



Transcript of Proceedings

CRIME AND MISCONDUCT COMMISSION

MR R NEEDHAM, Chairman

No 5 of 2005

PUBLIC HEARING INTO GOLD COAST CITY COUNCIL

BRISBANE

..DATE 10/11/2005

..DAY 15

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THE HEARING RESUMED AT 10.23 A.M.

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EDDY SARROFF, CONTINUING EXAMINATION:

MR DEBATTISTA: Good morning, Mr Chairman, I might announce my appearance if that's convenient to the Commission. I appear in this matter on behalf of Councillor La Castra and at this stage I'm directly briefed.

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CHAIRMAN: Thank you.

MR DEBATTISTA: Thank you.

WITNESS: Good morning.

CHAIRMAN: You're still on your former oath, Mr Sarroff?-- Thank you.

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MR RADCLIFF: Councillor, I was dealing yesterday with the rates position concerning the Sunland Group or, more appropriately stated, the company Calm River I think it's called. You were given a document by me yesterday?-- Mr Chairman, I can't hear.

I'm sorry, I'll try and speak up?-- If you can raise your voice.

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Now, Councillor Sarroff, we were speaking yesterday about the Sunland rates matter and you were given a document by me that was provided to me by the Council. Have you had an opportunity of considering its contents?-- Yes, I have, Mr Chairman.

Do you adopt the contents of that document as being the correct procedure that's undertaken by the Council in these matters?-- This is correct.

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I don't know if I tendered that document yesterday.

CHAIRMAN: It's Exhibit 203, Mr Radcliff.

MR RADCLIFF: Let's include this rates circumstance by dealing with it in this manner. Councillor, the Mayor was approached by Mr Sahiel Abedian and the Mayor came to the finance committee in respect of this very issue, didn't he?-- Yes.

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And he explained to the finance committee Mr Abedian's philosophy in relation to discounts, that he always pays on time in order to maximise that benefit for his companies, can you recall that?-- Not exactly, but it could have been said.

He also produced to the finance committee a summary of the Sunland Group historical rates payments, can you recall that?-- No, I don't.

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Can you recall that he explained that there were \$1,891,000 or thereabouts worth of rates that had been paid by the Sunland Group and they'd always been paid on time, can you recall that?-- I recall stating yesterday that I believe that was an issue that was raised and I couldn't recall exactly who made that statement.

And it was also disclosed to the finance committee and to the Council that in respect of Calm River there had been 21 pieces of correspondence that had been delivered from the Council to Calm River Pty Ltd over a period from April 2002 to January 2004, can you recall that? Can you recall that there was only one piece of correspondence that was not sent to PO Box 1301, Surfers Paradise, by the Council?-- I recall there was discussion in relation to where the correspondence went and-----

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And the one piece of correspondence that was not sent to the post office box of this company was in fact the rate notice, can you recall that?-- It may have been mentioned. I recall there was some discussion in relation to that.

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Can you recall also that there was the tendering of a letter from the Falcon Group to the Gold Coast City Council to explain the non-delivery of the rates notice?-- I don't recall that.

Would you look at this document, please? Sorry, I don't have copies?-- Thank you.

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Keep that document there. Can you recall seeing that document before?-- No, I don't.

The substance of the letter, for those who don't have copies, the rates - it's a letter from the Falcon Group - the rates notice addressed to Calm River Pty Ltd, at Level 18 50 Cavil Avenue, Surfers Paradise. "We believe the rates notice was delivered to our office, but we did not recognise the name Calm River. Unfortunately, by the time the letter was redirected to Sunland through the internal building management it was too late for Sunland to pay the discount rate." That's what it says, doesn't it?-- I guess.

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And that was the explanation that was given to the finance committee and to the full Council?-- That was one explanation.

Yes?-- In-----

Well, was it given - no, was that explanation given to the finance committee and the Council?-- Look, my recollection is there were some arguments put forward to support-----

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Is the answer yes or no?

CHAIRMAN: Just-----

WITNESS: The answer is to the best of my knowledge-----

CHAIRMAN: He's answering the question.

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MR RADCLIFF: All right?-- To the best of my knowledge there was discussion. The exact details of that discussion I can't recollect.

I will tender that letter. That I recognise that the witness hasn't adopted it.

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CHAIRMAN: It's all right, we're not bound by the rules of evidence.

MR RADCLIFF: No, no.

CHAIRMAN: It's Exhibit 204.

ADMITTED AND MARKED "EXHIBIT 204"

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MR RADCLIFF: Thank you. And-----

CHAIRMAN: Just so I can understand it, Mr Radcliff.

MR RADCLIFF: Yes.

CHAIRMAN: Are you suggesting the fact that the company didn't recognise the name of its own company is a circumstance beyond the control of the Sunland Group?

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MR RADCLIFF: No, the facts are this. The Falcon Group is not associated with the Sunland Group at all, it's a neighbour, it's on the same floor.

CHAIRMAN: So what?

MR RADCLIFF: It was in no way related to any of the Sunland companies.

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CHAIRMAN: Well-----

MR RADCLIFF: It received the rate notice, not any of the Sunland companies.

CHAIRMAN: Yes, and Calm River was the owner of the property-----

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MR RADCLIFF: Yes.

CHAIRMAN: -----and was the party that was responsible-----

MR RADCLIFF: Yes.

CHAIRMAN: -----for payment of the rates.

MR RADCLIFF: Yes, that's right.

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CHAIRMAN: The people who ere running Calm River didn't recognise the name of their own company therefore did not realise that it was a rates notice that they should pay-----

MR RADCLIFF: No, with respect, that's-----

CHAIRMAN: -----and therefore didn't pay it.

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MR RADCLIFF: No, with respect, that's not the case. The rates notice did not go to Calm River. It went to-----

CHAIRMAN: Well, with respect, it went to the address that was given to the Council at the time that Calm River bought the property.

MR RADCLIFF: That may well be the case.

CHAIRMAN: Well, that's what the documents show.

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MR RADCLIFF: Yes, yes. But this letter that you're about to see is from the next door company and a different company completely.

CHAIRMAN: A company that you now tell me is not responsible for paying the rates.

MR RADCLIFF: It's not anything to do with the Sunland Group at all.

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MR WEBB: It's a stranger.

MR RADCLIFF: It's a stranger, yes.

CHAIRMAN: Who's the stranger?

MR RADCLIFF: The Falcon Group, the author of this letter you're about to see. It received-----

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MR MULHOLLAND: Well, with respect, that's not what the letter says. The letter say, "We believe, the rates notice was delivered". That's all the letter says.

CHAIRMAN: Well, the rates notice was addressed to Calm River-----

MR RADCLIFF: Yes.

CHAIRMAN: -----Pty Ltd.

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MR RADCLIFF: Yes.

CHAIRMAN: Now correct me if I'm wrong, but I thought Calm River Pty Ltd was the registered owner of the property-----

MR RADCLIFF: Oh, it is.

CHAIRMAN: -----the subject of the rates.

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MR RADCLIFF: Yes, it is.

CHAIRMAN: And that's a perfectly appropriate address for the council to send the rates notice to, is the address that is given by Calm River when it notifies the council that it has purchased the property.

MR RADCLIFF: I don't cavil - I don't cavil with that.

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CHAIRMAN: That section whatever - that form, whatever it's called these days that one sends.

MR RADCLIFF: Yes. No, I don't cavil with that at all.

CHAIRMAN: So the council sent it out to the address that Calm River has given them.

MR RADCLIFF: Yes.

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CHAIRMAN: And it was delivered to the-----

MR RADCLIFF: That address.

CHAIRMAN: -----that address but some stranger group, you're now telling me, says that that stranger group did not recognise the name, Calm River.

MR RADCLIFF: Yes. They got the rate notice not any of the Sunland Group of Companies and they-----

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CHAIRMAN: But why is this taken to be something beyond the control of Calm River?

MR RADCLIFF: It's not taken-----

CHAIRMAN: If the systems within the organisation of the company are so poor that they do not know when a rates notice is delivered to them. Why is that something beyond the control of the company? I would have thought the company should have some system in place-----

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MR RADCLIFF: The relevance-----

CHAIRMAN: -----that enables them to realise that its received a rates notice and to pay it.

MR RADCLIFF: The relevance of the letter is that it is one of the factors that were taken into consideration both by the finance committee.

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CHAIRMAN: I'd have no doubt that's so. It was to whether it was a proper factor is a totally different question.

MR RADCLIFF: Yes.

CHAIRMAN: But anyway, look, it's \$13,000 or something. I don't want to spend a lot of time on it.

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MR RADCLIFF: No, no, no, I've just about finished on the point.

CHAIRMAN: I don't think we're going to die in a ditch over this matter.

MR RADCLIFF: All right.

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MR NYST: Could I get copies of that exhibit in due course.

CHAIRMAN: Certainly.

MR WEBB: Could I see the exhibit if you're finished with it, Mr Chair.

MR RADCLIFF: I'll provide copies - whatever copies, I can in a moment. And-----

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CHAIRMAN: But we can get copies made during the morning.

MR RADCLIFF: I'll try and avoid clogging the record with other exhibits and see how this goes. Subsequently the discount was approved by the full council?-- Correct.

And a sum for \$15,236.28 was sent to the Sunland Group Limited by the council; do you agree with that?-- It was approved and it would have been issued, the cheque with it.

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And a cheque was sent to Sunland Group for that sum; yes?-- Yeah, whatever the sum is-----

Yes?-- -----that's outlined in the agenda.

And then the Sunland Group, in turn, delivered a cheque to the Gold Coast City Council in the same sum identically as a donation to the Mayor for his - for a charity of the Mayor's choosing?-- What's the relevance of that?

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Well, is that the case - did that occur?-- I believe that did take place at a later stage.

Thank you. Do you want to see documents about that or are you satisfied that-----?-- No, I'm satisfied.

But a cheque went to Sunland for the discount and then a cheque came back to the council for the identical sum as a donation to the Mayor's charities?-- My belief, sir.

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Thank you. Now, Mr Sarroff, can I deal now, for a moment, with your involvement in evidence which relates to my client's - excuse me; evidence which relates to my clients holding a certain function and your communication with Mr Young about that? Can you recall that in a document that we'll all seen which colloquially we'll call Mr Young's dossier. Mr Young talks about my client conducting a function at which \$50,000

was raised. You've seen that allegation, have you?-- I'm aware of it.

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Do you want to read that paragraph again to refresh your mind as to what was said?-- I'm - yes, if you want to provide it.

Could the witness please see this document? I only draw your attention to the last paragraph on this page; I'm asked by Mr Nyst which page it is. It's the 10th page - the foot of the 10th page.

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CHAIRMAN: I don't think they're numbered, are they?

MR RADCLIFF: No, they're not.

CHAIRMAN: No. I wish people would number pages.

MR RADCLIFF: It starts - the paragraph starts, "Recently Mr Shepherd held a function" and it includes there - the words, "There is certainly a public perception that this might occur". You've read that, have you?-- I've read it.

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All right. Now this information came to be published in that document in a censored version to a number of people, including members - councillors, but it was also published in an unexpurgated version to the Minister for Local Government. Tell me, were you a party to Mr Young having stated the matters that are set forth in that paragraph?-- I can state that it was brought to my attention that a fund raiser was held. I can't recall the amount of 50 or 30,000 was raised but I certainly recall it was a substantial amount of funds that were raised and I did discuss that matter with Councillor Young.

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You discussed it with Councillor Young. Now-----

CHAIRMAN: Mr Radcliff, I'm a little bit hesitant here. Is this relevant to the Terms of Reference or are you just assisting someone in a defamation action that I've seen in the press that's been brought against Mr Young.

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MR RADCLIFF: No, I'm absolutely not.

CHAIRMAN: I wouldn't like to think that this process here is being used as a means of finding a second defendant in a defamation action.

MR RADCLIFF: That wasn't the purpose of my question, and I'm aware of the matters which you raise. However, this goes to the veracity of that document and a number of allegations that are made in relation to it. I am not searching for defendants.

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CHAIRMAN: All right. Well, I-----

MR RADCLIFF: And I can assure you of that.

CHAIRMAN: I will let you continue-----

MR RADCLIFF: Thank you.

CHAIRMAN: -----but I will be watching.

MR RADCLIFF: Yes, thank you for-----

WITNESS: Mr Chairman, can I just interject. Given I don't have a lawyer present here, and in view of the statement you made, I just wonder whether it is appropriate for me to claim legal privilege.

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CHAIRMAN: This isn't a matter you can claim legal - that you can claim privilege against self-incrimination because it's not asking you about something that would be a criminal offence. I was concerned as to whether evidence was being sought that you were a party to a publication of a document upon which someone, as I understand just through media reports, is presently suing. Now, I just raised with Mr Radcliff that issue and so we will proceed for the moment and see where it leads?-- Thank you.

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MR MULHOLLAND: Mr Chairman, just before we do proceed, as I understand it from what the witness has said so far there's no personal knowledge that he has referred to, that is he has spoken to Mr Young about it. Now, in those circumstances, if this is being suggested as an attack upon Mr Young because of what Mr Young has alleged, then that's an attack which can be mounted against Mr Young not against this witness.

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And although this is not a Court of law, in a Court of law one is not allowed to attack one witness through another witness in relation to the person's credibility only. If it is more than that, it is a different matter but so far, from what Mr Radcliff has said, he hasn't made it clear that it is more than that.

CHAIRMAN: Indeed, I agree totally with that. That's why I said I will be watching the next few questions and I will ask you to do the same.

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MR RADCLIFF: I should point out before going any further that my client has no proceedings in relation to a defamation at all.

CHAIRMAN: But to be fair, you have asked a number of questions that relate to people other than your client and you've made objections at times on matters that didn't relate to your client, so I'm aware of that.

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MR RADCLIFF: Yes. I have attempted to constrain myself, as you well know.

CHAIRMAN: Yes.

MR RADCLIFF: I'm aware of the difficulty with respect to this. I am merely trying to ascertain-----

CHAIRMAN: Well, just continue and we will see where it leads. 1

MR RADCLIFF: Thank you. Councillor Sarroff, I'm trying to ascertain the source of that information. You told Mr Young certain things about the matters in that paragraph, did you?-- I conveyed to Councillor Young information that was brought to my attention by another councillor.

Well, what - first of all, what did you tell Councillor Young?-- I said to Councillor Young that----- 10

CHAIRMAN: What is the relevance of this to our Terms of Reference?

MR RADCLIFF: Well, the relevance is that it will go to show that this ultimately - and it's a matter that perhaps should be said in the absence of the witness - but the source of this is really school yard whispers. It's hearsay upon hearsay upon hearsay. 20

CHAIRMAN: Well, you know, your client will presumably illuminate us-----

MR RADCLIFF: Yes, yes.

CHAIRMAN: -----as to the true situation at an appropriate time.

MR RADCLIFF: Yes. 30

CHAIRMAN: If you know - this witness is saying he's heard things. If there's anything that you think he would factually be aware of, you can put it to him-----

MR RADCLIFF: Yes.

CHAIRMAN: -----and get his comment on.

MR RADCLIFF: Yes. 40

CHAIRMAN: But - or you can put the suggestion to him that he knows nothing about this except rumours, gossip that he's heard around town. That's fine.

MR RADCLIFF: Yes, I'm happy with that. I'm happy with that.

CHAIRMAN: You can do it that way.

MR MULHOLLAND: Mr Chairman, unless it is being suggested that the witness contributed in some way to this particular paragraph, then it's difficult to see that this line of questioning is appropriate. 50

CHAIRMAN: Well, I would prefer Mr Radcliff to go away from this document and just to address the issue of the fundraising by Councillor Shepherd and his knowledge of it and that all he knows of it, perhaps if this is your suggestion, comes merely from gossip around the time.

MR RADCLIFF: Yes, that's fine.

CHAIRMAN: And you can deal with it that way. You don't have to deal with it with this document at all.

MR RADCLIFF: No. Well, only to refer him to the fact that I need to address - and he's done that. He's identified that. You don't need to refer to that document any further. You've had a conversation now with Councillor Young where you told him certain things.

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CHAIRMAN: No, we don't need to refer to any conversation with Councillor Young.

MR RADCLIFF: What was your source of that information?-- The source was Councillor Molhoek.

Yes. And what did Councillor Molhoek tell you?-- I beg your pardon?

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What did Councillor Molhoek tell you?-- Councillor Molhoek outlined some concerns in relation to the amount of funds that are being raised and basically expressed that opinion to myself.

Right. Did Councillor Molhoek tell you what his source of this information was?-- I can't really elaborate on that except to say that he - he appeared to be confident that he had a reliable source. That's all I could say on that. I mean, that's the best of my recollection.

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Did he tell you that he had heard rumours about this function?-- No, he - he didn't tell me it was a rumour. He was told me this was a fact.

He told you it was a fact, did he? You're sure about that?-- Look, to my - my - best of my recollection, the discussion centred around the - this fundraising, that it did take place and there was a substantial amount of funds that were raised.

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So he - well, I would suggest to you that what he did is he spoke to you about rumours about Councillor Shepherd's function?-- Well, Mr Chairman, I think I answered that and-----

CHAIRMAN: Well, you're saying he didn't use the term "rumours"?-- No.

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MR RADCLIFF: You said it was fact.

CHAIRMAN: He just told it to you as if it was a fact.

MR RADCLIFF: You say that he alleged that - or he said to you that this was a fact that my client had conducted a fundraising function attended by 200 guests. Now, is that what he said to you?-- I don't recall the number of guests,

whether it was 200. I recall he said there was a fundraiser and a substantial amount of money was raised.

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A fundraiser. What other facts did he say? A fundraiser and a substantial amount of money was raised, that's all?-- I - look, I - to the best of my knowledge that was the important point that I took from the discussion and I can't be very specific about elaborating on that discussion.

So Molhoek spoke to you and said there was a fundraiser and a substantial amount of money was raised. Did he give you any other fact?-- No.

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Did he tell you anything else about this fundraiser?-- No, I didn't ask.

Now then, did you pay that same information on to Mr Young?-- In discussion I have, yes.

What did you say to Mr Young?

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CHAIRMAN: Well, is that relevant?

MR RADCLIFF: It goes to the veracity of this paragraph.

CHAIRMAN: Sorry?

MR RADCLIFF: It goes to the veracity of this paragraph.

CHAIRMAN: Well, as Mr Mulholland said - and I know we're not bound by the rules of evidence - but even if he passed on what he knows you now know the best that he could pass on to Mr Young.

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MR RADCLIFF: Yes, is that.

CHAIRMAN: Mr Young will be our next witness, I understand.

MR RADCLIFF: Yes, I hope so. Did you have another - sorry?

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CHAIRMAN: Oh, I'm wrong again.

MR WEBB: No, no. I just told my instructor to stay out of this, he's not running the show.

CHAIRMAN: I'm certainly not.

MR WEBB: That's Mr Mulholland - producing witnesses. I didn't mean disrespect by that as you know.

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CHAIRMAN: It's all right, Mr Webb.

MR RADCLIFF: Councillor Sarroff, after you've had your conversation with Mr Molhoek then your conversation with Mr Young did you in fact then have another conversation with Councillor Molhoek when you - to verify what you'd told Mr Young?-- I may have had another discussion with him. We have adjoining offices and we do touch base from time to time.

So there was a second conversation with Councillor Molhoek about the Shepherd fundraiser?-- I didn't say - I said we might have had a follow-on discussion.

Can you think back?-- No.

You don't know or-----?-- Oh, I can't with certainty confirm that.

See, I suggest that you went back to Councillor Molhoek and asked him again to verify what he'd told you, do you recall that?-- You're suggesting that.

I'm suggesting that, yes?-- Well, good on you.

CHAIRMAN: No.

MR RADCLIFF: No.

CHAIRMAN: It's a matter where Mr Radcliff can have an obligation to put to you what his instructions are. It's giving you the opportunity to agree with it or to disagree or to say you don't know, whatever, that's all it is. So just take his question and just answer it. Do you remember whether that happened or what's the situation?-- I - I can't with certainty remember whether I went back to Councillor Molhoek and said, "Councillor Molhoek, this is an important issue. There's a CMC inquiry under way, I think this is relevant." I might have, but I can't with certainty say I did that.

Right.

MR RADCLIFF: Can I put this in context. Molhoek talks to you very shortly after the Shepherd function, if I can call it that, and tells you about the function and a substantial sum being raised. You then talk to Young. Within a very brief period I'm suggesting to you you went back to Molhoek and asked him to confirm what he said to you, can you recall that?-- Not with certainty.

I suggest to you that you did have that conversation with Molhoek and on the second occasion Molhoek informed you that his information was just based on scuttlebutt and rumours, can you recall that?-- No.

You can't recall that?-- No, and it certainly would have been something that I would have felt important to go - no, I don't recall that.

So you don't recall it or it didn't occur?-- I don't recall that.

MR MULHOLLAND: Pardon me, Mr Chairman, before this witness - before this witness goes on to answer the question. He's being asked about a conversation that he had with Mr Molhoek. Now, this morning the Commission has received from Mr Molhoek some additional information, included in which is this

paragraph which doesn't appear to be accurately represented in the questions just put. What he says is this, "Several days later Councillor Sarroff approached me in the hallway to ask if I had been able to substantiate any of the information regarding Councillor Shepherd's function. I indicated that I had not spoken to anyone directly involved, but believed there may be some substance to the rumours, but I had no evidence to substantiate the information." Now, that is what - I don't know whether my learned friend had different information than that, but if that is the information then it ought to be accurately put to the witness.

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MR RADCLIFF: I was - I thank my friend for that. I was in the process of getting to that, I was going to put the whole paragraph to the witness.

CHAIRMAN: Your paraphrase wasn't perhaps as accurate as it could have been.

MR RADCLIFF: No, no.

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CHAIRMAN: All right.

MR RADCLIFF: All right. Well, I'll put precisely what I understand the-----

CHAIRMAN: Yes, thanks.

MR RADCLIFF: To help you again. Molhoek has a conversation with you shortly after the Shepherd function and tells you two facts - I've identified those. You then tell Young that. I've suggested to you that you then have another conversation with Molhoek shortly after that and I'll read it to you - the same paragraph as my learned friend Mr Mulholland has just explained. Councillor Molhoek says, "Several days later Councillor Sarroff approached me in the hallway to ask if I had been able to substantiate any of the information regarding Councillor Shepherd's function." I'll pause there. Did that occur?-- As I said before, to the best of my knowledge I couldn't confirm that, but if Councillor Molhoek is saying that I don't doubt that did take place.

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I'll ask again?-- Mr Chairman, we're talking about-----

CHAIRMAN: Well, he's answered it that he's-----?-- -----discussions that we had in the hallway. We can have a million discussions in a day in a hallway. It still didn't take away from the fact that there was a function, there was fundraising and there was concerns raised in terms of why there's a fundraiser happening now when we haven't even cleared the air with what happened in March '04. So-----

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Well, that's a different issue that's going on beyond what you've been asked?-- Mmm.

MR RADCLIFF: I'll finish this line of questioning. I put it to you that that conversation did occur and in that

conversation Councillor Molhoek said that he indicated that he had not spoken to anyone directly involved but believed there may be some substance to the rumours but that he had no evidence to substantiate the information. Did he say that?-- I have to take it now that I've heard this being stated that it is possible that he has said it. I can't confirm it with absolute certainty.

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He then went on to say that the information that he had, which was your source of information, was based only on office scuttlebutt and rumours?-- No. Mr Chairman, I don't recall that.

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You don't recall. Yes, Councillor Shepherd sought to clarify this matter in the Full Council, didn't he?-- I believe he made a statement in Council.

Yes. Yes, he made a statement in Council. Did you make any comment in relation to that statement that he made in Council?-- Again, from memory, I did pose a question as to whether Councillor Shepherd would be prepared to reveal who were those that attended this fundraiser and whether there were developers that had applications pending in Council. That's to the best of my knowledge.

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Did you explain in open Council, in the full Council meeting, your understanding and your knowledge of the facts?-- Did I explain, did you say?

Yes?-- Again, my memory - if my memory serves, Councillor Shepherd attempted to clarify that there was a function and I believe there's - the argument was in relation to the quantum that was collected through that function, so I don't believe that he denied that there was a function.

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No?-- And I don't think I had an obligation to clarify anything further.

So your answer is no, you didn't?-- I just posed a couple of questions to Councillor Shepherd.

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But you didn't explain in full Council what your knowledge of the facts were?-- From memory, Mr Chairman these were - might have been questions on-----

CHAIRMAN: Why would you expect him to explain in Council his full knowledge when he had no knowledge apart from what he'd heard?

MR RADCLIFF: I won't take it any further. There's no point.

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WITNESS: Mr Chairman, there were questions on notice, as I recall. So you put a question on notice, and that normally commands an answer at a later stage.

MR RADCLIFF: Mr Sarroff, I'm now going to deal with a couple of issues that are contained in your statements of evidence

that you provided to the Commission. I don't know if you've got copies of them. Do you?

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CHAIRMAN: In the transcripts, you mean?

MR RADCLIFF: The transcripts of his statements.

WITNESS: If you can refer to it-----

MR RADCLIFF: Yes?-- If you can refer to it-----

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Yes, you've got them. Yes, all right?-- I've got the transcript.

Yes. There are a number of transcripts. If you go to the first one we come to and go to page 5 of 17. This is a statement which you've given to the Commission in November this year. At line 136 down the side, do you see it. You were asked the question by the interviewer-----?-- Yes.

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"You consider yourself to be an independent councillor?-- Yes, yes." Do you see that?-- Yes, correct.

That's not always been the case. Is that - Councillor Sarroff?-- Absolutely the case as far as I'm concerned.

You were shown an article yesterday from the Gold Coast Bulletin of 26th March 2004. I'll show you another copy of it. I have copies of this. This has already been tendered. I think it's 4 of-----

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CHAIRMAN: Yes. Full version of number 32 of Exhibit 3.

MR RADCLIFF: Once again the photographs are relevant more so than anything else.

CHAIRMAN: What I'll do is I'll make these as part of Exhibit-----

MR RADCLIFF: 3.

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CHAIRMAN: -----3.

MR RADCLIFF: Yes.

CHAIRMAN: This will be sort of attached to number 31 in that.

MR RADCLIFF: Councillor Sarroff, that's - the photograph, if we deal with that for a moment. You seem to be in the photograph depicted to be the spokesman?-- Yes, correct.

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Is that the case?-- Yes.

Yes. As we look at it, to your right is Councillor Young?-- Correct.

To your left is Councillor Crichlow?-- Correct.

You'll have to help me with the rest of the people in the photograph, perhaps starting from the woman on the extreme left with the broom; who is she?-- Linda Brown.

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And what was her situation; what is her role in the elections?-- Linda was a candidate.

For which division?-- Division 11.

Yes. And next to her, the gentleman with the short-sleeved shirt?-- Don Magin.

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CHAIRMAN: Don - can you say that again?-- Don Magin.

Magin?-- Our candidate in-----

MR RADCLIFF: I'm assisted by the counsel assisting. If you look in the last column, if we look at the paragraph starting, "Yesterday's press conference," there is a list of people who are there. We might continue the way that we are. You've identified Don Magin. Is the next person Karen Coates?-- Correct.

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Was she also a candidate at the elections?-- Correct.

Peter Keech, is he the person standing behind Councillor Crichlow?-- Correct.

Was he a candidate at the election?-- Correct.

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The person standing behind you, is that John Wayne?-- Correct.

Was he a candidate at the election?-- Correct.

The person standing almost behind Councillor Young, who is he?-- I don't recall his name.

Is he Guy Jones by chance?-- That's correct, going by the article there.

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CHAIRMAN: Well, do you know or are you just assuming because of his name in the article?-- Having seen the name, I associate it with that person, individual.

MR RADCLIFF: Yes. And the person standing beside him, that is to the extreme right of the photograph, is that Jill Pead?-- That's correct.

And just going back a moment, Guy Jones and Jill Pead were both contestants for the election against Councillor Shepherd, were they not?-- Correct.

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Yes. And the person sitting to the right of Councillor Young is Suzie Douglas; is that right?-- Correct.

And she is a councillor or was a councillor then?-- No, she was elected.

She was a candidate for election?-- She was a candidate.

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And the person sitting next to her is Anne Bennett; is that correct?-- I just - yeah, that's correct.

And-----

CHAIRMAN: Did you know her or-----?-- Anne Bennett was an ex-Council employee working under Mr Montgomery.

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I see.

MR RADCLIFF: So, apart from those that you've identified before, the three councillors, the rest were candidates for the election?-- Correct.

And did you provide any support to any of those people in relation to their campaigns?-- And what do you mean by support?

20

Support in any fashion, either by kind or by donation?-- Kind or?

By kind or by donation of funds?-- No, no - there might have been some questions asked in terms of what are the issues that some councillors - some candidates might have asked me and that would be probably the extent of any discussions we might have had.

How did this group come to be together on this one day?-- That's a good question. This press conference was called after several months of rumours of a trust fund that is being put together to assist hand-picked candidates. The reason the group came together, because there was community concern in relation to the amount of funds that are being raised, and there was concerns raised in relation to who's receiving those funds.

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Yes?-- And when it became public knowledge that there was a trust fund that has been established, these candidates felt that it's important that they come forward and call on other candidates to reveal the source of their donations, and their whole thrust of this gathering wasn't to form a party, was to say we are standing in the election and the community is entitled to know if there's big money being raised to fund certain candidates and the challenge of this meeting was for all candidates to come forward and reveal the source of their donations.

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You were - who called the group together?-- From memory, I might have called one or two of the candidates. Councillor Crichlow might have called one or two and I - it was a word of mouth. It was probably fair to say there was quite a lot of discussion going on amongst all candidates in relation to what's transpired and that's why these people came together.

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This was - and the article that's been held up by Mr Wayne and the other gentleman in the background, the "King maker"; is that the article about Brian Ray, is it?-- That is correct.

1

Is it?-- That's correct.

Yes. So you've come together as a group, united against this group that have been supported by Mr Ray, let's say?-- I don't believe that is correct. I believe the community was demanding to know whether all these rumours that have been denied for several months were actual facts and if there was funding, the community was entitled and were demanding to know where that funding was coming from and all of these candidates had no problem in coming forward and revealing their source of funding and, by the same token, putting the challenge specifically in relation to the trust fund which was the major concern.

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I think you said a few moment ago, and you can correct me if I'm wrong, but you say that this group came together to form a party against the group-----?-- I don't believe I said they came-----

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I may have misunderstood you so-----?-- Yeah, you misunderstood me.

All right. But, in any event, this was an united group against those who were receiving - who were being - or you perceived to have been receiving benefits from the Ray Group, if I can call it that?-- If it was a united group-----

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Yes?-- -----they would have stood up and said, "We are a united group"-----

Yes?-- -----"and these are our policies". This was a reaction to what has been going on for the past several months and, particularly, the weeks leading into the election.

Excuse me for a moment. And, in fact, a number of these candidate came to participate and to come together under a united banner, didn't they?-- Not to my knowledge. Some may have.

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Yes?-- I certainly wasn't part of that group if there was a group.

Yes. I'll ask you to look at this document, please. This is an advertisement that was placed in the Gold Coast Sun Newspaper shortly prior to the election?-- And your question?

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You've identified a number of people in this most recent advertisement as people who were participating in this forum that's identified in the photograph?-- Correct.

Yes. In fact, Magin, Jones, Brown, Wareing and Coates, all seem to have been at this one meeting and they've now united to present this one advertisement?-- But you're-----

CHAIRMAN: Well, no-----

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WITNESS: He failed to-----

CHAIRMAN: No, you can't make that suggestion. We don't know, at this stage, you can put it if you know, because I don't certainly don't know who it was who put this in.

MR RADCLIFF: No, no, no.

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CHAIRMAN: If these people put it in-----

MR RADCLIFF: Mmm.

CHAIRMAN: -----then it's good evidence of that.

MR RADCLIFF: Yes.

CHAIRMAN: But if, in fact, someone else put it in, then it's not evidence-----

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MR RADCLIFF: Well, I'm inquiring-----

CHAIRMAN: -----that these people came together as a team.

MR RADCLIFF: Yes. I'm inquiring about that and I'll keep going.

CHAIRMAN: Okay. But be careful what you put to him-----

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MR RADCLIFF: Yes, I will.

CHAIRMAN: -----if you don't know.

MR RADCLIFF: The advertisement is headed, "Concerned ratepayers of Gold Coast Inc"; do you know anything about that association?-- I'm aware of the association. I'm aware of some of the issues.

All right. Who is the Gold Coast - sorry, concerned ratepayers of Gold Coast Inc; who is the - who are the people who are in that association?-- Mr Chairman, I'm going to respond to it by referring to the authorisation by Kevin Oliver. Kevin Oliver is a ratepayer in my division. He was concerned - had concerns in relation to the escalating rates and I, therefore, take it that this group is a group that has formed or these people have some concerns in relation to the rates.

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Yes?-- I have - it's not a group that I have kick started. They're a group of residents and-----

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I wasn't asking that. I just asked who was - do you know who is behind or who are the members of this incorporation?-- I can't give you exact knowledge of-----

You said, Kevin Oliver. Who is he?-- Kevin Oliver is a ratepayer, a senior citizen in my division-----

Right?-- -----who had expressed some concerns over a period of time in relation to council's rating structure.

Do you know any of any other members of this association?-- I believe Karen Coates was involved with that group at some stage.

All right?-- I'm aware that Irene Wareing was involved in that group.

Yes, yes?-- And, Mr Chairman, I say that because there were some public meetings which were held specifically to address the rating structure and, in my position as chair of finance, they called upon me to elaborate and explain about the current rating structure and what was proposed in future.

So you know that Mr Oliver is a member of this association. You say that Mr - that Irene Wareing is a member of the association and Karen Coates is a member of the association. Anyone else?-- I don't say that - with certainty that they are members of the association but they have been present at that public meeting that I attended. I believe, at one stage the Mayor attended that meeting. I spoke and the Mayor spoke and the main discussion was in relation to the rates.

Yes. And-----?-- And those people were present from memory.

See the name Linda Brown, was she a member of that association?-- Mr Chairman, I believe she was, yes.

She in fact published advertisements separately indicating that she was representing the Concerned Ratepayers' Association of the Gold Coast?-- And what - what do you expect me to offer on that?

Well, can you recall that or-----?-- No, I don't.

Would you look at this document please, I don't have copies, I apologise.

CHAIRMAN: This last document, do you want to tender that?

MR RADCLIFF: I will tender it, yes.

CHAIRMAN: I think that's Exhibit 205.

ADMITTED AND MARKED "EXHIBIT 205"

MR RADCLIFF: Once again, I apologise. Mr Nyst handed me this. I wasn't aware of its existence until-----

CHAIRMAN: We'll blame Mr Nyst.

MR RADCLIFF: It's his fault, yes. That on its face appears to be an advertisement published in a border newspaper and it indicates that Ms Brown is a member of that association, doesn't it?-- That's what this shows.

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Yes, yes. Do you still have the Concerned Ratepayers of the Gold Coast Inc advertisement before you?-- No, I - here it is.

Down below it you'll see that it is said that "all candidates are supporters of" and it names five other entities of some sort. Are you associated with any of those five entities, that is the Concerned Ratepayers' Association, the Friends of Burleigh, the Friends of Currumbin, the Australian Pensioners' Association and Save the Reef?-- And what's your question?

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Are you associated with any of those five entities?-- No, I - I don't have any association apart from contacts from time to time as a councillor. We have all sorts of groups and concerns-----

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CHAIRMAN: But you're not a member yourself-----?-- I'm not a member of those.

-----of any of those groups?-- No, not at all.

That's all you're being asked.

MR RADCLIFF: At the foot of that same advertisement it is said that all - after the second paragraph after the dot points it is said that those candidates - and I'll read it - "They have all worked as a team" - and that word is in capitals - "and have the best interests of all ratepayers on the Gold Coast." Do you know anything about this team of these candidates?-- No, and I - I don't - and I didn't make it my business to learn more about their team.

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I'll tender that second advertisement if I can. Perhaps it might form part of the last exhibit, that would be convenient since they both deal with the same issue.

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CHAIRMAN: Yes, all right. It can be part of Exhibit 205.

MR RADCLIFF: We heard about another article that was published in the Gold Coast Bulletin on the 26th of December 2003 about the Virgin Army, do you recall that article?-- No, I don't.

In that article it's suggested that there was a team of Karen Coates, Don Magin, Linda Brown, Wayne Skuthorpe spelt S-K-U-T-H-O-R-P-E, Irene Wareing spelt W-A-R-E-I-N-G and Guy Jones. Can you recall seeing that-----?-- I recall the article, but I don't - I don't recall the contents of the-----

50

Yes. I'll let you have a look at this and once again I've only got a single copy?-- Anything in particular?

Can you recall that article now?-- I recall the article. I'm not reading it, I'm just glancing over it.

Yes. Those, or some of those, persons in that so-called Virgin Army came to be in the group that was in your meeting held on the 26th of March?-- Mr Chairman, the first person on that list wasn't.

CHAIRMAN: No, but some of them are?-- Some - some of them, yeah.

You're not being put that everyone was. Some of those people in that article happen to be or were invited-----?-- Some - some of those-----

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-----to go along to that press conference that you were at?-- That's correct. That's correct.

All right.

MR RADCLIFF: Well, going back to my question, where we started from, you were asked by the person from the Crime and Misconduct Commission whether you considered yourself to be an independent councillor and your answer was "yes, yes." You did have associations with other candidates and groups of candidates prior to the election, didn't you?-- How does that take away my independence?

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No, that's - well, I asked you a question?-- I had.

You did have associations with groups of candidates prior to the election?-- No, I had a very good association with our community in general and I can probably say I have more contact with other members of the community than I have with any of these people and some of these people I don't even know.

30

Councillor Sarroff, that wasn't responsive of my question. You did have associations with other candidates and groups of candidates prior to the election.

CHAIRMAN: Well, it depends how you define the term "association", it's-----

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MR RADCLIFF: Yes. I'll take it further. You acted in concert with candidates prior to the election in the form of a group or party?-- I don't believe so, Mr Chairman, that's your interpretation.

MR MULHOLLAND: Mr Chairman, could I just ask you to keep in mind - I won't read it out - but in relation to these questions, section 426 and the definition there.

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CHAIRMAN: You're not suggesting I should warn the-----

MR MULHOLLAND: No, no, no, I'm not at all, but I'm suggesting that the-----

CHAIRMAN: I must say I was interested as to what Mr Radcliff's final submissions might be as to what constitutes a

group of candidates, if you sit together at a press conference whether that's sufficient, but we'll hear that in due course.

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WITNESS: Mr Chairman, would you allow me to just make one point here?

CHAIRMAN: Yes?-- I've been - it's been pointed out that I have an association with some of these people and I see Linda Brown - sorry, Irene Wareing as one of the people that's been referred to. Irene Wareing's opponent was Greg Betts in the last election-----

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Sorry, was?-- Greg Betts was-----

Greg Betts, right?-- -----one of the candidates in the division and I have to say I recall having a longer discussion with Mr Betts at the airport one day then-----

Yes. All right. Well look-----?-- And I offered him more advice than I would have offered Irene Wareing.

20

I don't think we need to - Mr Sarroff, I don't think we need to go into it. Really what was put to you is the association was that you were at a joint press conference with these people.

MR RADCLIFF: Mr Sarroff - sorry, Councillor Sarroff, there was I suggest to you a group of likeminded candidates who - of which you were part - who had formed in December of 2003-----

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CHAIRMAN: You'd better tell him the other members of the group to enable him to answer that question.

MR RADCLIFF: The other principal members of that likeminded group were Councillor Young and Councillor Crichlow?-- So you're saying that there was a group of Councillors, three Councillors?

Yes?-- No, you can say that there were three Councillors that have come together on a number of occasions united because of issues that were raised in the community and have argued on behalf of the community and it is - if it was a likeminded group then we would have - and we wanted to form a party we would have stood up publicly and said we wanted a party and gone about doing it in an open manner.

40

You see, what I'm suggesting to you is that your association with Councillor Young and Councillor Crichlow is similar to the level of association of the group you call - or this Inquiry has identified as "the bloc"?-- That's your interpretation.

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They are-----

CHAIRMAN: Well, to be fair do you want to go through and perhaps enumerate the similarities then between them?

MR RADCLIFF: Yes, I will. I will. You, Councillor Young and Councillor Crichlow are likeminded and vote independently but similarly and stand for similar types of issues; is that not a fair summation of your position?-- I think it's probably fairer to say that a lot of the issues that have attracted debate and the controversial issues were issues which we felt were in the public interest-----

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CHAIRMAN: No, no. You don't need to tell us why you agreed or not. You're being asked whether you did agree on issues?-- And we certainly agreed on several issues.

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MR RADCLIFF: I'm not saying that you vote absolutely every time in accordance with what Councillor Young does for example and Councillor Crichlow does but you have a similar view of things to them and that you vote in the majority of times with them because of your - because their ideas are similar to yours about how the Council should be run and how the Gold Coast should develop; is that a fair summation?-- I would suggest that the issues that have come up were issues that we had similar views on and - and issues that we certainly agreed upon for one reason or another and - I mean, I'm happy to provide some examples.

20

No, no. We don't know examples. And at the same time in Council there is another group of Councillors who have differing views to you and who on a number of occasions - not always - but on a number of occasions vote in respect of matters which you oppose?-- That's correct.

30

That group of eight which has been identified here - and I don't need to go into that I will if you need me to - but that group of eight frequently vote against each other in respect of issues, they don't vote 100 per cent of the time in support of each other, do they?-- No, there are many, many issues that come before us. I think if you have a look at the crucial issues, the issues that seem to have - that raise a lot of concern out in the community or issues - a lot of the controversial issues seem to be voted by that same group in the same manner.

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But there are instances for example that Councillor Shepherd for example will support an issue which you are advancing in Council?-- That's correct.

And there are instances where Councillor Shepherd will support something that Councillor Crichlow is advancing in Council, is that correct?-- That's correct.

It's not if I can use the-----?-- Well, very often.

50

It's not strict party politics, is it?-- No, it's not.

Good. I'll go on with the-----

ORDERLY: Excuse me, Mr Commissioner, is this to be tendered?

CHAIRMAN: It's already in. Did you want to make that part of the-----

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MR RADCLIFF: It can be - once again because it's a photograph.

CHAIRMAN: It's part of number nine in Exhibit 3.

MR RADCLIFF: Councillor, would you go to page 7 of 17 at approximately line 210, I just need you to identify what you refer to there. You say, "Um, ah, it was ah at that point in time that ah myself, Peter and Dawn compiled our complaint to the CMC in relation to what we felt that the public was being misled et cetera, that the public was entitled to know whether there was a specific slush fund." When was this complaint made to the Crime and Misconduct Commission?-- On my recollection the complaint was made shortly after the election in April.

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Is that - or does - this document that I showed you before that was published by Councillor Young - does that form part of your complaint to the Crime and Misconduct Commission?

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CHAIRMAN: Well, it can't logically if he said the complaint was made last year. That document as I understand it was produced this year.

MR RADCLIFF: I'm sorry, yes, you are right. I withdraw the question. When did you make your complaint to the Crime and Misconduct Commission?

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CHAIRMAN: Well, he said it was made shortly after the election.

MR RADCLIFF: You don't have a date?-- It was shortly after the election, I believe it was early April to the best of my knowledge.

If you go to page 8 of 17. I understand that others will ask you questions about this issue predominantly, but at the bottom of the page, approximately line 287, your complaint - you can read it first of all, if you read it?-- I'm aware of what the-----

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Your complaint is that you had worked for some time about this issue and unfortunately the decision in council was against you. Is that not a spare summation of what you're complaining about there?-- My complaint was that yes, after almost three years in putting the policy together-----

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Yes?-- -----some of the same councillors that supported the policy were now starting to undermine that same policy.

And you - you are passionate about the work that you do for council and you were disappointed that this was now to be lost after all the work?-- I was disappointed - I was disappointed because the community was saying we needed to start delivering on infrastructure and here was our opportunity to now start

picking those roads and our foreshores and parkland and all of a sudden the attempts to overturn the charges were making it - made it much more difficult for us to plan with certainty. Many of our officers weren't able to start masterplanning our foreshores until we knew that there was certainty that those infrastructure charges would be coming - coming in.

1

But I say again, that the problem is that you were disappointed but it was lost in council, was it not?-- I don't know what you mean by "it was lost in council."

10

It didn't proceed further, did it, that point?-- The infrastructure charges?

Yes, at that point?-- The - are you referring to the meeting just before the election?

No, after the election?

CHAIRMAN: I thought he told us yesterday that there was no change. It was on the agenda for the meeting in August but there was no change.

20

MR RADCLIFF: Yes, and it didn't proceed - it didn't proceed - perhaps not lost is the word, it didn't proceed further, that was your disappointment, was it not?

CHAIRMAN: But that was what he wanted.

MR RADCLIFF: Yes.

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CHAIRMAN: So why would he be disappointed.

MR WEBB: I think you're at cross-purposes.

MR RADCLIFF: I might be at cross-purposes. Look, I'll go onto another topic because I know someone else is going to-----

CHAIRMAN: I must have misunderstood it.

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MR RADCLIFF: Someone else is going to deal with it.

CHAIRMAN: Who's right and who's wrong.

MR RADCLIFF: Yes.

CHAIRMAN: Doesn't matter.

MR RADCLIFF: Now if you go to page 13 of 17. This is the incident where you took - you say there you ripped some documents out of the CEO's hands?-- Yes.

50

That you-----?-- Which line are we talking about?

About line 473. Do you see that?-- I'm with you. Yes, I'm with you.

And what did you do with these documents? You say you - did you copy them, I think you said yesterday?-- Yeah, it was - it was copied and then I passed it on to a number of councillors. 1

Which councillors did you pass them on to?-- I recall passing it on to Councillor Young.

Yes?-- I may have passed it on to Councillor Crichlow, and I may have passed it on to Councillor Rickard. 10

None of the others?-- None of the others.

And were these confidential papers of council?-- No. It - I stated yesterday this was a draft resolution that was prepared.

Right. Leave that alone. If you go to line - page 16 of 17, line 613. Just read the balance of that paragraph. You've read that paragraph? That section encapsulates your problem with this group of eight other councillors who vote against matters that you consider should be dealt with in another fashion, doesn't it? 20

CHAIRMAN: I'm sorry, Mr Radcliff.

MR RADCLIFF: Sorry, I'll withdraw the question, I'll put it again.

CHAIRMAN: Sorry, I'm just asking, I might have the wrong page. Which page are you referring to? 30

MR RADCLIFF: I'm on page 16 of 17.

CHAIRMAN: At which line?

MR RADCLIFF: 613. You say that - you say that there is - that officers put up strong arguments about how matters should be dealt with and that on occasions this group of candidates who you've identified or have been identified by the Crime and Misconduct Commission as the bloc, let's call them that, vote contrary to recommendations of the council officers and that causes you concern. Is that correct?-- I don't recall making that exact statement. 40

All right. Well, perhaps I misunderstood what you were trying to say in that paragraph, but it appears to me that you don't - I'll try and put it in another way - you don't - you consider that if a recommendation is made by an officer of the council that the council itself should adopt that rather than acting contrary to the recommendations of the officers?-- That's not my position at all. 50

All right. So you accept that in circumstances, certain circumstances, it is appropriate for the council of which you are a member to vote against the recommendations of the employed servants of the council?-- In some instances that may be appropriate.

Yes, and-----?-- In this instance it wasn't.

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Well - but unfortunately the vote on the day was carried, wasn't it - was it not?-- Well, it was carried to overturn that recommendation when - when it was clearly said that it would create a precedent.

If you got your - two pages from the end of your statements and there are two or three of them I think, I'm now - this is at line 255.

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CHAIRMAN: Sorry, which page?

MR RADCLIFF: It's two pages from the end; it's number 8 of 9, and I think it's the second statement.

CHAIRMAN: Of the second tape.

MR RADCLIFF: That's right, yes.

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CHAIRMAN: Which line?

MR RADCLIFF: On 255 or starting at the top. We're talking now about the trust fund and particularly in line 255 you say, "Only as I said to you through a businessman mentioning that there is a move to form a trust fund," and if you go back to 251 you say that you have first-hand knowledge of this.

CHAIRMAN: No, no. He's asked, "Did you have first-hand knowledge." He says, "First-hand knowledge, yes." He's not saying he had; he's querying what the questioner is asking him.

30

MR RADCLIFF: Well, my question comes to this: it seems that you say that you have this knowledge through a businessman mentioning that there was a move to form a trust fund. Who is the businessman to whom you refer?-- Mr Chairman, at the time when I was approached, the businessman didn't want to be revealed. The purpose of his phone call to me was to alert me that there is a trust fund that has kicked off and to be aware, and he felt it was in the public interest. I'm able to provide that information if necessary but-----

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CHAIRMAN: Right. You'd prefer to respect that person's confidence?-- I respect that person's - yes.

Is there any reason why that person's name should be known? We know there was a trust fund. This gentleman turns out to have been right. If he wants to alert another councillor, it's perfectly within his rights to do so.

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MR RADCLIFF: Within the ambit of the manner in which the Commission has been conducted so far, and you've accepted broad, extensive evidence, I would submit that it is a relevant fact.

CHAIRMAN: Why? Why is it relevant?

MR RADCLIFF: Well, it's part of the evidence of this witness that he's been told something.

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CHAIRMAN: Yes.

MR RADCLIFF: But the source is not identified.

CHAIRMAN: So? But what does it matter? Are you contesting the truth of what was told?

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MR RADCLIFF: I don't know whether it's true or not.

CHAIRMAN: I see. Don't you know that there was a trust fund?

MR RADCLIFF: Of course I know that.

CHAIRMAN: Well, what's the point then?

MR RADCLIFF: But I don't know - I'm testing the allegation that is made that the source of this witness's evidence is said to be that he received this information through a businessman. We're entitled to know-----

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CHAIRMAN: Mr Radcliff, that would be perhaps appropriate if the particular statement that was being referred to was in issue. As I understand it, the particular matter of whether there was a trust fund is not in issue at all.

MR RADCLIFF: No.

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CHAIRMAN: No one is denying that there was a trust fund. So why do we need to ask this gentleman to disclose or break the confidence of the person who advised him at the time there was one?

MR RADCLIFF: Well, it's not stated to be said to him confidentially. It's stated-----

CHAIRMAN: He just said that the person was providing it to him confidentially. No, look, I'm against you. I can't see any purpose in giving the name of that person over a fact that is not in issue at all.

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MR RADCLIFF: Mr Chairman, you are able to receive the information by way of closing the Commission for that very discrete purpose.

CHAIRMAN: But why should I close the hearing and make everyone go outside to get that or even make this witness write it down.

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MR RADCLIFF: Well, as you rule; as you rule. I have nothing further.

CHAIRMAN: Mr Nyst?

MR NYST: I think Mr Fynes-Clinton is-----

CHAIRMAN: Okay. Sorry. No one was rising.

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MR S FYNES-CLINTON: We're reversing the order.

CHAIRMAN: We might perhaps - sorry, I've realised the time. Perhaps a short break.

THE HEARING ADJOURNED AT 11.41 A.M.

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THE HEARING RESUMED AT 11.52 A.M.

EDDY SARROFF, CONTINUING EXAMINATION:

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CHAIRMAN: Yes, Mr Fynes-Clinton?

MR S FYNES-CLINTON: Thank you, Chairman.

Councillor Sarroff, just so you're aware, I'm here representing the Local Government Association of Queensland and concerned with its interests in the inquiry. I just want to ask you a couple of things to clarify some matters concerning the infrastructure charges issue about which you gave evidence. It's true, isn't it, that the Integrated Planning Act was amended in about October 2003 to substantially broaden the power of local governments generally to impose infrastructure charges?-- That is correct, I believe.

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And it's true also, isn't it, that Gold Coast City Council has really been at the leading edge of local governments in Queensland in seeking to develop new and expanded infrastructure charging regimes under the Integrated Planning Act?-- Correct.

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Right. And of course it's the case and I can tell you this as a matter of law that following the October 2003 amendments, local governments for the first time had power to impose broad catchment based infrastructure charges for parks and broad catchment based infrastructure charges for roads and drainage?-- Yes.

That's the case. I can tell you that as a matter of law. You agree with me that the general effect of the new policies which the Council adopted in February 2004 for water, sewerage, roads and parks, that the general effect would be that developments of a given type were paying something like 40 per cent more in total than under the old regime?-- Approximately, give or take.

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The question I have for you is this: when those policies were

discussed before the Council and brought up for final decision, what debate or discussion was there in the Council room about the impact of those policies on existing, finalised development approvals?-- Mr Chairman, I believe all those issues were discussed during the process which took two and a half years or so to put together, and my recollection of the meetings I've attended is some of those issues were raised and discussed there with the industry and other members of the committee that were involved.

1

All right. Well, it's been suggested in media reports concerning the meeting just before the 2004 election that one of the substantive issues raised to support the general proposal for a possible moratorium was the unintended impact on existing finalised development approvals, something which had not been considered in detail before; is that correct or not?-- Mr Chairman, I think that was one of the issues that was flagged. I can't say that it was the main issue, and I certainly - yeah, I can't elaborate on that.

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Well, I suggest to you that from the perspective of any local government and leaving aside the issue of future approvals and future developers, but I suggest to you that any local government which suddenly faces a situation where unintended existing finalised approvals may suddenly face a 40 per cent increase in charges, that any local government would be legitimately concerned about that if it hadn't been previously considered in detail?-- And the point you make?

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I suggest to you that any local government would find it a reasonable thing to do to say, hold on, we haven't fully considered the impact on existing approvals of this; let's have another look at it?-- As I said, Mr Chairman, those issues were certainly debated and discussed during the committee process.

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The Council's new infrastructure charges for parks and roads were legally challenged in the Planning and Environment Court, weren't they?-- Yes, they were. Mr Chairman, can I-----

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CHAIRMAN: Sorry?-- Can I ask a question?

If it's relevant to what you're being asked?-- And the question is, the Local Government Association - whose role is to work with the local authorities - if their lawyer is questioning me about our process then I somehow see that you really shouldn't - you shouldn't be standing there and cross-examining me about a policy that our local authority has put in place.

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MR S FYNES-CLINTON: I don't see I need to answer the question but, Mr Chairman, my client's interest is in the broad issue about - this is a part of the Act that's at the cutting edge, that from any local government perspective the suggestion that these matters shouldn't require careful consideration when you're at leading edge is a matter of concern to my client. I've only got two more questions but I submit that the questions are appropriate.

CHAIRMAN: Keep going.

MR S FYNES-CLINTON: So just to confirm that those new policies were challenged in the Court?-- The - there was some challenges and certainly we had one issue that we dealt with over the last 12 months or so.

Just to finish this off, the new parks and road policies were challenged in the Planning and Environment Court and the Council defended that challenge did it not?-- Correct.

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And they were challenged by a developer called Ninaford?-- Is this the Wade development?

That's so?-- Correct.

And the Council defended that case in full over three days engaging a QC?-- And do you want to then spell out what the outcome of that court case was?

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Not the final resolution because that was confidential - I'm aware of that?-- No, it wasn't. Mr Chairman, it wasn't confidential because-----

Not the first instance?-- It was made quite public that we had a resounding victory in the Court in relation to those charge, the methodology that was adopted in putting those charges together and the appropriateness of those charges and it was also stated that it would be very difficult for other developers to challenge these charges. That's my recollection of it.

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Well, just to complete that, the applicant appealed to the Court of Appeal; correct?-- The applicant had every right to appeal.

And that matter was compromised under a confidential settlement; correct?-- That matter was dealt with by Council, yes.

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And finally, just recently the Council's charges were challenged again in the Planning and Environment Court in a matter of Clift concerning an unit development on the beachfront at Surfers; correct?-- I can't give any details.

Well, I can tell you the judgment came down and the Council's charges were effectively cut in half by the Court but if you're not aware of that say so?-- Mr Chairman, I'm not aware of that and I think to put it in context really the full story needs to be told. There may have been some relevant issues with those charges and I think it is totally inappropriate to be able to either agreeing or disagreeing with a Court case without knowing exactly what were the circumstances.

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That's right. Councillor, if you don't know the facts of the case I've nothing further to ask you?-- I don't.

Thank you, Mr Chairman.

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CHAIRMAN: Yes, thank you, Mr Fynes-Clinton.

MR NYST: Mr Sarroff, all you're saying about that I take it is that there may be arguments one way or the other, substantial argument, some might be right, some might be wrong; is that right?-- No, what I am saying is if Council has put in place a policy and they believe the policy is being derived following a long process, a legitimate process, then in the public interest Council should uphold that policy rather than undermine it.

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But you accept and understand that these things might go off to Court and people raise good arguments and maybe - it may be shown that the Council was wrong on some issue; you understand that, don't you?-- I understand from a businessman's point of view those challenges are always an option.

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That's right. There's always a possibility about legal challenges and sometimes the Council is rolled - if I can call it that in Court - sometimes their view is upheld, is that right?-- Correct.

And in respect of that - we'll come back to it in a moment - but in respect of those infrastructure charges there was a concern raised - whether it was right or wrong - there was a concern raised that there might be a legal challenge and that Council might be unsuccessful if there was; is that right?-- If I can have you clarify that, are you saying that from a Councillor's perspective it was raised that there could be a legal challenge and that we needed to-----

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Yes?-- -----review?

Yes, that there could be a legal challenge and that there was concern that perhaps if there was a legal challenge Council might get rolled. Do you remember that general discussion?

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CHAIRMAN: At which meeting is this because we've had evidence-----

MR NYST: This is at the meeting just before the election.

CHAIRMAN: Before the election. Thanks?-- Mr Chairman, my answer to that is if the Council is prepared to stand up-----

No, no. You're being asked whether that was raised at that meeting. Not your view of it as an issue but whether it was raised at the meeting?-- From my recollection legal arguments are always raised to put up an argument as to why we should roll over.

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MR NYST: Yes. Okay. But it was raised at that meeting, that there could be this retrospectivity argument that may sustain a successful legal challenge and that should be looked at more

closely?-- I believe Mr Chairman there was discussion along those lines.

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All right. Let me just take you back then, when you first started giving your evidence you told Mr Mulholland that - I think you said that after several rumours regarding a so-called slush fund it became evident that there was a slush fund and you then held a press conference, is that right?-- Correct.

10

And so far as the rumours of the - regarding the slush fund that you're talking about these were issues that you - the information you'd received came from media reports, hadn't it?-- No, I said my recollection is that there was a great deal of concerns raised in relation to the trust fund being formed.

Yes, but-----?-- And I did - I recall seeing that the media was instrumental in following through with those issues in asking relevant questions and asking - in asking candidates about their knowledge of the trust fund and whether they were being funded from the fund.

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Yes, but - do you remember being questioned about this by an officer of the CMC on the 4th of November this year?-- Yes, I was.

And you were asked weren't you - this is at page 6 of 201-----

CHAIRMAN: Sorry, 6 of which - 6 of 17 or 6 of 9?

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MR NYST: 6 of the 17, yes. You were asked this about line 188, "Do you have any firsthand knowledge of hearing any candidates state that they were self funded when in fact you believe they may have received money," and I think your response then is, "The information I would have received would have come out of media reports," do you see that?-- Correct.

CHAIRMAN: You've left a little bit out there.

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MR NYST: Well, I didn't read the ums and ahs.

CHAIRMAN: What you've left out might be important.

MR NYST: Well, I don't think it is.

CHAIRMAN: Because it's the information he received in relation to those candidates.

MR NYST: Yes.

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CHAIRMAN: Whereas he - Mr Sarroff said earlier that he had general information of concerns being raised in the communities about the possibility of some fund. But here he's saying that the information about those candidates being tied in with it he got from the media reports.

MR NYST: It's not a big point. I'm - I understand the question. Do you have any firsthand knowledge of hearing any candidates state that they were self funded when in fact you believe they have received money and he responds, "The information I would have received in relation to the candidates would have come from the media reports." That's what I'm asking about. I'm not seeking to be in any way unfair to you or anything, Mr Sarroff. Do you remember telling the Commission that?-- Yes. If we could go back to that article that has been referred to several times, that article was just a few days before the election.

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Can I just stop you there. We'll come to that - that's as I understand it - that press conference is as a result of you hearing - hearing several rumours of a so-called slush fund and it then becoming evident that there was a slush fund?-- This article was after it was absolutely clear that there was a trust fund.

Yes. That's what I'm saying. I'm saying that article refers to a press conference that you called after you'd been hearing rumours for a long time and then it was confirmed in your own mind that there was a slush fund; do you remember saying that?-- Correct.

20

And then you called a press conference?-- Correct.

All I mention it is the rumours that you were getting were they - when you said to the CMC officer there on the 4th of November in response to that "Do you have any first-hand knowledge about these candidates saying they were self-funded and receiving money?" and you say, "The information I would have received came out of media reports." Do you mean that these rumours that I was getting were coming from the media?-- No, I don't think that's clear in that statement, Mr Chairman. It-----

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No, I'm not asking you about this, I'm just asking you generally-----?-- No, the-----

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-----what's your recollection?-- The information is that the word was out that there's a trust fund being established and-----

Yes, but from whom, from the media?-- No, not from the media. The rumour was rife in the community, it was-----

But who was telling - who told you that?

CHAIRMAN: Well, we've already had some evidence on that this morning. He said that a businessman rang him and-----

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MR NYST: Well, if-----

CHAIRMAN: -----Mr Radcliff asked him for the name of the businessman and I ruled that I wouldn't allow that question to be asked.

MR NYST: Well, if that's the source of the information that leads him down to the press conference then I do-----

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CHAIRMAN: No, no. He'd told us earlier that they had the press conference because the day before there was the article headed "King Maker".

MR NYST: Yes, I-----

CHAIRMAN: And if you look at that article-----

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MR NYST: No, sir, let's not - let's not get diverted.

CHAIRMAN: The one - just-----

MR NYST: Could I-----

CHAIRMAN: Excuse me, let me finish.

MR NYST: Mmm.

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CHAIRMAN: If you look at that particular press page that we got-----

MR NYST: Yes.

CHAIRMAN: -----where they are there you will see, as pointed out by Mr Radcliff, that that article was being held up by the people behind.

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MR NYST: Sir, I invite you to read the article of the King Maker, you'll see no reference to any quote by anybody about a slush fund.

CHAIRMAN: The slush fund mightn't be used.

MR NYST: Slush fund. Well, that's what I'm interested in.

CHAIRMAN: Well, let's have a look at it. Do we have the one "King Maker"?

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MR NYST: I think it's directly - it's one or two before the - I think one or two before number 32. Pardon me, I'll just-----

CHAIRMAN: Well, that's page 1 and then there's page 4 it goes on.

MR NYST: I think it's actually number - I think it's 29. It's not headed "King Maker", it's headed "Ratepayers-----"

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CHAIRMAN: Yes. Well, 28 is headed "King Maker" and it's page 1.

MR NYST: Right, yes.

CHAIRMAN: Twenty nine is page 4 in the same edition of The Bulletin. "'We're contributing to the fund, but that's all we're doing,' said Mr Ray."

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MR NYST: Yes.

CHAIRMAN: It mightn't use the word "slush fund", but it's "we're contributing to the fund-----"

MR NYST: Well, sir, I hope we all-----

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CHAIRMAN: "-----but that's all we're doing.

MR NYST: -----understand the slush fund is different from a fund."

CHAIRMAN: Well, you're the one who's been using the term "slush fund" in your questions.

MR NYST: With respect-----

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CHAIRMAN: This gentleman has been using the term "trust fund".

MR NYST: No, with respect, that's not right and I'm cross-examining him on evidence he gave to Mr Mulholland yesterday and it started off "After several rumours of a so-called slush fund when it became evident there was a slush fund" and then he went on to talk about calling this-----

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CHAIRMAN: All right. Well, yesterday. This morning he's been calling it a trust fund, yesterday if he called it a slush fund he's saying that refers to the article the "King Maker" where Mr Ray, perhaps understandably, doesn't call it a slush fund-----

MR NYST: Yes.

CHAIRMAN: -----he calls it a fund.

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MR NYST: But Mr Sarroff called it a slush fund.

CHAIRMAN: Well, you can question him as to why he uses the term "a slush fund" if you want to.

MR NYST: That's all I'm seeking to do. I'm not trying to be unfair to him or anything else, I just want to lead into it.

CHAIRMAN: All right.

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MR NYST: Now, Mr Sarroff, were you getting your information then from the media?-- No.

Where did you get your information from?-- The information - there was-----

CHAIRMAN: Well, this is where I stopped you before, that I will not allow you to ask the names of people who were ringing him or whatever and telling him that there was a fund-----

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MR NYST: Well, with respect-----

CHAIRMAN: -----under way because - you can submit to me if you want to, Mr Radcliff wasn't able to put anything before me that persuaded me that it was relevant, when the issue of whether there was a fund, to use the innocuous term, is not alive.

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MR NYST: Well, the issue of whether there was a fund may not be alive, but the issue of whether Mr Sarroff was in fact told by somebody may be a live one.

CHAIRMAN: Why?

MR NYST: Because it may be that Mr Radcliff or I or anybody else might want to question whether or not Mr Sarroff is being entirely frank about what he knew, what he was told, what his source of information were and it's a legitimate way to test that by asking, "Well, who told you?"

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CHAIRMAN: Well, so far you've asked no question that's suggesting that there was anything wrong in any of the aspects that he said at that time. I can't see how it is relevant to challenge his credibility on what he said about those events at this stage because you're-----

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MR NYST: I'm only asking him where did he get the information from about the slush fund.

CHAIRMAN: Well, can I put it this way. To challenge - to go in and test a person's credibility is relevant if their credit on that issue or on even perhaps anything else is in issue. What are you putting to him that is wrong so that his credit becomes an issue?

MR NYST: Well, I can put it fairly and squarely, I didn't think it was a secret in these proceedings, that my position is there's no slush fund.

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CHAIRMAN: Okay. That's not his credibility, that's his accuracy perhaps in adopting the term of "slush fund" instead of "fund".

MR NYST: But adopting it from where? Where did he adopt it from?

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CHAIRMAN: But that's not his credit, that's just his-----

MR NYST: Oh, I'm not trying to attack his credit, I'm just trying to-----

CHAIRMAN: Excuse me.

MR NYST: -----test his evidence.

CHAIRMAN: But that's not his credit, that's just perhaps he's not very good at using terms. That's a different matter entirely. That's not whether he's telling the truth, which is what credit is all about. No look, I - you're not persuading me of any reason why it is relevant to ask him the source of information that he received at that time of warning him, if I can use that term, that there was a fund.

MR NYST: All right. Well, Mr Sarroff, you understand that the term "slush fund" carries with it an imputation of some dishonesty or corrupt nature, isn't that so?-- I think the Chairman was correct that perhaps my terminology may not be 100 per cent accurate, but I'm happy to contain my remarks and reference to the fund as a trust fund.

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Yes. But in the past you haven't always, have you?-- No, I haven't.

In the past you've referred to it as a slush fund?-- Yeah, I certainly have, yes.

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And in particular at that press conference you referred to it as a slush fund?-- Correct.

And you also referred to a voting block, isn't that so?-- That - that is quite possible.

And did you tell the journalist there that you were there fighting for freedom?-- I think the main issue that I raised there was the need to ensure that the trust fund and the recipients are made known to the public, that was the main purpose of that press conference.

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See, this was the day before the election, wasn't it?-- No - maybe one or two days. The article appeared on the 16th - the article appeared on the 26th - then the press conference would have been the day before.

Was it - yes. Is that the day before the election?-- So, therefore, it would have been two days before the election.

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Yes, okay, but very close to the election?-- Very close.

And I'm not being - I'm not bestowing you with any undeserved honours to say you are a good political operator, aren't you? You know how to work the crowd?-- No, I know what the issues are that confront me as a councillor.

And you know how to get people's votes, don't you?-- No, I know how to respond to the community.

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And you know how to advocate things in a public forum that will get people on side, don't you?-- I know when it is the right time to bring things out in the public arena.

You don't always wait, do you, to have CMC investigations or to have even your own investigations into facts. If you think

that there's something that's - that might have a smell about it, you just jump in both feet, don't you, and you raise it in the public forum?-- Incorrect. 1

Incorrect. Well, I mean, by way of example, the Shepherd matter was dealt with earlier today, do you remember telling us that you had a corridor discussion with Mr Molhoek?-- Correct.

Right. Well, you didn't go out and investigate that, did you?-- I don't think I needed to investigate it. 10

Fair enough, and you didn't get any statements, for example, from anybody that was there or affidavits or anything like that?-- I didn't think there was a need for it.

You didn't even speak to anybody that was there, did you?-- What do you mean, there - there, where?

At the meeting where these moneys were supposed to have been raised?-- At the council meeting? 20

No, no, at the - it was all about, wasn't it, a fund raising meeting of some sort?-- Well, you tell me.

Well, Mr Radcliff was asking you earlier today about you having raised in council that Mr Shepherd had had a fund raiser and the \$50,000 that he raised and so forth. Do you remember all of that?-- No, but I was asked is, what comments I made when the issue was raised in council. 30

Yes?-- So I didn't raise the item.

Oh, you did not raise it?-- No.

I understand?-- I responded to the comments that were made by Councillor Shepherd.

No, but didn't you ask the question?-- Yes. 40

You raised it?-- I raised it in response to the matter being raised by Mr - Councillor Shepherd himself.

But didn't you raise the issue about did he receive these moneys and were they accounted for and so forth?-- That's-----

CHAIRMAN: Mr Nyst, I might be wrong. Perhaps you should check with Mr Radcliff. I thought Mr Radcliff said that Mr Shepherd raised it to make an explanation----- 50

MR NYST: That might be so.

CHAIRMAN: -----after it presumably become public somewhere.

MR NYST: Pardon me just a moment. I'm told, sir, that Mr Shepherd did raise it on a question of notice about the fact that apparently the dossier by then was public and this allegation was made in the dossier, et cetera.

CHAIRMAN: Was the question of notice by Mr Sarroff or someone else.

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MR NYST: No, no.

MR RADCLIFF: I understand the question was put by - if I may interrupt; the question's put by Councillor Shepherd on the basis that he, like other councillors, had received the censored document.

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CHAIRMAN: Right. So he wanted to make an explanation which is understandable.

MR RADCLIFF: And he wanted to - he made the explanation and wanted someone to say that it was untrue but no one responded to it. In fact, this witness did not.

CHAIRMAN: Okay.

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MR NYST: Well, let's then go back to the slush fund issue-----?-- The trust fund.

No, no, I'm interested in your - when I say the slush fund issue, I mean-----

CHAIRMAN: Mr Nyst, I don't like to interrupt you, but a slush fund to me doesn't connote dishonesty.

MR NYST: Surely that can't be right, sir.

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CHAIRMAN: I always understood a slush fund was a term like, you know, brown paper bags. Was a term whereby some person-----

MR NYST: Exactly.

CHAIRMAN: No, no, no, but, well, perhaps I had some experience in another area of these in the past.

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MR WEBB: Oh, I wouldn't plead guilty, Mr Chairman.

CHAIRMAN: No, but a slush fund as I understood it in political terms was where one person in a political realm had control over money which he could - he or she could dole out to other people to use for their campaigning, et cetera, which then puts that person in a position of some influence over those other people through having the slush funds - through having the money, it can control - well, if I don't like the way you are performing or whatever, you don't get money out of the slush fund. That's the way I always understood it. Not that it was a payment for a - necessarily a corrupt purpose.

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MR NYST: Well, could I ask-----

MR MULHOLLAND: Just before my friend responds to that, Mr Chairman, now I also make the point that Mr Sarroff has said that what he wanted to achieve, and he said this, as I

understand it, more than once today, what he was seeking to achieve by being part of the press conference was to have people make public-----

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CHAIRMAN: Whether they were-----

MR MULHOLLAND: -----now that, of course, the concealment of the fund could be understood as a trust - as a slush fund and, as I understood from what he said, that's precisely what he was saying. He was saying he was calling the press conference in order to have people declare themselves in relation to the fund. So it is not in accord with what Mr Sarroff far said to describe the slush fund in a different way.

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CHAIRMAN: Yes.

MR MULHOLLAND: That's the way in which he has described.

CHAIRMAN: And that's consistent with what's in the article. There's nothing in here where it is suggesting that it's a corrupt matter that it's a payment for favours but that it's just a situation where people are receiving money but are saying that they haven't received the money. That's - if you read the tenor of this.

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MR NYST: I - with respect, we disagree. It's headed, "Move to thwart bloc". It talks about moving - fight for freedom. It talks about a battle for independence.

CHAIRMAN: Yes.

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MR NYST: It talks about moves afoot to gain control of the councillor's power base.

CHAIRMAN: Yes.

MR NYST: It talks about "power bloc". It talks about a "voting bloc". It says, quoting Mr - purporting to quote Mr Sarroff, "The community needs to know who has contributed to this slush fund" and it says, "Are there strings attached?" Now if that doesn't carry some kind of implication or some sort of impropriety then I'm not here, with respect-----

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CHAIRMAN: Well, the very last one does. I concede that.

MR NYST: Well, the tenor of the article-----

CHAIRMAN: The rest doesn't-----

MR NYST: -----in my respectful submission clearly does and the use of the term "slush fund" clearly does and I would ask whoever wants to do it to consult any dictionary they want as to the term "slush fund" and it is clearly a term that carries an implication or, at least, can carry an implication and usually does carry an implication of some sort of impropriety, some sort of corrupt behaviour and, indeed, some dictionaries, I suggest, will define a slush fund as a fund of money set aside for the purpose of political bribery.

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Now, that's why I'm asking why these terms were used and that's why I'm examining this and I'm examining it particularly in view of the fact that what happens from that press conference, and I'm not blaming Mr Sarroff for this, but what happens from that press conference is, he comes out and says, "We want to know why people are - who's associated with the slush fund. Who's in the "voting bloc"-----

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CHAIRMAN: Mr Nyst-----

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MR NYST: -----and of course the media goes out and asks questions about slush fund and "voting bloc".

CHAIRMAN: Mr Nyst, I don't know that we need a full speech over it. I certainly agree with you that it's generally not taken to be a complimentary term putting it at the mildest. It's certainly not taken to be a complimentary term.

MR NYST: Thank you, sir.

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CHAIRMAN: I must say I don't automatically take it as being a reference to something dishonest.

MR NYST: Mr Sarroff, just to make it clear, the article of the 26th of March which you've got there with you, does that accurately record what you recall of the meeting - of the press conference?-- And most relevant my comments in that?

Well, just - yes, generally, and have a look at it and see whether you think it accurately records what happened there and, of course, where you're quoted. If you think you've been misquoted, let me know?-- Mr Chairman, to the best of my knowledge, yes.

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It's accurate. Well now, let me then ask you this. That term "slush fund" - I don't want to criticise you as to whether you used the right or wrong term but is that a term that you came up with or did you get it from somebody else?-- I believe it - it was a term that was being used in reference to that trust fund.

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By you?-- By myself and others.

Mr Young - sorry - Councillor Young, Councillor-----?-- By members of the public.

Do you remember anybody saying to you that they had any information or knowledge of a slush fund?-- I did say in - earlier on that it was brought to my attention by a business man.

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Well, I think that makes it very relevant for us to know who, sir.

CHAIRMAN: Why?

MR NYST: Because if somebody has-----

CHAIRMAN: If you're told it's Bill Bloggs, where does that take you? 1

MR NYST: I'd go to Bill Bloggs and I'd say, "Well, what do you know about this? Where did you get this information from"-----

CHAIRMAN: And where will that take you?

MR NYST: -----and, "Did you tell this to Mr Sarroff?" 10

CHAIRMAN: And where will that take you?

MR NYST: It will allow me to test that assertion, run it to ground. Is the Commission not interested in this-----

CHAIRMAN: And if Mr Bloggs says, "I don't recall," or, "I never said that to" - to this witness-----

MR NYST: Mr Bloggs might have some very important information for Mr Mulholland and yourself, sir. I mean, I would have thought if the Commission really wants to know the truth of all of this, you'd hunt that sort of thing down. If somebody is talking about - "I've got some knowledge about a slush fund", go and find them. Who are they? Talk to them. It seems to me it would be of assistance to the Commission. 20

CHAIRMAN: I don't see it.

MR NYST: All right. Well anyway, you used the word "slush fund" on this day; that right? And----- 30

CHAIRMAN: Might I just say on that. Look, my rationale is this. I have sympathy with journalists who say that they want to keep their sources confidential. Quite frankly, I have sympathy with councillors saying they want to keep their sources confidential. And if someone has felt the need to go and say something to their councillor, I think that person should be asked before their name is put out publicly in circumstances such as this hearing. That's my approach. 40

MR NYST: You'd already - you'd also heard that - heard about a figure of \$500,000. Is that right?-- The figure of 500 was mentioned with no certainty.

In association with a slush fund?-- In association with the moneys that had been collected to assist candidates.

Did that come from that same source?-- No. 50

A different source?-- No, that was just hearsay.

Just hearsay. Well, apart from this businessman that - sorry, perhaps I could at least ask you this. The businessman, was he purporting to say that this was a rumour or hearsay that he'd heard - he or she'd heard?-- No, it was just a conversation that be aware, there's a move afoot.

All right. Well, look, in any event, what happened then was - I'm here referring to page 6 of your record of interview. That's Exhibit 201, 6 of 17. You told the Commission officers that you called a press conference in front of the Council Chambers and at that press conference the challenge was put out to all candidates to come forward and acknowledge whether they had received funding from that trust fund which was referred to as "the slush fund"?-- Correct.

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And that's all correct. That's all - you said that. Is that true. That's what-----?-- That's my comments, yes.

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-----happened at that press conference?-- Yes.

So you put out a slush fund asking people to acknowledge that they - sorry - put out a challenge asking people to confirm that they had been receiving money from the slush fund?-- Correct.

And I think you might have referred to this later in your statement - this is at page 15 of the same document. You said, "The purpose of that press conference was to put out a challenge for people to come out and tell us whether they'd received money from this so-called slush fund because I have to stress it was made - it was mentioned earlier in the piece that this slush fund would have something like \$500,000 injected into it which obviously is the feedback we were receiving." That right?-- Correct. That was my-----

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So what you were being told was that there was \$500,000 in a slush fund and you were putting out a challenge to people to come along and put up their hand that they were associated with a \$500,000 slush fund?-- Not correct. I was putting out the challenge for people to come out and indicate whether they were funded from that fund.

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Yes?-- The figure of 500, as I said, was a figure that was flagged as a possible figure-----

I see. So did you not mention the 500,000 at the press conference?-- I'm not sure offhand.

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I see?-- I don't recall seeing that in here. Is it in here?

I don't know, but whether it's in there or not, did you mention it to any journalists?-- Well, if I would have, it would have been reported.

You think it would have been reported. Okay. But, in any event - so, you put the challenge out: tell us whether you're involved with a slush fund and so far as you know, the media then went out and asked various people if they were involved with a slush fund?-- I believe so, yes.

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And you also put out the challenge to ask whether they were involved in a voting bloc, didn't you?-- I'm not sure if you're putting words in my mouth. You've been doing that very well over the last week or so.

Yes, yes. I'm not trying to do that with you, Mr Sarroff. You see there in the article of the 26th?-- Yes.

You talk about a power bloc and a voting bloc. Did you put out a-----?-- I've said in that article I'm concerned democracy is under threat if the bloc becomes a reality.

Yes. But part of this challenge - I'm not sure whether the challenge is actually referred to in the article.

CHAIRMAN: Yes. It says, "I call on the candidates to reveal the source of their donations. This needs to be done immediately. This needs to be done today. This needs to be done before Saturday's election."

MR NYST: Okay. So that was part of your challenge, wasn't it?-- That was my challenge.

Did you also put out a challenge to people to say whether they were involved with a voting bloc?-- I don't recall that.

Don't recall that, okay. But in any event-----?-- You were trying to put those words in my mouth before-----

No, no, I-----?-- I don't recall saying that.

I was asking you before did you put out a challenge about a voting bloc. I understand what you're saying; you don't recall?-- I don't recall. I don't recall, Mr Chairman.

All right. In any event, the - what you do recall is this challenge to the people to be asked about whether they've been involved in a slush fund and I think you told the Commission officers - this is at page 7 about line 246, you said, "There was all this denial that the slush fund existed and when we were able to establish that it did exist with the help of the media, it was confirmed it was a slush fund," et cetera. So, do I take it that you got feedback from the media that, look, we've gone out and asked people whether or not they're involved in a slush fund and they've come back and said, no, they don't know anything about a slush fund?-- No, that's not a correct statement.

Well, what in fact happened?-- If I can dwell on what you were referring to before, that the denial that a trust fund existed, that is a true statement. That's probably something that I would have focused on.

I'm referring here to you saying there was this denial that the slush fund existed?-- Correct.

Does that quote you correctly?-- Correct.

Did you - is that what was reported back to you from the media that people had denied that there was a slush fund?-- I didn't ask the media to report back to me. I - we made - I made a

statement and I believed the candidates' responses were clearly documented.

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You mean that you read newspaper reports about things they purportedly said?-- I certainly read the newspaper and I have to say I think they played a role in making sure the issues that are out in the public arena have been well canvassed and-----

Well, in any event-----?-- And it is difficult sometimes as a candidate to approach another candidate and ask them those sort of questions, and it's probably the role the media does play.

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Yes, I'm not criticising you for that. I'm just - it is correct, is it, that your understanding was that questions had been asked by the media and that people, perhaps not surprisingly, had denied being involved with a slush fund?-- What's your question?

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Is that what happened?-- There was quite a bit of denial. There was candidates who received funding.

Okay. All right. Look, the infrastructure debate, if I can call it that, the question of the infrastructure - I think this has already been dealt with to some extent, but this was a new law, wasn't it, so far as you people were concerned?-- I did say yesterday it became law. I should have clarified that and say the new infrastructure charges were a new policy, not law.

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Yes, but new policy as a result of the change in the law; is that right?-- As a change in IPA.

Pardon. Right, yes?-- And I think it was highlighted before.

Okay?-- But the Local Government Association.

And so the Council then grappled with that for a long time: had committee meetings and various meetings of different kinds as to how you would put the levies in place, et cetera?-- That's right, yes.

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Pardon, the charges?-- There was a long process to ensure that we went about it in the correct manner.

And Councillor Power had a role in that, didn't he?-- Yes, he did.

He chaired one of the relevant committees; is that right?-- He - at the time, I think he was chair of the planning scheme review committee.

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And so that was part of his role to look at all of that and look at all of the issues associated with it?-- I believe he was a member of that committee, the infrastructure charges committee.

Yes?-- Along with Councillor Rickard, Deputy Mayor.

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Yes. And you went to a number of the meetings?-- I went to a number of meetings as the - at the time as Chair of Finance, probably more meetings than Councillor Power did.

Pardon?-- Probably more meetings than Councillor Power.

Okay. But you all did a lot of work on the infrastructure, all you councillors did a lot of work on this infrastructure charges issue, didn't you, over a long period of time?-- The Council officers certainly.

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And you councillors also had to-----?-- There was several briefings, updates.

And there were some complex issues in it, weren't there?-- Certainly.

Issues such as, for example, whether you would levy according to what's known as the actual or market yield or levy according to the planning scheme yield?-- Planning scheme densities, yes.

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Densities yield, and these were quite complex issues as to what was fair and reasonable and right in all the circumstances; is that so?-- They were complex, but whilst they were complex, the officers had to explain the reason why we needed to adopt the planning scheme densities and the appropriateness of going down that track.

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Yes. And there were differences of opinion amongst you councillors on it and, indeed, amongst the Council officers, weren't there?-- It was mainly a difference in opinion amongst the councillors.

Right?-- I recall attending many of the meetings where the officers were arguing the issue and the - arguing for the planning scheme densities. However, the councillors were - some councillors had different opinions.

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Yes. And that was normal and appropriate government at work, wasn't it?-- Yes.

And you - you then attended the meeting just before the election. Was that the 19th of March, that meeting?-- On or about, yes.

On or about the 19th of March. And at that meeting there was raised, wasn't there, a concern about there being some possible legal - we dealt with this earlier, but some possible legal challenge about retrospectivity?-- That - that issue may have been canvassed.

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And Mr Power moved a motion, didn't he, that the council suspend standing orders to allow a general discussion in relation to that issue to be convened?-- I recall something

along those lines. It may have been a general business item. So it was introduced at the meeting.

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You said this, I suggest, words to this effect, "I have no intention of moving a motion but I want to bring some matters to your attention and throw it open for debate?-- Mmm-hmm.

That so?-- It was called let's test the waters.

Yes, and that was all about the question of let's discuss in a closed session this issue of a possible legal challenge on retrospectivity?-- I don't recall that went into closed session. I'm not certain about that, however.

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Okay. Well, to suspend standing orders is to allow you to debate something without any motion being put one way or the other, isn't that so?-- Correct.

Yes. And that's what you did on that day, I suggest you said, "Look, I don't have a motion one way or the other about these charges but I think we should suspend standing orders to allow us to debate it because I think we better get this right," words to that effect?-- It may have been that. That's no my recollection.

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What is your recollection?-- My recollection is there was some anxiety in dealing with this issue just before the election.

Yes. You were anxious about it, weren't you? And I'm not attacking you for this but you were anxious about it, weren't you?-- No, I was unhappy about the fact that it was coming up and I was alerted that it would be coming up.

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Yes. And you - when it was moved to suspend standing orders so the thing could be debated you became quite passionate, didn't you, quite heated about the whole thing?-- No, I don't recall - I don't recall that. I was passionate about the item itself-----

Yes?-- -----and what was intended at that meeting.

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Yes?-- The resolution, the draft resolution that I referred to yesterday.

I suggest that as soon as the - it was put up, the motion was put up to suspend standing orders so you could debate it, you became concerned that this was somehow an attempt to muzzle things?-- Realistically I was concerned that there - the majority would be heading towards suspending the charges which were certainly an indication that this was coming through public debate, through radio interviews and other things.

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Yes?-- There was certainly two different thoughts on the charges.

Okay. And when Mr Power said, "Look, I propose we suspend standing orders," you thought, "Well, here it is, this is the attempt to somehow muzzle the debate." That's the conclusion

you came to immediately, isn't it?-- No, that's - that's not correct.

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This was in - this was in full council, wasn't it, in public view? There was a public gallery at the time?-- No, that's incorrect.

Not correct?-- You're referring to the - possibly the meeting where there was an intention to reduce the charges back in August when 200 residents or so attended that meeting, so I think your timing is wrong there.

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So you don't remember a situation where Councillor Power asked to suspend standing orders and it went to a confidential meeting?-- I'm not saying I don't, I'm not saying I'm not aware of it, I don't recollect it.

You don't recall it?-- No. I recall having discussion in the item.

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All right. Well, I suggest in any event that Mr Power did not ever put forward any motion to do away with the infrastructure charges?-- That may be a true statement but that's not to say that there wasn't an intention to put forward a resolution at that meeting. The resolution was already drafted.

Well, that's - that's your understanding. I'm simply saying to you Mr Power never put any such proposal forward?-- Well, Councillor Power as I understood it, and possibly with the mayor or some other councillor, I can't confirm who it might have been, had approached the Chief Executive Officer or officers to prepare a resolution that would be entertained at that meeting.

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If it were found that there was a legal problem - sorry, if it were the view of the full council that there was a serious risk of a legal challenge being successful on retrospectivity that the charges would be - that imposition of the charges would be suspended until such time as you got legal advice?-- Mr Chairman, I'm not a lawyer but I can say to you that if a councillor is of the view that that is a possibility and particularly when the council is making statements in the public arena that legal advice that he may have suggests that, then I think it's very important that that legal advice be provided to council.

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Yes?-- And as Chairman of Finance, as a member of that council, it was never such advice that had been brought to our attention.

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So you would agree, would you, that it would be sensible to suspend the imposition of the charges-----?-- No, I-----

-----in those circumstances to get legal advice?-- No, I disagree with you. If the industry or a developer wants to challenge our charges that's a matter for them, and if the industry is now starting to get a hint that the council itself

is starting to doubt its own charges that's when the industry is going to take us on.

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Well, that's why you'd close the meeting, you'd have the confidential discussion about it so you wouldn't give such a hint to the industry, isn't it?-- As I said to you I - my recollection of the closed session is not the issue that I believe was - I don't have a recollection of that.

Okay. Let me put this to you. It is a fact, isn't it, that Councillor Power has never at any stage suggested that the levy should not be imposed?-- Councillor Power has - I don't believe that he has suggested that it shouldn't be imposed but-----

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In fact, he was one of the driving forces in working on the levy and trying to get it right, wasn't he, in terms of how in what fashion and in what manner it should be composed?-- Mr Chairman, it's not our role to be trying to work out how - how this levy should-----

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CHAIRMAN: Sorry, Mr Sarroff, you were asked a question as to whether Mr Power did a particular thing. Can you answer that rather than saying whether it's the Council's role or not to do it?-- I don't - I'm not able to respond to that.

MR NYST: Well, you can, can't you, because you went to a lot of meetings at which he was working with various Councillors and Council officers to try and get the infrastructure charges going?-- I'm not sure that we met at the same meetings but the policy was adopted in the end.

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Yes, I know?-- The policy was adopted so it's the methodology or if there was issues there would have been - they would have upheld the adoption of the policy and especially when you've got a senior Councillor-----

Yes?-- -----saying look it's not right then there is that opportunity to get it right.

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Yes. But what I'm mentioning at the moment is you were aware that Power was working over a period of months to try and get this infrastructure issue right?-- I don't know what you call right.

I think you'd said to my friend Mr Mulholland that Councillor Power had been - had made his position public at the various meetings. These are meetings you attended, weren't they?-- Yes. Many meetings.

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And at some of those meetings do you remember discussing these quite complex issues about whether it should be market yield or planning scheme yield?-- We've gone over that, Mr Nyst.

Pardon?-- We've gone over that.

Yes, but you remember those sort of discussions?-- Yes, we certainly have and there was some very valid arguments why we should go with the planning scheme densities.

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And these were meetings that Power was either driving or very much involved in?-- These were meetings that - many issues were being raised - these were meetings where there was comparative - comparisons of our charges with other local authorities-----

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CHAIRMAN: No, Mr Sarroff, please can you listen to the question and answer the question?-- Okay.

It was put to you that these were meetings that Mr Power was either driving or heavily involved in. Now, is that correct or not?-- No, these were meetings that many of us were equally involved in.

MR NYST: I understand. But including Power?-- Councillor Power had some views on certain aspects of that policy.

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All right. Look, in any event, you said that there were some very good arguments about the yield, do you mean there were good arguments going both ways, back and forth, it was a complex issue, is that fair?-- Well, there was some very strong arguments why we needed to adopt the planning scheme densities.

And strong arguments the other way?-- Some Councillors had their viewpoints and they were putting their arguments.

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And again, in a completely appropriate fashion all of you debating what were relevant issues?-- Yes. Correct.

And you accept, do you, that if a concern were raised about the legality of what were perceived to be some retrospective elements in the levy you concede that it would then be appropriate to seek legal advice before you acted?-- My recollection is that the officers canvassed that issue.

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No, I'm just asking you do you concede that if that was so it would be appropriate to take legal advice before you acted further on the levy?-- No, I don't.

You don't concede that?-- No.

You don't concede - pardon?-- No, because - as I said before these issues were canvassed and that legal opinion could have been made available during the process.

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Yes, but the retrospectivity issue hadn't been raised before that, had it?-- Perhaps that was a convenient argument.

Yes, well perhaps it was and perhaps it was just a legitimate concern?-- Correct.

But you jumped to the conclusion that it was just a convenient argument, didn't you?-- No, I jumped to the conclusion that

the industry - the community was crying out for better roads and better parks and the only way we were going to be able to do that is to see the infrastructure charges flowing in and not by throwing them out.

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Your view was this, wasn't it, that the same Councillors that were involved and embraced the charges five minutes before the election were all of a sudden saying the charges were unreasonable, "In my opinion they were reflecting the views of certain individuals," is that-----?-- In my opinion-----

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Was that your view?-- -----they were reflecting the views of a minority.

Of developers?-- Perhaps the views of those that had been lobbying or writing to Council and to put that into context as a chair of finance I would have thought that if there was some major concerns with those charges I would certainly be bombarded with calls and approaches and let's go back and review it and I did not have such experience.

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Okay. But look, without attacking you in any way on what you've concluded, is it fair to say that when this issue was raised about the possible legal concerns you immediately inferred that there was something corrupt untoward happening here, some sort of inappropriate dishonest attempt to block the charges?-- No, incorrect. Incorrect.

You told the Commission this, didn't you, at page 9 of the document 201, Exhibit 201, the first part of that, you said, "How can you be arguing that you know we need to provide the infrastructure and then on the other hand you're saying the infrastructure charges policies are unfair and unreasonable so in those - in my mind it started to um point to something seriously wrong." Do you remember telling the Commission that?-- Yes, that's my words.

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Pardon?-- That's correct.

And you were there saying, weren't you, that the fact that people had been saying look we should have these infrastructure charges but then we're suddenly saying look this might not be clear and reasonable to be levying them in a - in what could be a retrospective manner, the fact that they were saying that pointed to you that there was something rotten in the State of Denmark, that there was some kind of corruption or some kind of featherbedding going on?-- No, that's incorrect.

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Well, what did you mean by this when you said, "Look, on the one hand they were arguing we needed this infrastructure charges and then suddenly they were saying - or then they were saying the infrastructure charges are unfair and unreasonable. That pointed to me that there was something seriously wrong." What did you mean by that?-- Mr Chairman, what I meant by that - many of the officers who have worked up the policy and at times met with me to explain the relevance of the police and certain aspects of it, felt very, very strong about the

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importance of that policy. And they didn't agree with - or felt it was most important that we now embrace that policy. And I felt it was serious - something was seriously wrong if we don't start to deliver on that infrastructure when there's a right opportunity now to start moving forward.

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Well, I suggest to you, you jumped, prematurely I would submit, to the view that because these people wanted to debate this issue that they were corruptly trying to block the charges?-- No.

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You disagree with that?-- Look, that's your spin on it, Mr Nyst.

Yes, well, you disagree?-- I disagree.

And I suggest you were wrong in jumping to that conclusion. That wasn't the thinking at all. The thinking was, "We've got a serious legal issue. It's sensible and reasonable and appropriate to debate it and if we take a view, get some legal advice"-- I - I don't agree with that viewpoint.

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Don't agree. But in any event, you went straight to another press conference, didn't you, about it?-- Can you make - tell me which conference we're speaking about?

Sorry. Did you - do you remember whether you did or not?-- Are you now referring to the press conference when the agenda - when there was a move to reduce the charges in August?

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Sorry?-- Was this a press conference in August of 2004?

No, this is in March 2004. The meeting we're talking about was on the 19th of March, wasn't it, 2004?-- Yes, and that press conference was on the 25th.

Was it? So-----?-- I'm happy to help you with dates and other things.

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CHAIRMAN: The one on the 25th was the one we were looking at before?-- The one on the 25th-----

You're being asked now, was there a press conference about this issue in March about the issue of the infrastructure charges?-- No, I - I don't recall that. I believe the meeting on the 19th was followed with a press conference dealing with two matters.

MR NYST: Was it?-- Infrastructure charges and the trust fund.

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And so did you have a press conference about this on the 19th?-- No.

You didn't. Did you ultimately have a press conference about it?-- No, I - you may be referring to some articles which might have been the result of debate that took place at council.

Well, I want to ask him about Exhibit 202, sir, but maybe if he could see that and perhaps we could do it after lunch, Exhibit-----

CHAIRMAN: Yes.

WITNESS: I can recognise that from here.

CHAIRMAN: Do you still have that-----?-- I'm aware of that article.

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Perhaps it could be shown to the witness during the luncheon break, Exhibit 202. We'll adjourn - I don't know if people - whether they go back to Chambers but 2 o'clock?

MR NYST: Yes.

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THE HEARING ADJOURNED AT 1 P.M. TILL 2 P.M.

THE HEARING RESUMED AT 2.12 P.M.

EDDY SARROFF, CONTINUING EXAMINATION:

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CHAIRMAN: Yes, Mr Nyst.

MR NYST: Mr Sarroff, just before the break I was asking you about some of the things that happened at that meeting of the 19th of March. This is the one about the infrastructure issue?-- Correct.

And I think you agreed, did you, that Mr Power did move a motion to suspend standing orders so that debate could take place?-- I took your word for it.

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Okay, all right. Well now, I suggested to you that at that point you thought there was something untoward going on. There was some sort of cover up of some sort and I'm not sure that you accepted that. Did you accept that or-----?-- No, I didn't accept it.

You did not accept that. But in any event, you then made a number of quite robust statements, didn't you, in the Chamber there about inferring - sorry - implying that this was some sort of cover up or some sort of attempt to do the bidding of developers?-- I don't recall those words. I - I would have highlighted concerns with any attempts to suspend the charges or-----

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And the concerns were that this might be an effort to do the bidding of developers and so forth?-- I don't recall saying that.

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No, I'm not suggesting you used those exact words if you don't recall, but that was the concern that you had and that was the thrust of what you were saying there in the Chamber?-- I was saying in the Chamber that I didn't feel it was in the public interest to be suspending the charges.

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Yes?-- And I would have spoken in relation to that.

And in saying that, you had concerns yourself that this may be an indicator of some kind of improper, inappropriate favouring of developers or attempt to do the bidding of developers?-- I would suggest I would have been claiming that it's not in the public interest as opposed to the way you put it.

Yes, but all I'm asking you is did you yourself - were you, at that stage, of the view that this - what you thought was an attempt to delay or suspend the infrastructure charges, did you in your own mind think, well, this could be an indicator of some sort of corrupt behaviour, some sort of people trying to favour the developers, people trying to protect the developers from these charges?-- Not necessarily.

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Well, not necessarily. Obviously, it wasn't necessary but were you of that view?-- I repeat what I just said. I was of the view that it wasn't in the public interest to do anything but endorse those policies that had been put in place a month earlier.

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Okay. It didn't occur to you at that stage that there might be something untoward or inappropriate?-- I - I can't comment on that.

You mean because you can't recall or-----?-- I can't recall having those sort of discussions in the Council Chamber.

Okay?-- I-----

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All right?-- My focus would have been the charges, the relevance of the charges.

I understand. Well, I want to put it to you on instructions that you did in fact make a number of robust statements suggesting that, suggesting that this was some sort of corrupt effort to protect developers from the infrastructure charges?-- Do you want to provide me with the exact statement that you're referring to?

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No. Did you - I'm putting that, do you agree or disagree?-- Well, I would have to say that the - in freezing or reducing the charges it would obviously have a benefit to those that don't have to pay.

Yes?-- So commonsense will tell you that this would be favourable to the development industry and certainly to those that are lobbying to have the charges reduced.

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All I'm suggesting is that you made a number of statement there in public inviting that inference to be drawn?-- I make no apologies for whatever statement I made and-----

Look, again - it's not for me to be critical of this certainly - but you are given to robust language at times, aren't you, you're a passionate speaker and you're given to robust language at times?-- Not much different to the same tone that is used in the chamber by others, I suppose.

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But - I mean for example, the use of the term "slush fund" that was something that you came up with, wasn't it, is that right?-- No, it's not my invention.

In terms - in the context of this matter?-- Look, I'm not going to play on the words. If I've used it I've used it.

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Yes?-- And if - and I don't have any problem in having said it in the past.

You'd told the press in respect of this issue or these trust funds and so forth that various councillors had taken a lot of dirty money, hadn't you?-- I do recall making that statement.

You said, "They've taken a lot of dirty money" referring to the people who had received money from the trust fund, is that right?-- That would have been the inference.

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And that claim of "dirty money" where did that come from?-- Mr Chairman, in hindsight perhaps it wasn't the most appropriate word. I suppose given at the time the concerns raised with the trust fund and the amount that was being flagged that's available and the fact - the fact that there was a lot of denial it wasn't difficult for myself to give it the adjective that I did.

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Well, what you're saying it with the benefit of hindsight it probably wasn't an appropriate term to use, is that what you're saying?-- With the benefit.

And you're merely saying - sorry, you accept this, that you perhaps like a lot of us occasionally - you're a bit more robust in your language than you ought to be?-- You said that before and I think I responded to that.

You would accept that certainly in terms of the - in the context of the comment about "dirty money"?-- Mr Chairman, my background is I'm a businessman, I exercise commonsense and I-----

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Sorry, I'm not trying to criticise you about this, I'm just asking you is that a fair thing to say, that at times you're more robust in your language than perhaps you're entitled to be?-- No more or less than probably some of my colleagues and

other politicians who are put in the environment that I have been put in.

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Well, I'd suggest in any event that on that day, the 19th, you made some very robust comments in the chamber to the effect that this is an attempt to protect developers from infrastructure charges?-- I will go back to my previous statement. It was to the detriment of the ratepayers.

And you were implying, I suggest, or your words were implying that some of the councillors and certainly those that were looking to suspend the standing orders were corrupt?-- Incorrect.

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Behaving corruptly?-- Incorrect.

And I suggest that that was all - sorry, to a substantial extent politicking on your behalf, you were playing to the public gallery?-- It wasn't a public gallery.

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Yes, there was on that day?-- You're getting confused again, Mr Nyst.

I don't think so?-- The public gallery was there in August.

I suggest that at that meeting on the 19th it was an open meeting, open to the public gallery?-- I think you - you mentioned that the meeting went into closed session.

Well, what I'm saying is that as soon as any suggestion was made that "Look, we should go into a closed session" you blew up and you started saying a lot of quite inflammatory things-----?-- Were you there, Mr Nyst?

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-----about the other councillors?-- Were you there, Mr Nyst?

No?-- Well then how do you know I blew up?

I'm putting this to you on instructions-----?-- I'm still here in one piece.

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-----you understand, Mr Sarroff?-- I'd suggest that you're incorrect and mistaken.

In any event, the reality of it is - oh sorry, perhaps before I come to that - you also made some public statements - I think I was about to take you to that before lunch - and they're referred to there in Exhibit 202, have you got that there now?-- Would you mind making it available? I couldn't find it when-----

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Oh, I've got a copy here if you like. It's not the best copy I'm afraid, Mr Sarroff, but see how we go. But do you remember that article?-- I - I do remember the article.

You remember making some statements about that in that article?-- My statements are correct.

And there was a response there from Councillor - from the mayor, wasn't there, the mayor said that - reports the mayor is saying - "but Mayor Gary Baildon said there was no suggestion the infrastructure charges would be dropped, rather that some charges incurred by developers had been retrospective and therefore unfair." Do you see that?-- I do.

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And that's a correct statement, isn't it?-- I take it that's correct statement.

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Yes. What I'm saying is, that statement by Councillor - by Mayor Baildon, if he made it, that statement is a correct statement of what happened that day?-- That would be one component of probably the issues that were raised and discussed.

Yes, okay, but that, in so far as it says that, that's true?-- Well, you're asking me to confirm that that statement was made?

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No, no, I'm asking you to confirm that it's true that there was no suggestion the infrastructure charges would be dropped, rather that some charges incurred by developers had been retrospective and therefore unfair?-- Well, I don't agree with that statement, and I don't agree-----

You thought something else was happening at that meeting?-- No, I don't agree with the statement because by suspending the charges you're suspending all the charges and therefore you're not dealing specifically with those cases that you're referring to.

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But do you understand that there was no motion to suspend the charges?-- Oh, no, I do understand there was a motion that was drafted and sitting there ready to be put to the meeting.

But no such motion was ever put. What was-----

CHAIRMAN: Mr Nyst, we've been through this already. I'm wanting to give you some leeway but quite frankly-----

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MR NYST: Yes, well, I'm surprised that we're going back to this as well but I thought we'd-----

CHAIRMAN: Yes. Well, we've been through all this. But by asking him whether that's correct, that that's what happened at the meeting you're opening it all up again and he's now saying no, that's not correct and he's giving you the same explanation as he gave previously.

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MR NYST: No, I didn't understand his explanation to be that previously, I understood him to have agreed that the only motion that was put was a motion to suspend standing-----

CHAIRMAN: Can I give you my indication of what I see as the relevance of this. There's no suggestion anywhere in any of this, as I see it, that anyone's done anything improper. The

only relevance of this, as I see it, to this inquiry is to terms of reference 2 and 3.

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MR NYST: Could you be more specific please?

CHAIRMAN: Well, Councillor Pforr says - no, perhaps that's a bad example. I'll use that we hear from councillors that okay, you receive a donation from a developer, you then - the suggestion that that councillor then shouldn't vote on anything to deal with that developer. How do you go then when you bring forward a thing that affects every developer in the - in the area? That sort of thing I see as relevant, plus this, of course, is an issue that's directly there at the time when we know that your client was out - by other evidence, if it's correct - was out personally soliciting donations from developers. It's got relevance that sort of way.

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MR NYST: Yes.

CHAIRMAN: But as to whether this man was right in his view about the infrastructure charges or whether the mayor was right or whether your client was right, of course there's going to be different views, and I'm certainly not going to, at any stage, be addressing the issue of which of them was right and which of them was wrong.

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MR NYST: Well, I'm indebted to you, sir, for making that clear. As I have understood the way the evidence was elicited earlier on there was a suggestion that there was some kind of misbehaviour.

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CHAIRMAN: There was a suggestion, I agree with you there was a suggestion.

MR NYST: Elicited by my friend, Mr Mulholland, from-----

CHAIRMAN: There was a suggestion as it came out from this witness that there could well have been. But I've certainly-----

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MR NYST: But I'm pleased we've moved forward to that point.

CHAIRMAN: I've certainly seen no evidence to back that up.

MR NYST: Yes, well, that's my point.

CHAIRMAN: More than a mere suggestion. Absolutely no evidence-----

MR NYST: Thank you, sir.

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CHAIRMAN: -----at all to suggest there was anything wrong on the part of anyone in what they did.

MR NYST: Thank you, sir, yes. And look, just to finalise that point. David Power was the person who, going back a number of years, lobbied the State Government to include these

- this infrastructure regime into the current Act, wasn't he?-- I can't comment.

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David Power - the infrastructure provisions were in fact - the adoption of the infrastructure provisions was in fact moved by none other than David Power, wasn't it?

CHAIRMAN: Well, Mr Nyst, if that's the case just - at some stage just get a document that shows that and tender it and then that's the end of the matter. This witness might or might not know, he probably doesn't.

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MR NYST: He could tell us if he doesn't. Isn't that the case?-- Well, Mr Nyst, at the end of the day if the council resolved to pursue the charges, and it's not Councillor Power alone, it is the council, so that may well mean myself, it may well mean Councillor Crichlow, Councillor Rickard, Councillor McDonald, Councillor Legrew and every other councillor that was a councillor at the time, that the motion was adopted.

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No, but I'm putting to you that he - it was he, Power, that moved it, he was the one that moved the adoption of these charges?

CHAIRMAN: Do you know that or not?-- I can't answer that.

Right.

MR NYST: Don't know. All right. Now the Sunland application, Exhibit 34, I understood you to tell my learned friend, Mr Mulholland, that Mr Power seconded a motion by the mayor that the discount be allowed. Is that so?-- I believe the minutes are there and they should give us an accurate indication.

30

So do you mean by that, "I don't really know, I was just agreeing with Mr Mulholland because he put it to me"?-- At - are we referring to the finance committee meeting? Because I believe it may have been the mayor that moved the motion, seconded by Councillor Power.

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Pardon?-- Mr Chairman, just bear with me. I'll just try-----

CHAIRMAN: He's saying that he believes that may have occurred in the finance committee meeting, Mr Nyst.

MR NYST: There was a change of vote, wasn't there?-- Well-----

Mr Power, at the Council meeting, supported Councillor Crichlow's motion, didn't he? A motion that the recommendation be amended?-- The finance committee meeting - I recall Councillor Power voted for the discount to be allowed. I stand to be corrected but someone should have the minutes there. I can't find-----

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MR MULHOLLAND: On page 5.

MR NYST: Sorry, I didn't catch the end of that answer. What did you say?-- I haven't got page 5 here.

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CHAIRMAN: It's at page 5 of this document which is part of Exhibit 134 and it shows the motion that the officers recommended as printed be adopted - was moved by Councillor Crichlow, seconded by yourself. The motion was lost then there was a motion moved by Councillor Clarke, seconded Councillor Power, that the discount on the subject rate notice be granted due to the special circumstances?-- Thank you.

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MR NYST: Now, do you remember any of this or are you just taking this from what you're being shown now?-- I was at the meeting.

But do you remember any of it? I understand you were at the meeting?-- I do remember-----

Pardon?-- I remember the issue. I elaborated on that yesterday.

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Now, in the full Council meeting, Councillor Crichlow moved a motion that there be an amendment, didn't she?-- And the amendment was to move the officer's recommendation and that is not to allow the discount.

Yes?-- Correct.

That's right. And Councillor Power voted for that, didn't he?

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CHAIRMAN: The minutes show that he did.

MR NYST: Do you remember any of it?-- The minutes show that he did, then he did.

You don't remember any of this?-- I'm not sure how relevant that is.

You're just taking what Mr Mulholland and/or I or Mr Needham say to you, the Commissioner Needham say to you?-- If the minutes show that Councillor Power has voted for this resolution then I accept that as a fact.

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All right?-- I don't have a problem with that.

Okay. You don't have a problem with it because you concede, don't you, that there were arguments both ways, not necessarily ones that you agreed with, but there were arguments both ways that were supported by some reason. Is that fair?-- No, the arguments that were put in favour of allowing the discount weren't arguments that stacked up and that was based on the officer's advice. I have overnight re-read the agenda item as I undertook to do and I rang the officer this morning to make sure that that agenda item was correct in its contents. And I therefore disagree that there was a case to allow the discount.

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Okay. Well, you remember though - you remember then, do you, that Councillor Power supported Councillor Crichlow in suggesting that the discount not be given in full Council?-- That's correct.

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Pardon?-- That's correct.

That's correct. Now, you told my learned friend, Mr Mulholland, "I can't point to any specific examples of any donors having received any favouritism." And here I think you were talking about the donors into the trust fund; is that right?-- Correct.

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And that's-----?-- Any donors-----

Pardon?-- I thought it was a general question. I thought it was a general question.

Of any donors at all?-- Yes.

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Right. Well, that's the fact, is it, that you don't - you can't point to any instance or example of anybody receiving any favouritism?-- When asked, I - that was my response and I haven't gone out researching that to give a contrary view.

No, you haven't-----?-- I didn't go out researching it. I was asked the question-----

Yes, I understand?-- -----and I gave the answer to the best of my knowledge.

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And I'm just trying to explore that. That is your position though. You don't know of any examples of any - you're not able to give any specific examples of anybody actually receiving favouritism in return for money?-- That's what I said.

Yes, but is that right?-- Yes - look, I'd made that statement.

And it's correct?-- With the - at the time when I was asked the question-----

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Yesterday?-- -----I could not think of any instances where a donor was given favouritism.

Yes?-- And I gave the response in the context of the question that was asked-----

Okay?-- -----and with my recollection of matters. I wasn't asked any specific-----

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Yes, I'm not-----?-- Yes-----

-----criticising you for the answer. I'm asking you, is that your position now, that you don't know - you can't point to any specific example of anybody getting any favouritism in return for money donated?-- I - I probably would maintain that position.

Okay. Now, in respect of the Yarramine development matter, you said the outcome was acceptable but it was different to what was in the minutes of the original meeting; is that right?-- Correct.

But you're accepting that there was nothing untoward or inappropriate about the outcome that was reached?-- No, the-----

CHAIRMAN: Just - I'm sorry to be pedantic. I think you were saying that was his point, wasn't it, was that the outcome was consistent with what was in the minutes, whereas it shouldn't have been because the outcome was not what was decided at the meeting; it was in fact what was decided subsequent to the meeting, and I thought that was his point-----

MR NYST: Yes, that's-----

CHAIRMAN: -----that the minutes didn't reflect what occurred at the meeting; they referred - reflected the negotiated outcome that was reached subsequent to the meeting.

MR NYST: Subsequent.

CHAIRMAN: That's my understanding of his complaint in that regard.

MR NYST: Yes. Well, I hadn't understood that I'd put anything different to-----

CHAIRMAN: All right.

MR NYST: I didn't mean to.

CHAIRMAN: It's just what you put to him was that the outcome was different from what was in the minutes. Whereas in fact what's in the minutes is the outcome.

MR NYST: I meant the minutes of the first meeting of the - there are two meetings.

CHAIRMAN: There was only one formal meeting which was minuted. The second one was a meeting on site at which the negotiated outcome was arrived at.

MR NYST: No, there were three meetings: the first is the planning committee meeting which is minuted; then there's the informal meeting; then there's the meeting in the Council, and as I understood his concern is that what was put to the Council was inconsistency with what was on the minutes of the first meeting.

CHAIRMAN: Yes. What - the minutes of the first meeting were not correct in that they didn't reflect what occurred at that meeting. They reflected the outcome that was arrived at subsequent to that meeting.

MR NYST: No, I don't think that's right.

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WITNESS: That's my statement.

CHAIRMAN: Well, that's what he said. That's the point I'm making that what you put to him is incorrect.

MR NYST: I think you're leading him into error.

Your concern was this, wasn't it, Mr Sarroff, that there was a planning committee meeting at which some conditions were adopted and that was a minuted meeting, and then the recommendation that came out of that meeting was put to the Council, full Council later but that recommendation did not in fact reflect what had been agreed at at the first meeting?-- Correct.

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That's your position, yes. That's what I understood. And you've no complaint about the ultimate result; you say, well, that's quite appropriate and in order, but I can't work out how there's been a change in the recommendation as it came out of the planning committee and came into the full Council meeting?-- Correct.

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Okay. Well now, I just want to take you through the history of it. You may or may not know this - are you familiar with the matter?-- I raised the matter in my submissions, so I do-----

You raised it but are you familiar with it; are you familiar with the facts surrounding it?-- I was - Mr Chairman, I was faxed some information this morning in relation to that, and this is the officer's version of the events. I haven't had an opportunity - it's a big document, and I haven't had an opportunity to fully study it, but I certainly have my clear recollection of what happened at the time.

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Okay. I want to preface this, Mr Sarroff, by saying I'm not attempting to be critical of you raising some query about the fact that this had changed between the first meeting and the second meeting, but I want to just run you through the history of it to see whether you agree with it, okay. I suggest that the - at the planning committee meeting, there was a recommendation about the deletion of certain lots from the site; is that right?-- Correct.

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Lots 24 to 30 in particular?-- This is the officer's recommendation.

Yes. It was recommended condition number 40D read: in order to accommodate stormwater quality improvement devices outside of the waterway buffers, the applicant shall delete lots 24 to 30 and use this area of the site for stormwater management purposes, both quality and quantity?-- Correct.

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Okay. Then at the planning committee, there was debate - planning committee meeting, I should say, there was debate - they debated the item which included consideration of the

provisions of stormwater treatment on a regional basis rather than a site specific basis and the consequential reinstatement of some of the lots recommended for deletion for that purpose; is that so?-- Perhaps not entirely; perhaps not entirely, but I'll let you continue.

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Well, I'm sorry, you qualify it if it needs to be qualified?-- The move at that committee meeting - there was a move at the committee meeting to have the stormwater for this development treated off-site.

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Yeah?-- That was - that generated a great deal of debate and-----

Could I just stop you there?-- Yeah.

That debate is what I've just referred to, isn't it, this consideration of the stormwater treatment on a regional basis rather than the site specific basis?-- Can you keep going with that; where was that stormwater treatment area going to be accommodated?

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Well, wherever it was going to be accommodated, there was debate about that, wasn't there?-- There was debate about it.

Right. And that was sort of legitimate and appropriate debate; is that right?-- That's correct.

Now, the committee then came up with two separate recommendations, I suggest: the committee resolved - sorry, recommended - sorry, it confirmed various recommendations-----?-- Mmm.

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-----and approved conditions which included a condition 1(a) which read that the original proposal to delete lots 24 to 30, 86, 87 and 206 be amended to read that only lots 86 and 87 be deleted; do you remember that?-- Yes.

And it also approved a condition 40(d) that lots 24 to 30 be deleted for the stormwater management purposes?-- That's not the committee's resolution.

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It's not?-- Not as I recollect it.

Coming out of the planning committee?-- For the planning committee.

Well see, I suggest it was, I suggest that both condition 1(a) that I've referred to-----?-- Sorry, Mr Chairman-----

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-----and condition 40(d)-----?-- Can I just interrupt here? From what I understand I think what you are reading from is a document that I got this morning. That is a change-----

Could I see it?

CHAIRMAN: Just let him finish the answer?-- The document that I got this morning and as I said I haven't studied it all but

on the face of it the committee recommendations that were changed here were at the meeting of the 6th of August. This is not the committee meeting of the 3rd of August. Now, if you're referring to what happened on the 3rd of August, that's not what happened there.

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MR NYST: That's what I'm referring to, the 3rd of August. I'm saying that out of that committee - planning committee meeting came recommendations in respect - in terms of condition 1(a) which was to amend the original residential A designation so as to apply only to lots 86 and 87 and also a recommendation for a condition 40(d) which was in these terms, "In order to accommodate stormwater quality improvement devices outside of the waterway buffers the applicant shall delete lots 24 to 30 and use this area of the site for stormwater management purposes both quality and quantity"-- And you're suggesting that was changed on August the 3rd.

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I'll see if I can short circuit this. I'm suggesting that what came out of that planning committee meeting - they made an error at the planning committee meeting and they actually ended up with two conditions that were conflicting and that subsequent to that because they had these conflicting conditions the planning chair, Power, was - sorry, it became clear that there'd been - that there were these conflicting or contradicting conditions - that Councillor Power was contacted along with the planning committee chair to clarify the intent of the proposed amended conditions to enable a complete and non-contradictory set of conditions to be presented to Council for adoption?-- Incorrect.

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Incorrect?-- Sorry, that might be what has been suggested but it is not something that I would - would concur with.

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But you wouldn't condone that happening?-- Oh no, I would and rather than condone it happening I would have to question that because I met with the-----

Sorry, could I just stop you. What are you-----

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CHAIRMAN: Let him finish.

MR NYST: Well, I just want to ask-----

CHAIRMAN: No, no. Please. I would like to hear what the witness was telling.

WITNESS: -----been waffling a bit so let me get to the point with this. So between Tuesday and Thursday I met with the officer in charge of this matter with Councillor Crichlow on the site.

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MR NYST: Yes?-- But the officer's clear and unequivocal comment to myself and Councillor Crichlow was that we managed to convince Councillor Power that that wasn't a good outcome what he moved and we have suggested that we now put all these stormwater devices and therefore that condition now which appeared in the minutes - being the minutes of the Tuesday

meeting - which now reads that, "The development shall rely upon water sensitive urban design techniques to treat stormwater quality in the upper catchment prior to the release to the ecological significant open space waterway within the site. Water sensitive urban design may include but not be limited to swale drainage, bio retention systems and rain gardens." That came about as explained to me as a recommendation from the officers as the best way forward but certainly a complete contradiction to what was suggested at the committee meeting. And in actual fact, Mr Chairman, at the meeting Councillor Crichlow asked the officer by the developer pressing ahead with this water sensitive urban design technique how was that going to affect those six lots and his response was, words to the effect, "The roads might have to be wider. In the end of the day the yield mightn't be the same. They might in the end of the day still lose those six lots." Councillor Crichlow and myself at that point said, "Well, if this is an outcome that is acceptable and complies with policy then we will support it. Now, the following day that was appeared on the minutes of the meeting. But it was not a true reflection of what was discussed and debated on the floor on the Tuesday.

Okay. So we're all agreed that this was the best outcome ultimately, we're agreed on that?-- I agreed, yes.

Okay. Now, I want to take you back to the process. What I'm suggesting is that at that first committee meeting, coming out of that committee meeting, you ended up with two conflicting recommendations?-- And the point?

And that it was as the result of that conflict in those recommendations that someone approached Power and the chair of the planning committee to find out what is the better recommendation because these - this is gobb'ledegook, this is - doesn't make any sense, we can't put this up to Council?-- Well, Mr Chairman, then I would have to question why the officers at that point didn't make it clear to the committee specifically when they saw there was some debate about this issue that this is not a valid confident motion and - and at that point indicate that it is best that we not deal with this matter because you can't achieve the outcome that was suggested at the meeting. The outcome at the meeting was to shift the stormwater off site into Council's parkland.

Okay. All right. Well, you would make that comment but you can't - you're not cavilling with my version of the facts, that that's what happened and these people were approached about this contradiction?

CHAIRMAN: Well, how can he if he wasn't there?

MR NYST: Well, that's my point.

CHAIRMAN: All right. Well, he can't comment on it.

MR NYST: Nor is he saying that that could not have happened.

CHAIRMAN: Well, he can't say it because he wasn't there.

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MR NYST: No. So the - as a result of that contradiction then conditions were drafted that removed the contradiction between the proposed amendments 1(a) and 40(d) provided for water sensitive urban design to be incorporated into the urban design of the new estate new condition 40(d) and provide for a contribution towards the embellishment of the wetlands in Bakers Creek; that's correct, isn't it?-- That was seen as the appropriate resolution.

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Yes. And I suggest that in that way the intent of the planning committee's amended conditions were preserved and made workable for the proposed development?-- It wasn't a true reflection of what happened in my opinion, Mr Chairman.

I suggest at the full Council meeting the amended conditions were presented - this is on the 6th of August?-- Right.

And the minutes presented to the Council accurately reflected the committee's discussion and proposed amended conditions resulting from that discussion?-- And your point?

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And they included an explanatory note on the contradiction that had arisen?-- And I take it you're referring to this - these minutes?

Yes.

CHAIRMAN: Well, if you've got them just tender them and that will be the end of the matter, won't it?

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MR NYST: I don't have them, he has them.

CHAIRMAN: Oh, I'm sorry, I thought you agreed with the witness that you were reading from the minutes.

MR NYST: No, he said, "You're talking about these minutes," he's holding them up, I assume he's talking about the minutes of the meeting.

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CHAIRMAN: Do you have the minutes of the-----?-- I have the-----

Or the report that was presented to the Council and considered at the full Council meeting because that's what Mr Nyst said, that the explanatory memo went with the report to the full Council meeting explaining the change to the minutes, do you have that?-- Mr Chairman, I have the minutes of that meeting.

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Yes, but-----?-- The agenda item.

You have the minutes, but do you have the report that went to the full Council meeting?-- The - the full Council meeting would have had the minutes, but not - I don't have the agenda to accompany that.

You don't have the report that went to the meeting?-- No, not here.

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MR NYST: I suggest-----

CHAIRMAN: That's perhaps the easiest way if that clarifies it.

MR NYST: Hmm?

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CHAIRMAN: If that clarifies it, if there was an explanatory memo that clarifies it we'll just take that and that will be the end of the matter.

MR NYST: Yes, but I mean I'm asking him about this. I'd submit it's appropriate that he answer the question.

CHAIRMAN: No, all right, if you don't have it, if you don't have it that's all right. I thought if you had it would be the easy way.

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MR NYST: No, I'm simply putting to him-----

CHAIRMAN: Okay, right.

MR NYST: -----on instructions that-----

CHAIRMAN: You don't have it. All right.

MR NYST: -----the-----

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MR WEBB: I think the Commission might have that, Mr Chairman, I think it's part of the material we've supplied.

MR NYST: And-----

CHAIRMAN: All right. Well, we'll look and see if we can find it then.

MR NYST: Yes. And included in that was an explanatory note on the contradiction that had arisen, wasn't it?-- That's correct, but-----

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And-----

CHAIRMAN: Sorry, he was saying "but".

WITNESS: But, Mr Chairman, I again don't agree with the explanatory note which makes reference to 40D and for the stormwater treatment within the development site external to the gully because that again wasn't what I believed was the intent of what came through the committee.

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MR NYST: Do you know the director of planning, environment and transport Mr Warren Rowe?-- I do.

And he's a very competent man, isn't he?-- I believe he is.

And a very experienced man?-- He is.

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I want to put to you his assessment of the matter and I'll ask you to comment on it. Council officers - he says, "Council officers were not directed by any councillors to change, amend or bring forward conditions in any format." You can't challenge that, I take it?-- Can I just ask a question. When did we receive - when did you receive that information?

I'm not allowed to answer questions, I'll ask the questions. "Council officers were not directed by any councillor to change, amend or bring forward conditions in any format." Do you agree, disagree, comment on that?-- No, that's correct, that's a correct statement.

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"The minutes were presented to" - sorry, "The minutes presented to Council reflect the consequences of the planning committee recommendations. The recommended conditions were not complete or workable and a revised set of conditions were drafted to capture the intent and presented for the Council with a supporting explanation. This is not an unusual occurrence where conditions are changed in committee without fully exploring the flow-on effect and consequences." Now, do you want to comment - do you want me to take you through that bit by bit or do you disagree with any of that?-- No, I - I think I made-----

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MR MULHOLLAND: If this witness is being cross-examined on a document I ask that the document be put in front of the witness. If he's being cross-examined on a document which evidences what Mr Nyst is-----

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MR NYST: Yes, I haven't got any problem with that.

MR MULHOLLAND: -----putting then the document should be put in front of him.

CHAIRMAN: I'm happy to take it. But, Mr Nyst, if any of these - if things are brought up by a witness that have got a simple explanation and can be clarified I'd be delighted to receive it in documentary form and we'll be able to take it and move on. All I want to do is find out what the real situation is. If there's something that clarifies it at any time if you've got it just produce it and let's move on. So let's-----

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MR NYST: Well-----

CHAIRMAN: I'm happy to just take that document and take it as an exhibit if it's a statement by Mr Warren Rowe, who's the heading of planning, as I understand it, at the Council explaining what happened, let's take it was an exhibit.

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MR NYST: Just pardon me a moment. I might have this put to the witness if I may. I'm not intending to tender it at the moment, sir.

CHAIRMAN: Sorry?

MR NYST: I'm not intending to tender it at the moment.

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CHAIRMAN: No, but if it's being put to the witness I'll have a look at it.

MR NYST: Well, that's not the normal rule, with respect.

CHAIRMAN: We're not bound by the normal rules, Mr Nyst, you know that.

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MR NYST: So I notice. I'll tender it, sir, that'll-----

MR WEBB: I think we all know that by now.

CHAIRMAN: It doesn't surprise me that things can get mixed up at these-----

MR NYST: Well, that's really-----

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CHAIRMAN: -----committee meetings, that you know someone can say, "We want to change it" and it will be changed one way, but - and I can understand going back and amending the minutes. But isn't it - wouldn't it be done that every member of the committee is advised of what's happening-----

MR NYST: Well, that's-----

CHAIRMAN: -----rather than just working it out between the Council officer and the chair or something? I'm not saying there's anything wrong with it.

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MR NYST: What I'm putting to this witness is that it's standard procedure. I don't know whether it's one - whether one would consider it to be good procedure or not but-----

CHAIRMAN: No, no.

MR NYST: -----it's apparently fairly standard procedure.

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CHAIRMAN: But don't they advise all members of the committee so that everyone knows what's happened?

MR NYST: It's a recommendation. You've got two conflicting recommendations. It seems that the view taken on the report that - the report that I've handed up is a report by the CEO that reports - that contains - he's requested that a report by the Director of Planning Environment and Transport-----

CHAIRMAN: No, I think you mightn't be understanding my point. All I'm saying is I can understand how it might be necessary to go back and amend it because-----

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MR NYST: Yes.

CHAIRMAN: -----there's been a change and a new condition brought in at the planning committee and it turns out when one

looks at it more carefully later that it causes another
problem that was not foreseen at the-----

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MR NYST: Yes.

CHAIRMAN: -----discussion of the committee, and so an
alteration is made. But wouldn't that normally be brought to
the attention of every member of the Planning Committee so
they all know what has happened?

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MR NYST: Well, that's what I was about - I'm not
misunderstanding you, what I was about to say was this report
from the CEO quoting the Director seems to be suggesting that
whether it's a good practice or not, it's not unusual for it
to happen this way.

CHAIRMAN: That the other members of the Planning Committee
are not told?

MR NYST: Yes, and one might well understand-----

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CHAIRMAN: Okay.

MR NYST: -----Mr Sarroff scratching his head about that, we
might scratch our heads about it, but-----

CHAIRMAN: They might - they might perhaps think about-----

MR NYST: Pardon?

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CHAIRMAN: -----making it that all members find out what
happens.

MR NYST: Mmm, I mean, that might be a recommendation.

CHAIRMAN: All right.

MR NYST: But, well, really the purpose of this cross-
examination is to-----

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CHAIRMAN: Sure.

MR NYST: To say, look, there may have been confusion and
misunderstanding about this but there was nothing corrupt or
inappropriate or untoward about it.

CHAIRMAN: I understand where you're coming from.

MR NYST: Thank you, sir.

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ORDERLY: Is this to be-----

CHAIRMAN: No, just give it to the witness for the moment,
thanks.

WITNESS: Mr Chairman, this - this is the same memorandum that
was faxed to us this morning that I have mentioned-----

CHAIRMAN: So you've got a copy already.

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WITNESS: -----but I hadn't had a chance to study it in detail but it's - I have got a copy.

CHAIRMAN: Okay. Well, that means I can have one in front of me while you ask the witness about the one he has in front of him.

MR NYST: Well, could I see - yes, could I see what the witness has?-- It's the same.

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CHAIRMAN: So this is in fact a memo not by Warren Rowe but by Dale Dickson, but copied to-----

MR NYST: It's-----

CHAIRMAN: But copy to - copy to Warren Rowe.

MR NYST: No, no, it's - if you read it, it's Dale Dickson who then quotes the report of Warren Rowe.

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CHAIRMAN: Yes, yes.

MR NYST: So if you get to the part that says-----

CHAIRMAN: That might be so but it's a memo by Dale Dickson.

MR NYST: Yes.

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CHAIRMAN: Yes. And when you get to the part that says Background Information, that's starting to quote, as I read it, that's starting to quote Warren Rowe down as far as page 3, the end of the second paragraph there, you see, Consequences. That seems to be the end of the quoted report.

CHAIRMAN: Yes, yes, I see what you mean.

MR WEBB: I'm instructed to confirm that is correct, what Mr Nyst just said.

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MR NYST: Yes, thank you, Mr Sarroff.

CHAIRMAN: We'll take it as an exhibit?

MR NYST: Yes, I'll tender it, I think.

CHAIRMAN: Exhibit 206.

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ADMITTED AND MARKED "EXHIBIT 206"

MR BETTS: Chairman, could I see it before I ask a couple of questions.

CHAIRMAN: Certainly.

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MR BETTS: For the record, Mr Chairman, Councillor Greg Betts, Division 12. Councillor Sarroff, you gave evidence under cross-examination that you met me at the Gold Coast airport prior to the election. Is that correct?-- That's correct.

Can you recall when that meeting took place?-- Oh, I would have thought you would have better records of that.

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If I suggest to you September/October 2003, would that sound correct to you?-- It may have been a bit later but it was well before the election.

Can you explain what the circumstances were that led to us having that conversation?-- Sure. I recall putting my luggage through, heading out of town, and one of the friendly staff there was Ed Tasimi and he indicated that he thought it was - he'd like to introduce me to yourself being someone who's considering running in the - in the forthcoming elections.

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I'd like to point out, Mr Chairman, I was an employee for Qantas at the airport so that's why I was there. What was the detail of what was discussed to your recollection between us?-- The details were pretty clear. Councillor Betts indicated he had an interest in running in the forthcoming elections and felt that I might have some advice that I can offer him and I was happy to do that in the short time that I had at the airport.

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And could you exhaust your memory about the advice that you gave me?-- I was very clear on my advice. I said wear out as many pairs of shoes as you can and make sure you can go out there and sell yourself as an independent, and I think I even indicated that you would need to find \$20,000 and my recollection is that I would have said you would need to have - it would be best to try and - as a newcomer to try and fund it yourself and it was the same advice I offered to another candidate who asked me in the recent byelection. But my advice was go out there and walk the streets and - and yes, go and meet the constituents.

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And at any time did I ask you about ways to get that kind of funding?-- No, I think I was clear in suggesting that it's probably best to be able to fund your own campaign, given that you're new to the job or, you know, you're not known to your community, and I think I would have reflected on my first election where I personally funded my campaign fully and it wasn't cheap, but you know, it's all - it's all those things that are important when people are meeting - well, from the constituents' point of view.

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Okay. Did I ask you for any other support other than the advice that you gave me on that day?-- No, but I did leave the door open if you needed to ring me up about any matter and I actually remember you ringing me about a planning matter in

Burleigh to just sort of get some facts about a particular development. Can't recall which one.

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So given that, did I leave you with the impression that I was seeking funding at all or that I was interested in being anything other than independent?-- Not at all and I think our short meeting was to basically - a short meeting was to sort of you can introduce yourself and pick my brains and I think you did a good job. You kept following me from one part of the airport to the other and I think you might even have held the plane up.

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I don't know about that. I wouldn't do that. Now just - now with regard to the article that Mr Nyst was discussing before about the dirty money, now you can recall that article?-- Yes, and I think I've already responded to that-----

Yes, okay?-- -----Councillor Betts.

Now can I just ask you, if someone was to imply in the media that you had taken dirty money, would you consider that the general public may think less of you in your position as a councillor or, in fact, your character generally?-- Look, in fairness, I think I responded to that and said, in hindsight, probably would have used a different comment and, I suppose, it was the circumstances in relation to the particular trust fund and-----

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I think you said you felt that the words were inappropriate having looked back on; is that correct, that you felt now that it was inappropriate to say that?-- I can't recall exactly but I might have and I repeat that.

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Given that you yourself did make such a comment about other councillors which I took to include myself and you're now saying under cross-examination by Mr Nyst that such a comment was inappropriate, would you consider it fair to publish a full and public apology?-- Oh, look, I'll consider this in due course, Councillor Betts.

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Okay?-- Thank you.

Thanks, Mr Chairman.

CHAIRMAN: Yes, Mr Webb?

MR WEBB: Thank you, Mr Chair, I'll be as brief as I can. You mentioned this occasion where you snatched something out of the CEO - you're quite aware that I'm acting here for the CEO, are you not, Mr Sarroff?-- Correct.

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You snatched a paper out of the CEO's hand that he'd prepared at the request of one of the councillors-----?-- or maybe some councillors.

-----or he caused someone to prepare, might be a better way, but you're not making any criticism of him in the performance of his functions in that regard, are you?-- No, I didn't and I did say yesterday that he indicated that he was asked to prepare the resolution.

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I heard that but in answer to my question, you're not making any criticism of anything that he did as CEO in bringing that piece of information forward are you?-- No, I'm not.

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And the other occasion involving a piece of paper that had something whited out on it, he gave you an explanation about that later how that had come about; you're not raising any criticism against him, are you, having had his explanation?-- He's made his explanation and I've indicated that I was very disappointed that the paragraph was whited out.

Yes, but that was done by someone else not him; that's so, isn't it? That's what he told you?-- But the bottom line is a crucial paragraph was whited out of a document and, at the end of the day, it put myself and my family through a great deal of distress.

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Well, can I just-----?-- Now I might-----

-----get to the point of this; he explained to you. He had instructed a staff member to white out some comments he had written on the side and he explains the staff member, in fact, whited out a paragraph and not the comments on the side?-- From memory he - it wasn't-----

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He told you that, didn't he?-- No, because, from memory, it wasn't-----

All right.

MR MULHOLLAND: Oh, hold on, let him give the answer. The witness is-----

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MR WEBB: I'm not interrupting him. I'm just-----

WITNESS: He just threw something at the-----

MR MULHOLLAND: Hold on. Well, that-----

MR WEBB: Mr Mulholland, we've put up with questions being repeated and repeated. I have not stopped the witness-----

CHAIRMAN: I think the two of you can sit down and we'll listen to the witness' answer?-- Thank you very much. Mr Chairman, the question was, "Was I aware that the CEO at the time had some notes denoted on both sides of the paragraph or on the side and it was the notes that were removed?" That is incorrect because the CEO in his statement at the time said that he had denoted two lines against the paragraph and he had asked his secretary to remove the two lines and accidentally the secretary removed the crucial paragraph and just for the

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sake of accuracy that's correcting the statement that was made before.

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MR WEBB: Thank you for that. That's what I was intending to put. Now-----

CHAIRMAN: See, you should let him answer.

MR WEBB: Now - oh, look, your statement, you were asked yesterday to read - you said, you would read through it and satisfy yourself that what's in it is correct. Did you do that?-- Mr Chairman, I have to say that, again, I browsed over it again but I'm unreasonably satisfied with what I've said. I have to apologise.

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All right. So you have gone back to it?-- I have browsed over it and I'm happy to answer any questions.

I'm not - I just wanted to clarify that for the record because it was something that you were going to attend to, you see. I'll only ask you one question about your statement. What appears at page 14 and 17, starting from line 555 and ending at page 15 and 17, line 561, just to yourself just look through that?-- Starting from 555, did you say?

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Starting from 555, you see there, ES, that's you?-- Yes.

And over the page finishing on 561 against ES, again, that's you?-- Mmm-hmm.

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Is that what you were referring to when someone else was questioning you and you said that you used the media really to put questions to other candidates or, indeed, to other councillors?-- Mr Chairman, what's the relevance of - our solicitor questioning me on this issue-----

No, I'm not your solicitor?-- And are ratepayers paying for it?

CHAIRMAN: No, he's not acting for the Council; he's acting for the CEO.

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MR WEBB: I'm just clarifying something that you were asked before, you see. Is that what you're referring to? I'm not going to take you through it. I just need an answer to that question.

CHAIRMAN: What is the question?

MR WEBB: There was questioning earlier about the media and I thought this is what the witness was referring to in his answer. I'm just trying to clarify that. It's of no great moment and if he's having difficulty with it, I'll move on?-- Well, can we move on, Mr Chairman.

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CHAIRMAN: Okay.

MR WEBB: I thought it was pretty - now, you earlier mentioned that you were chairman of the Finance Committee; that so?-- Correct.

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At the same time you were chairman of the Audit Committee?-- Correct.

Now, what's happened since, there are no councillors on the Audit Committee; is that so?-- That's correct.

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Did you give any thought to the fact that if you're on the - chairman of the Audit Committee, how do you as chairman of the Finance Committee get audited? You see, I'm really suggesting there's a good reason for making a change there?-- Look, historically, Mr Chairman, the previous - previously-----

CHAIRMAN: Yes, but that might be so but it's been suggested to you that it was considered there was a good reason to have a change, that you wouldn't be on both - chair of the Finance Committee and also be on the Audit Committee.

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MR WEBB: And nor would anyone else who was a councillor?-- I didn't see a conflict.

Oh I see; all right. Now, were you - a document was requested by the Commission, Mr Chairman, late yesterday afternoon and we had it brought up, so I'm going to put it in. It hasn't been put in yet but I'll introduce it through this witness because I think that's how it came up. The question of allowance or extension of discount - well, I don't need it, I've read it. Would you have a look at this, please?-- And what's your question?

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I just asked you to look at it. Have you looked at it? Just - I'm not rushing you. Just look at the different pages?-- Okay. I'm just flicking through it.

All right. And I suppose as chairman of the Finance Committee or indeed as a councillor, you would have been aware of that document as one of the Council documents?-- I would be aware of it. I - it doesn't mean that I've studied it in-----

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No, no, I'm not-----?-- No, the-----

Please don't anticipate my questions. Just deal with the question I ask and we'll get along much more quickly. That's one of the administrative procedures, one of the documents that form the administrative procedures for the Council, is it not?-- Yes.

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I think if you look at the bottom you will see there is probably 127 pages in the series which contain the administrative procedures. If you look at the bottom of the document, you will see down the bottom that those are certain pages of 127?-- Okay, sure, yes, I can see that.

Right. And that's about the number of pages, to your knowledge, of administrative procedures of the Council?-- That's what it says.

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Okay. Now, well, I don't think the document actually does say that but that's what I'm suggesting to you. And those are the procedures for dealing with requests for allowance of discounts of rates that have been - haven't been paid in time?-- Mmm.

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Is that so? Just look at my document please?-- It says-----

Is that so? That's the procedure for the administration, how to deal with requests-----?-- That's correct.

-----for discounts?-- That's correct.

I tender that.

CHAIRMAN: It's - so what is it? The Gold Coast City Council administrative procedure document with respect to-----

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MR WEBB: Extension of period for discount

CHAIRMAN: -----allowance or extension of discount of rates. All right. That will be Exhibit 207.

ADMITTED AND MARKED "EXHIBIT 207"

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MR BOYLE: Might I see it when it's marked.

CHAIRMAN: Yes, continue Mr Webb.

MR WEBB: Now, you see, I just want to try and clarify this and having been listening I doubt it I will get there but I will attempt. Are you aware that when a rates notice goes out from the Council it's generated by a system called Grange?-- Yes.

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So really, apart from pressing a button, no human hands really intervene with the dissemination of rates notices; are you aware of that?-- Yeah.

It's all done automatically?-- I would expect that.

And do you know that the rates notices have on the envelope in which Grange puts them, the address, the return address, that is in the case of an undelivered item, it will - it should, if whoever gets the item, it should come back to Council.

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CHAIRMAN: You mean, if no one gets the item?

MR WEBB: No. If someone gets the item but it's wrongly delivered to them, it should find its way back to Council. If

they do what most citizens do and put it back in the post box with "return to sender" written on it. Well, now, if company F who happens to live in the same address in a multi-storey building gets something for company C and doesn't do what citizens normally are expected to do, "return to sender" if - and say, "Oh this isn't me, I don't know who it really is, I'll return it to sender". The fact of that company holding on for a period and in this - my hypothetical case the discount date goes by, you see, the reason the payment wasn't made was because that procedure of the incorrect recipient holding on to it is what causes the - or possibly could cause the non-payment by the discount date; do you see that?-- I see your point.

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And that would be a special circumstance to take into account as to whether the discount might be later received?-- Mr Chairman-----

Do you have an opinion on that?-- Mr Chairman, I have an opinion on this topic in that as we've really threshed it out and-----

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CHAIRMAN: Just answer the question, if you would, thanks?-- Yes, I do have an opinion on that. We can construct an argument - a hundred other arguments as to why the rates notice hasn't arrived to the ratepayer; that's one argument.

MR WEBB: Just deal with the factual situation I put to you. That would be in your view a special circumstance, wouldn't it?-- It may be a special circumstance, but it's not a special circumstance that will warrant Council to deal with it under - as required under Section 1021.

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Thank you, no further questions?-- Thank you.

CHAIRMAN: Do you have any questions?

WITNESS: I'm going home?

CHAIRMAN: No, not yet.

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MR MULHOLLAND: Mr Sarroff, just on the same topic of the discount, can I ask you to look, please, at Exhibit 203. This is a fax which went to Mr Radcliff?-- This is the exhibit that was handed to me yesterday?

Yes. Have you got the fax on front of it?-- Yes, I do have that.

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I would just like you to go to this and it is a fax from a Cassandra Kenyon who's Acting Manager, apparently, Financial Services, and if I'm not mistaken, that is the same person who provided a memorandum to Mr Molhoek which is part of Exhibit 34 which memorandum was provided on 8th November 2004 as part of that exhibit. Now, you probably won't have that there, but what I want to ask you about is the fax. Would you go to the

middle paragraph on the page and just follow this as I read it. Does the fax say this, "While there have been a number of instances where discount for late payment has been granted due to special circumstances, Council officers are unable to identify any situations in the past where the circumstances identified by the ratepayer in the Calm River case warranted the discount being awarded pursuant to section 1021 of the Local Government Act." Have I read that accurately?-- Correct.

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And this is a facsimile transmission of 9th November 2005?-- That's correct.

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And that's what that person within Council has said. Now, can I also ask you this: at the time that this discount question came up in committee and then on full Council in November of 2004, were you by then aware of a return which had been - a third party return which Mr Barden had put in?-- No.

The evidence here suggests that the return was actually put in in July of 2004, but you weren't aware of the details of that return. Were you aware that someone had donated \$10,000 into Hickeys trust account - that's Hickey Lawyers Trust Account on 28th January 2004 in relation to the common fund that was used for election funding in relation to various candidates at the 2004 election were you aware of that at that time?-- In November '04, yes, we were aware - I was aware.

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You were aware of that. Were you aware that on 16th November, and remember the Council meeting, the full Council meeting occurred on 22nd November, were you aware of this: that on 16th November 2004 Sunland had donated another amount of \$7700 which went to Quadrant representing the final amount of moneys outstanding relating to the campaigns which had been supported by this common fund?-- No, I wasn't aware.

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Now, I need to ask you a couple of - about a couple of other matters, Mr Sarroff, if you could just put that material aside. Do you recall a few days before the election in 2004 having a conversation with a Ms Niree Christison who happens to be the next witness. This is a conversation at a community centre of some kind. Now, you appreciate those are the details that I can give you in relation to this: a community centre of some kind in which you said to Ms Christison, "Don't worry, you won't be sleeping after Saturday night." Did you ever have a conversation like that with Ms Christison?-- Mr Chairman, I believe I had very little conversation with Ms Christison leading into the election and I certainly don't recall that statement and I'm not sure in which context it's been made. It doesn't really make sense.

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Do you remember meeting Ms Christison anywhere in the days leading up to the election?-- The - leading into the election there was a pre-polling booth at the Albert Waterways library, which may be where you're referring to there. I had a worker there handing out how to vote cards and I - I would have felt that our conversations were limited to "good morning" and "see you later". There was one small discussion in relation to a

sign that was put in the garden bed and my recollection of that discussion was that I said to Ms Christison that "I'll take off my candidate hat and put my Council hat on and I'd prefer to see the sign removed out of the garden bed" and I don't think that she took lightly to that comment.

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Where was - whose sign was it?-- It was her corflute sign about so big and there were some small shrubs and flowers and it was placed amongst those and I just felt it was-----

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So you were both there apparently in relation to pre-polling?-- I would have popped in there to greet my people.

And your best recollection as to where this was?-- Yeah, that discussion would have been that I mentioned to you was at the library - and I specifically recall it because it generated a little bit of tension between the two of us.

Right. The library where?-- The library at Mermaid Waters.

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Mermaid Waters?-- Mermaid Waters.

All right. And - a library, yes. Is there anything else there at that place?-- There's a committee hall behind the library, but that's where the pre-polling was happening. I think it was in the-----

Now, you said that there was - I'm sorry, did I cut you off?-- I recall at one stage the pre-polling was in the library and then it might have been moved into the community hall, which is just to the back of the library.

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And you said that there was - she did not take - Ms Christison did not take kindly to this or something to that effect. What happened between you?-- I think - I think her reaction wasn't favourable. I think she wasn't happy that I'd asked her to remove the sign and it - it - as I said-----

Was there an exchange of words between you?-- Oh no, I - I - at the time when I saw her reaction I decided that I should back away and - and move forward. I mean, I had other things to do and I don't need to be at the library and arguing with a fellow candidate.

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Now, did you ever conduct during the course of the 2004 election a negative campaign in relation to Ms Christison's candidacy?-- No, absolutely not and - no. The answer is no, no.

What do you understand by the term "negative campaign"?-- All you had to do is look at quite a lot of the election material that goes around the city at election time and it's quite a lot of negative campaigns where people try to produce material that is either inaccurate or misleading or doesn't really present a true picture of what's happening.

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Now, you say you did not do that in relation to Ms Christison?-- I had no reason to do so and I ran a very low key campaign.

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Yes. Do you remember there being any issue raised by Ms Christison during the course of the campaign concerning the fact that you were claiming to be a supporter - sorry, to be supported by the Chamber of Commerce at - or by the Chamber of Commerce and by the Broadbeach Management Corporation or Association?-- I made those claims. I made those claims before the election and I make those claims today. I've had a very strong relationship, working relationship, with those two groups.

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Was there any issue that was raised between you during the course of the campaign in which she raised the - that is Ms Christison - raised the accuracy of your claim?-- From memory I recall Ms Christison sent out a press release suggesting that I didn't have the support of the Chamber of Commerce and I received a - correspondence and a telephone call from the chair of the Chamber of Commerce who's still currently the chair and he certainly indicated his unequivocal support.

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And what's his name?-- Don Jones.

Yes. And in relation to the Broadbeach Management Corporation or Association you say that you made a claim of - you agree that you made a claim of being supported by that. Is it an association?-- It's an association that is run independently and overseen by Council and we have an absolutely fantastic relationship and it's the body that markets the Broadbeach precinct and we've at all times had a fantastic relationship.

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So in your eyes, that was an accurate claim that you made. Is that what you're saying?-- In my eyes, it was an accurate claim and it's a claim that I maintain at the moment if the relationship continues on.

Yes, thank you. Yes, may Mr Sarroff be excused, please?-- Thank God for that.

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CHAIRMAN: Yes. Thank you for your evidence?-- Thank you.

From the sound of what was put to you about Ms Christison's evidence, you might think it wise for you to remain here in case you want to ask any questions of her but that's entirely a matter for you?-- Mr Chairman, I prefer to pick up my children.

You don't - you don't need to tell me what you want to do. It's a matter for you as to whether you want to or not. Thank you.

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WITNESS EXCUSED

CHAIRMAN: If you call the next witness and perhaps while she's coming in I'll take a matter up with Mr Webb.

MR MULHOLLAND: Yes. I call Niree Christison.

CHAIRMAN: Mr Webb, the matter is a simple little thing. I didn't want to take up a lot of time with it but it seems to be rearing its head all the time is this rates issue. And I'm only - I'm a bit slow on some of these things but perhaps the penny is starting to drop from your cross-examination of what the suggestion is about the Falcon Group, that it's a totally separate group from the Sunland Group.

MR WEBB: I thought you were at cross-purposes this morning.

CHAIRMAN: Yes, and I appreciate it now. But in that case, are you able, through your client, to supply a copy to us of the letter that's referred to in the minutes in Exhibit 34.

MR WEBB: This is not 204 that-----

CHAIRMAN: No, no. Exhibit 34 at page 7 of the agenda item before the - I think it'd be before the finance and internal services committee.

MR WEBB: I'll certainly get hold of that, not today.

CHAIRMAN: There is a letter - the one I'm referring to is - on page 8, there's a reference, "On the 22nd of September 2004, the applicant", which is of course Calm River-----

MR WEBB: Page 8 of? I'm sorry, page 8 of?

CHAIRMAN: Page 8 of the agenda. There is a reference that, "On the 22nd of September 2004," which is the day - three days after the Falcon letter, Exhibit 204, Calm River wrote to the Lord Mayor's office stating that it was now believed the rate notice was delivered to their office, that is Calm River's office, but because of an administrative mix up, the rate notice was not recognised as one of their own.

Now, that seems to be totally at conflict from the Falcon letter-----

MR WEBB: With what Falcon have said.

CHAIRMAN: So if you can produce that letter perhaps we can compare the two.

MR WEBB: Yes, I'll certainly see if we can get hold of that.

CHAIRMAN: Thanks.

MR WEBB: I think all of these things are kept somewhere.

CHAIRMAN: No hurry. We have a little bit of time.

MR RADCLIFF: Mr Chairman, while the witness is being sworn, I've raised with my learned friend, Mr Mulholland, that there is a statement which has been provided to him by Councillor Molhoek. I briefly cross-examined-----

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MR MULHOLLAND: Yes, I'm - there's no need-----

MR RADCLIFF: Thank you.

MR MULHOLLAND: -----for Mr Radcliff to go on. I'll tender that document-----

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MR RADCLIFF: Good.

MR MULHOLLAND: -----from Mr Molhoek. It is a facsimile of the 9th of November 2005 addressed to the CMC with documents attached.

CHAIRMAN: All right. That's Exhibit 208.

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ADMITTED AND MARKED "EXHIBIT 208"

MR RADCLIFF: And as a consequence, I don't require Mr Molhoek to be - Councillor Molhoek to be recalled and it only addresses my - it only affects my client so I don't think anyone else would need-----

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MR MULHOLLAND: We just need to wait for a moment or two for Ms Christison.

NIREE ANN MARGARET CHRISTISON, SWORN AND EXAMINED:

MR MULHOLLAND: Is your full name Niree Ann Christison?-- Niree Ann Margaret Christison.

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And do you attend today under an attendance notice issued by the Commission?-- Yes.

Would you have a look at this document, please? Is that the attendance notice?-- Yes.

I tender that, Mr Chairman.

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CHAIRMAN: Exhibit 209.

ADMITTED AND MARKED "EXHIBIT 209"

MR MULHOLLAND: And were you also served with a notice to discover by the Commission and did you, in relation to that notice, produce documents?-- Yes.

Would you have a look at this notice first of all, please? Is that the notice?-- I don't remember the last page whether I've bought page 4 and 5 but the first two - first three, sorry.

Now, in response to that, did you write a three-page, handwritten letter of the 3rd of October 2005 to the Commission and is that a copy of the document?-- Yes.

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I tender those documents, Mr Chairman, perhaps as one exhibit.

CHAIRMAN: Yes, Exhibit 210.

ADMITTED AND MARKED "EXHIBIT 210"

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MR MULHOLLAND: Now, did you also participate in a record of interview held by telephone between Commission investigator, Inspector Ken Bemis, and yourself on Tuesday the 18th of October 2005?-- I did have interview. I don't know what the date was but yes.

Right. And you subsequently have seen a transcript of that interview?-- Yes.

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And had the opportunity to consider the accuracy of the contents of it?-- Yes.

Would you have a look at this document please. Now, is that the transcript?-- Yes.

And is there any matter in it that you wish to correct or add to or delete?-- No. No.

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I tender that, Mr Chairman.

CHAIRMAN: That's Exhibit 211.

ADMITTED AND MARKED "EXHIBIT 211"

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MR MULHOLLAND: There are a few matters, Ms Christison, that I wish to ask you about. Now, you were contesting Mister - the same Division being contested by Mr Sarroff, is that correct?-- Correct.

And if you - do you have a copy of that transcript?-- It's in my bag outside.

There are a few matters that I wish to ask you about. Now, do you remember attending a meeting with your father at Robina?-- Yes.

And do you remember going to an office there of Quadrant?-- I didn't - I didn't know the name of the business but I know where the office is.

Now, in - if you go to page 6 of the transcript you say that you believe you went there at the suggestion of Mr La Castra; is that correct?-- Correct.

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Can you tell us how did you come to go there at his suggestion, when had he made that suggestion to you?-- I couldn't tell you when he made that but I didn't - I met Bob and we just had some discussions and then I ended up just making an appointment obviously to see this gentleman.

Now, perhaps I can shorten things. There is evidence before the Commission from Mr Morgan of Quadrant suggesting that he had been asked to meet you by Brian Ray. Do you know Mr Brian Ray?-- I don't know him at all.

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Now deceased. That he had been asked to meet you and that he met you on the 9th of February 2004 after having been contacted by you by phone on the 3rd of February?-- I met with Chris Morgan. I didn't know - I really don't recall the gentleman's name but I have no - I didn't even know what Mr Ray looked like until I saw his photo in the paper after he died.

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Well, just - if I - if you'd just deal - you don't know Mr Ray?-- No.

And you didn't know that Mr Ray had contacted Mr Morgan?-- No.

But do you accept that you telephoned the person that you went to see prior to going there?-- I didn't - I didn't recall ringing the gentleman and then I was speaking to Mr Bemis and he said that - I said if I did then you can check my records. I really can't recall but I don't - there was no real reason for me to remember because it was such a ridiculous meeting.

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Mr Morgan has made a note of having been contacted by you by phone on the 3rd of February?-- That's fine. Then I must have made the phone call.

Now, you had been spoken to by Mr La Castra, what had Mr La Castra said to you?-- Well, I just met with Bob and we were just speaking about the campaigning and everything and I believe that it was - he was just suggesting that I go and see this fellow, that's about it. It was very - I'm very vague to be quite honest about the whole issue.

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Right. You say at page 12 that you - this is in relation to the meeting that you attended with your father?-- Yes.

You said that you - that at that meeting you felt this person who is obviously Mr-----?-- Morgan.

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-----Mr Morgan, that he was trying - he was trying to feel us out, is the way you put it?-- Mmm.

Page 12 of the transcript?-- Right.

Now, you also say at pages 6 and 8 in relation to the contact by Mr La Castra that something was said - at this meeting that you were going to go to something was said about funding by Mr La Castra, do you remember that?-- Sure.

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Do you remember that?-- Yes, I do.

What did Mr La Castra say about funding?-- I think he was just suggesting that the gentleman could help with funding or campaigning or something like that.

Yes?-- That's about it.

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All right. Well-----?-- There was no huge discussion on it.

Yes. So can I tell you this, that in relation to the meeting that occurred-----?-- Yes.

-----it has been described in this way, this is the way it was put by Mr Morgan after the meeting took place. He made a note of this you see and what he - in his records the note he made was this, "Gold Coast City Council elections, Niree Christison plus Joe Hodgison. Solid campaign. Well supported. Well connected. Don't know her politics. Community oriented. Bit of an idealist. Developer's daughter. Conservative. Educated." Now, that's the note he made in relation to yourself after that meeting?-- Mmm.

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Does the content of the note that he made about you bring back anything to you in relation to the conversation you had with Mr Morgan?-- No. Because I didn't know he was making any notes. I didn't know that there was something about Brian Ray there. My father came with me because he was acting as my campaign manager. My father also advised me not to do - go to any meetings without him. If we discussed the campaign he asked me about certain issues that I was running for and my dad said we didn't need any help, we didn't need any funds because we're fine and we had sufficient.

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Now, your recollection is that Mr La Castra was not present at that meeting, is that correct?-- Yes.

50

Now, can I just ask you these questions then. Did you have any contact or did you have any knowledge of the Lionel Barden account?-- No.

Or a commonsense fund?-- No.

Did you have any contact with Mr Power or Ms Robbins in relation to such fund? No?-- No, sorry.

And you had no knowledge of Mr Ray at all?-- No. No.

Now, in your letter - if you just put aside the transcript - do you have a copy of the letter that you sent to the Commission?-- No.

No?-- Sorry.

I'll pass up a copy. I just want you to look please at page 2 of the letter?-- Yes.

10

Now you refer there in the third paragraph-----?-- Mmm-hmm.

-----to a complaint that was lodged with Broadbeach Police-----?-- Yes.

-----during the campaign period in regard to a nasty threat made to myself by another candidate?-- Correct.

20

Who are you referring to there?-- Councillor Eddy Sarroff.

And what, do you say, was the threat?-- He actually came up to me and said, "That you will not be sleeping or don't worry you won't be sleeping after Saturday night.

Do you recall where this happened?-- Yes, at the community centre, Albert Waterways Community Centre.

Yes. And were you there for any particular purpose?-- It was pre-poll and people coming in to do their voting, I presume, and we were just handing out the papers.

30

What was the context of this conversation that you had with Mr Sarroff?-- I don't recall the bits beforehand because there were lots of - there were lot of people but we - there was always a little bit of friction between Councillor Sarroff and myself and he, however it - whatever happened, he just - that's how he ended and I don't recall why he would say that to me but it was definitely - it sounds like it's pretty lame at the moment but in the terms - in the way he said it, it was very - it was very off-putting and that's why I went straight - I don't recall anything else beforehand.

40

Nothing else in the way of conversation or-----?-- No.

Do you remember any conversation that you had with Mr Sarroff at a pre-polling place and in which there was some discussion about a sign of yours that was in a flower bed?-- Yes, I do.

50

Well, was that on the same occasion?-- No, completely different. Councillor Sarroff came up and - he has a very unusual manner, and on that particular day that you're talking about, it was in front of the library and my understanding was after so many days of polling at the library it just became quite congested and everything there so they preferred that we be at the community hall which is next door and as for signage, it had to be so many metres from the front door and

everything and there's a walkway or there are two and mine was
- my corflute was in part of the garden and on part of the
walkway purely for reasons that people can move and he came up
to me and told me in his normal fashion, take his hat off in
its councillor mode and go back to his normal mode, that he
would like me to take out-----

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Or was it the other way round?-- -----whatever mode it was.
He - exactly as he put it, to take it out of the garden and
I've - well, I've just turned around and said, "Well, what
garden? It'd be nice if there was some bark in there".

10

So was there an exchange of words between you?-- Yes.

Now how long-----?-- That was about it.

How long before the election on the 27th of March would that
have been?-- Oh, maybe three weeks, four weeks, I really don't
know. It was early.

20

Now was the-----?-- It was earlier.

Was the other incident in which you say that this-----?-- Mmm.

-----threat was made to you, was that before or after the
occasion which you're speaking of at the library?-- The threat
was made after. It was made about two or three days prior to
the election, completely set - different circumstances.

Right. Well, can you give the Commission any context at all
in relation to was there anyone else present?-- He was
actually bringing people in, by memory, to - for voting and
there are quite a few - there was an - there were a lot of
elderly people because the - I think - I believe that he was
bringing people in and so was his wife for voting purposes.
They must have picked them up or something.

30

So he was with his wife?-- Well, she wasn't with him next door
but she was bringing other people in as well and there were
people there and I was actually speaking to an elderly lady
and he was on the other side because he wanted to go and I
don't honestly recall the words that exchanged just prior to
that but I remember him saying that to me and I just asked why
he would actually threaten a woman, that was it.

40

And what did he say?-- Nothing. He just walks away.

Was there anyone else who was present who might have heard
that conversation?-- My mum was there but she wasn't next to
me. She was in one of the - there could have been any number
of people there that may have heard it.

50

But do you know of anyone?-- No. I don't know their names.

Did you do anything about that?-- I went to the police,
Broadbeach Police Station because I found it - I found it
really a worry considering the nature of the whole elections

and the fact that I have four little children and I didn't need for somebody to turn around and say that to me.

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And when did you do that? On the same day?-- Yes.

Right. And who did you see there at the Broadbeach Police Station?-- A constable of some - I don't know the lady's name. There was a lady and there was a tall gentleman.

And did you make a complaint there?-- Yes, they said they were going to log it for me.

10

Right. So you made a complaint?-- Yes, I did.

And do you know the person that you made the complaint to?-- No. There was a woman and she had her hair tied back. She was dark haired and there was a tall gentleman, that MS WILSON: - I can't remember their names.

Can I tell you that the - you say, that she said that she was going to log it-----?-- Yes.

20

-----the Commission has made inquiries and there is no record of any such complaint being made?-- Oh, I made it. I definitely made it because they actually asked who he was and I said, "Well, he's just standing councillor for this area" so I don't know why it wasn't logged.

The Commission or police procedures, you see, require a record to be made by what is termed a CRISP report-----?-- I don't know what that is.

30

-----in those circumstances and there is no record at all but you say you definitely went there?-- I definitely did that.

Now you also say that some negative campaigning was-----?-- Mmm-hmm.

-----conducted against you?-- Correct.

40

By whom?-- By Eddy - oh, sorry, Councillor Sarroff.

What, did that-----?-- I don't know what you refer to as negative but it wasn't favourable.

Well, what was that that you-----?-- Well, it wasn't-----

-----were referring to?-- I don't think - I think he was just misinforming the public. I don't think it was particularly put towards me but I think he was not - he wasn't giving out the correct information.

50

Well, why - in what way?-- Well, one of the brochures that he put out stating that he had support from the Chamber of Commerce.

Yes?-- I actually contacted the gentleman from the Chamber of Commerce and then my father spoke to him. The gentleman's

name is Don and he said, "No" that they - he did not support him but this was in his literature so when it goes out to the public, the general public is - you would feel that if I was to - I would feel, if I was to receive something and it was going to be worthy of what the paper it's written on but it wasn't and Don - even the gentleman said, "No, we didn't support him".

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Do you say that the man from the Chamber of Commerce told you this?-- Correct and he told my father.

10

And your father who was present at the same time?-- No, I was on the phone and then I handed it to my father and my father spoke to him and my father spoke to him about some charter.

Sorry, yes?-- A - some charter about Chambers of Commerce and - and he said, no, he - well, he didn't actually speak to me, he only spoke to my dad, so you'd have to ask my dad.

Now, you also say, do you, that he claimed the support of the Broadbeach Management Association?-- Correct.

20

And you say he didn't have that support?-- Correct. I spoke to Joy, the lady who - I don't know if she's any longer the president or whatever, the manager - and she said, no, she said at no time did she actually state that. She said that they've had conversations - because they do have a good rapport, which she would feel would be normal - but no.

So you spoke with someone from there, did you?-- I spoke to - her name was Joy.

30

Well, Mr Sarroff says, you see, that he was - you made this public at the time, correct?-- No, I was - pardon?

Did you make this public-----?-- I asked her to - if it was correct, but I - I don't know how he thinks I made it public, like I didn't send any forms out.

Do you remember - or can I just say this to you - the person that you say you spoke to at the Chamber of Commerce-----?-- Yes.

40

-----Mr Sarroff says actually contacted him to say that he had his - that Mr Sarroff had the Chamber of Commerce full support?-- I heard that on the monitor.

Well, you say that you spoke to the person and he said otherwise, is that right?-- That's true and he spoke to my father and he was going to have it - he wanted to have it retracted.

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Yes, thank you.

MR RADCLIFF: I have no questions, thank you.

WITNESS: Can I go?

CHAIRMAN: Yes, you may go, thank you.

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MR DEBATTISTA: Sorry, Chairman, I'm sorry, Chairman.

CHAIRMAN: Oh, I'm sorry.

MR DEBATTISTA: Just very briefly.

CHAIRMAN: You need to be faster, Mr Debattista.

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MR DEBATTISTA: I do. I'm sorry. Ms Christison, just so you're aware, I'm representing Councillor La Castra here today?-- Mmm.

I just have a very few brief questions to put to you. Now, can I suggest to you that the reason you spoke - well sorry, can I suggest to you that you initiated the contact with Councillor La Castra?-- I did?

Yes?-- How did I initiate that when I didn't know him?

20

Well, can I suggest to you that you had at various times some involvement in the PCYC movement, is that correct?-- I did speak to the sergeant there, Andrew.

All right. And it was also the case, wasn't it, that you became concerned about the level of divisional funds that had been placed into the Monarco Street-----?-- Correct.

-----PCYC. Right. Well, I'm suggesting to you - and I appreciate if you can't recall this - that you spoke to Councillor La Castra because you had heard that he placed divisional funds into his own local PCYCs?-- That's correct.

30

All right. So you accept that you may well have contacted him to initiate that meeting?-- I don't recall contacting him, but I do - I do know that we've had that discussion.

Now, at no stage did Councillor La Castra ever suggest to you what the content of your campaign should be, did he?-- How do you mean?

40

Well, did Councillor La Castra ever tell you what sort of material you should put out during the course of your campaign?-- No.

When you say your father was your campaign manager were there any other members of your campaign team?-- My family and their friends.

50

You were wholly funded by your father in this case?-- Correct.

And so when you did in fact attend the meeting at Quadrant there was never any questions of your obtaining any funding from them, was there?-- No, not from our point of view anyway.

And can I just confirm also - I think you note in your statement that you know Councillor Grew-----?-- Correct.

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-----only a very - socially more than anything else, is that the case?-- From university.

And you don't have any further contact with her?-- No, I saw her outside before.

And in respect of Councillor La Castra other than the brief discussions that you've described today you've not had any other contact with him?-- I've had - I've spoken to Bob before and after now, yeah, but they're brief.

10

During the course of the campaign itself though you didn't have any discussions with him about the actual conduct - about your election campaign?-- No. I don't - sorry, I don't understand what you're trying to get to because I can - during your campaign you speak to multiple candidates and speak, you know, in a civil manner and discuss things, but nothing - he didn't point me in any direction for the way I was going to campaign.

20

All that I'm getting at, Ms Christison, is you mention in your statements one meeting with Councillor La Castra?-- Mmm.

I'm just asking there were no other meetings were there?-- I had coffee with Bob at the Q Store, I had coffee with Bob with my dad. I have spoken to Bob on the telephone. There'd be maybe a handful of conversations.

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Thank you, Chairman.

CHAIRMAN: Thank you.

MR MULHOLLAND: Nothing further, thank you, Mr Chair. May the witness be excused.

CHAIRMAN: Yes, thank you.

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WITNESS EXCUSED

MR MULHOLLAND: Call Henry Hodgson.

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HENRY JOSEPH HODGSON, SWORN AND EXAMINED:

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MR MULHOLLAND: Is your full name Henry Hodgson?-- Henry Joseph Hodgson, yes.

Yes. And have you, Mr Hodgson, been served with an attendance notice?-- I was.

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Would you have a look at this, please. Is that the attendance notice served on you?-- I believe so, yes.

I tender that.

CHAIRMAN: Exhibit 212.

ADMITTED AND MARKED "EXHIBIT 212"

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MR MULHOLLAND: Did you also - were you interviewed by Detective Inspector Ken Bemi of the Commission on the 19th of October 2005?-- I was.

And that was tape-recorded?-- I believe so, yes.

You saw a transcript afterwards?-- I have a copy here, yes.

30

Have you read through that carefully, Mr Hodgson?-- I have.

And are the contents of it accurate?-- Yes, except for one word. There's one word in there which I've just been trying to find outside which says the - the how to vote cards were expensive. In fact it should have been inexpensive. That's-----

Right. What page is that?-- I've been trying to find it.

40

Well, never mind, we'll find it?-- We'll find it when we get to it.

Now, would you have a look at this copy of the transcript, please. You've got your own copy-----?-- I've got a copy.

-----but just have a look at that. Does that appear to be the same-----?-- Yes.

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-----copy. And you say apart from that one item, the rest is accurate?-- I'd say so, yes.

I tender that record of interview, Mr Chairman.

CHAIRMAN: Exhibit 213.

ADMITTED AND MARKED "EXHIBIT 213"

MR MULHOLLAND: Now, I don't need to delay you long in relation to this matter, Mr Hodgson, but can I just ask you a couple of things. In your interview in the transcript between pages 5 and 8, you deal with a meeting that you had with Mr La Castra in a Broadbeach coffee shop and he said something about wanting to help candidates and that they may be able to - these are your words - "they may be able to help Niree"?-- Yes.

10

Now, is that your recollection? Is there anything that you would like to add or change to that account?-- He basically said that he - he wanted to help Niree, but I think we have to go back a little bit just before that if I may. I was in Sydney and Niree phoned me and she said that she was asked to phone this person from Quadrant concerning the campaign and I said, "Well, as a candidate you shouldn't do that. You know, candidates in fact shouldn't negotiate donations and they shouldn't accept any donations, only through their committee" and I said, "You're not to go to any meeting unless I'm present so put the meeting off to a date when I'll be back", which she did. Prior to going to that meeting, we actually had coffee with Bob La Castra and he indicated that this guy might be able to help in some way or other and it was worthwhile to go to the meeting, which we did.

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Now, do you recollect there be any mention in the conversation that you had with Mr La Castra at the coffee shop, any mention of funding-----?-- No.

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-----as being a possibility?-- No.

The person that you went to see - or did you go-----?-- Yes, I did, yes.

-----to see-----?-- Yes.

40

-----this person who had been referred to?-- We did.

There's some difficulty of recollection I gather in relation to the name of this person. Do you know the name of the person now?-- I remembered his first name - Chris.

Right?-- And as I said to the Detective Inspector, I had read the press and of course I knew the last name was now Morgan, and I stated that in my statement so yes, Chris Morgan, Quadrant.

50

Well, Mr Morgan has given evidence here that he met with your daughter on the 9th of February and you were present?-- Correct.

Mr La Castra was not present?-- As I said to the Detective Inspector, I wasn't sure if Mr La Castra was there or not. I

thought he was and Niree said he wasn't. So I'd have to go with the - with Niree and Mr Morgan on that basis.

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All right. Now, how long did the meeting last?-- I'd say about 10 minutes.

Could you just give us a recollection or any elaboration on what you say in your record of interview?-- Yes, we actually sat down and we were talking waffle, as far as I was concerned.

10

You mean you were talking or he was talking or-----?-- No. I think the whole thing was waffle. But it was sort of a sounding board, you know. I didn't like the whole thing when Niree told me about it. I didn't like it when I saw there was developers' properties next door, buildings next door. Of course, these rumours had been running around the coast for quite a long time and the idea with Niree standing was that she was beholding only to division 10 and the Gold Coast population in general and I didn't want her getting involved in anything which would force her into making possibly a decision against what she believed.

20

Was anything said at the meeting in relation to funding?-- He was talking about, you know, how he could help with - not direct funding, that word wasn't mentioned, but he did indicate that, you know, he could help with marketing, he was an expert in this, and he was an expert, you know, with pamphlets which, no doubt, he is, but it went on for a while and-----

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Who was going to pay for this?-- No, he didn't mention that he was going to pay for it. As I said, I think it was a sounding board. I then after about six or seven minutes, eight minutes, whatever it was, I just said to him, "Look, can you tell us what we're here for;" you know, what's the basis of this meeting which I had a feeling in my gut that I knew what it was all about but I just said to him, "Look, I've been in campaigns before. We don't - the campaign is all set out." I said to him in brief what we were going to do, "We don't need your funding, and there's not much we can do."

40

So, the meeting was terminated?-- Basically all niceties were said and that was the end of it.

So it wasn't a very lengthy meeting that you had?-- No, no, no.

Now, did you hear the mention of Mr Brian Ray's name-----?-- Yes.

50

-----at all in connection with the meeting?-- None whatsoever.

Right. You knew of the name, Mr Ray?-- Of course.

Did you see any reference to his office when you went to see Mr Morgan?-- No, because we were - well, I think he's either

in the same building or the building next door, if I recollect correct, as I saw the Ray name which sort of-----

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But his name was never mentioned in connection with any of these meetings?-- No, never.

Yes, thank you.

MR WEBB: That correction is at line 526, Mr Chairman.

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CHAIRMAN: Thank you. Do you have the transcript there in front of you?-- Yes, I do.

At-----

MR WEBB: Page 14.

CHAIRMAN: -----page 14 you'll see at line 526 - the lines are numbered down the left-hand side?-- Page 14, yes, yes. 526.

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"Pamphlets were handed out"-----?-- Yes, that's correct.

"Election day they were rather expensive."?-- It should have been inexpensive.

Inexpensive, all right, thank you. Thank you, Mr Webb.

MR DEBATTISTA: I have nothing, Chairman.

CHAIRMAN: Yes, thank you, Mr Hodgson?-- Thank you very much.

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MR MULHOLLAND: May Mr Hodgson be excused?

CHAIRMAN: Yes, certainly.

WITNESS EXCUSED

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MR MULHOLLAND: That completes the evidence we have for today, Mr Chairman.

MR NYST: Could I ask for an indication of the order on Monday because it's been changing around to an extent.

MR MULHOLLAND: Yes. Councillor Crichlow will be first up on Monday, and then in fact - is there any estimate that could be given for subsequent witnesses by those present as to how long they think Ms Crichlow may be.

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CHAIRMAN: How many more witnesses do we need to line up for Monday, I think Mr Mulholland is saying.

MR MULHOLLAND: Thank you, Mr Chairman.

MR RADCLIFF: For me, I won't have a lot with Ms Crichlow but if the next witness is Mr Young, then I will be a while with him.

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CHAIRMAN: Okay.

MR NYST: I don't think I'll be lengthy with Councillor Crichlow.

MR MULHOLLAND: So, we'd be confident that we'd finish in the morning.

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MR PFORR: Sorry, Mr Chairman, I won't be long with Councillor Crichlow either.

CHAIRMAN: Good.

MR RADCLIFF: Mr Chairman, your intimation given to Mr Nyst this afternoon was of great assistance. It didn't stop him but it did slow him down a fair bit. If there are any other intimations that you-----

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CHAIRMAN: I didn't want to slow him down.

MR RADCLIFF: Well, I don't think you could have stopped him at all, but that form of intimation is of great assistance to us. If there is any direction that you're able to assist us with in respect of this inquiry, then I, on my part anyway, that would be of great assistance.

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CHAIRMAN: All right. 9.45 Monday.

THE HEARING ADJOURNED AT 4.16 P.M. TILL 9.45 A.M.
MONDAY, 14 NOVEMBER 2005

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WITNESS LIST

EDDY SARROFF, CONTINUING EXAMINATION:..... 1321

WITNESS EXCUSED..... 1404

NIREE ANN MARGARET CHRISTISON, SWORN & EXAMINED... 1406

WITNESS EXCUSED..... 1415

HENRY JOSEPH HODGSON, SWORN & EXAMINED..... 1416

WITNESS EXCUSED..... 1419

EXHIBITS

ADMITTED AND MARKED "EXHIBIT 204"..... 1323

ADMITTED AND MARKED "EXHIBIT 205"..... 1340

ADMITTED AND MARKED "EXHIBIT 206"..... 1394

ADMITTED AND MARKED "EXHIBIT 207"..... 1400

ADMITTED AND MARKED "EXHIBIT 208"..... 1406

ADMITTED AND MARKED "EXHIBIT 209"..... 1406

ADMITTED AND MARKED "EXHIBIT 210"..... 1407

ADMITTED AND MARKED "EXHIBIT 211"..... 1407

ADMITTED AND MARKED "EXHIBIT 212"..... 1416

ADMITTED AND MARKED "EXHIBIT 213"..... 1417