respect
12 ---

13 **MS. LINDA ROTHSTEIN:** --- it. I understand that you ---

14 **THE HONOURABLE MAYOR JIM WATSON:** --- with all -- so you
15 ---

16 **COMMISSIONER HOURIGAN:** You can't talk over each other. Mr.
17 -- Mayor Watson.

18 **MS. LINDA ROTHSTEIN:** Yes, I understand.

19 **THE HONOURABLE MAYOR JIM WATSON:** Apologies.

20 **COMMISSIONER HOURIGAN:** Thank you. Please just finish your
21 statement, your answer, to the extent that it answers the question, okay, and then wait
22 for the next question. But you can't be both talking because that affects the transcript.

23 Go ahead.

24 **THE HONOURABLE MAYOR JIM WATSON:** The point, thank
25 you. Apologize.

26 So the CEOs of all of the companies, including your CEO at RTG
27 admitted they have never seen a project with this many problems in it before.

28 **MS. LINDA ROTHSTEIN:** I remember hearing you say that. I

1 remember hearing you saying that. We'll come back to that meeting in a moment. But
2 you're getting ahead of me a bit.

3 I am trying to stay a bit more chronological. And I do want to deal
4 with one of the unexpected hurdles that everyone encountered in this case, and that, a
5 massive sinkhole that opened up on Rideau Street on June 8th, 2016. That was one
6 such event, right, Mayor Watson?

7 **THE HONOURABLE MAYOR JIM WATSON:** Yes, that was a real
8 challenge.

9 **MS. LINDA ROTHSTEIN:** Right. Do you remember that the
10 sinkhole swallowed road lanes and a parked vehicle? Do you remember that?

11 **THE HONOURABLE MAYOR JIM WATSON:** Well, I remember
12 that date very carefully.

13 **MS. LINDA ROTHSTEIN:** Not the date, not the date, sir. Do you
14 remember that the sinkhole on that day had the effect of swallowing road lanes and a
15 parked vehicle? That was my specific question.

16 **THE HONOURABLE MAYOR JIM WATSON:** Yes.

17 **MS. LINDA ROTHSTEIN:** Do you remember that it forced the
18 evacuation of the Rideau Centre and nearby businesses?

19 **THE HONOURABLE MAYOR JIM WATSON:** Yes.

20 **MS. LINDA ROTHSTEIN:** Do you recall that it caused several
21 streets to close?

22 **THE HONOURABLE MAYOR JIM WATSON:** Yes.

23 **MS. LINDA ROTHSTEIN:** Do you recall that it disrupted power,
24 water, and sanitary services throughout the downtown core?

25 **THE HONOURABLE MAYOR JIM WATSON:** Yes.

26 **MS. LINDA ROTHSTEIN:** And do you remember that the water
27 main under Rideau Street broke?

28 **THE HONOURABLE MAYOR JIM WATSON:** I don't recall that,

1 but I'm sure there was a lot of water at one point that I saw when I went down there to
2 look at it myself.

3 **MS. LINDA ROTHSTEIN:** Yeah. Well, I'm going to suggest to you,
4 Mr. Mayor, that it sent thousands of gallons of water and hundreds of tons of liquified
5 soil into the underground tunnel. Do you remember that?

6 **THE HONOURABLE MAYOR JIM WATSON:** Again, I wasn't
7 allowed in the tunnel, so I wouldn't have seen that.

8 **MS. LINDA ROTHSTEIN:** I'm not saying you saw it. Was that
9 reported to you?

10 **THE HONOURABLE MAYOR JIM WATSON:** It may have been
11 reported. That was many years ago. I can't remember what exactly was said ---

12 **MS. LINDA ROTHSTEIN:** Okay.

13 **THE HONOURABLE MAYOR JIM WATSON:** --- but I did go down
14 and get as close as possible to look at the site.

15 **MS. LINDA ROTHSTEIN:** Right. And in addition to that, you were
16 getting regular reports about what the scope of this very unfortunate sinkhole was; isn't
17 that fair, Mayor Watson?

18 **THE HONOURABLE MAYOR JIM WATSON:** Well, what I was
19 interested in is finding out how we were going to fix the situation and resolve that as
20 quickly as possible. That was my number one preoccupation.

21 **MS. LINDA ROTHSTEIN:** Sure. And in order to understand how it
22 was going to be fixed, you had to understand the scope of the problem. And I'm going
23 to suggest to you, sir, that you received reports that told you about that.

24 **THE HONOURABLE MAYOR JIM WATSON:** Well again, that was
25 many years ago. My preoccupation was getting the tunnel back up and running so it
26 could be connected to the Rideau Centre.

27 **MS. LINDA ROTHSTEIN:** Do you remember, sir, or were you told
28 that the sinkhole caused critical damage and buried the road header being used for

1 evacuation -- for -- yes, for excavation, excuse me.

2 **THE HONOURABLE MAYOR JIM WATSON:** Sorry, I'm not sure
3 what the road header is.

4 **MS. LINDA ROTHSTEIN:** Okay. And do you remember that
5 whatever ---

6 **THE HONOURABLE MAYOR JIM WATSON:** But I'm ---

7 **MS. LINDA ROTHSTEIN:** It doesn't matter. We don't need to get
8 into those details. If you don't remember, that's fine.

9 **THE HONOURABLE MAYOR JIM WATSON:** But I don't know
10 what it is. Is it a piece of equipment?

11 **MS. LINDA ROTHSTEIN:** It is. It is a piece of equipment.

12 **THE HONOURABLE MAYOR JIM WATSON:** And my
13 understanding was it was only the van, the construction workers' van that was
14 swallowed, not an ---

15 **MS. LINDA ROTHSTEIN:** Okay. But sir, whatever the specifics of
16 it are, I think you've told this Commission that it was a very significant event, and would
17 you agree with me that whatever the root cause of that sinkhole -- and whoever might
18 have been responsible for it occurring, did you appreciate, in 2016, did you appreciate
19 in 2017, that this very large problem would inevitably cause delays to the project? Did
20 you come to appreciate that, Mayor Watson?

21 **THE HONOURABLE MAYOR JIM WATSON:** I just assumed that
22 it would take some time to recover, but my understanding was that we had a letter from
23 RTG, I believe, in December, indicating that they would make up the time.

24 **MS. LINDA ROTHSTEIN:** Okay. Not just in December. Sir, this
25 sinkhole problem had cascading effects; I'm going to suggest to you. Did City staff ever
26 tell you that the unforeseen sinkhole had a cascading effect on the actual construction
27 of the system? Did they tell you that?

28 **THE HONOURABLE MAYOR JIM WATSON:** Well I'd have to

1 refer to the letter. I have the date here. It's December 26th, 2016.

2 **MS. LINDA ROTHSTEIN:** Sir, it's not just in one letter, because
3 this went on for a long time.

4 **THE HONOURABLE MAYOR JIM WATSON:** It's not about ---

5 **MS. LINDA ROTHSTEIN:** So it's not about one letter.

6 **THE HONOURABLE MAYOR JIM WATSON:** Oh, I see.

7 **MS. LINDA ROTHSTEIN:** At any time, at any time, did any of your
8 staff tell you that the RTG parties had to do remedial work to stabilize the tunnel and
9 surrounding area? Do you remember being told that?

10 **THE HONOURABLE MAYOR JIM WATSON:** I don't have a
11 recollection of that, but I obviously what happened was that RTG took responsibility and
12 they indicated in the letter of December 26th that it would not slow them down, they'd
13 catch up, and in fact they received, I believe, over \$100 million from their insurance
14 agent, which leads me to believe that it was RTG that took responsibility for that
15 sinkhole.

16 **MS. LINDA ROTHSTEIN:** I didn't ask you any of that. I asked you
17 a very simple question, and I think you told me that you don't remember being told that
18 the RTG parties had to do remedial work to stabilize the tunnel and surrounding area.
19 You don't remember knowing that?

20 **THE HONOURABLE MAYOR JIM WATSON:** Well I didn't have ---

21 **MS. LINDA ROTHSTEIN:** Is that your evidence?

22 **THE HONOURABLE MAYOR JIM WATSON:** Well I didn't have to
23 be told that because I know there were hundreds of cement trucks that were coming
24 into the site ---

25 **MS. LINDA ROTHSTEIN:** Okay.

26 **THE HONOURABLE MAYOR JIM WATSON:** --- to do exactly
27 what you're suggesting. So I saw it from my own eyes. I didn't need ---

28 **MS. LINDA ROTHSTEIN:** Okay.

1 **THE HONOURABLE MAYOR JIM WATSON:** --- to ---

2 **MS. LINDA ROTHSTEIN:** Okay. That's helpful. Did you know that
3 as a result, OLRTC had to resequence the remaining excavation?

4 **THE HONOURABLE MAYOR JIM WATSON:** Yeah, I wouldn't
5 have been involved in that level of detail at all.

6 **MS. LINDA ROTHSTEIN:** Okay. Did you know, or were you told
7 that it had to alter the construction plans for the project's last underground rail station?

8 **THE HONOURABLE MAYOR JIM WATSON:** Similar question,
9 similar answer. I wouldn't have gotten that level of detail.

10 **MS. LINDA ROTHSTEIN:** Okay. Did you know or were you told
11 that it affected the timing of the track work?

12 **THE HONOURABLE MAYOR JIM WATSON:** No, I wasn't told.

13 **MS. LINDA ROTHSTEIN:** Did you know or were you told that
14 OLRTC was forced to rebid key scopes of work to subcontractors as a result of the
15 sinkhole?

16 **THE HONOURABLE MAYOR JIM WATSON:** No, that kind of
17 information would not be brought to a political level. This would have been done at the
18 staff level.

19 **MS. LINDA ROTHSTEIN:** Okay. Did you know or were you told
20 that the cascading effects delayed installation of the train control systems?

21 **THE HONOURABLE MAYOR JIM WATSON:** No, I wouldn't have
22 been given that information. If I was, it would have been probably in some memo that,
23 you know, you're talking about several years ago, that I would not recollect at this point.

24 **MS. LINDA ROTHSTEIN:** Do you have any basis to doubt the
25 accuracy of any of that?

26 **THE HONOURABLE MAYOR JIM WATSON:** Well, I have no
27 basis to judge because I'm not familiar with exactly what went on inside the tunnel. I left
28 that to experts on both sides to deal with.

1 **MS. LINDA ROTHSTEIN:** My clients say they've told this
2 Commission that taken together, all of that caused a nine-month delay. Do you
3 remember being told that by anyone on your staff?

4 **THE HONOURABLE MAYOR JIM WATSON:** No, I -- all I recall is
5 that letter in December 26 saying that they would be able to make up the time, which I
6 was very appreciative of.

7 **MS. LINDA ROTHSTEIN:** Do you remember that because of the
8 inevitable delays caused by the sinkhole, RTM actually asked the City of Ottawa,
9 formally, for schedule relief? They wanted an adjustment to the schedule after the
10 December 19th letter. They asked for that. Things changed. They learned more. Did
11 you know about that, Mr. Mayor?

12 **THE HONOURABLE MAYOR JIM WATSON:** No, that would have
13 been done at the staff level, not at the political level.

14 **MS. LINDA ROTHSTEIN:** Okay. And basically, an adjustment to
15 the schedule in the contract and that the City refused any adjustment to the schedule.
16 Did you know that, Mr. Mayor?

17 **THE HONOURABLE MAYOR JIM WATSON:** Again, same --
18 similar question, similar answer. These decisions would be made at the staff level, not
19 at the political level.

20 **MS. LINDA ROTHSTEIN:** Understood. So you weren't involved in
21 the decision to refuse that schedule relief to RTM at all?

22 **THE HONOURABLE MAYOR JIM WATSON:** I have no
23 recollection of that whatsoever.

24 **MS. LINDA ROTHSTEIN:** Can you see, sitting here today, if it's
25 true that it caused a nine-month delay and that RTM asked for schedule relief, and that
26 the City didn't give it, can you see that your staff chose to ignore some facts that were
27 going to cause an inevitable delay in the launching of the system? Can you see that
28 sitting here today, sir?

1 **THE HONOURABLE MAYOR JIM WATSON:** No, I see our staff
2 standing up for our Project Agreement. And it clearly indicates that it was RTG that was
3 responsible for the sinkhole. So why should the taxpayers of Ottawa have to pay for a
4 mistake made by a private company?

5 **MS. LINDA ROTHSTEIN:** But we're not talking ---

6 **COMMISSIONER HOURIGAN:** Sorry, counsel. Counsel, I'm
7 going to interrupt you. It's 5:30. We're going to take another break. It's been two hours
8 since the last break. So we'll take 10 minutes. Thank you.

9 **REGISTRAR:** Order. All rise. The hearing will recess in 10
10 minutes.

11 --- Upon recessing at 5:30 p.m.

12 --- Upon resuming at 5:40 p.m.

13 **--- THE HONOURABLE MAYOR JIM WATSON, Resumed:**

14 **COMMISSIONER HOURIGAN:** We're going to resume and I'm
15 going to caution everyone to recognize that there are times when you have live mics,
16 and when you have live mics, what you say is heard by everybody, not only in the
17 Commission, and the participants, but also everybody else who is watching. So just be
18 cognizant of that.

19 So let's continue with RTG's examination.

20 **MS. LINDA ROTHSTEIN:** I cannot start because the host won't let
21 me start.

22 **COMMISSIONER HOURIGAN:** See you now.

23 **MS. LINDA ROTHSTEIN:** Oh, there we go.

24 **COMMISSIONER HOURGAN:** Go ahead.

25 **MS. LINDA ROTHSTEIN:** Sorry. Sorry, Commissioner. I was
26 having some trouble getting the start button to work.

27 **--- CROSS-EXAMINATION BY MS. LINDA ROTH, (Cont'd):**

28 **MS. LINDA ROTHSTEIN:** Mr. Watson, just before we broke, you

1 were -- when we left off, you were telling me that the City didn't want to be paying for
2 the sink hole because it viewed it as RTM's responsibility. And my questions weren't
3 directed to the pay, sir. Or they weren't directed to the cost. And you also told us about
4 the insurance money that my client actually was successful in obtaining. I wasn't asking
5 about money.

6 I was asking a much more specific question, which was whether
7 you were aware that after the December letter that you'd made reference to, RTG made
8 clear to the City that it had had, in fact, very significant delays as a result of the work
9 that I told you it did in relation to the sinkhole and the cascading effects, and it
10 requested an adjustment to the schedule. Did you know that, sir, or was that something
11 that was also left in the hands of City staff alone?

12 **THE HONOURABLE MAYOR JIM WATSON:** Yeah, again, I don't
13 recall being briefed on that.

14 **MS. LINDA ROTHSTEIN:** Okay. And so just with respect to that,
15 Mayor Watson, isn't it the case that when City staff, in their wisdom, refused to adjust
16 the schedule, for what was, I think you have to concede, was inevitable delays caused
17 by the sinkhole, they chose to ignore the facts on the ground? Or maybe we should say
18 the facts under the ground, sir.

19 **THE HONOURABLE MAYOR JIM WATSON:** No, but I guess as a
20 lay person, I would suggest that was one part of the line that needed remedial work,
21 because of, obviously, the amount of water and rock and debris that had been flushed
22 out. There was ample opportunity for other parts of the system to pick up the pace in
23 that area until the sinkhole was stabilized. So ---

24 **MS. LINDA ROTHSTEIN:** Sir, you're not a scientist, and neither
25 am I. If this Commissioner accepts the evidence that the sinkhole in fact caused
26 inevitable delays of as much as nine months, if this Commissioner finds that the
27 evidence supports that conclusion, do you agree it would have been better for the City
28 to accept some delay and tell the users of the system that there was going to be a

1 delay? Wouldn't that have been better for everyone? Be straight.

2 **THE HONOURABLE MAYOR JIM WATSON:** No. Well, I'm trying
3 to be. The reality is ---

4 **COMMISSIONER HOURIGAN:** Sorry, Mr. Mayor, I don't think she
5 was saying you weren't being straight. I don't want you to take ---

6 **MS. LINDA ROTHSTEIN:** I was not saying that.

7 **COMMISSIONER HOURIGAN:** --- insult.

8 Okay.

9 **MS. LINDA ROTHSTEIN:** I was entirely suggesting, sir, that you
10 be straight with the users. That's what ---

11 **COMMISSIONER HOURIGAN:** That's what she meant. And I
12 didn't want you to take it the wrong way and think she was insulting you. So, ---

13 **MS. LINDA ROTHSTEIN:** Not at all.

14 **COMMISSIONER HOURIGAN:** --- go ahead.

15 **THE HONOURABLE MAYOR JIM WATSON:** Well, I'm not
16 straight, so don't have to worry about that.

17 **(LAUGHTER)**

18 **COMMISSIONER HOURIGAN:** That could be the best line I've
19 heard so far. So go ahead.

20 **THE HONOURABLE MAYOR JIM WATSON:** But no, I felt that the
21 staff held their ground and it was the responsible thing for us to do, to stand up to
22 ensure that the schedule was respected. There's no question this was a significant
23 event in the construction period. But at the end of the day, I supported the staff. And
24 again, as you pointed out, I'm not a scientist, I'm not an engineer, but I have to rely on
25 the good intelligence and experience of our teams. And that was the position they took
26 and I support that.

27 **MS. LINDA ROTHSTEIN:** You supported it then, but I'm going to
28 try one more time, Mayor Watson, because I know you're a very intelligent person and

1 you care about being transparent with your community. I know you care about that.
2 And wouldn't it have been preferable for the City to extend the deadline because of the
3 problems that had been caused by the sinkhole, and to be candid and frank and
4 transparent with the residents of Ottawa about why the schedule had to change?

5 **THE HONOURABLE MAYOR JIM WATSON:** My recollection at
6 the time was there was a lot of finger-pointing back then as to who was responsible, and
7 we felt very clearly that it was the responsibility of RTG, of the company that was in
8 charge of the overall project. That was proven by the fact that you put in a claim for
9 insurance and I believe received over \$100 million. To me, that's evidence that's an
10 admission of responsibility that you should hold up on, and I know that there was a
11 series of ---

12 **MS. LINDA ROTHSTEIN:** It's two different things, sir. It's not
13 about who pays. It's about the fact that whether or not you would decide that it was all
14 my client's fault, delays occurred that they couldn't overcome. Do you accept that that
15 happens in construction projects, Mayor Watson?

16 **THE HONOURABLE MAYOR JIM WATSON:** Well, of course
17 delays take place, but again, what I recall from that time was discussions by our staff
18 that the number one preoccupation with RTG was not to take responsibility or have to
19 pay for the repairs to that corner of Rideau and Sussex. It wasn't ---

20 **MS. LINDA ROTHSTEIN:** So you don't remember knowing that
21 there was a really separate issue about whether or not the contract time periods had to
22 be adjusted to take account of reality.

23 **THE HONOURABLE MAYOR JIM WATSON:** Yeah. The only
24 correspondence I've seen -- that contradicts what you just said -- was the December
25 26th letter to the City from RTG.

26 **MS. LINDA ROTHSTEIN:** You know, Mayor Watson, I heard you
27 testify in response to Mr. Adair's questions that RTG repeatedly promised the moon and
28 didn't deliver, and I'm going to suggest to you, sir, that when RTG asked the City -- your

1 staff -- for schedule relief born of the cascading effects of the sinkhole, it made crystal
2 clear that it could not promise the moon. And you simply say, sir, you don't know
3 anything about that?

4 **THE HONOURABLE MAYOR JIM WATSON:** Yeah. Again, I
5 would not be involved in the weeds and the details of a dispute between RTG and the
6 City of Ottawa.

7 **MS. LINDA ROTHSTEIN:** Okay.

8 **THE HONOURABLE MAYOR JIM WATSON:** My role was to
9 defend the position of the City of Ottawa, which I believe is the correct position, and we
10 know that there was a reliability issue with RTG missing four RSA deadlines. That
11 concerned me greatly, as it did members of council.

12 **MS. LINDA ROTHSTEIN:** And it concerned you, but you didn't
13 want to delve deeply into what the reasons were for one of the very significant problems
14 with RSA deadlines, namely the sinkhole. You didn't take any briefings on the details
15 around that, if I have your evidence correctly, sir.

16 **THE HONOURABLE MAYOR JIM WATSON:** I don't recall getting
17 briefed on that at all. I'm sure there was questions at committee and council because it
18 was a big deal at the time, but my preoccupation was to make sure that we got the road
19 back up and reinstalled. That was a massive hit economically to the Rideau Centre and
20 to the building where the bank was located, and my concern was, is this going to spread
21 even farther and start tearing down heritage buildings at the corner of Sussex and
22 Rideau before it got contained? That's why I obviously was pleased that your company
23 and our organization worked hard to fill in that sinkhole, and as I said, I think there were
24 300 cement trucks' worth of cement that were brought in to stabilize that situation. And
25 I think you did a very good job once it got resolved.

26 **MS. LINDA ROTHSTEIN:** Thank you.

27 Well, let's turn, then, to some time periods when you have a pretty
28 sharp recollection and you were much more in the weeds, I think we can fairly

1 determine, and that's the summer of 2019. You've already made mention of this
2 meeting repeatedly, but you'll recall, Mayor, that you had meetings with the top
3 executives from the companies that comprise the consortium, and one of those
4 meetings took place -- and you've referred to it already -- on June 18th, 2019. And I
5 take it, sir, sitting here today, you have a pretty good recollection of that particular
6 meeting; is that right?

7 **THE HONOURABLE MAYOR JIM WATSON:** Is that the one we
8 were in person or on Zoom?

9 **MS. LINDA ROTHSTEIN:** It was in person. In fact, Alstom's CEO
10 actually came from France to attend the meeting -- do you remember that? -- at your
11 request.

12 **THE HONOURABLE MAYOR JIM WATSON:** I do, yeah.

13 **MS. LINDA ROTHSTEIN:** And the CEO of RTG was there and the
14 executives from EllisDon and Dragados and STV. Do you remember all of that?

15 **THE HONOURABLE MAYOR JIM WATSON:** I do, yes.

16 **MS. LINDA ROTHSTEIN:** And am I right that you talked, as you --
17 well, you've told us a lot about this already -- but you told commission counsel that you
18 viewed that particular meeting as a "come-to-Jesus meeting". I'm quoting you, sir.

19 **THE HONOURABLE MAYOR JIM WATSON:** Correct.

20 **MS. LINDA ROTHSTEIN:** Thank you. And you told commission
21 counsel in your interview that you laid down your complete disappointment, frustration,
22 and anger. I think you've been quite candid about that again today, right?

23 **THE HONOURABLE MAYOR JIM WATSON:** Correct. Yes.

24 **MS. LINDA ROTHSTEIN:** And they heard loud and clear your
25 displeasure, was how you put it.

26 **THE HONOURABLE MAYOR JIM WATSON:** Yes.

27 **MS. LINDA ROTHSTEIN:** Okay. Now, you told us also I believe,
28 sir, that that meeting you considered to be confidential.

1 **THE HONOURABLE MAYOR JIM WATSON:** No, it was not ---

2 **MS. LINDA ROTHSTEIN:** You just used that ---

3 **THE HONOURABLE MAYOR JIM WATSON:** It was not ---

4 **MS. LINDA ROTHSTEIN:** --- word with Mr. Adair, sir. I wrote it
5 down.

6 **THE HONOURABLE MAYOR JIM WATSON:** It was not an open
7 meeting, but we had a press conference afterwards, and the ---

8 **MS. LINDA ROTHSTEIN:** Well, I was going to come to that. I was
9 going to come to that.

10 Sir, do you remember using the word “confidential” with Mr. Adair
11 about an hour ago?

12 **THE HONOURABLE MAYOR JIM WATSON:** Confidential in the
13 sense that it was kept to the people inside the room, yes.

14 **MS. LINDA ROTHSTEIN:** And that no minutes were taken I
15 believe you also told us.

16 **THE HONOURABLE MAYOR JIM WATSON:** That’s correct.

17 **MS. LINDA ROTHSTEIN:** Okay. But immediately after that
18 meeting you did indeed hold a press conference. We’re agreed on that.

19 **THE HONOURABLE MAYOR JIM WATSON:** Yes.

20 **MS. LINDA ROTHSTEIN:** And you had the executives standing
21 actually beside you and behind you. Do you remember that?

22 **THE HONOURABLE MAYOR JIM WATSON:** Yeah. I’m looking
23 at a picture of it right now.

24 **MS. LINDA ROTHSTEIN:** Okay. Terrific. So let’s pull up the
25 document that you actually already I believe made reference to, which is COMH32,
26 which is the article that I believe you were reading from previously, Mr. Watson.

27 **THE HONOURABLE MAYOR JIM WATSON:** No. I’m reading
28 from Kate Porter, CBC News, January 18th a 6:11 p.m.

1 **MS. LINDA ROTHSTEIN:** Okay. Let's try a different one. I think
2 they're very similar, but let's go with Christopher Whan. The one I'm on, which is
3 COMH32, which I believe is the one from Christopher Whan, it's the next day.

4 **THE HONOURABLE MAYOR JIM WATSON:** Was this sent to me
5 in advance, because I don't recall ---

6 **MS. LINDA ROTHSTEIN:** Yes, it was. We sent this as part of that
7 list. It's very similar, sir. I don't think you're going to find this complicated.

8 **THE HONOURABLE MAYOR JIM WATSON:** Sure. Okay.

9 **MS. LINDA ROTHSTEIN:** But you see the headline is actually
10 "RTG to hand over reins to Ottawa LRT by early August". Do you see that?

11 **THE HONOURABLE MAYOR JIM WATSON:** Yes.

12 **MS. LINDA ROTHSTEIN:** And then it says, "service to launch in
13 September: mayor". You see that?

14 **THE HONOURABLE MAYOR JIM WATSON:** Yes.

15 **MS. LINDA ROTHSTEIN:** So it's not true, Mr. Watson -- sorry.
16 Mayor Watson. Apologies. It's not true that all you did was go in front of the media and
17 tell them you'd had a very constructive meeting and that these important executives had
18 acknowledged responsibility for the problems and they'd undertaken to do a lot better
19 and that you were going to hold their feet to the fire. I'm going to suggest to you, sir,
20 you went much further than that.

21 If you turn to the second page of that document, you'll see at the
22 bottom of that page -- wait a minute. So I guess it's the third page of the document,
23 sorry -- three of eight. There it is:

24 "With the May 31 deadline, the city would have had
25 time over the slower summer to work out any kinks
26 that could occur with a new system. Now, with this
27 delay, the city is set to open the system at the
28 beginning of September — the busiest time of year for

1 OC Transpo, as kids are set to go back to school and
2 the vacation season ends.”

3 Mayor Watson, you told that press conference, without
4 equivocation, that the City was going to open the system in early September, did you
5 not?

6 **THE HONOURABLE MAYOR JIM WATSON:** Yes, because that
7 was the information I received at that meeting, that they were ready to do that. I'm not
8 sure what the May 31st deadline is ---

9 **MS. LINDA ROTHSTEIN:** It was the previous deadline.

10 **THE HONOURABLE MAYOR JIM WATSON:** --- in the story.

11 **MS. LINDA ROTHSTEIN:** I think it's referring to the previous
12 deadline, Mayor.

13 **THE HONOURABLE MAYOR JIM WATSON:** Their RSA?

14 **MS. LINDA ROTHSTEIN:** Yeah.

15 **THE HONOURABLE MAYOR JIM WATSON:** Yeah, I had missed
16 deadlines on May 24th, 2018; November 2nd, 2018; March 31st, 2019; and August 16th,
17 2019. I didn't have a May 31st deadline. I'm not sure where that came from.

18 **MS. LINDA ROTHSTEIN:** I'm not either, but that's not my point.
19 My point is the one that you've just confirmed: that you came out of that meeting with
20 the RTG Consortium partners, and you made a commitment to the public of Ottawa, to
21 the people of Ottawa, to the users of the system, that the City of Ottawa was going to
22 open the system in early September; isn't that true?

23 **THE HONOURABLE MAYOR JIM WATSON:** Yes.

24 **MS. LINDA ROTHSTEIN:** And that was a big commitment, I'm
25 going to suggest to you, Mayor Watson, wasn't it?

26 **THE HONOURABLE MAYOR JIM WATSON:** Well, it was
27 because in the CBC article -- I'll read it. It says:

28 “RTG has also missed formal deadlines on May 24th,

1 November 2nd, as well as another non-contractual
2 target of June 30th.”

3 And my quote was:

4 “We don’t want a fifth mis-date. That would be
5 completely unacceptable,’ said Watson.”

6 **MS. LINDA ROTHSTEIN:** Right.

7 **THE HONOURABLE MAYOR JIM WATSON:** And I go on to day:

8 “They get it that this is their time to perform and we
9 have great expectations that they will live up to these
10 dates.”

11 **MS. LINDA ROTHSTEIN:** Right.

12 **THE HONOURABLE MAYOR JIM WATSON:** And the dates ---

13 **MS. LINDA ROTHSTEIN:** I see all that. My question is pretty
14 simple. You made a very big commitment, sir, that put your own political credibility on
15 the line, did it not?

16 **THE HONOURABLE MAYOR JIM WATSON:** No, because the
17 date that was agreed upon was known in that meeting. It’s very clear that they knew
18 that the launch date was going to be in September and that’s exactly what that headline
19 said. So I stand by that word because that was the feedback we got. And in fact, your
20 own president said:

21 “The pressure of phone calls from City officials are
22 working,’ said RTG CEO Peter Lauch. ‘We’ve seen a
23 marked improvement in Alstom’s performance in the
24 last few weeks. They brought in global experts from
25 other cities.’

26 “And Alstom told the City he expects to complete the
27 transfer (inaudible) identified as the biggest
28 outstanding issue by July 7th.”

1 **MS. LINDA ROTHSTEIN:** Mayor Watson, I accept that the
2 consortium partners may have given you some assurance sin that meeting that gave
3 you some comfort that a September opening was realistic. But let's be crystal clear
4 here. It wasn't their choice to hold a press conference, was it?

5 **THE HONOURABLE MAYOR JIM WATSON:** No, it was my
6 choice. It was in ---

7 **MS. LINDA ROTHSTEIN:** Right.

8 **THE HONOURABLE MAYOR JIM WATSON:** --- my office but
9 there was no -- they had no obligation to be at the press conference. But it would have
10 been a little strange that they wanted to slide out the side door and not answer
11 questions because I think people generally wanted to see the faces of these individuals
12 that were responsible for the consortium known as RTG and their subcontractor Alstom,
13 and I appreciate the fact that the president of Alstom at my insistence flew over for that
14 face-to-face meeting because as you know I think these face-to-face meetings are more
15 effective than Zoom calls.

16 **MS. LINDA ROTHSTEIN:** Yeah. So they didn't make the choice,
17 sir. And you sir, who did almost all of the talking, I'm going to suggest -- you didn't tell
18 the people of Ottawa the true facts on the ground, did you? You didn't tell them that as
19 of June 19th, RTG hadn't met substantial compliance and that had to be objectively
20 assessed by scientists, engineers and technicians. You didn't tell the City of Ottawa
21 that on June the 18th, did you?

22 **THE HONOURABLE MAYOR JIM WATSON:** Sorry, can you
23 repeat what the date ---

24 **MS. LINDA ROTHSTEIN:** You stood in front of the microphone,
25 sir, and you made a commitment to start in September and the RTG parties had not et
26 achieved substantial compliance. Isn't that true?

27 **THE HONOURABLE MAYOR JIM WATSON:** No, they agreed to
28 it in the meeting. And the ---

1 **MS. LINDA ROTHSTEIN:** But they hadn't -- it's not what they
2 agreed to, sir. There was a process that you well understood called substantial
3 completion, wasn't there, in the contract?

4 **THE HONOURABLE MAYOR JIM WATSON:** Yes, but again my
5 point remains that they were the ones that agreed to the language that we would be
6 able to have a Revenue Service Available in September. We didn't give a specific date
7 in September because I think by their own comments they said they'd been burned too
8 many times by a specific date. But they did agree that the service would be up and
9 running in September.

10 The second point is the notion that I monopolized the meeting.
11 There were, I think, seven or eight people there. I did not monopolize because we went
12 around the table and everyone had their chance to speak and that was when they
13 talked about black eye reputational damage to the brand of the companies and so on
14 because they'd missed so many deadlines. And quite frankly, the public of Ottawa, the
15 taxpayers were fed up.

16 **MS. LINDA ROTHSTEIN:** Mr. Mayor, I know that were concerned
17 that the taxpayers of Ottawa were fed up. But what you didn't tell them was about the
18 arduous objective scientific processes in the Agreement that protected the City of
19 Ottawa and had to be -- I'm going to suggest to you, sir -- objectively determined. They
20 weren't something that the companies could just agree to or the City could just demand.
21 You knew, sir, there were two guardrails in that contract that still hadn't been achieved.
22 And one, sir, was substantial completion. And the other was trial running. And you
23 knew that when you made that announcement on June 18th, didn't you?

24 **THE HONOURABLE MAYOR JIM WATSON:** No, I made that
25 announcement because the people in the room said that they could live up to that
26 commitment. And none of them contradicted me at the press conference. If they felt
27 uncomfortable with it, with what I had said, they would have contradicted me right then
28 and there. I thought it was a very good frank discussion. They were clearly

1 embarrassed by the fact that they had missed so many deadlines, that they had a
2 thousand excuses. They were fighting amongst one another. And they had to get their
3 act together. And I wrote down here they were -- they claimed they were embarrassed.
4 We must do better. They were going to send in their A-team to fix the trains. Those
5 were all good words and your own president said that it obviously made a difference,
6 that kind of pressure with that meeting because you're 391 days late and counting. But
7 his quote, your president, was,

8 "We've seen a marked improvement in Alstom's
9 performance in the last few weeks. They've brought
10 in global experts from other cities."

11 And they indicated that they did not bring their A-team at first, so
12 we were happy when they said they were going to be bringing their A-team to get the
13 trains fixed because obviously RTG was having great difficulty and rather tense
14 relationship with Alstom.

15 **MS. LINDA ROTHSTEIN:** Sir, let's go back to the question. That's
16 all interesting and great. And actually, there's no problem with you telling the City of
17 Ottawa how much they cared and how much they were going to do better. I'm not
18 quarrelling with that, sir. I am suggesting that you planted a flag. You made a line in
19 the sand when you committed the City of Ottawa and its partners to opening in
20 September before there was any sign or comfort yet that in fact they could meet
21 substantial completion and trial running in that timeframe. And I'm suggesting to you,
22 Mayor, that that was entirely irresponsible and politically motivated.

23 **THE HONOURABLE MAYOR JIM WATSON:** Well, I disagree with
24 you fundamentally. First and foremost, you were not in the meeting. I was. And it was
25 very clear around the table that those individuals had agreed to a September launch.
26 And as I said, your own president, I think, was appreciative of the fact that I brought
27 everyone together to have this Come to Jesus talk because people were fed up to the
28 teeth about promises made and promises not kept by your consortium. End of story.

1 That's what happened and you can go and get the television news clip and you'll see no
2 one objected to what was said because they told me that was the date that they were
3 prepared to launch Revenue Service.

4 **MS. LINDA ROTHSTEIN:** And sir, you spoke to the press again on
5 July the 10th of 2019?

6 **THE HONOURABLE MAYOR JIM WATSON:** I may have. I speak
7 to the press almost every day. I don't know what ---

8 **MS. LINDA ROTHSTEIN:** And you told the press that time that
9 there was going to be a particular handover date of August the 16th. Do you remember
10 that? We can pull up the article.

11 **THE HONOURABLE MAYOR JIM WATSON:** Yeah, if you could.
12 I'd like to see it.

13 **MS. LINDA ROTHSTEIN:** Okay. So the article we're now talking
14 about is -- it is -- sorry, I just misplaced it. Thank you. It's COMH52.

15 **--- EXHIBIT No. 238:**

16 COWH0000052 – Article – Builder of Ottawa LRT sets new
17 hand over date of Aug. 16 19 July 2019

18 **MS. LINDA ROTHSTEIN:** And the headlines there is "Builder of
19 Ottawa LRT sets new handover date of August 16th". And if you turn over to the first
20 page of that document after the pretty picture we have:

21 " 'After the manufacturer of Ottawa's LRT trains met
22 its July 7th deadline to fix outstanding issues with the
23 vehicles, the builder of the Confederation Line told
24 OC Transpo it will hand over the delayed light rail
25 system to the City on August 16th,' Ottawa Mayor Jim
26 Watson said on Wednesday."

27 So you went to the press and the public again with a commitment
28 that there was going to be a handover on August 16th, right?

1 **THE HONOURABLE MAYOR JIM WATSON:** Well, I didn't go out
2 to the press. The press came to me. I hold regular press conferences and obviously at
3 that time the big story in town was when is the rail system going to take place? So ---

4 **MS. LINDA ROTHSTEIN:** And sir ---

5 **THE HONOURABLE MAYOR JIM WATSON:** --- I'm not saying
6 that ---

7 **MS. LINDA ROTHSTEIN:** --- the press came to you but you didn't
8 have to answer every question in any particular way. You use discretion and judgment
9 in answering the press's questions all the time, sir.

10 **THE HONOURABLE MAYOR JIM WATSON:** But why would I
11 hold back that information when ---

12 **MS. LINDA ROTHSTEIN:** Because ---

13 **THE HONOURABLE MAYOR JIM WATSON:** --- the public ---

14 **MS. LINDA ROTHSTEIN:** Because, sir, announcing a handover
15 date before substantial completion has been achieved and before trial running has even
16 started is actually insisting on making what would otherwise be an objective scientific
17 project yours to dictate. That's why, Mayor.

18 **THE HONOURABLE MAYOR JIM WATSON:** Yeah. Well, again,
19 you'd have to ask OC Transpo but it says clearly that the builder of Confederation Line
20 told OC Transpo it will hand over the delayed light rail system to the City on August 16th.
21 That was reporting something or repeating something that was relayed from the
22 consortium to OC Transpo.

23 **MS. LINDA ROTHSTEIN:** Right. You were repeating things that
24 these companies felt they were trying very hard to achieve but they had no certainty and
25 you knew that, sir, that they could actually achieve. You were trying to double down on
26 particular dates without knowing anything about how all the testing was going to go, sir.

27 **THE HONOURABLE MAYOR JIM WATSON:** No, I disagree with
28 your assertion.

1 **MS. LINDA ROTHSTEIN:** Is that right?

2 **THE HONOURABLE MAYOR JIM WATSON:** No, I disagree.

3 **MS. LINDA ROTHSTEIN:** Sir, I'm suggesting that you weren't just
4 putting people's feet to the fire; you were causing them to feel political pressure to get
5 that system launched on the dates that you selected.

6 **THE HONOURABLE MAYOR JIM WATSON:** No, I was getting
7 them to understand that we were tired and fed up of constantly missed deadline by your
8 client and that it was in our interest that we continue to put that pressure to deliver
9 because you were already over 391 days late. That's not something that your company
10 should be very proud of, 391 days late ---

11 **MS. LINDA ROTHSTEIN:** Of course not.

12 **THE HONOURABLE MAYOR JIM WATSON:** --- and all of the
13 problems that were occurring ---

14 **MS. LINDA ROTHSTEIN:** Of course not, but Mayor Watson ---

15 **THE HONOURABLE MAYOR JIM WATSON:** All the problems ---

16 **MS. LINDA ROTHSTEIN:** Mayor Watson, how does one ensure
17 not only that the system isn't late but that all of the criteria that ensure both the safety
18 and the reliability of the system have been met? You've agreed with Commission
19 counsel at length that requires scientists, and engineers, and others to do rigorous
20 testing; isn't that true?

21 **THE HONOURABLE MAYOR JIM WATSON:** Well, then why did
22 your company tell OC Transpo was going to be the handover date, and why did the
23 presidents tell me that they were prepared to launch revenue service in September?
24 They didn't give a specific date but it ended up being September 14th.

25 **MS. LINDA ROTHSTEIN:** Because, sir, you insisted on it; isn't that
26 right? Because you insisted on it.

27 **THE HONOURABLE MAYOR JIM WATSON:** No. No, because --
28 I'm not sure what you meant, I "insisted on it".

1 **MS. LINDA ROTHSTEIN:** You insisted on the date of September.
2 You weren't prepared to take no for an answer.

3 **THE HONOURABLE MAYOR JIM WATSON:** No, this is date that
4 was provided to me that the consortium felt was reasonable. And they recognized that
5 they had, quite frankly, missed so many deadlines that they wanted to be 100 percent
6 sure we would not have another false start.

7 **MS. LINDA ROTHSTEIN:** Mayor ---

8 **THE HONOURABLE MAYOR JIM WATSON:** So those individuals
9 came together at my insistence. I gave them quite a stern lecture over the frustration
10 that we had with their company and their performance. And they went around the table.
11 They explained what they're all doing to fix the problems that they new full well about. I
12 was impressed that the presidents were so well briefed on the minutia of the issues.
13 And they also admitted that this was, you know, the worst project they had all worked on
14 because of the number of delays. And they also indicated that it was hurting their
15 international reputation because it was getting coverage in national newspapers.

16 **MS. LINDA ROTHSTEIN:** I think you've said that a few times, so I
17 don't know that we need to go back over that. Mayor Watson, is there any doubt in your
18 mind that City staff, having heard you make those announcements, would have felt
19 enormous pressure to get the system launched by September, not just the consortium
20 companies, but City staff. Is there any doubt in your mind about that?

21 **THE HONOURABLE MAYOR JIM WATSON:** Sorry, I didn't hear
22 the first part of it. I apologize.

23 **MS. LINDA ROTHSTEIN:** Is there any doubt that, as result of your
24 announcements about when the City was going to launch the system, that your staff
25 and all of those who were involved in trial running and all of the work would have felt
26 enormous pressure from you, from the political leader of the City, to get that system
27 launched in early-September?

28 **THE HONOURABLE MAYOR JIM WATSON:** Well, it was

1 pressure from, from Council, and from the public, and our transit riders. It was not just
2 me. There was a built-up level of frustration that we'd gone through so many false
3 starts, so many problems with everything from doors to brake systems, and sanders,
4 and switches, and so on. So there were plenty of problems to go around, shared by the
5 consortium, and I was appreciative of the fact that they actually admitted they had not
6 lived up to our expectations. That was a very clear message coming out of that meeting
7 and I appreciate the fact they were that frank, direct, and honest.

8 **MS. LINDA ROTHSTEIN:** You know, Mayor Watson, I think that
9 might be the fourth time you've made that point, and I didn't ask you about them. I
10 asked you about City staff. So please listen to the question. And I think you've agreed
11 with me, sir, that absolutely staff felt pressure. And I'm going to suggest to you that
12 when it comes from the Mayor's Office and the Council, they receive it as political
13 pressure. Is that fair, sir?

14 **THE HONOURABLE MAYOR JIM WATSON:** No, I would argue
15 that they were cheering me on for actually standing up to these people who just clearly
16 did not understand the concept of living up to an agreement. I had a very good
17 relationship with our staff. I have great confidence in them. They've surrounded
18 themselves with very good people who had expertise in train and tunnel projects around
19 the world. And I stand by that statement.

20 **MS. LINDA ROTHSTEIN:** And sir, are you concerned at all when
21 you look back that all of that pressure that you've described candidly, without conceding
22 to the obvious, that it's political pressure, may have influenced the judgment and
23 decision-making not only of your staff but of everyone involved in the processes of
24 rigorous reviews that took place in July and August of 2019?

25 **THE HONOURABLE MAYOR JIM WATSON:** Well, again, I would
26 have to suggest to you, the reality to you is the project was losing credibility on a -- you
27 know, dates were handed out and then they were not met and, as a result, there was a
28 great credibility gap between all of us, quite frankly, and the public. And it was my

1 obligation as Mayor of the City, and as the Chief Executive Officer, to continue to put
2 pressure on all involved so that we could actually have a product that we could be proud
3 of.

4 By giving them an extra month or an extra two months, was that
5 going to solve the problem that occurred with the second derailment, for instance,
6 where the 12 bolts were not properly installed? Hard to say. But at some point, we had
7 to get the train system up and running. And when RTG said that they are ready to do it
8 on September 14th, we had a great event. We started off very well. And then,
9 obviously, we went downhill for about a year, and we've started to come back in a
10 positive vein, as you pointed out in the beginning of your examination.

11 **MS. LINDA ROTHSTEIN:** Mayor Watson, do you accept, in
12 hindsight, that the rigorous, rigorous processes to ensure the performance, reliability,
13 and safety of the system that took place throughout July and August 2019, that had to
14 be objectively assessed and evaluated -- do you accept that that objective evaluation
15 may have been sacrificed because of your political decision to announce come hell or
16 high water?

17 **THE HONOURABLE MAYOR JIM WATSON:** No, not at all, for
18 the simple reason that if Mr. Lauch or anyone else with the consortium felt that they
19 could not meet that deadline, they certainly never broached it with me at any time
20 whatsoever. If it was that big a concern that they felt they were not ready, do you not
21 think they'd pick up the phone and call me and say, "Listen, we better get back together
22 because we're going to have trouble meeting the September" -- that never happened. I
23 can't read their minds. I can't second-guess them. Hindsight is a wonderful thing but,
24 at the end of the day, they agreed to that launch. They were there at the launch. They
25 were very proud of their product. And it worked well for a few weeks and then,
26 obviously, things started to deteriorate.

27 **MS. LINDA ROTHSTEIN:** And Mayor Watson, the reason that you
28 were involved on a daily basis, as Commission counsel has very carefully taken you

1 through, in July and August, is because you were making sure, come hell or high water,
2 that whatever those trial running processes were, and substantial completion, and
3 deadlines, and tests, goodness gracious, that system was going to open in September.
4 That's why you were so involved, sir.

5 **THE HONOURABLE MAYOR JIM WATSON:** My preoccupation,
6 I've said this on numerous occasions, was the safety of the system. I was not going to
7 support something that was put into place that did not meet all of the safety standards.
8 That's why I had confidence when the independent safety advisor signed off on the
9 project.

10 **MS. LINDA ROTHSTEIN:** Sir, let's change the subject. You're
11 familiar with the work of Infrastructure Ontario in a general way? You understand that,
12 what they do?

13 **THE HONOURABLE MAYOR JIM WATSON:** Yes, m'hm.

14 **MS. LINDA ROTHSTEIN:** And you're aware that they're experts in
15 large-scale development projects in Ontario?

16 **THE HONOURABLE MAYOR JIM WATSON:** Yes, but they don't
17 have any rail experience at the time.

18 **MS. LINDA ROTHSTEIN:** Okay. But I'm not about that. I'm not
19 second-guessing that were weren't more involved at the time. I'm saying they do get
20 involved in very complicated infrastructure projects, do they not?

21 **THE HONOURABLE MAYOR JIM WATSON:** Yes.

22 **MS. LINDA ROTHSTEIN:** And they provide advice and services
23 on project management and contract management, and they did that to some degree
24 for the City, right ---

25 **THE HONOURABLE MAYOR JIM WATSON:** I'll agree.

26 **MS. LINDA ROTHSTEIN:** --- but mostly procurement?

27 **THE HONOURABLE MAYOR JIM WATSON:** That's correct.

28 **MS. LINDA ROTHSTEIN:** Right. But in practice, sir, are you

1 aware that it would be open to a public-sector entity such as the City to ask IO to be
2 responsible for managing the project through the construction phase. Are you aware of
3 that?

4 **THE HONOURABLE MAYOR JIM WATSON:** Sorry, I don't quite
5 understand what your point is.

6 **MS. LINDA ROTHSTEIN:** My point is that municipalities such as
7 yours don't have to be the drivers in the seat. They can actually ask an expert,
8 independent, well-resourced infrastructure expert like IO to do a lot of the work that you
9 were relying on your Council and City staff to do. Do you understand that?

10 **THE HONOURABLE MAYOR JIM WATSON:** Yeah, we engaged
11 to be involved in the procurement process, which they were.

12 **MS. LINDA ROTHSTEIN:** Right.

13 **THE HONOURABLE MAYOR JIM WATSON:** I don't know, to be
14 honest, what value-add they had, but I'm assuming it was positive. But as I said, they
15 did not have the expertise in running a rail system at that point.

16 **MS. LINDA ROTHSTEIN:** Going forward, assuming they do have it
17 now, can you see -- if we're just talking you and I, public policy -- not the past -- public
18 policy, that the public option, the public policy benefit of using an IO to be responsible
19 as the contract administrator for a project like this, has the benefit of ensuring that
20 construction issues that arise during the usual course of a project are addressed by
21 experts and not politicians and their staff? Can you see some benefit in that?

22 **THE HONOURABLE MAYOR JIM WATSON:** Yeah. I would have
23 to have our staff do due diligence in terms of what projects they'd worked on to
24 obviously get references. You know, I don't know if they're involved with the Crosstown
25 Eglinton, which I think has gone over budget and has caused some grief for the people
26 of Toronto. So obviously, if there's value added and it makes some sense, then
27 obviously, I keep an open mind to that.

28 **MS. LINDA ROTHSTEIN:** Can you see that the upshot, the result

1 of all of that, is the private sector, the private consortium partners who are building
2 these very complex projects, they don't need to go to City Council and City staffers with
3 the myriad issues that arise, and that there's some benefit in that, not just for the
4 project, but even for the governing body, the City Council itself?

5 **THE HONOURABLE MAYOR JIM WATSON:** Well, there has ---

6 **MS. LINDA ROTHSTEIN:** It has a buffer between it and its
7 constituents on these issues, an expert.

8 **THE HONOURABLE MAYOR JIM WATSON:** Again, if -- you
9 know, due diligence is done and it makes sense that they have that expertise, then I'd
10 have no objection to having IO involved. I think they've done some good work on other
11 projects around the province that I was aware of when I was a minister. But as I said, I
12 don't know what their track record is on rail projects, but if it comes out that it's positive,
13 then of course, I think any future mayor and Council would be wise to consider that as
14 an option on a go-forward basis.

15 **MS. LINDA ROTHSTEIN:** And can you see, Mayor Watson, this
16 time, in retrospect, that had such an independent expert body been much more involved
17 in the overall management of this project, there would be way less concerns by
18 everybody about political Council, political interference, and pressure, by you and your
19 Council? Can you see that?

20 **THE HONOURABLE MAYOR JIM WATSON:** Well, again, I can't
21 deal with an issue that was in the past. At the time, we asked them to be involved with
22 procurement because procurement is a pretty standard process. But they did not have
23 the expertise or the depth on rail when we were starting our project. I think they
24 probably do have that now and as I said, I'd be more than willing and open if I was
25 involved in a future project, to have them engaged, if it made sense, and if they had the
26 expertise to help us, because as you point out, there are very few rail projects that take
27 place, you know, in a lifetime. They're very rare in Canada, and there's not a lot of
28 depth of experience in the country, and that's why a number of our outside experts were

1 from outside of North America.

2 **MS. LINDA ROTHSTEIN:** And can you accept, as a matter of
3 principle, Mayor Watson, that removing the potential for undue political pressure and
4 influence on the objective decisions that need to be made in these projects is a good
5 thing? Removing the potential for undue political pressure is a good thing?

6 **THE HONOURABLE MAYOR JIM WATSON:** Yeah. But at the
7 same time, I think you have to accept the fact that there has to be accountability by that
8 organization and the City staff to (audio glitch).

9 **MS. LINDA ROTHSTEIN:** Of course, but can you see, sir, how it
10 removes the potential for political pressure by some order of magnitude?

11 **THE HONOURABLE MAYOR JIM WATSON:** Depending on the
12 government structure, that could be the case.

13 **MS. LINDA ROTHSTEIN:** Thank you very much, Mayor Watson.
14 Those are all my questions.

15 **THE HONOURABLE MAYOR JIM WATSON:** Thank you.

16 **COMMISSIONER HOURIGAN:** All right. Thank you, Counsel.

17 Next up is Alstom.

18 **MR. JAKE McCLELLAND:** Good afternoon, Mr. Commissioner,
19 and good afternoon, Mr. Mayor.

20 My name is Jake McClelland. I am one of the lawyers for Alstom,
21 and we do not have any questions.

22 **COMMISSIONER HOURIGAN:** All right. Thank you.

23 Next is Infrastructure Ontario.

24 **MR. SOLOMON McKENZIE:** Good afternoon. Solomon
25 McKenzie, M-c-K-e-n-z-i-e, counsel for Infrastructure Ontario, and we do not have any
26 questions for Mayor Watson.

27 **COMMISSIONER HOURIGAN:** All right.

28 Next is STV.

1 **MS. EILEEN CHURCH CARSON:** Eileen Church Carson, counsel
2 for STV Incorporated. We do not have any questions.

3 **COMMISSIONER HOURIGAN:** Next is Province of Ontario.

4 **MR. JEFFREY CLAYDON:** Good afternoon. Jeffrey Claydon for
5 the Province of Ontario. We do not have any questions for Mayor Watson.

6 **COMMISSIONER HOURIGAN:** All right.

7 Next is Amalgamated Transit Union Local 279.

8 **MR. JOHN McLUCKIE:** Good evening, Mr. Commissioner. Good
9 afternoon, Mr. Mayor. I just have a few questions if I could.

10 **--- CROSS-EXAMINATION BY MR. JOHN McLUCKIE:**

11 **THE HONOURABLE MAYOR JIM WATSON:** Hello.

12 **MR. JOHN McLUCKIE:** So Mr. Mayor, you're aware my clients
13 represent staff at OC Transpo?

14 **THE HONOURABLE MAYOR JIM WATSON:** Yes.

15 **MR. JOHN McLUCKIE:** And you're aware they represent some of
16 the staff at Alstom?

17 **THE HONOURABLE MAYOR JIM WATSON:** I'm aware of that,
18 yes.

19 **MR. JOHN McLUCKIE:** And it's Alstom that maintains the trains
20 that are used in this light rail system?

21 **THE HONOURABLE MAYOR JIM WATSON:** That's correct.

22 **MR. JOHN McLUCKIE:** I just want to cover off a few points, if we
23 could. So you have no concerns about OC Transpo staff operating those trains?

24 **THE HONOURABLE MAYOR JIM WATSON:** No. I was actually a
25 very early supporter of ATU maintaining that service. They had done a great job with
26 the O Train, the original O Train, and I thought for continuity, it made good sense that
27 ATU would be responsible for providing the drivers.

28 **MR. JOHN McLUCKIE:** And making that decision, having ATU

1 members and City employees drive the trains, that was part of the Project Agreement
2 that you reached with the consortium RTM, RTG?

3 **THE HONOURABLE MAYOR JIM WATSON:** Yes.

4 **MR. JOHN McLUCKIE:** And that was a contract drafted by the
5 City, and the City had control over what contract looked like?

6 **THE HONOURABLE MAYOR JIM WATSON:** I'm sorry, you got
7 cut off there.

8 **MR. JOHN McLUCKIE:** So the City had control over what that
9 contract was going to look like? You could decide who did what, for example?

10 **THE HONOURABLE MAYOR JIM WATSON:** I believe that was
11 the case, yes.

12 **MR. JOHN McLUCKIE:** And the staff at OC Transpo that run the
13 trains, they work directly for the City, correct?

14 **THE HONOURABLE MAYOR JIM WATSON:** Right.

15 **MR. JOHN McLUCKIE:** So they're responsible through their
16 managers to you as the mayor of the City to the public?

17 **THE HONOURABLE MAYOR JIM WATSON:** Yeah, through the
18 Transit Commission.

19 **MR. JOHN McLUCKIE:** Yeah. And there's some accountability in
20 that that public employees and they report through the mayor, through Council, and
21 there's accountability to the public. Would you agree with that?

22 **THE HONOURABLE MAYOR JIM WATSON:** Absolutely.

23 **MR. JOHN McLUCKIE:** But City Council made a decision in the
24 contract to award the maintenance portion of the contract to a private consortium.
25 That's correct as well, sir?

26 **THE HONOURABLE MAYOR JIM WATSON:** I believe that's the
27 case.

28 **MR. JOHN McLUCKIE:** And that company is Alstom?

1 **THE HONOURABLE MAYOR JIM WATSON:** The manufacturer,
2 that's right.

3 **MR. JOHN McLUCKIE:** So all the individuals that maintain the
4 light rail system, they don't work directly for the City, correct?

5 **THE HONOURABLE MAYOR JIM WATSON:** If you're telling me
6 that that's the case, I accept that.

7 **MR. JOHN McLUCKIE:** Well, you know that Alstom is responsible
8 for maintaining the trains, correct?

9 **THE HONOURABLE MAYOR JIM WATSON:** Yes. I thought there
10 were some mechanics that were still part of ATU. I'm assuming those are the
11 mechanics for the buses. I perhaps wrongly assumed that they were also doing the
12 maintenance for the trains.

13 **MR. JOHN McLUCKIE:** Right. Well, ATU does represent the
14 employees of Alstom and they do maintain the trains, but they work for Alstom, they
15 don't work for the City. You're aware of that, sir?

16 **THE HONOURABLE MAYOR JIM WATSON:** I wasn't, no.

17 **MR. JOHN McLUCKIE:** And that was a choice the City made. You
18 could have, for example, had City staff maintain the trains?

19 **THE HONOURABLE MAYOR JIM WATSON:** That was a
20 possibility, I assume. I can't give you -- unfortunately, I can't give you the rationale why
21 that decision was made. I -- as I pointed out, I assumed that -- I thought that ATU
22 represented the mechanics of -- the train mechanics, which you tell me they are, but
23 they're not City employees, they're Alstom employees. So at least they're represented
24 by your union, so there's that consistency between the bus mechanics, for instance, and
25 the train mechanics, which I assume is helpful.

26 **MR. JOHN McLUCKIE:** And those maintenance staff, those
27 people that maintain the trains, would you agree they're fairly key to ensuring a reliable
28 system?

1 **THE HONOURABLE MAYOR JIM WATSON:** Absolutely, yes.

2 **MR. JOHN McLUCKIE:** And if they do their job well, if there's
3 enough of them, then the system is likely to be maintained well. You'd agree with that?

4 **THE HONOURABLE MAYOR JIM WATSON:** Yeah. They have to
5 be given a -- you know, a product that is not riddled with challenges, in fairness to them,
6 so that they are not the scapegoat for a train that is -- has not been properly assembled,
7 for instance.

8 **MR. JOHN McLUCKIE:** So I'd suggest to you, if there's not
9 enough maintenance staff, if they're not well equipped, if they're not given the
10 appropriate training, that that's going to impact the reliability of your system. Would you
11 agree with that?

12 **THE HONOURABLE MAYOR JIM WATSON:** There's the
13 possibility to do so, yes.

14 **MR. JOHN McLUCKIE:** And would you agree with me that it's
15 outside the direction of the City to tell Alstom how many maintenance staff to have?
16 You don't have that level of control, do you, sir?

17 **THE HONOURABLE MAYOR JIM WATSON:** Well, I don't have
18 that level of detail to answer your question.

19 **MR. JOHN McLUCKIE:** Okay. And in terms of the maintenance
20 that was achieved, so over the course of trial running, I think you'd agree, we've heard
21 considerable evidence there were problems with the trial running. Would you agree
22 with that, sir?

23 **THE HONOURABLE MAYOR JIM WATSON:** Yes.

24 **MR. JOHN McLUCKIE:** And there's been evidence from various
25 witnesses, both City staff, consultants, and even RTG staff that they considered Alstom
26 to be understaffed on the maintenance side. Have you heard that testimony, sir? Were
27 you aware of that?

28 **THE HONOURABLE MAYOR JIM WATSON:** I wasn't aware of

1 that, no. I haven't, unfortunately, had the opportunity to witness most of the testimony,
2 unfortunately.

3 **MR. JOHN McLUCKIE:** So during the course of the trial running --
4 so we're in July and August of 2019, sir -- were you, at any point, advised by staff or
5 briefed by any other consultant or engineer engaged by the City, that they had concerns
6 as to the number of staff that Alstom had engaged for maintenance?

7 **THE HONOURABLE MAYOR JIM WATSON:** I don't recall ever
8 having a discussion on quantity, but we did have discussions with Alstom in some of
9 those meetings with their presidents that we needed to have better qualified staff
10 coming in and helping because there were so many problems that were identified with
11 the train itself that that was harming our ability to launch the service. So it was more of
12 a quality as opposed to a quantity issue that I recall hearing about. But there could
13 have been that discussion, but I'm not privy to it.

14 **MR. JOHN McLUCKIE:** I'm going to suggest to you that as a P3
15 partner, so your ability to direct Alstom essentially comes through the commercial
16 relationship, that if you're not happy with what they do, you can stop paying them.
17 Would you agree that's sort of the mechanism that's provided?

18 **THE HONOURABLE MAYOR JIM WATSON:** Well I don't think it's
19 that simple. I think we have to -- you know, if they don't meet certain milestones, they
20 don't get paid.

21 **MR. JOHN McLUCKIE:** And if they don't provide a reliable system,
22 they don't get paid? Would you agree with that, sir?

23 **THE HONOURABLE MAYOR JIM WATSON:** Yeah, you'd have to
24 -- you know, you'd have to ask someone who is better versed in the actual contract to
25 answer that question. I don't want to mislead you with information based on what I
26 think. It's more appropriate to ask someone from OC Transpo in terms of what the
27 contract allows.

28 **MR. JOHN McLUCKIE:** And in terms of the contract, were you

1 aware that in order to avoid penalties, that Alstom has to achieve a 98 percent reliability
2 factor for the train? That has to be their average. Were you aware of that, sir?

3 **THE HONOURABLE MAYOR JIM WATSON:** Well, my
4 understanding was it was, I think, between 96 and 98. And I believe that the last figure I
5 saw was 97, that RTG had achieved.

6 **MR. JOHN McLUCKIE:** I'm going to suggest to you ---

7 **THE HONOURABLE MAYOR JIM WATSON:** It's very good.

8 **MR. JOHN McLUCKIE:** --- the agreement that the City has with
9 the consortium allows the City to impose penalties if Alstom does not maintain the
10 system at a 98 percent average degree of reliability? You were not aware of that, sir?

11 **THE HONOURABLE MAYOR JIM WATSON:** Not at that level of
12 detail, no.

13 **MR. JOHN McLUCKIE:** And in terms of the trial run, the original
14 score card, you were aware of, and I think you testified earlier with Commission
15 Counsel, that originally the scoring was set to that same 98 percent threshold? Are you
16 aware of that, sir?

17 **THE HONOURABLE MAYOR JIM WATSON:** Yes.

18 **MR. JOHN McLUCKIE:** And that ultimately, the score card was
19 reduced and 96 percent became the threshold for average reliability? You're aware of
20 that as well?

21 **THE HONOURABLE MAYOR JIM WATSON:** Yes.

22 **MR. JOHN McLUCKIE:** So a decision was made to reduce the
23 level of reliability from what the contract required to 96 percent in order to pass the trial
24 running? Would you agree with that?

25 **THE HONOURABLE MAYOR JIM WATSON:** I believe so, yes.

26 **MR. JOHN McLUCKIE:** And that was a decision taken by the City,
27 in conjunction with RTG/RTM; correct; sir?

28 **THE HONOURABLE MAYOR JIM WATSON:** Yeah, just to put it

1 in perspective, that level of detail would not come to my attention as Mayor of the City.
2 It would really be done at the staff level. So a good number of your questions, I have to
3 only speculate, because it would not be an issue that would come to the head of the
4 political organization. It would be to either Mr. Maconi or Mr. Kanellakos.

5 **MR. JOHN McLUCKIE:** I have very little time, sir, so I won't waste
6 a lot of it arguing with you, but I believe from the WhatsApp chat, it was very clear that
7 you were advised that the level was dropping from 98 to 96. You don't recall being
8 advised of that?

9 **THE HONOURABLE MAYOR JIM WATSON:** No, that was Tom
10 Prendergast, I think, that indicated that 98 was unrealistic and unattainable and it made
11 more -- and he said, I believe, at the time, no rail system could get launched with that
12 high a threshold, at 98, so they dropped it to 96.

13 **MR. JOHN McLUCKIE:** So ---

14 **THE HONOURABLE MAYOR JIM WATSON:** My understanding
15 was the last number that RTG got up to was 97.

16 **MR. JOHN McLUCKIE:** And at a certain point, the City stops
17 paying the consortium? That's correct, sir?

18 **THE HONOURABLE MAYOR JIM WATSON:** Well, if they don't
19 live up to their contractual obligations, then they wouldn't be paid. You know, a good
20 example of that is, you know, when they -- after the derailment, and the system was out
21 for many, many weeks, we're not going to pay them for no service.

22 **MR. JOHN McLUCKIE:** And is that -- sorry, I didn't mean to talk
23 over you, sir. Were you finished?

24 **THE HONOURABLE MAYOR JIM WATSON:** Yeah, it was just
25 common sense. We're not going to pay for a service we don't receive.

26 **MR. JOHN McLUCKIE:** Right. And at a certain point, the City
27 does in fact stop paying the consortium; correct?

28 **THE HONOURABLE MAYOR JIM WATSON:** Yes, there have

1 been occasions when they stopped paying them. Correct.

2 **MR. JOHN McLUCKIE:** And that was predicated on the contract
3 that you had with RTG? They weren't delivering, so you weren't paying?

4 **THE HONOURABLE MAYOR JIM WATSON:** Yeah, that was part
5 of the contract. You're correct.

6 **MR. JOHN McLUCKIE:** And the goal of that was to try to
7 encourage them to get to a level of reliability and dependability that the public came to
8 expect? Would you agree with that?

9 **THE HONOURABLE MAYOR JIM WATSON:** Yes.

10 **MR. JOHN McLUCKIE:** And are you aware that the CEO of RTG
11 testified just the other day and he indicated that with respect to those penalties, Alstom
12 was not getting paid, and that RTG ceased to have that as a stick available to them to
13 ensure proper maintenance compliance by Alstom? Are you aware of that? Are you
14 aware that he said that?

15 **THE HONOURABLE MAYOR JIM WATSON:** No, I didn't follow
16 any of his testimony. I just didn't have time, unfortunately.

17 **MR. JOHN McLUCKIE:** So in terms of the ability to impose
18 penalties and the ability to withhold payments, did you find that to be an effective tool to
19 get RTG and Alstom to provide a reliable, effective transit system?

20 **THE HONOURABLE MAYOR JIM WATSON:** Well I think
21 withholding money is probably the most effective tool it hits them in the pocketbook and
22 they have obligations to lenders and subcontractors and so on. So I think it's one of the
23 few effective tools that we would have to make sure that the consortium lives up to the
24 contract they sign with the City of Ottawa.

25 **MR. JOHN McLUCKIE:** And if one of your managers at OC
26 Transpo wasn't doing their job, if OC Transpo wasn't delivering the level of reliability
27 that you felt the transit service should live up to, you have the ability to fire those
28 managers; don't you?

1 **THE HONOURABLE MAYOR JIM WATSON:** With cause.

2 **MR. JOHN McLUCKIE:** So with cause. If they're not delivering the
3 product that the public expects, you can fire them?

4 **THE HONOURABLE MAYOR JIM WATSON:** Ultimately, yes.

5 **MR. JOHN McLUCKIE:** And you can take other steps to ensure
6 that they do the job that the public is expecting of them?

7 **THE HONOURABLE MAYOR JIM WATSON:** Yes, that's the role
8 of management, to ensure that that happens.

9 **MR. JOHN McLUCKIE:** And other than withhold the payments
10 from RTG and its various subcontractors, you don't have that same ability with them; do
11 you, sir?

12 **THE HONOURABLE MAYOR JIM WATSON:** So I don't have the
13 same ability with?

14 **MR. JOHN McLUCKIE:** With RTG, with RTM, or any of the
15 managerial staff at Alstom. If they're not doing their job, you don't have the ability to fire
16 them?

17 **THE HONOURABLE MAYOR JIM WATSON:** No, there are some
18 positions that the City can ask for a replacement. I believe we did that at least one
19 occasion with -- I did it in my pre-interview with the counsel -- the Commission's lawyer.
20 I can't remember the gentleman's name, but I believe he was head of maintenance.
21 And there are positions, I believe, in the contract that indicate that the City can ask that
22 someone be replaced. And in fact, I believe that happened. And it's my understanding
23 they haven't been able to fill the presidency of RTM. At this point it's being done by
24 Peter Lauch.

25 **MR. JOHN McLUCKIE:** And I'm going to suggest to you, sir, by
26 choosing to privatize the maintenance of the Light Rail System, you have made it much
27 more difficult for the City to exert control over the maintenance of the Light Rail System?
28 Would you agree with that?

1 **THE HONOURABLE MAYOR JIM WATSON:** No, I haven't seen
2 any evidence of that.

3 **MR. JOHN McLUCKIE:** Those are all my questions, sir.

4 **THE HONOURABLE MAYOR JIM WATSON:** Thank you.

5 **COMMISSIONER HOURIGAN:** Thank you, counsel.

6 Mayor Watson, it's now 6:32. So according to our schedule, we'd
7 take a dinner break at this time, but it's entirely up to you if you want to take a break to
8 eat or if you want to keep going, or at a later point you want to stop and eat. So what
9 would you like to do?

10 **THE HONOURABLE MAYOR JIM WATSON:** I'd like to keep
11 going, Your Honour.

12 **COMMISSIONER HOURIGAN:** Okay. So let us know if at any
13 point you want to stop; okay?

14 **THE HONOURABLE MAYOR JIM WATSON:** Okay.

15 **COMMISSIONER HOURIGAN:** So you're now going to be
16 questioned by Mr. David Jeanes from Transport Action Canada.

17 **THE HONOURABLE MAYOR JIM WATSON:** Very familiar face to
18 Ottawa.

19 **--- CROSS-EXAMINATION BY MR. DAVID JEANES:**

20 **MR. DAVID JEANES:** Thank you, Mayor Watson. I only have five
21 minutes, just like the City Committee. So I only have about three questions.

22 The first one, during the questioning of Mr. Brian Guest, the
23 Commission Counsel suggested that his experience in Mayor Chiarelli's office
24 facilitating the original Light Rail Pilot Project wasn't really relevant to Stage 2 because it
25 was such a low budget project without technical complexity.

26 I don't want to talk about Mr. Guest, but I just wanted to ask you
27 whether you think that the pilot project and the more than 15 years of operation of the
28 north/south diesel light rail line had in fact had a value in demonstrating user

1 acceptance of rail transit in Canada, a willingness of people to transfer to take the train
2 if it meant a shorter journey, some experience with winter rail operation, and particularly
3 something Mr. McLuckie just mentioned, the ability for OC Transpo operators to be
4 involved in running the system?

5 **THE HONOURABLE MAYOR JIM WATSON:** Yeah, thank you,
6 David, for that. At first, I was a bit of a skeptic, but have grown to become a convert to
7 that little train that could, the O-Train. It also gave us tunnel experience, as you know,
8 because it went under Dow's Lake. It was very, very well used by students at Carleton
9 University, allowed them to move farther south to Greenboro and so on and find less
10 expensive accommodation but still be able to get back on campus.

11 And I think we've seen over the course of the last couple of years,
12 when the system was shut down for the expansion of the Trillium line, that it's very
13 much missed by people in all parts of the city, particularly the south end of the city.

14 **MR. DAVID JEANES:** Yeah. And in addition to Mr. Guest, other
15 people who had been involved with Stage 2, such as John Jensen and Michael Morgan
16 have also been involved in managing the diesel light rail operation, and Vivi Chi, who is
17 one of your senior transportation planners, has actually been involved right from the
18 start in aspects of rail transportation planning for Ottawa.

19 **THE HONOURABLE MAYOR JIM WATSON:** Yeah, we've got
20 some good bench strength. Part of that came as a result of the original O-Train, and I
21 think when people see the full extension of the Trillium, the added stations in the
22 downtown core, and the expansion to the EY Centre -- for instance, Walkley Road and
23 the airport -- and very good to see we had the federal government step up with about \$6
24 million or \$7 million -- or it could be \$13 million, if I stand corrected -- to help finish the
25 station at the airport, because that was at risk because of the downturn in traffic at the
26 Ottawa International Airport. It's going to be quite a great addition to the whole network
27 to bring people north-south and connect at Bayview to go east-west.

28 **MR. DAVID JEANES:** I won't spend any more time on that, but

1 just to suggest that Ottawa has really been working towards a light rail system for over
2 20 years in one way or another and with setbacks.

3 Another area -- you were asked by the counsel for RTG about the
4 seriousness of their loss of a roadheader due to the flooding of Rideau Station tunnel,
5 and you weren't really familiar with what a roadheader was. I just wanted to ask you --
6 back in 2013, the City had a public competition among grade 4 students in 50 different
7 schools to name the three roadheaders because they were so critical. They were a
8 unique-for-Canada way of excavating such a tunnel, and so they really had a very high
9 profile. And in fact, you and the late Royal Galipeau and Yasir Naqvi were the ones
10 who announced the winners of that competition to name the three roadheaders:
11 Chewrocka, Jawbreaker, and Crocodile Rouge. I wonder if you remember that now.

12 **THE HONOURABLE MAYOR JIM WATSON:** I do, and I'm
13 actually just looking over at my windowsill and I now remember what a roadheader is
14 because they gave me one of the devices for the wheel -- or the -- I don't know what
15 they're called. But I do remember Chewrocka. That was the one that stood out. We
16 had a contest to name the trains as well.

17 **MR. DAVID JEANES:** Yes. I'm just going to suggest to you that,
18 in fact, the loss of one or perhaps even two of those three roadheaders during the major
19 sinkhole was a significant setback. Even though there wasn't that much of the tunnel to
20 be completed, it was a significant problem for the consortium.

21 **THE HONOURABLE MAYOR JIM WATSON:** Yeah. Again, now
22 that you've refreshed my memory of what a roadheader was, I wasn't aware that a
23 roadheader had collapsed. The only vehicle I was aware of was the gentleman in the
24 van.

25 **MR. DAVID JEANES:** Yes, the van.

26 My last question, which I think I have time for, it's actually about
27 appointments of citizen representatives to advisory committees, and of course the
28 Transit Commission is more than an advisory committee. But the process for all of

1 them is that applicants are vetted by a selection panel, which then puts forward a list of
2 names for council's approval. Is that correct?

3 **THE HONOURABLE MAYOR JIM WATSON:** Yes. There would
4 be -- I think two members of the specific committee in question would act as the
5 nominating committee that would go through all the applications and then put names
6 forward to council.

7 **MR. DAVID JEANES:** Now, the actual nominating report, of
8 course, is public and goes to council, but it only lists the names. And the resumés of
9 those selected are listed as being confidential and on file with the city clerk. So I'm
10 wondering, do even council members get an insight into the qualifications of the people
11 who they're approving?

12 **THE HONOURABLE MAYOR JIM WATSON:** Well, I don't know
13 whether it's privacy laws that would prohibit us from releasing the resumés, but the two
14 people who are on the selection panel would certainly be able to answer questions from
15 any member of council as to who this person is or what their qualifications are. So there
16 is that available.

17 **MR. DAVID JEANES:** I know that maybe it's media, maybe it's
18 public dissatisfaction, but there has been a feeling in the past that the process wasn't
19 very effective. For example, either three or four of the appointees back in 2015 were
20 apparently lawyers, and there was never any public information about what their transit
21 experience was. And in the second group, in 2019, two of the four selected
22 commissioners were election candidates from the previous municipal election who had
23 failed to win election. The public really doesn't get any insight into who these people
24 are, and the public also doesn't have any way of contacting them. We don't get email
25 access to the citizen commissioners, although we do have it for the council
26 commissioners.

27 **THE HONOURABLE MAYOR JIM WATSON:** I think if we could
28 offer more -- maybe an executive summary of the individual's experience and get that

1 person to sign off on allowing us to release that, that's a good idea.

2 **MR. DAVID JEANES:** Yeah, okay. I know because there was a
3 long discussion about Ms. Wright-Gilbert, and I think that despite the controversy
4 around her, many members of the public feel that she's perhaps done a better job than
5 the other seven citizen representatives in the last two terms in terms of actually voicing
6 concerns, perhaps going overboard in how she does it.

7 **THE HONOURABLE MAYOR JIM WATSON:** I would agree with
8 that.

9 **MR. DAVID JEANES:** Okay. Anyway, that's the end of my time,
10 so thank you very much.

11 **COMMISSIONER HOURIGAN:** All right. Thank you, Mr. Jeanes.
12 Next up is the City of Ottawa.

13 **MR. PETER WARDLE:** Thank you, Mr. Commissioner. Peter
14 Wardle, W-A-R-D-L-E, for the City.

15 **--- CROSS-EXAMINATION BY MR. PETER WARDLE:**

16 **MR. PETER WARDLE:** Good evening, Mr. Mayor.

17 **THE HONOURABLE MAYOR JIM WATSON:** Hello.

18 **MR. PETER WARDLE:** I'm going to start with some questions my
19 friend Mr. Rothstein asked you, and I'll start at the beginning and sort of work my way
20 through a couple of issues.

21 You stated in response to a question from Ms. Rothstein that in the
22 last few months, service has been quite good, correct?

23 **THE HONOURABLE MAYOR JIM WATSON:** That's correct.

24 **MR. PETER WARDLE:** This has not been the case throughout the
25 maintenance period; is that fair?

26 **THE HONOURABLE MAYOR JIM WATSON:** That's a fair
27 statement.

28 **MR. PETER WARDLE:** And is it also fair to say that service has

1 been inconsistent? There have been times -- for example, parts of 2020 and parts of
2 2021 -- where the service was quite good, correct?

3 **THE HONOURABLE MAYOR JIM WATSON:** Yes. I think the
4 best way to describe it is it's been an inconsistent level of service. You go a few days
5 and things are going really well, and then you get a report of something that's gone
6 wrong. We need continuity and we need consistency in the service, because otherwise
7 you lose the confidence of the public, who are reluctant to get on the train because is it
8 going to stop? Is it going to stall? Are we going to be stuck on here? Is it going to be
9 two minutes or two hours to get the thing up and running? So there's a high level of
10 frustration without consistency in the service.

11 **MR. PETER WARDLE:** And just to take one example, in the early
12 part of 2021, before the derailments, there was actually quite good service, correct?

13 **THE HONOURABLE MAYOR JIM WATSON:** There was, yeah.
14 They were going through a very strong period where there were very few problems. I
15 certainly noticed it as someone who takes the train a couple of times every week. The
16 challenge we had, of course, was the numbers were down significantly because of
17 COVID-19 and people working from home and not wanting to get into public transit. So
18 our numbers were down, but the service had improved remarkably.

19 **MR. PETER WARDLE:** Then, of course, we had the back-to-back
20 derailments in August and September of 2021, correct, Mayor Watson?

21 **THE HONOURABLE MAYOR JIM WATSON:** That's correct, yes.

22 **MR. PETER WARDLE:** And you'll recall that after the second
23 derailment, the entire system was shut down for a period of time.

24 **THE HONOURABLE MAYOR JIM WATSON:** That's correct.

25 **MR. PETER WARDLE:** So is it fair to say it's still important and
26 critical to this day for the City to require that RTG and its subcontractors provide
27 consistent and reliable service?

28 **THE HONOURABLE MAYOR JIM WATSON:** Yeah. I don't think

1 that's asking a lot of our supplier. They are responsible for the operation of the system,
2 and obviously we've seen the last close coming up on five months of very good service.
3 But I think it's still at times walking on eggshells whether we're going to see another
4 problem or a series of problems. That's one of the reasons why I was pleased that OC
5 Transpo brought in a number of independent safety experts to give us third party
6 validation that the system was safe and ready to go back into service so that we didn't
7 have another situation that really shakes the trust of the public and our passengers.

8 **MR. PETER WARDLE:** So is it fair, then, to say that securing
9 consistent, reliable service from the maintainer of the system is still the City's top
10 priority?

11 **THE HONOURABLE MAYOR JIM WATSON:** It is. It has to be
12 safety and security. We're the customer; they're the vendor. I use the analogy that if I
13 go off, do all my research and buy a house, and then the new house falls under Tarion's
14 New Home Warranty program, then ultimately there's problem after problem after
15 problem. That's not my problem as the buyer; it's the problem of the seller that sold me
16 something that was substandard. So the expectation is that that individual, the home
17 buyer in that case or in our case RTG, needs to live up to their expectations. It's a
18 pretty simple concept that you buy something and you expect you're getting the goods
19 on it and then you have a series of, you know, terrible situations where people are just
20 left stranded and frustrated.

21 And as I said, you know, the vast majority of time the train system
22 is working really well. But when it fails to work really well it is very frustrating and I've
23 seen that, you know, that one time when the crowd on the platform was just so
24 dangerously close to the tracks that, you know, we avoided what could have been a
25 tragedy of someone being pushed on the tracks.

26 **MR. PETER WARDLE:** I want to turn then just to ask you a few
27 questions about the sink hole and it was put to you by Ms. Rothstein that the sink hole
28 caused a major disruption and there was relief sought by the consortium from the City

1 and the City didn't grant that relief. And first of all, I take it from your answers that you
2 weren't involved in all of those operational details, correct?

3 **THE HONOURABLE MAYOR JIM WATSON:** That's correct.

4 **MR. PETER WARDLE:** Okay. And we've heard evidence from
5 RTG witnesses, in fact, that RTG provided a specific schedule to the City in late 2016,
6 after the sink hole, committing to completing the project by May 2018. And again, that
7 evidence you're not aware of because you didn't sit through the evidence of the RTG
8 witnesses, correct?

9 **THE HONOURABLE MAYOR JIM WATSON:** That's correct.

10 **MR. PETER WARDLE:** And if I suggested to you that as late as
11 November 24m 2017 RTG was still --- that's a year and a half after the sink hole, that
12 Ms. Rothstein suggested to you caused all these major delays. If I suggested to you
13 that as late as November 24, 2017, a year and a half later RTG was still committing to
14 the City to meet the May 2018 date, would that come as a surprise to you?

15 **THE HONOURABLE MAYOR JIM WATSON:** No, I believe that's
16 the case and they were still arguing over who was responsible for it as well. It's quite
17 the squabble back and forth but I think at the end of the day and given the fact that the
18 insurance company has paid out significant dollars to RTG, it's an admission that
19 they're responsible for that. They were digging the tunnel that caused the sink hole.

20 **MR. PETER WARDLE:** And I just want to touch on that for a
21 moment. You've indicated in your evidence and others have admitted this as well that
22 TG brought an action against its insurers in connection with the sink hole and received a
23 substantial settlement. Are you aware as well that RTG brought an action against the
24 City in relation to the sink hole?

25 **THE HONOURABLE MAYOR JIM WATSON:** Yes, I was aware of
26 that.

27 **MR. PETER WARDLE:** And are you aware that after the
28 settlement with its insurers, RTG withdrew its action against the City in connection with

1 the sink hole?

2 **THE HONOURABLE MAYOR JIM WATSON:** Yes, because I
3 think the independent certifier also sided with the City as well, if I'm not mistaken.

4 **MR. PETER WARDLE:** That's right. And the City didn't end up
5 paying anything whatsoever in connection with the sinkhole; isn't that right?

6 **THE HONOURABLE MAYOR JIM WATSON:** I believe that's the
7 case, yes.

8 **MR. PETER WARDLE:** And this issue is now fully and finally
9 settled to your knowledge; is that correct?

10 **THE HONOURABLE MAYOR JIM WATSON:** That's the latest
11 information I have, yes.

12 **MR. PETER WARDLE:** Let's just talk about the meeting in June
13 because Ms. Rothstein spent a lot of time on it. And I want to just take you back to a
14 document for a minute. COMH0000048.

15 **--- EXHIBIT No. 239:**

16 COMH0000048 – Article – RTG promises to hand over LRT
17 to city in August 18 June 2019

18 **MR. PETER WARDLE:** Now, I think, Mayor Watson, that you
19 initially referred to this article in answer to some questions from Commission counsel
20 and then Ms. Rothstein took you to a second newspaper article relating to the same
21 meeting. Do you recall all of that?

22 **THE HONOURABLE MAYOR JIM WATSON:** Yes, I do.

23 **MR. PETER WARDLE:** So I just want to come back to this article
24 for a moment. And if we scroll down to the bottom of the first page it says, and it's in
25 pretty plain English as far as I can see:

26 "Rideau Transit Group is now telling the City it will
27 hand over the 2.1 billion Confederation Line in the
28 second or third week of August, according to Mayor

1 Jim Watson.”

2 And is that the information you were receiving from all of the
3 executive who attended this meeting?

4 **THE HONOURABLE MAYOR JIM WATSON:** Yes, it was.

5 **MR. PETER WARDLE:** Okay. And is that the basis on which you
6 provided the information in the press conference?

7 **THE HONOURABLE MAYOR JIM WATSON:** Yes. Because we
8 left the meeting and the press conference was right outside the meeting room door.
9 And we had all of the heads of the organizations and a number of them did actually
10 answer questions on their own. I know Mr. Henri Poupart Lafarge, the president of
11 Alstom who would have come from France, did offer comments to the press.

12 **MR. PETER WARDLE:** And it was suggested to you that you were
13 somehow irresponsible in making that statement because the process of substantial
14 completion and all the other steps that were required to get to Revenue Service
15 Availability had not been met, right? Do you recall Ms. Rothstein making that
16 suggestion to you?

17 **THE HONOURABLE MAYOR JIM WATSON:** Yes. Yeah.

18 **MR. PETER WARDLE:** But it isn't it the case, Mayor Watson, that
19 all of the executives who made these representations to you at this meeting would have
20 been well aware of all the steps that were needed under the contract to get to
21 handover?

22 **THE HONOURABLE MAYOR JIM WATSON:** Yes. I mentioned to
23 her I was very impressed. They came very well-versed, very well briefed and there was
24 a common denominator, a common thread that was through that discussion. A, they
25 were embarrassed because it was almost like being called into the principal's office.
26 Oh, oh, here we go. But they were embarrassed to be there. It was taking a hit on their
27 collective reputations. And they were not being good partners with us or good suppliers
28 and they admitted that. And I think even as I mentioned, Mr. Lauch in one of his

1 comments in this same article goes on to say he's seen a marked improvement in the
2 performance of Alstom that was a direct result of the president coming over from
3 France. I'm sure the last thing he wanted to do was to hop on a plane, come to Ottawa
4 and be berated by me and others. And at the end of the process I think some good
5 came out of it.

6 We had, I think, at least three of these so-called Come to Jesus
7 meetings where I took them to task and really questioned them on what they were going
8 to do specifically to improve service and to improve reliability and consistency with their
9 service.

10 **MR. PETER WARDLE:** So if we go a little further down in this
11 article, Mayor Watson, to past the next set of photographs, if we could keep going.
12 Please scroll down and you'll see just before the photograph if we could go back up,
13 you'll see in that page we're on now, I'm going to quote:

14 "For its part, RTG said it is tracking Alstom's progress
15 and will not yet commit to a precise handover date in
16 August. I was obligated to set one back on May 31st
17 but hasn't."

18 And then the next sentence appears to be a direct quote from Mr.
19 Lauch:

20 "We'd given some dates in he past that we've not
21 committed to. We don't want to disappoint again."

22 Do you see that?

23 **THE HONOURABLE MAYOR JIM WATSON:** Yes.

24 **MR. PETER WARDLE:** And I'm going to suggest to you that in fact
25 three weeks after this press conference RTG did in fact make a commitment that
26 Revenue Service Availability would be achieved by August 16, 2019. And I'm going to
27 show you Document COW0523354.

28 **--- EXHIBIT No. 240:**

1 COW0523354 – Letter RTG to City of Ottawa 9 July 2019

2 And you'll see in this letter it starts out -- and so it's a letter dated
3 August 9th so that would be roughly three weeks after the date of the press conference.
4 Do you see that?

5 **THE HONOURABLE MAYOR JIM WATSON:** Yes.

6 **MR. PETER WARDLE:** And in the letter -- it's directed to Mr.
7 Morgan, and if we scroll down to the first page, it's signed by Mr. Lauch. Mr. Lauch was
8 one of the people who was at the meeting in your office in June, correct?

9 **THE HONOURABLE MAYOR JIM WATSON:** That's right.

10 **MR. PETER WARDLE:** And Mr. Lauch says in the letter:

11 "While reserving all rights, and in the spirit of
12 continued cooperation, we confirm, without prejudice,
13 we're entitled to revised revenue service availability
14 and longstop dates, including due-to-delay events,
15 that, as per Section 26.7 of the Project Agreement,
16 revenue service availability will be achieved on or
17 before August 16, 2019." (As read).

18 Correct?

19 **THE HONOURABLE MAYOR JIM WATSON:** Yeah, I remember
20 seeing that document. And unfortunately, they missed that deadline as well of August
21 16th. They did achieve it on August 30th ---

22 **MR. PETER WARDLE:** So ---

23 **THE HONOURABLE MAYOR JIM WATSON:** --- so at least in the
24 same month.

25 **MR. PETER WARDLE:** --- the only reason I have to take you to
26 these documents -- and I really don't want to spend a lot of time on them -- is because
27 Ms. Rothstein suggested to you that you were putting your staff under political pressure
28 with respect to dates that you selected. And isn't it the fact that these dates, first the

1 dates that came from the June meeting, and secondly, the date that came out of this
2 letter -- these dates came from the consortium, not from the City of Ottawa; isn't that
3 fair?

4 **THE HONOURABLE MAYOR JIM WATSON:** That's exactly the
5 case. That's why I found her line of questioning somewhat bizarre, because why would
6 I, without the necessary professional experience, announce a date that clearly was not
7 backed up by the people who had to do the actual work? And so, you know, I went
8 through -- you know, they missed May 24th, 2018. They missed November 2nd, 2018.
9 They missed March 31st, 2018. And they missed this date of August 16th. They final did
10 achieve RSA on August 30th, 2019.

11 So, you know, I go back to the analogy, when people are looking at
12 this, the whole situation of what we've been talking about for the last several weeks with
13 this Commission, the situation was that the supplier, the vendor, was not living up to
14 their expectations and we consistently had these problems. And no time did they ever
15 approach me and say, "You know, there's no way we can meet this deadline," or,
16 "We're not going to be able to meet September." This letter is proof that they were able
17 to put a date down. They missed it, unfortunately. Although, in this case, it was only by
18 a couple of weeks. Some of the others, they missed by months.

19 **MR. PETER WARDLE:** So, in fact, I'm going to suggest to you that
20 it's exactly the opposite to the proposition put to you by Ms. Rothstein. She suggested
21 to you that you were being irresponsible by putting forward a date when substantial
22 completion hadn't yet been obtained. But couldn't it reasonably be argued that if
23 anyone was being irresponsible in putting forward this date, it would be RTG that had
24 already missed four previous dates?

25 **THE HONOURABLE MAYOR JIM WATSON:** Yeah. And I think in
26 that same article there was some reference to Mr. Lauch indicating he didn't want to --
27 he said, "We've given some dates in the past that were not committed -- that we've not
28 committed to. We don't want to disappoint again," said RTG's Lauch." So, you know,

1 one assumes that they put some thought into the August 16th deadline, and they
2 obviously didn't miss it.

3 Now, I'm not a lawyer but I read words like "while reserving all
4 rights" and "without prejudice to the entitlement", it seems like those are some kind of
5 off-ramp -- legal off-ramp that they can get out of, but the date is the date, and they
6 didn't meet it. Mr. Lauch was well aware that they had a record of not meeting the
7 deadlines. He admitted that in this article by Kay Porter, and they finally did achieve
8 RSA on August 30th, two weeks later.

9 **MR. PETER WARDLE:** Thank you, Mr. Mayor. Let me now turn to
10 some questions that were asked of you. We'll take this document down by Commission
11 counsel. And let's just start with the WhatsApp messages. And first of all, the City has,
12 as I understand it, a records management policy; is that correct?

13 **THE HONOURABLE MAYOR JIM WATSON:** Yes, run by the
14 Clerk's Office.

15 **MR. PETER WARDLE:** And you've kind of anticipated my next
16 question. You're not the person who's in charge of that police at the City of Ottawa; is
17 that fair?

18 **THE HONOURABLE MAYOR JIM WATSON:** That's correct. It is
19 the -- I believe it's the Clerk's Office.

20 **MR. PETER WARDLE:** And I'm looking at it now, and it says,
21 "Approved by Rick O'Connor," and Rick O'Connor is the City Clerk. Is that right?

22 **THE HONOURABLE MAYOR JIM WATSON:** That's correct.

23 **MR. PETER WARDLE:** Okay. And I'm not going to take you
24 through this policy statement, but it provides that the City is legally required to keep
25 certain types of records. Are you familiar with that in a general way?

26 **THE HONOURABLE MAYOR JIM WATSON:** In a general way,
27 yes.

28 **MR. PETER WARDLE:** And it also refers to what are called

1 “temporary records”. And again, I’m not expecting that you would be familiar with the
2 details but are you aware that the City policy has a distinction between official business
3 records and temporary records?

4 **THE HONOURABLE MAYOR JIM WATSON:** I have some vague
5 recollection of that. I remember, you know, we had a presentation, I think, some years
6 ago about retaining and maintain what types of records and so on, and I believe I
7 proclaimed a week after -- you know, it was National Records Week or something like
8 that that Mr. O’Connor asked me to proclaim.

9 **MR. PETER WARDLE:** And again, you don’t have the policy in
10 front of you, but I’m going to suggest that the policy provides that temporary records are
11 of limited usefulness and can be destroyed immediately or when no longer required.
12 And, for example, if you were -- if you were on a WhatsApp chat with, let’s just take, Mr.
13 Kanellakos, that, as you say, was informational, in your work as Mayor of the City of
14 Ottawa, to your knowledge, is there anything that requires you to keep that chat on your
15 phone for some future purpose?

16 **THE HONOURABLE MAYOR JIM WATSON:** Not that I’m aware
17 of.

18 **MR. PETER WARDLE:** And again, you weren’t involved in the
19 document preparation process for this inquiry, correct?

20 **THE HONOURABLE MAYOR JIM WATSON:** No, I would have no
21 idea how to access the documents. I -- you know, on the WhatsApp, I -- I consider that,
22 as I said, sort of a quick way to get an answer back and forth. If you look at the vast
23 majority of the WhatsApp paper texts, they’re mostly, you know, one sentence or one
24 word, you know, “Thanks,” or, “Look into this,” or, you know, “Received,” or, “Yes,” or,
25 “No.”

26 **MR. PETER WARDLE:** So I’m going to suggest to you, Mr.
27 Watson, that there was fairly regular and incessive communication between the City of
28 Ottawa’s Council and Commission counsel between January and June with respect to

1 productions by the City of Ottawa. And again, you wouldn't be familiar with the details
2 of this because that would be handled by outside counsel, correct?

3 **THE HONOURABLE MAYOR JIM WATSON:** That's my
4 understanding. It would -- I'm assuming it would be the City that would have access to
5 all that information and be able to print it in whatever format the Commission wanted.

6 **MR. PETER WARDLE:** And I'm going to suggest to you that in
7 March of 2022, the Commission directed the parties withstanding to include in their
8 biweekly document production report proposals to narrow productions. And again, you
9 would have no knowledge -- direct knowledge of that. You just simply weren't involved.

10 **THE HONOURABLE MAYOR JIM WATSON:** That's correct.

11 **MR. PETER WARDLE:** And I'm going to also suggest that during a
12 Commission counsel on March 8, 2022 to discuss the City's document production,
13 Commission counsel asked that the City produce Teams chat messages from City
14 platforms but did not request any chats, texts, or messages from any personal devices,
15 and Commission counsel indicated they welcomed any proposal to focus document
16 production. And again, Mr. Mayor, you're not familiar with the details of this, correct?

17 **THE HONOURABLE MAYOR JIM WATSON:** I wouldn't -- no, I'm
18 not.

19 **MR. PETER WARDLE:** Okay. And I'm going to suggest to you
20 that on March 11, 2022, the City of Ottawa specifically addressed in its first biweekly
21 document production update the Commission's request to propose a means for
22 narrowing document production, and specifically proposed to produce emails for a
23 number of individuals listed in that document. And again, you're not familiar with this.

24 **THE HONOURABLE MAYOR JIM WATSON:** Not at all.

25 **MR. PETER WARDLE:** Okay. And I'm going to suggest that the
26 City's subsequent document productions followed the parameters set out in that
27 proposal and that document production by the City included Teams, chat, messages
28 from City platforms for key individuals during key time periods, and that Commission

1 counsel at no time asked that the scope of production be widened to include any
2 messages from personal messaging applications or devices.

3 And again, you wouldn't be familiar with the details of this?

4 **MR. JOHN ADAIR:** Mr. Commissioner, if I may just interject for
5 one moment, please?

6 **COMMISSIONER HOURIGAN:** : Yes.

7 **MR. JOHN ADAIR:** Obviously my friend, Mr. Wardle, is entitled t
8 use his time however he likes. But just noting the time limitations that have been placed
9 on the different parties, Mr. Commissioner, I just wanted to respectfully make the
10 submission that if Mr. Wardle is going to ask for more time, which he has the right to do,
11 that that request be treated with an understanding that he used part of his time to ask
12 the witness questions about information the witness has already confirmed he doesn't
13 have.

14 **COMMISSIONER HOURIGAN:** All right. Thank you.

15 Do you have anything to say in response, Mr. Wardle?

16 **MR. PETER WARDLE:** Well, at the moment there were a number
17 of suggestions and insinuations made about the City's productions in this matter. This
18 has all been set out in formal correspondence between Commission counsel and
19 counsel for the City. And I'm almost completed this line of questions.

20 **COMMISSIONER HOURIGAN:** Well Mr. Wardle, I do think this is a
21 serious issue in this Inquiry, production, what was made, what wasn't made, when it
22 was made. So I'm going to give you free rein to ask as many questions as you want to
23 try to clarify it as best you can. And I won't hold it against you in terms of extra time. So
24 go ahead.

25 **MR. PETER WARDLE:** Thank you very much. And I should
26 indicate, Mr. Commissioner, that the document that I have been referencing in my
27 questions to Mayor Watson is a letter dated June 19, 2022 from myself to Mr. Adair.

28 **COMMISSIONER HOURIGAN:** That's fine. Thank you.

1 **MR. PETER WARDLE:** And are you also aware, Mayor Watson,
2 that not only did Commission counsel not ask for the scope of productions to be
3 widened to include messages from personal messaging applications or devices from the
4 City of Ottawa but they did not make that request of any other party. And that until the
5 STV WhatsApp messages were produced a few weeks ago, none of the parties had
6 made any such production.

7 **THE HONOURABLE MAYOR JIM WATSON:** Yeah, I would not
8 be aware of that.

9 **MR. PETER WARDLE:** Okay. Let's just talk for a minute about
10 what is on the WhatsApp messages. And first of all, I understand that you have
11 reviewed all of the messages on the WhatsApp chat that involved first Mr. Arpin and
12 other members of your staff in 2019 and then later yourself, correct?

13 **THE HONOURABLE MAYOR JIM WATSON:** That's correct.
14 Yeah, I went through it all. My eyes were glazed over. It was quite a long document but
15 I did my best to read it.

16 **MR. PETER WARDLE:** And you, I think, described it to my friend
17 in your evidence that it was informational in nature and did not involved decision
18 making; is that fair to say?

19 **THE HONOURABLE MAYOR JIM WATSON:** Yeah. It was really
20 a quick way of getting information back and forth to individuals. In this particular chat
21 group the common denominator was that it was LRT, but any issue of substance would
22 not go in a WhatsApp. It would go to a committee or through memo to members of
23 Council.

24 **MR. PETER WARDLE:** And now that you've looked at the
25 WhatsApp messages that you staff were involved in, is there anything in the 2019
26 period that causes you any concern?

27 **THE HONOURABLE MAYOR JIM WATSON:** No, not at all. I
28 think I was surprised that the one thing that Commission counsel mentioned was that

1 Reddit document. I thought I'm not sure why John would put something like that in. It
2 seemed to reek of no credibility, a burner phone with an anonymous person on Reddit.
3 So that was the only thing that sort of stood out. I didn't know that was a Reddit thing
4 until I was shown it because it just had, I think, photograph or something listed on the
5 line. And I couldn't access it.

6 **MR. PETER WARDLE:** And does what you know now about the
7 WhatsApp chat -- does that inform why you gave the answers you did to Commission
8 counsel during your Commission interview? Was there anything that was drawn to your
9 attention during that interview that would have directed you to think back to a WhatsApp
10 chat that you had been involved in in 2019?

11 **THE HONOURABLE MAYOR JIM WATSON:** Not really. You
12 know, the substantive discussions were ones held either through Zoom, because you
13 know, WhatsApp is good for a sentence or two or maybe a word or two. But to have a
14 more thorough discussion on a serious issue we'd go to Zoom or we'd have a meeting
15 in person. You know, there were certain restrictions because of COVID around all of
16 this time as well. But anything of substance and of importance would not be dealt with
17 on a WhatsApp. That was more to get a quick answer to an issue as opposed to trying
18 to pick up the phone and leave voice mail and so on. It was just a more efficient way of
19 getting information. It was not an attempt to hide the decision making at all.

20 **MR. PETER WARDLE:** And is it fair to say that prior to WhatsApp
21 -- and I don't know when WhatsApp came out as an application. But prior to its use by
22 the City of Ottawa, all of these informational communications with senior staff and
23 yourself and your chief of staff and other people in your office, would have been
24 handled primarily by direct phone calls or meetings?

25 **THE HONOURABLE MAYOR JIM WATSON:** Yeah, I think that
26 would probably be the best way, you know, or I don't know when Zoom came into effect
27 as well. It's sort of with COVID you lose track of dates and time. But you know, we
28 would have a fair number of Zoom meetings on LRT issues. Again, you know, that

1 information is not recorded. We don't have minutes or anything. It's just you put the
2 person on Zoom, you're talking back and forth, you solve the problem or you agree to
3 meet again, and then you're off it. I think it's a -- you know, it's a quicker more efficient
4 way. Phone calls still, you know, are another way that people get in touch. And I don't
5 have a lot of people that know my cell number so I don't get a whole lot of phone calls.
6 There would be probably maybe 10 people in the whole city, people like Steve
7 Kanellakos and Serge Arpin, and so on.

8 **MR. PETER WARDLE:** Okay. Let's move then to the summer of
9 2019 and I just want to come back to the question of what counsel was told at various
10 points in time. And I'll take you through it quickly because it's late. And first I'm going to
11 suggest to you that I'm going to give you a list if I could.

12 So first of all, I'm going to suggest to you, Mr. Mayor -- and you
13 have, I believe, some of these documents -- that there was a FEDCO presentation on
14 July 10, 2019.

15 **THE HONOURABLE MAYOR JIM WATSON:** Yes.

16 **MR. PETER WARDLE:** And you've already referred to that
17 presentation in your evidence and I'm not going to take you to it again. But is it fair to
18 say that all members of Council were welcome to attend any FEDCO meeting?

19 **THE HONOURABLE MAYOR JIM WATSON:** Yes. And in fact
20 what's happened over the last couple of years is those members of Council who are not
21 on FEDCO more often than not show up to participate in FECCO. And in fact, because
22 we've had so many people that want to participate in FEDCO, we've had the meetings
23 moved to the larger Council chambers so they all have a seat. You know, otherwise
24 they'd be in the Champlain Room which would be congested but with COVID no one
25 could go to those meetings except me. I was chair of the meeting and everyone else
26 was on Zoom.

27 But any member -- you know, I think there was a real desire by a lot
28 of members of Council that really wanted to sit on FEDCO because they viewed that as

1 sort of the decision making powerful committee. But the reality is the only difference a
2 non-FEDCO member and a FEDCO member have is the FEDCO member votes on the
3 item. But everything goes to Council anyway so that non-FEDCO member can have
4 their vote and their say at that time as well.

5 **MR. PETER WARDLE:** And I'm going to suggest to you as well
6 that as I think you've already alluded to, FEDCO typically doesn't meet in August.
7 Correct?

8 **THE HONOURABLE MAYOR JIM WATSON:** That's correct, yes.

9 **MR. PETER WARDLE:** So the July 10th meeting would be the
10 regularly scheduled July meeting of FEDCO. And then FEDCO didn't meet again until
11 September.

12 **THE HONOURABLE MAYOR JIM WATSON:** That's correct. And
13 that's been the tradition for as long as I can remember.

14 **MR. PETER WARDLE:** And I'm going to suggest to you that there
15 were in fact efforts made by staff to ensure that Council was kept informed of the status
16 of the project during that time period when FEDCO was not meeting, correct?

17 **THE HONOURABLE MAYOR JIM WATSON:** That's correct. Yes.

18 **MR. PETER WARDLE:** Okay. And first we have a memorandum
19 to Council on July the 22nd?

20 **THE HONOURABLE MAYOR JIM WATSON:** Correct.

21 **MR. PETER WARDLE:** If we can just turn that up for a moment.
22 It's COW048309.

23 And in fact, if you look at this memorandum, it actually is broader
24 than going to just members of Council; it's also going to members of the Transit
25 Commission, correct?

26 **THE HONOURABLE MAYOR JIM WATSON:** That's right.

27 **MR. PETER WARDLE:** And if we scroll down, this talks about the
28 requirements of substantial completion. Do you see that?

1 **THE HONOURABLE MAYOR JIM WATSON:** Yes.

2 **MR. PETER WARDLE:** And then it outlines the objective of trial
3 running, correct?

4 **THE HONOURABLE MAYOR JIM WATSON:** Correct.

5 **MR. PETER WARDLE:** And then if we go over to the top of the
6 next page, it refers to the trial running review team. Do you see that?

7 **THE HONOURABLE MAYOR JIM WATSON:** Yes.

8 **MR. PETER WARDLE:** And there's a reference to the independent
9 certifier. Do you see that?

10 **THE HONOURABLE MAYOR JIM WATSON:** M'hm.

11 **MR. PETER WARDLE:** And then lastly, in that first sentence -- or
12 first paragraph, "Once RTG has achieved all trial running requirements, staff will inform
13 Council and members of the Transit Commission."

14 So is it fair to say that first, from the FEDCO presentation on July
15 the 10th, and secondly, in this memorandum on July the 22nd, Council was being kept
16 apprised of the status of the project, and specifically about the trial running
17 requirements and that staff would be providing information to Council once RTG had
18 achieved all trial running requirements?

19 **THE HONOURABLE MAYOR JIM WATSON:** Yeah, that's exactly
20 the situation.

21 **MR. PETER WARDLE:** And in addition, as I've just pointed out,
22 this particular memo went beyond Council to members of the Transit Commission,
23 correct?

24 **THE HONOURABLE MAYOR JIM WATSON:** That's right.

25 **MR. PETER WARDLE:** Who were the people who would be --
26 have oversight of the system once launch had taken place, correct?

27 **THE HONOURABLE MAYOR JIM WATSON:** That's right. It was
28 FEDCO at first until the system was operational, and then following September 14th, the

1 operation of the system is by OC Transpo and thus, the Transit Commission. But any
2 issues of construction and infrastructure would still fall within the FEDCO purview.

3 **MR. PETER WARDLE:** So I'm going to suggest that as of this
4 date, July 22nd, both FEDCO and Transit Commission are being kept informed, correct?

5 **THE HONOURABLE MAYOR JIM WATSON:** Correct.

6 **MR. PETER WARDLE:** Okay. And now, if we go to the next
7 memo, COW0451494. Sorry, 1494 -- I don't think this is the right document number.
8 Just give me a second, Mr. Commissioner.

9 **COMMISSIONER HOURIGAN:** Sure. We'll stand by.

10 **MR. PETER WARDLE:** We're looking for the July 27th
11 memorandum to Council.

12 **COMMISSIONER HOURIGAN:** I think we have it. Just stand by.

13 **MR. PETER WARDLE:** Thank you very much. Different document
14 number. Maybe just for the record, I'll indicate it's COW0529052. And again, this
15 memorandum is -- goes to both the mayor, members of Council, and the Chair and
16 members of the Transit Commission. Do you see that?

17 **THE HONOURABLE MAYOR JIM WATSON:** I do, yes.

18 **MR. PETER WARDLE:** So both bodies are being kept apprised as
19 of this date of substantial completion, correct?

20 **THE HONOURABLE MAYOR JIM WATSON:** That's right.

21 **MR. PETER WARDLE:** And then if we go to August the 7th -- and
22 I'm going to ask you to go to -- the document number I have for this, Mr. Commissioner,
23 hopefully this is correct -- is COW01004401.

24 **COMMISSIONER HOURIGAN:** Just describe the document for us
25 and we'll be able to find it.

26 **MR. PETER WARDLE:** It's the August 7th memorandum to
27 Council, 104 ---

28 **COMMISSIONER HOURIGAN:** Okay. We have a different

1 number, so just stand by.

2 **MR. PETER WARDLE:** And Mr. Mayor, this one is to -- this is the
3 regular update, the quarterly update for the second quarter of 2019 from the rail office to
4 Council, correct?

5 **THE HONOURABLE MAYOR JIM WATSON:** That's right.

6 **MR. PETER WARDLE:** Now, if we scroll down to the second page
7 of this, my friend took you to some -- to the section at the top relating to systems vehicle
8 testing and commissioning. Do you see that?

9 **THE HONOURABLE MAYOR JIM WATSON:** Yes.

10 **MR. PETER WARDLE:** And he suggested to you that as of this
11 date, August the 7th, there had been significant difficulties with the trial running process
12 and they weren't referred to in this memorandum. Do you recall him making that
13 suggestion to you?

14 **THE HONOURABLE MAYOR JIM WATSON:** Yes.

15 **MR. PETER WARDLE:** But first of all, you may not be aware of
16 this, Mr. Mayor, but I'm going to suggest to you that there's actually a difference,
17 technically, between testing and commissioning and trial running.

18 So this section that Mr. Adair took you to is actually about testing
19 and commissioning. It's not about trial running.

20 **THE HONOURABLE MAYOR JIM WATSON:** Yeah, I agree.

21 **MR. PETER WARDLE:** And if we go down the page, you'll see that
22 it says clearly to Council, "Key activities to monitor. The following items are required to
23 achieve system operationalization."

24 And then right below that, "Twelve (12) days of trial running,"
25 correct?

26 **THE HONOURABLE MAYOR JIM WATSON:** Yes.

27 **MR. PETER WARDLE:** Let's now go to -- so just stopping there,
28 Council and the Transit Commission had been updated through the presentations in

1 July that we've looked at that -- both in the FEDCO presentation and in the
2 memorandum to Council on July 22nd, that staff were not going to report to Council until
3 trial running had been completed, correct?

4 **--- EXHIBIT No. 241:**

5 COW0483089 – City of Ottawa Memo from General
6 Manager Transportation Services to Mayor and Members of
7 Council et al. 22 July 2019

8 **THE HONOURABLE MAYOR JIM WATSON:** That's right.

9 **MR. PETER WARDLE:** And now we have a memorandum on
10 August the 2nd which essentially says, "This is what's next, 12 days of trial running,"
11 correct?

12 **THE HONOURABLE MAYOR JIM WATSON:** That's right. And I
13 should point out, I think I mentioned it to Commission counsel, there was no objection or
14 motion put forward by any member of Council that they wanted to have more frequent
15 updates on the trial testing. I think there was a level of satisfaction that when I had
16 asked staff to come up with quarterly reports, these quite detailed reports, sometimes
17 five or six pages, in between meetings, was helpful in terms of sharing that information,
18 that knowledge with other members of Council.

19 **MR. PETER WARDLE:** So now I'm just going to very briefly take
20 you to the next memorandum, and that is the August 16th memorandum that Mr. Adair
21 put to you. And I have a document number for this one which is COW0523463, but
22 again, this was a document Mr. Adair did take you to.

23 **MR. JOHN ADAIR:** Mr. Wardle, if you'll just excuse me for one
24 moment, I'll give staff here the document number that they do have. Hold on one
25 second, please.

26 **MR. PETER WARDLE:** Thank you.

27 All right. So it was suggested to you by Mr. Adair that this
28 memorandum, which is dated August 16th, is actually inconsistent with what you'd

1 previously said about the fact that Council had been told that staff would not report on
2 trial running until it was over. Do you recall that?

3 **THE HONOURABLE MAYOR JIM WATSON:** I do, yes.

4 **MR. PETER WARDLE:** But isn't it fair to say, when you read the
5 first sentence of this memorandum, that the primary purpose of the memorandum is to
6 say that you will be holding a briefing next week, right?

7 **THE HONOURABLE MAYOR JIM WATSON:** That's correct.

8 **MR. PETER WARDLE:** And Mr. Manconi's description of what's
9 taking place during trial running is essentially one paragraph, right? It's actually ---

10 **THE HONOURABLE MAYOR JIM WATSON:** Right.

11 **MR. PETER WARDLE:** --- one sentence. And members of
12 Council and members of the Transit Commission who received this memorandum would
13 have understood there's going to be a full briefing a week from now, correct?

14 **THE HONOURABLE MAYOR JIM WATSON:** Yeah. My
15 understanding was that was the point and it would be open to members of the Transit
16 Commission and the media because we couldn't meet without the media present. And
17 this was just alerting people that that briefing was coming up.

18 **MR. PETER WARDLE:** And then on August the 23rd -- and I don't
19 know that we really need to turn it up. I believe Mr. Adair has already covered it with
20 you. There is a further memorandum to counsel, correct, now reporting on the outcome
21 of trial running?

22 **THE HONOURABLE MAYOR JIM WATSON:** Yes. Was that by
23 Steve Kanellakos? If I'm not mistaken ---

24 **MR. PETER WARDLE:** That's from the city manager.

25 **THE HONOURABLE MAYOR JIM WATSON:** Yeah -- Mr.
26 Kanellakos.

27 **MR. PETER WARDLE:** And I have, as usual, several document
28 numbers for this, but one of the document numbers I have is COW0104291. And you're

1 familiar with this memorandum, Mayor Watson, correct?

2 **THE HONOURABLE MAYOR JIM WATSON:** Yes, that's correct.

3 **MR. PETER WARDLE:** And is it not also correct, sir, that on
4 August the 23rd, as promised in the August 16th memorandum, Mr. Manconi provided a
5 briefing to members of council and the media on the outcome of trial running?

6 **THE HONOURABLE MAYOR JIM WATSON:** I believe that was
7 the case. I can't recall if I was there or not.

8 **MR. PETER WARDLE:** So is it not fair to say, then, that first of all,
9 council and the Transit Commission were told in advance that there would be no
10 briefing day by day -- pass, fail, paused, scorecards, et cetera -- during trial running?

11 **THE HONOURABLE MAYOR JIM WATSON:** That's correct.

12 **MR. PETER WARDLE:** And secondly, they were given regular
13 briefings during July and August of 2019, a time period when FEDCO was not sitting for
14 part of that period, correct?

15 **THE HONOURABLE MAYOR JIM WATSON:** That's correct.

16 **MR. PETER WARDLE:** And the briefings, by and large -- not all of
17 them, but by and large, they were going to both FEDCO and to Transit Commission, the
18 body that would be taking on oversight of the project once it was launched, correct?

19 **THE HONOURABLE MAYOR JIM WATSON:** Well, it was to all
20 members of council.

21 **MR. PETER WARDLE:** And some of the memos, as we've looked
22 at, also went to Transit Commission, correct?

23 **THE HONOURABLE MAYOR JIM WATSON:** Yes, that's right.

24 **MR. PETER WARDLE:** And then on August the 23rd, I'm going to
25 suggest to you that not only did members of council receive a comprehensive
26 memorandum from the city manager, but they had an opportunity to question Mr.
27 Manconi about trial running at an open meeting, which was attended by the media.

28 **THE HONOURABLE MAYOR JIM WATSON:** I believe that's the

1 case, yes.

2 **MR. PETER WARDLE:** Do you have any doubt in your mind, Mr.
3 Watson, at this point in time, that council and members of Transit Commission received
4 the information that they needed to carry out their oversight functions at the appropriate
5 time?

6 **THE HONOURABLE MAYOR JIM WATSON:** Yes. I thought the
7 staff did a very good job. There was no movement to have another FEDCO meeting in
8 August. That was never broached by any member of council to me or to the city clerk.
9 And we've seen the number of memos in that short period of time. There was a
10 FEDCO meeting in July, and then post that meeting in July -- I think July 10th -- there
11 were a number of memos that you'd pointed out, until we go back into the rhythm of
12 regular FEDCO and Transit Commission meetings in September.

13 **MR. PETER WARDLE:** And Mr. Adair suggested to you at various
14 times during your testimony that you were getting secret or private information that the
15 rest of council didn't get about the progress of trial running. Do you recall that?

16 **THE HONOURABLE MAYOR JIM WATSON:** I do, yes.

17 **MR. PETER WARDLE:** And he put to you that the first three days
18 were failures and then there was a pause and then there were some successes and
19 then more pause days. Do you recall all of that?

20 **THE HONOURABLE MAYOR JIM WATSON:** I do, yes.

21 **MR. PETER WARDLE:** Isn't the bottom line, Mayor Watson, that
22 as your staff were briefing you on trial running, you eventually learned information to
23 suggest that it was actually going to pass, and ultimately you were told by your staff that
24 the trial running review team -- which was made up of representatives of the
25 consortium, experts, the independent certifier -- had all concluded that RTG had
26 successfully passed trial running?

27 **THE HONOURABLE MAYOR JIM WATSON:** That's correct.

28 **MR. PETER WARDLE:** And isn't that the important information

1 that needed to be shared with council, as it was on August the 23rd?

2 **THE HONOURABLE MAYOR JIM WATSON:** Yes, and it lived up
3 to the commitment that we would report once at the end of the trial testing. And that's
4 exactly what Mr. Kanellakos did with this memo.

5 **MR. PETER WARDLE:** And isn't it also the case, sir, that the fact
6 that RTG may have failed the first three days of trial running and there may have been
7 pauses and restarts has nothing whatsoever to do with the problems experienced by the
8 City of Ottawa in the maintenance period starting in the winter of 2020, and certainly
9 nothing to do with the problems that took place with the two derailments in the summer
10 of 2021?

11 **THE HONOURABLE MAYOR JIM WATSON:** That's correct.
12 That's a fair assessment.

13 **MR. PETER WARDLE:** Thank you. Those are all my questions for
14 you, Mayor Watson.

15 **THE HONOURABLE MAYOR JIM WATSON:** Thank you.

16 **COMMISSIONER HOURIGAN:** All right. Re-examination.

17 **MR. JOHN ADAIR:** Just very, very briefly, Mr. Commissioner.

18 **--- RE-EXAMINATION BY MR. JOHN ADAIR:**

19 **MR. JOHN ADAIR:** Mayor Watson, you have done a heroic job of
20 lasting this long without a meaningful break, so I'm going to get you out of here quickly.

21 Just following up on Mr. Wardle's last set of questions there about
22 the issues that occurred during trial running and the issues that arose after, do you, sir,
23 know specifically what mechanical or other issues were causing failures during those
24 early days of trial running?

25 **THE HONOURABLE MAYOR JIM WATSON:** No, I wasn't given
26 that level of detail.

27 **MR. JOHN ADAIR:** No, no. Sitting here today, do you know?

28 **THE HONOURABLE MAYOR JIM WATSON:** I can just repeat

1 what I've heard: some of the challenges with respect to doors and brakes and the
2 computer system -- I can't recall the acronym for it ---

3 **MR. JOHN ADAIR:** CBTC.

4 **THE HONOURABLE MAYOR JIM WATSON:** Yes, that's correct.

5 And the monitor so that you had to have someone whistle the passage was clear and so
6 on -- clearly those were challenges, and again not what we had bought. In fact, I think
7 the whistleblowers are still there, as a matter of fact. They still haven't resolved that
8 issue. You have this world-class, cutting-edge system and you have a guy with a red
9 vest blowing a whistle every five minutes, so that was one of the issues that I don't think
10 ---

11 **MR. JOHN ADAIR:** Yeah, if we can just come back specifically to
12 my question -- I'm not suggesting that you didn't answer it, but I just want to be very
13 careful about it. I take it you don't know -- take the period, roughly speaking, July 29th
14 through to August 8th, when there were are a lot of bad days. I take it you don't know
15 specifically which issues were arising on those days.

16 **THE HONOURABLE MAYOR JIM WATSON:** No, I wouldn't be
17 able to tell you that.

18 **MR. JOHN ADAIR:** So then how are you able to say that those
19 issues had nothing to do with the issues that came up after revenue service if you don't
20 know what those issues were?

21 **THE HONOURABLE MAYOR JIM WATSON:** Well, I gave you a
22 couple of examples of what I thought the issues were, and a lot of those issues were
23 resolved over the course of several months. But obviously the first derailment and the
24 second derailment were so far away from that period of the revenue testing that there
25 seemed to be a connection between the axle issue and any problems that we had seen
26 with axles in the previous testing. And there were certainly no issues of those bolts that
27 seemed to be holding the pan under the vehicle that dropped out and caused the
28 greater derailment.

1 **MR. JOHN ADAIR:** Let me just ask you about one other topic, Mr.
2 Mayor, and then we'll get you out of here.

3 Mr. Wardle asked you about the City's records management policy.
4 Do you recall that?

5 **THE HONOURABLE MAYOR JIM WATSON:** Yes.

6 **MR. JOHN ADAIR:** Why does that policy exist, sir?

7 **THE HONOURABLE MAYOR JIM WATSON:** I have no idea. It
8 may be a requirement of the provincial government. I'm not entirely sure. I don't have a
9 lot to do with records management, to be honest with you.

10 **MR. JOHN ADAIR:** Does it strike you as reasonable if I suggest
11 that the policy exists so that the communications from council to staff and staff to
12 council and the manner in which decisions are made, among other reasons, those
13 things are recorded for posterity so that if there's ever a reason to go back and look,
14 one can go back and look, in accordance with the records management policy? Does
15 that strike you as a reasonable suggestion?

16 **THE HONOURABLE MAYOR JIM WATSON:** It does, yes.

17 **MR. JOHN ADAIR:** All right. And Mr. Wardle then asked you a
18 number of questions about correspondence between commission counsel and City
19 counsel with respect to document production. Do you recall that?

20 **THE HONOURABLE MAYOR JIM WATSON:** I do, yeah.

21 **MR. JOHN ADAIR:** And you told him, I believe, that you really
22 have no knowledge of that issue in terms of what the back and forth was. Did I get that
23 right?

24 **THE HONOURABLE MAYOR JIM WATSON:** That's correct. I
25 have no inside knowledge of what was asked for and what was given. I got the binder
26 from -- I guess it was prepared by our solicitor, with all of the documents.

27 **MR. JOHN ADAIR:** Mr. Watson, I'm sorry. It's probably best if you
28 don't talk about binders you were given by lawyers; okay? I'm just trying to be

1 respectful of the privilege that the City is entitled to. And I don't think you need to, for
2 the purposes of my question. Just a couple of questions, sir.

3 I take it because you had no involvement in and knowledge of the
4 back and forth between Commission Counsel and City counsel, you don't know one
5 way or the other whether any agreements were made or not made with respect to the
6 production of documents; correct?

7 **THE HONOURABLE MAYOR JIM WATSON:** To the best of my
8 knowledge, nothing like that has ever come across my desk in the last several weeks.

9 **MR. JOHN ADAIR:** So the answer is you -- in fact, it's correct that
10 you don't know whether an agreement was made or not made, or if one was made,
11 what's in it? You don't have any knowledge?

12 **THE HONOURABLE MAYOR JIM WATSON:** That's correct.

13 **MR. JOHN ADAIR:** And just lastly, sir, you're not giving evidence
14 today, I take it, that the reason the WhatsApp was not produced is because of some
15 agreement that may or may not have been made and you have no knowledge of?
16 You're not saying that, are you?

17 **THE HONOURABLE MAYOR JIM WATSON:** I've had no
18 agreement with anyone on any information provided to the Commission whatsoever.
19 You know, my understanding is if information like that was requested, then our counsel
20 would provide that to you. And that's why I received the binder with -- I'm not sure why I
21 can't mention there's a binder with all of the WhatsApp on it, but that's sitting in front of
22 me here and it's -- I understand it's up on your website. So it's in the public domain.

23 **COMMISSIONER HOURIGAN:** Mr. Mayor, counsel is trying to be
24 respectful of you. When you get information from a lawyer and there's communications
25 and then they're covered by privilege, and he's trying to ensure that you don't say
26 something that you might regret, get into detail that we shouldn't know about that.
27 That's all. Just -- there's no mystery here. Okay?

28 **THE HONOURABLE MAYOR JIM WATSON:** Okay. Thank you.

1 **MR. JOHN ADAIR:** Mr. Mayor, thank you very much. Those are
2 all my questions for you.

3 **COMMISSIONER HOURIGAN:** All right, Mr. Mayor. Thank you so
4 much for testifying today. It was very helpful to the Commission and its mandate.
5 You're excused.

6 We're down until 9:00 o'clock on Monday. Thank you.

7 **THE HONOURABLE MAYOR JIM WATSON:** Happy Canada
8 Day.

9 **THE REGISTRAR:** All rise. The hearing is now adjourned for the
10 day and will resume on July 4th at 9:00 a.m.

11 --- Upon adjourning at 7:36 p.m.

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13

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C E R T I F I C A T I O N

15

16 I, Wendy Clements, a certified court reporter, hereby certify the foregoing pages to be
17 an accurate transcription of my notes/records to the best of my skill and ability, and I so
18 swear.

19

20 Je, Wendy Clements, une sténographe officiel, certifie que les pages ci-hautes sont une
21 transcription conforme de mes notes/enregistrements au meilleur de mes capacités, et
22 je le jure.

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