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INDEPENDENT COMMISSION AGAINST CORRUPTION

THERESA HAMILTON ASSISTANT COMMISSIONER

PUBLIC HEARING

OPERATION CAVILL

Reference: Operation E12/1191

TRANSCRIPT OF PROCEEDINGS

AT SYDNEY

ON THURSDAY 18 JULY 2013

AT 10.03AM

Any person who publishes any part of this transcript in any way and to any person contrary to a Commission direction against publication commits an offence against section 112(2) of the Independent Commission Against Corruption Act 1988.

This transcript has been prepared in accordance with conventions used in the Supreme Court.

ASSISTANT COMMISSIONER: Thank you, please be seated. Yes, Mr Downing. Oh, Mr - - -

MR HARRIS: Commissioner, if I may, sorry?

ASSISTANT COMMISSIONER: Yes.

10 MR HARRIS: May, might I just interpose something and it relates to the suppression and non-publication of Mr Neish's home address and it's been brought to my attention that the deed of release and separation between him and Ryde Council does contain that home address, it's an exhibit on the website I think and in keeping with the suppression order I wonder might that be redacted from the deed as it is currently appearing on the website?

ASSISTANT COMMISSIONER: Yes, we'll make those arrangements, Mr Harris.

MR HARRIS: I'm grateful, thank you, Assistant Commissioner.

20 MR BENDER: May I please raise a small matter, Commissioner?

ASSISTANT COMMISSIONER: Yes, Mr Bender.

MR BENDER: Exhibit 22 which is also on the website contains Councillor Salvestro-Martin's work email by which I mean the email address maintained by his employer in his non-Council capacity.

ASSISTANT COMMISSIONER: Right.

30 MR BENDER: I would ask that that email address be redacted from the exhibit and that a non-publication order be made in respect of it and I can anticipate that to the extent there's evidence given of the identity of his employer I'll be applying for a non-publication to be made in respect of that.

ASSISTANT COMMISSIONER: So that's in Exhibit 22 is it?

MR BENDER: Exhibit 22.

40 ASSISTANT COMMISSIONER: All right. Well, we'll make those arrangements for that email address to be removed.

MR BENDER: Thank you.

ASSISTANT COMMISSIONER: Yes, Mr Tagg.

ASSISTANT COMMISSIONER: Thank you, Mr Tagg, and you're under your former oath, Mr Tagg, I'd just remind you.

Yes, Mr Downing.

MR DOWNING: Thank you, Commissioner.

10

Mr Tagg, late yesterday I asked you some questions about Exhibit 22 which is the series of emails in respect of the Save Ryde ads if I can describe them that way. Do you recall those questions?---Yes.

And I asked you whether it might have been possible for you to check on your own email account to see whether you could locate the original email to find the source of the original email to you. Were you able to make any efforts in that regard overnight?---Not last night Mr Downing but I will.

20

Could I ask that perhaps you try and - I understand it might take some time and - - -?---Yeah.

- - - but if you try and make some efforts perhaps this evening to see if you can locate that?---Yes.

Now, I also - in the course of questions yesterday about this ad and who might have been the person that originally sent it to you, I asked you yesterday about whether you were familiar with Mr Stavrinis?---Yes.

30

And you told me that you had met him?---Yes.

Has he ever done any work for you of the nature of publicity type work or PR work?---Ah, no, not that I recall, no, not at all.

All right. Could I ask you to have a look at a document. This is not on the website, we'll make copies available. I'll just pause so that the parties who are interested can see the copy as well. Just have a look at it while that's occurring, Mr Tagg. Having looked at that do you see it's an email from Anthony Stavrinis to John FB at The Weekly Times?---Correct.

40

And to another person at The Weekly Times?---Yes.

And you know Mr Booth is the owner and editor or the proprietor, I might put it that way, of The Weekly Times?---Yes.

And this is an email from 10 July last year?---Yes.

Which you know is in the period leading up to the election?---Yes.

And you'll see it's an email where it appears Mr Stavrinis was sending to Mr Booth a photo of you and Councillor Li?---Yes.

And indicating there's a short bit of text still to come?---Yes.

Do you recall whether you ever placed any advertisements, that is political advertisements, where you and Councillor Li were advertised together?
---Yes.

10

And do you recognise this photo as a photo was used in one of those advertisements?---I can't recall if this was one of the advertisements but I did have a photo with Justin at Eastwood Oval, Justin organised a photographer to take the photo and we did a work together campaign and we had the photo taken together.

Was that for the purpose of an ad in The Weekly Times or for a story in The Weekly Times?---I can't recall, I'd have to check the records, Mr Downing.

20

Can I ask you to have, sorry, I'll ask you some further questions in respect of that document. Looking at it now and thinking back to that period in July 2012 do you have a recollection of Mr Stavrinis assisting you and Councillor Li in respect of a particular ad?---No, I don't.

Did you ever have any dealings where you asked him to submit material for The Weekly Times?---No.

Are you aware of whether Councillor Li did?---I can't speak for Councillor Li.

30

Now- - -

ASSISTANT COMMISSIONER: Did, did you know in general terms whether Mr Stavrinis was doing any publicity work for the Anti Ryde Development Group?---I can't recall, Deputy Commissioner.

So you don't know anything at all about Mr Stavrinis?---I um, not in relation to this. I um, said earlier I thought I met him at a function, meet the candidates um- - -

40

But in relation to his doing PR work, public relations work- - -?---I, I- - -

- - -for the- - -?---I- - -

- - -anti Ryde movement, if I can put it that way?---I never engaged him for any of my work.

All right. So you don't know how he got this photo?---No.

Yes, Mr Downing.

MR DOWNING: And is it the case that you didn't ever provide any text to go with this photo?---No.

All right. I tender the email and the attached photo, Commissioner.

ASSISTANT COMMISSIONER: Yes. That will be Exhibit 23.

10

#EXHIBIT 23 - COPY OF AN EMAIL FROM MR STAVRINOS TO THE WEEKLY TIMES DATED 10 JULY 2012 AND A PHOTOGRAPH OF MR TAGG AND MR LI

MR DOWNING: Now, in the course – I'll withdraw that. You've produced some documents in respect of your electoral disclosures in advertising to the Commission previously, haven't you?---My campaign manager has, yes.

20

I take it after you received the summons you asked your campaign manager to attend to that matter?---Normally it is to follow through and make sure it's signed off, under the Electoral Act you normally have to sign off and do, comply everything.

I understand that, but is it the case that you personally received a summons and then you asked someone to attend to producing the documents under it? ---I think I received a summons and so did my campaign manager.

30

And is it the case that the – had you already compiled all of your documents for the purpose of electoral disclosure?---My campaign manager said that we have paid all the campaign – all the invoices, yes.

And have documents, the relevant disclosures been made in respect of last year's election to the electoral authority already?---Yes, sir, I believe so, yep.

Can I ask you to have a look at a bundle of documents. I'd ask you to look at it and tell me if these are the documents that you produced to the Commission. And again, copies will be made available. And could I ask you to turn the document open – there will be numbers in the top right corner – to page 1954?---Yep.

40

MR McLURE: Commissioner, I'm sorry, could I see that bundle while the examination's- - -

ASSISTANT COMMISSIONER: Yes. Could Mr McLure be given a bundle, thank you.

MR KRITHARAS: And myself as well, Commissioner, for Mr Stavrinou.

UNIDENTIFIED SPEAKER: Well, there's three copies, we'll share.

MR DOWNING: Yes. Do you see page 1954?---Correct, yeah.

10 Now, this is a document that you've enclosed amongst those you produced to the Commission?---Yep.

Are you able to say what it is?---Sorry?

What is the document that appears at page 1954---It's, it's an advertisement.

Do you know where it was placed?---I think it was in the Chinese newspaper.

20 And the photos are the same, aren't they, the photo that appears in Exhibit 23 and the photo that appears on this page?---Correct.

And I'm sorry, if you could also go, now go to page 1958?---Yep.

And could you identify what that is?---That's an ad in the -- I think it was the Korean newspaper.

Right. And again it contains the same photo, doesn't it?---It does.

30 Do you know whether Mr Stavrinou organised for these ads to be placed for you?---No I -- we would have sent through to the, the relevant papers.

So you just have - you have no knowledge of how Mr Stavrinou came to be sending this photo of you and Councillor Li to anyone?---No, I don't. I think it was on Councillor Li's Facebook anyhow with this photo when he did it.

Commissioner, I'll tender the documents, the fundraising/electoral disclosure documents from Councillor Tagg.

40

ASSISTANT COMMISSIONER: Yes, they will be Exhibit 24.

#EXHIBIT 24 - BUNDLE OF DOCUMENTS REGARDING FUND RAISING AND ELECTORAL ADVERTISEMENTS FROM MR TAGG

MR DOWNING: And to the extent that, Commissioner, to the extent that Councillor Tagg's personal address appears in any of these documents, I'd ask that it be redacted. It doesn't have any relevant purpose for the purposes of the inquiry.

ASSISTANT COMMISSIONER: Yes, I suppress publication of the private address.

10 **SUPPRESSION ORDER ON PRIVATE ADDRESS OF MR TAGG**

MR DOWNING: It does appear for instance on some of the invoices.

ASSISTANT COMMISSIONER: Yes.

MR DOWNING: Now Councillor Tagg, are you able, having thought about it, to shed any further light on who it was that originally sent you the email enclosing the proposed ad that mentioned you and the other councillors in association with Save Ryde?---I haven't had an opportunity to – yesterday I
20 was quite busy after I left, but I will get in and open up my emails and the file.

Well do you know, do you know Mr John Goubran?---I do.

And is he someone that you've known for a period of time?---Yes.

Have there been occasions where you've supported his development proposals in council?---Yes.

30 And does that include one in Trelawney Street, Eastwood?---Yes.

And have you on occasions spoken to other councillors seeking their support for Mr Goubran's development proposals?---Not at such. They sometimes have – councillors have their view points in council about how they're going to vote on the development. And that's normally exercised during council.

Have you ever forwarded to other councillors documents from Mr Goubran in respect of his applications – development proposals before council?

40

MR STANTON: Commissioner, could I just – I can't hear my learned friend. I don't know about my other colleagues, but it's more of an echoey whisper as opposed to a common law roar. Could he please - - -

MR DOWNING: I'm sorry.

MR STANTON: - - - speak up a little bit better, please Ma'am (not transcribable). I mean I'm up the back, not by choice but by you know, the

fact that there's no other seats, so, and it is Mr Goubran, could be please raise his voice so I can hear him.

MR DOWNING: I'm certainly not trying to whisper in a way that Mr Stanton can't hear me.

MR STANTON: It's okay.

10 MR DOWNING: I'm happy to bend over and try and get closer to the microphone.

ASSISTANT COMMISSIONER: Yes. I don't know if you can move your mike any closer, but - - -

MR DOWNING: No, unfortunately it's fixed.

ASSISTANT COMMISSIONER: No. All right.

20 MR DOWNING: What I was asking whether – asking you Mr Tagg was whether in the course of your period in council you'd ever forwarded to other councillors documents from Mr Goubran in respect of particular development proposals that he had before council?---Mr Goubran had a policy of always sending emails to all councillors on his proposals.

ASSISTANT COMMISSIONER: Well that's not what you were asked Mr Tagg. You were asked whether you'd ever forwarded to other councillors information provided by Mr Goubran?---I don't believe so.

30 MR DOWNING: Well thinking again about this – the source of this email, do you think it might have been Mr Goubran who was the source of the original material in respect of Save Ryde?---I can't say.

Are you aware of whether he's ever been – are you aware of whether he has ever put out advertising material in support of particular councillors?---I'm not aware.

Do you say you're just not aware or you can't recall?---I think can't recall. I don't want to be – say one or the other.

40 Well do you know Mr Norm Cerreto?---I do.

And how do you know him?---Back in 2008 or '09 I think it was when I was the Mayor the General Manager Mr Whittaker and a delegation of Councillors went to have a look at his property for a development.

Was this in Coxs Road?---This was in Coxs Road. He wanted to go up I think to four storeys or six storeys at the time.

So he had a development application before Council?---Yeah, the previous General Manager Mr Whittaker, the previous, previous, sorry.

Was dealing with it?---That's right.

But was this an application by Mr Cerreto to Council?---It was Mr Cerreto, that's when I first met him.

And have you met him on occasions since then?---I have.

10

Thinking again about the source of this material in respect of Save Ryde do you think it might have been Mr Cerreto that originally forwarded it to you? ---I can't say for sure.

20

ASSISTANT COMMISSIONER: I'm sorry, I would think you would remember, Mr Tagg, if it was Mr Cerreto or Mr Goubran because that would be unusual would it not?---Deputy Commissioner, I have trouble sometimes remembering things and my children attack me on forgetting dates and that that they have and I'm just saying to the best of my knowledge.

So you wouldn't have found it unusual or surprising for Mr Cerreto to be forwarding this type of political advertising to you?---I can't recall that he did at all.

Well, I guess that wasn't my question. My question was would you find that unusual? Wouldn't it stick in your mind?---Yes.

30

So that would tend to suggest it wasn't him wouldn't it?---The only stuff I received on the advertisement was from Jeff and I told the, told you about that yesterday.

Yes, thank you, Mr Downing.

MR DOWNING: Looking at the particular Save Ryde advertisements and if you need to see them again I can have them brought up?---Yes, yes, please.

40

Exhibit 21, if we bring up pages 1330 to 1331. Do you accept that you and the others whose photos appeared in the ads received a benefit through them?---Oh, I'll admit that the ads are there. I can't agree that I received a benefit because I wasn't re-elected so - - -

Well, they were ads promoting you for re-election weren't they?---They were.

Asking people to vote for you?---Correct.

You certainly didn't pay for the ad?---I believe, well, my - the ads were sent out and we had to get an AOK and my campaign manager said that all invoices had been paid.

Well, that's not quite what I asked you. You didn't pay for the ad did you?
---No, I had signed, I, I believe I had.

You believe you personally paid for this ad?---My portion, yes.

10 Do you know how much that was?---Oh, not, not offhand, no.

Well, can I ask you to look back at Exhibit 22 which is - and we might need to get you a paper copy, that's the series of emails that I asked you to look at yesterday?---Thank you.

And assuming they're in order you'll see after the initial email was sent around by you - - -?---Yeah.

20 - - - indicating that Jeff had asked you to forward it for approval?---Yeah.

There was then an email from Councillor Perram on 28 August at 2.26pm indicating he had no objecting to the ad being in the paper and then he posed the question "Should I ask who is paying", you see that?---(No Audible Reply)

That's the email from Terry Perram to Vic Tagg and others?---Oh, yes, yeah.

30 So he posed that question?---Yeah.

And then you go to the last of the emails which is the one hopefully on the last page, 28 August, 2012 at 11.45pm, do you see that one?---(No Audible Reply)

Hopefully on the last page from Vic Tagg to Terry Perram and others?---
The last page?

Do you see one from Vic Tagg to- - -?---Oh, yes, yep.

40 - - -Terry Perram and others, 28 August, 2012, 11.45pm?---Yep.

And you're responding to Terry Perram's email. You say, "Hi, Terry."?
---Yes.

You indicate, "I was asked to send it around - I do not know the answer to your question."?---Yeah.

Well, the question was, who's paying?---Yes.

And your email was, I don't know?---Yes.

But you tell us today you believe you paid your share?---Yes.

Well, can I ask you why at the time did you indicate you didn't know?
---Um, because what happened was that we sent it around and if the six
were in, the six would pay, if four were in, four would pay, or two were in,
two would pay.

10

ASSISTANT COMMISSIONER: Sorry, I'm sorry. Look, I don't accept
that answer at all, Mr Tagg. I'd like you to think carefully about what
you're saying. Now, it's quite clear in that email that nobody knew who
was paying. You didn't know?---Ms Deputy Commissioner, can I add to it,
the question that's been asked that there was a question ah, we did ads
earlier and texts or emails were sent around and ah, about paying and um, I
had a Councillor at the time come back to me after the ads were in and said,
I didn't agree to pay, so he didn't pay. And this was prior to the Council
election.

20

Yes, but you didn't say, well, whoever agrees to it is going to pay, or we're
going to split it, or we'll do what we did the last time, you said, I don't
know?---Yeah, well, sometimes in between doing other things you just send
back and say I don't know, I don't know who's, whether everyone's on
board or they're not on board.

Well, that is against the clear meaning of what you've said. You didn't say
I don't know who's on board?---No, I didn't put that in, no.

30

The question was, the question was, should I ask who's paying, and you
said, I don't know?---Mmm.

MR DOWNING: Mr Tagg, you've told us about some ads that were placed
collectively by the six Councillors opposed to the Ryde Civic Precinct
redevelopment?---Yep.

And you mentioned that in your answer just a moment ago?---Yes.

40

And I think you mentioned that in some of your answers yesterday?---Yes.

Is it the case that these were a series of ads that were placed on behalf of
those six Councillors opposing the Ryde Civic Precinct redevelopment- - -?
---Yes.

- - -not in, not specifically in respect of the election or the campaign for the
election- - -?---No.

- - -with the election being 8 September, 2012, but earlier in time?---Yes.

And your evidence I think was – and please tell me if this is not right – that they were authorised by the six of you and you split it six ways?---Yes. Except once.

Except once. This ad was different though wasn't it, this was an ad specifically in respect of the election?---Yep.

10 And it ran in the weeks leading up to the election?---I think it ah, ran twice, but when I sent the email out it was the day that the- - -

It first appeared?---Yes, and that was after the shutoff time.

But I guess what I, what I want to ask you is, are you saying that because on earlier occasions you'd split the advertising six ways, you assume it happened here or are you saying you actually know because you remember it that you split it on, for these ads, the Save Ryde ads?---No, I, I believed it was going to be the same way, that's all.

20 Well, there's nothing mentioned in those emails from you to suggest that there was any arrangement to that effect, is there?---Not on this one, no.

Well, do you have any communications you can provide to us to indicate that in fact that was an arrangement?---I thought it was understood as that was what happened previous, in the previous three times or four times, two, that we put the ads in earlier.

30 Well, Exhibit 24 are your – the disclosure documents in respect of your advertising and election?---Is that this one, Mr Downing?

That's the bundle of documents- - -?---All right.

- - -which would have just been given to you I think?---Yep.

And I asked you about those and I think you – please tell me again if this is correct – that, that you understood that these reflect all of your advertising and disclosures in respect of it regarding the September 2012 election? ---I believe so, yes.

40 Well, I take it from that being so that we would find in there some record of your payment for these Save Ryde ads?---Yes, I would think, yeah.

Are you able to show us where we would – where in the documents that appears?---I'm just going through it now. I can't see it there, Mr Downing.

Can I try and assist you in – with that. If you go to page – looking at the numbers on the top right corner, do you see page 1945? And it will be on the screen in front of you as well, but it might be easier for your purposes so

you can see the whole document, to open it up. Do you have page numbers in the top right corners on the paper documents in front of you?---Yeah.

If you go to 1945?---Yep.

Do you see that's an email from Ernie Kidd to you of 23 October, 2012?
---Yep.

10 Now there appears to have been a problem with the copying. If you go to the next page, there's another copy of that email although without the handwritten annotations?---Yep.

Now do you see in those emails there appears to be – well before that is Ernie Kidd someone that works for you in respect of your election campaign or used to work for you?---Ernie Kidd is the campaign manager and I have known Ernie Kidd through Lions and Life Education.

So did he look after your campaign and - - -?---He did.

20 - - - matters like your advertising and funding?---Yeah (not transcribable) yep.

Now do you agree that by looking at this email it appears to be a communication from Ernie Kidd indicating these are the, the ads from TWT?---Yes.

And it covers the period up to and beyond the date of the election?---Yep.

30 And on page 1945 there's handwritten annotations in red it would seem indicating whether ads had been paid for?---Yes.

Is that your writing?---No, that's not my writing.

It's not. It's Kidd's?---It would be Mr Kidd's.

Now there's reference there to a number of different ads?---Yep.

40 But unfortunately some of the copying on 1945 hasn't come out clearly, but do you see that one of the ads seems to be 29/8, it looks like a page?---Yeah.

And if you go to 1946 you'll see that that is the case, that's the copy there is a bit clearer?---Yep.

Now 29 August was one of the dates on which the Save Ryde ad appeared. Do you say that that reflects in some way your share of the cost of that or is that for your own personal political advertising?---I'd say yes.

Sorry?---I'd say yes.

Yes to it being in respect of the Save Ryde ad or for your own personal political advertising?---My own ads.

And you'll also see there's reference there to 5 September a page and a quarter page?---Is that on 1946?

You'll see it on 1945 and 1946?---A quarter page, yep.

10 Well it says a page and a quarter page?---A page and a quarter page, yep.

And can you tell us whether – I'll withdraw that. Accept from me again that that's one of the dates the Save Ryde appeared. Is this a record of advertising by you in The Weekly Times being your own personal political ads or do you believe that's in respect of the Save Ryde ads?---I'm, I'd have to check with Ernie, but I thought it was the – my ads.

20 Can you tell us, do you have any idea what the notations next to the dates 29/8 and 5/9 on page 1945 mean? It appears to be O/S?---I'd have to check with Ernie, that's - - -

ASSISTANT COMMISSIONER: Outstanding I'd say, not paid. Isn't that what it means?

MR DOWNING: Do you know if that's the case, Mr - - -?---That, that, that could be, yes.

30 And could you go ahead to page 1988 and you'll see it on the screen in front of you there took, Mr Tagg?---Oh.

You see that's an invoice to you from The Weekly Times of, it's dated August 2012?---Yeah.

And there is a reference there to the date 29 August, 2012?---Yes.

38 by seven colour display, \$1,600?---Yes.

40 Do you understand that to be a reference to a personal or political ad for you?---Yes, I believe so, yes.

And then if you go ahead to page 1990 and you'll see for 5 September there are two references there in this invoice dated September 2012?---Yes.

There's a 38 by seven colour display at \$1,600?---Yes.

And a 15 by three colour display at \$315?---Yes.

And you understand those to be references to political ads for you personally?---Yes.

So I'm happy for you to take the opportunity to look through these records further but do you accept that there does not appear to be any record of you paying for the Save Ryde ads either in whole or in part?---It looks like it, yes.

10 Well, you know from the invoices I've taken you to, don't you, that advertising in The Weekly Times generally doesn't come free?---That's right.

You've been in politics long enough to know that to place ads in papers you normally have to pay for it?---Correct.

And I take it from these invoices it gives you some idea about what it costs for ads in different sizes?---Yes.

20 To the best of your knowledge then is it the case that this ad which promoted you and others, sorry, these two ads from Save Ryde on behalf of Save Ryde which promoted you and other Councillors for re-election were either not paid for at all or paid for by someone else?---I thought they were paid for but you may be correct now but I thought I'd paid for my share.

30 But if you had there would be some record of it in these documents wouldn't there?---Yeah, one would assume. I know that Ernie contacted me, the Electoral Commission asked for another copy to be sent by the end of, I think it's sent to them by the end of August or early September for the whole year.

Do you think it might be that the evidence you gave earlier about it having been split six ways might have been mistaken and you might have been thinking about the earlier ads that were placed in opposition to the Ryde Civic Precinct redevelopment?---Well, that's what, I thought that was what we were following, yes.

40 And is the position in terms of what you can tell us now that you simply don't know who the source of this ad was?---I thought it was Jeff as shown on the email so - - -

Well, I took you to the email yesterday - - -?---Yeah.

- - - and I thought you'd agreed with me that - - -?---That I've got to come back to you and check the other one.

The original email, email doesn't have a name at the bottom, it says "Vic, Jeff has asked me to forward this to you" - - -?---Yeah.

- - - and I thought you'd agreed with me that that must indicate that it was someone else who was actually sending it on?---Yeah.

It would seem at the request or direction of Jeff Salvestro-Martin?---Yes.

So is the position then in terms of your evidence today you can't tell us who the source of this ad was?---No, I've got to go back and check my records.

10 And you can't tell us the name or address of the person or organisation?
---No.

You have no knowledge of whether it was paid for?---The ad - my, my campaign director said that all invoices are paid but you've just brought to my attention that it doesn't seem so there, I'd have to go back and check with my campaign manager and the sources but I thought I had.

20 Would you accept that in the same way that you got benefits from other ads - I withdraw that. Would you accept that ads you paid for provided some benefit to you for the purposes of your election campaign?---Um, not really, I didn't get elected.

I understand you didn't get elected?---So it's not a benefit.

But it was promoting your case for re-election?---Um, it was promoting my case.

And in the same way these ads did that thing, served that purpose as well?
---Yes.

30 Can you recall ever seeing an invoice directed to you seeking payment for those Save Ryde ads?---Mr Downing, I can't, I can't recall, I'm sorry, at the moment.

Thank you, Commissioner.

40 ASSISTANT COMMISSIONER: Thank you. Mr Tagg, none of these payments seem to be split payments, that is split between people. Were those ads not considered election advertising, the other ones?---The other ones were not election time.

They were just against the- - -?---They were trying to defend- - -

- - -redevelopment?--- - - -our um, our name because we were being attacked and- - -

And are you saying they weren't during the election lead-up period?
---No, they, they weren't in the election period.

Thank you. Yes. Does anyone wish to cross-examine Mr Tagg?

MR HYDE: If I may, Commissioner.

ASSISTANT COMMISSIONER: Yes, Mr Hyde.

10 MR HYDE: Mr Tagg, I appear for Councillor Petch. Mr Tagg, you were asked some questions by Counsel Assisting about the Civic Centre redevelopment community advisory committee. Do you remember those questions?---Yes, I do.

Before I ask you some questions about that, would you accept that in early 2012 there had been a significant groundswell of opposition against the development of the precinct?---Yes.

20 And had that manifested itself in citizens writing to the Mayoral office?

ASSISTANT COMMISSIONER: Mr Hyde, I'm reluctant to interrupt you but he's already given evidence about thousands of people had protested and written in and, and why he thought it had to be stopped. I really don't want to go over the same ground again.

MR HYDE: I'm mindful of that, Commissioner, and I'll move on.

ASSISTANT COMMISSIONER: Thank you.

30 MR HYDE: Mr Tagg, would you accept that you had from time to time discussions with other Council members, discussions about whether it would be appropriate to get more community consultation prior to the development proceeding?---Yes.

And would it be fair to say that those discussions commenced in around January of 2012?---Maybe, maybe late January or early February, yes, yep.

40 And you moved a motion along with Councillors – I'm sorry. You moved a motion with Councillor Petch on 8 May, 2012, seeking just that, namely that there be a Civic Centre redevelopment community advisory committee. Correct?---Correct.

Now, you were asked some questions yesterday by Counsel Assisting about the termination of Mr Neish's position. Do you recall those questions?
---I do.

And I think you were going to say or did say that there were a number of reasons that you thought it appropriate that his employment be terminated?

---Yes.

What were the other reasons that you were, that you had in mind at the relevant time?

MR HARRIS: Commissioner, I object to this. I don't see the relevance of examining the rightness or wrongness of these Councillors seeking to have Mr Neish removed. I don't think that is in any way the focus of this inquiry and it's an opportunity again to revisit issues which in my submission ICAC appropriately are not examining here.

ASSISTANT COMMISSIONER: Mr Hyde, I am concerned to air matters in respect of which we're not going to make – we're not going to resolve them, we're not going to be able to say yes, Mr Neish did the wrong thing on this occasion or he did the right thing, so I am reluctant to allow these sorts of matters to be aired.

MR HYDE: Well, Commissioner, only to the extent that there has been considerable evidence about what Mr Petch did to ensure ultimately that Mr Neish's position was terminated.

ASSISTANT COMMISSIONER: This- - -

MR HYDE: Now, he's criticised for that.

ASSISTANT COMMISSIONER: Yes. The- - -

MR HYDE: And there's a contextual background. I'm sorry to cut across you.

ASSISTANT COMMISSIONER: The only relevant factor is that Mr Neish's actions in respect of the Ryde Civic redevelopment was a factor in the desire to terminate his employment. Now, this witness has conceded that it was a factor. The fact that there were other issues I do not think is relevant. We are only looking at whether that was one of the issues that made it desirable for those who opposed the redevelopment to terminate his employment.

MR HYDE: Yes.

MR ANDRONOS: Commissioner, might I be heard on this?

ASSISTANT COMMISSIONER: I'm sorry, can you remind me who you're for?

MR ANDRONOS: I'm for Councillor Perram- - -

ASSISTANT COMMISSIONER: Yes.

MR ANDRONOS: - - -who will be in the witness box later today.

ASSISTANT COMMISSIONER: Yes.

MR ANDRONOS: And a similar issue will arise in connection with Councillor Perram, so that's the only reason I seek to address at the moment. On day 1 of the inquiry, Commissioner, evidence went in from Mr Neish and documentary evidence went in to the effect that Mr Neish had been a stellar employee and had had very positive employment reviews.
10 Now, to what end that evidence goes in, perhaps that evidence was not relevant and ought not to have been received. However, it has been received and- - -

ASSISTANT COMMISSIONER: Sorry, he didn't say he was a stellar employee. What he was asked about was the objective fact that prior to these sorts of issues starting to happen he had had excellent performance reviews.

MR ANDRONOS: He had- - -
20

ASSISTANT COMMISSIONER: That's an objective fact. I don't think anybody can gainsay that.

MR ANDRONOS: Indeed, as at the time of those reviews.

ASSISTANT COMMISSIONER: Yes.

MR ANDRONOS: However, by the time of 23 July, 2012, the position may or may not have been the same. Now, if the Councillors who voted in
30 favour of the resolution on 23 July are to be criticised for voting in favour of that resolution, either by Counsel Assisting in his submissions or by the Commission, then as a matter of fairness each of those Councillors has to have an opportunity to justify his decision and the position he took. Now, at the moment the material before the Commission only goes one way and perhaps Mr Downing will give an undertaking or perhaps the Commissioner, the Commission itself can indicate that Councillors will not be criticised for the position they took. However, if there is the possibility that they will, they need an opportunity to put their version.

40 ASSISTANT COMMISSIONER: Well, I don't know, Mr Downing, I don't think it's been questioned that there were not other reasons that Councillors, some Councillors supported termination. What do you – what's your attitude to this?

MR DOWNING: It's clear from the evidence we've had to date that there were matters – I'll withdraw that. It would seem that the main issue that concerned the Councillors was the Ryde Civic Precinct redevelopment and the perception that Mr Neish was acting as a proponent, but it's not my –

obviously the evidence is not yet closed, but it's not my intention in the course of submissions on the evidence that we've got to be criticising the Councillors for the objective fact of voting in favour of the motion or seeking the extraordinary general meeting or voting in favour of the termination of employment. That material really provides context to events that occurred later and that culminated in the cessation of Mr Neish's employment in February 2013. So I don't know if that assists my friend in terms of the concerns he has, but I am keen that we not turn this into either a general inquiry into the merits of the Ryde Civic Precinct redevelopment or a general inquiry into the merits of Mr Neish as a General Manager.

ASSISTANT COMMISSIONER: Mmm.

MR HYDE: Commissioner, might I just be heard on one further matter. It seems to me that Councillor Petch is criticised for acting with some form of ill will or spit toward Mr Neish.

ASSISTANT COMMISSIONER: Mmm.

MR HYDE: And that he was motivated to the extent that he would do anything possible to remove Mr Neish from the General Manager's position. Now, I have no doubt that it might be a submission at the end of the day that Councillor Petch engaged in certain activities that he should not have engaged in which led him hell or high water to achieve his ultimate goal of getting rid of Mr Neish. Now, if that is to be put as a submission, then out of fairness it ought to be available to Councillor Petch to explore with other evidence, leaving his evidence to one side, but to explore what other evidence is available to counterbalance that proposition which I have no doubt might be put at the end of the day.

ASSISTANT COMMISSIONER: It's not a matter upon which I want to go into detail, but I think if this councillor or other councillor want to simply list other issues they have concerns about they can do that. But I'm not going to go into the detail of it because we're not going to resolve those issues.

MR HYDE: Understood.

ASSISTANT COMMISSIONER: And I mean the only other issue I can recall that's been raised is that Mr Neish sent an email only to the pro-Ryde development councillors rather than all of them.

MR HYDE: Yes.

ASSISTANT COMMISSIONER: And he had some relationship with somebody who did his performance review.

MR HYDE: Yes.

ASSISTANT COMMISSIONER: Now if they're the two issues that people want to raise they can raise them and just say yes I was concerned about that. But I'm not going to go into the details of them. So if you want to ask him, you can ask him.

MR HYDE: Thank you, Commissioner. In answer to my question, do you recall the question? That is what other concerns did you have that led you to believe that Mr Neish's employment should be terminated?---We had a value review done on Mr Neish in late August 2011 when the Mayor at the time, Councillor Etmekdjian, it was attended by four councillors, I'm sorry, the review. Councillor Etmekdjian asked Mr Neish at the time with the Civic Centre precinct redevelopment, would Ryde still be in control of the land? That was what Mr Etmekdjian had said that he'd heard. Mr Neish had responded yes, but there may be a leaseback to that development. And what happened was that was August or – September was handed copies to the councillors. The reason why I know that I had to go back to find information and I had it in my file. And we were given a guarantee by the General Manager that that would happen, yet five or six months down the – less than that, they were – about three months or four months after that he was going down the avenue of high rise and selling off the whole site.

All right. And that was another reason I didn't – I thought he should terminate. The other reason was on 28 February we had our budget review. Budgets that had been set aside for footpaths, roads, kerb and guttering, roughly around \$1 million, as of 28 February (not transcribable) those figures, that was about \$100,000 spent and 60,000 spent respectfully. So there'd been a big cutback on money that had been budgeted to be spent and I thought that he was not fulfilling his obligation to the councillors and to the City of Ryde.

All right. And they were the collective reasons?---Yes.

Thank you. Yes, thank you, Commissioner.

ASSISTANT COMMISSIONER: Thank you. Yes, does anyone else wish to cross-examine?

MR DJEMAL: Commissioner, Djemal for Mr Cerreto, with your leave.

ASSISTANT COMMISSIONER: Yes, Mr Djemal.

MR DJEMAL: Thank you, Commissioner. Sir, you were asked some questions about meeting Mr Cerreto. Do you remember those?---Yes.

I just want to put a scenario to you. You said that there was a DA lodged. Do you remember that?---Yes.

Is the accurate scenario that council invited Mr Cerreto to lodge a master plan for the Coxs Road area?---I think that was after that. This was at the pre-master plan. He had a vision to do an extension on his lot and there was a development committee with the General Manager, we went out because one of the criteria's of the development committee, the same with the community development – the community committee was you'd visit each site so that each councillor could get a perspective of the site. So that was pre the - - -

10 Master plan?--- - - - master plan.

Okay. And the other thing I was going to ask you sir, you've given evidence and there's been invoices produced regarding your advertising with the TWT. Do you remember those questions and the invoices you got taken through?---Yep.

In your recollection in the time that you advertised with the TWT were you ever wrongly invoiced for anything?---Twice.

20 Thank you, sir.

ASSISTANT COMMISSIONER: Yes. Is there any other examination?

MR DOWNING: No.

ASSISTANT COMMISSIONER: Thank you. Mr Tagg you are now excused?---Thank you, Commissioner.

Thank you.

30 THE WITNESS: Do I leave these or take these or - - -

MR DOWNING: Perhaps leave them behind?---Thank you.

THE WITNESS EXCUSED

[10:55am]

40 ASSISTANT COMMISSIONER: Yes, Mr Downing.

MR DOWNING: Thank you, Commissioner. The next witness will be Michael Butterworth.

MR TAYLOR: Commissioner, I communicate Mr Butterworth will make an affirmation and I would seek a section 38 declaration on his behalf.

ASSISTANT COMMISSIONER: Thank you, Mr Taylor. Thank you, Mr Butterworth. Just take a seat. Pursuant to section 38 of the Independent

Commission Against Corruption Act, I declare that all answers given by this witness and all documents and things produced by him during the course of his evidence at this public inquiry are to be regarded as having been given or produced on objection and there is no need for the witness to make objection in respect of any particular answer given or document or thing produced.

10 **PURSUANT TO SECTION 38 OF THE INDEPENDENT
COMMISSION AGAINST CORRUPTION ACT, I DECLARE THAT
ALL ANSWERS GIVEN BY THIS WITNESS AND ALL
DOCUMENTS AND THINGS PRODUCED BY HIM DURING THE
COURSE OF HIS EVIDENCE AT THIS PUBLIC INQUIRY ARE TO
BE REGARDED AS HAVING BEEN GIVEN OR PRODUCED ON
OBJECTION AND THERE IS NO NEED FOR THE WITNESS TO
MAKE OBJECTION IN RESPECT OF ANY PARTICULAR
ANSWER GIVEN OR DOCUMENT OR THING PRODUCED.**

20 ASSISTANT COMMISSIONER: Could the witness be affirmed, please.

ASSISTANT COMMISSIONER: Yes, Mr Downing.

MR DOWNING: Thank you, Commissioner. Mr Butterworth if you could state your full name, please for the Commission?---Michael Phillip Butterworth.

10

And your date of birth?---23 November, 1964.

And your address?---.....

Now - - -

MR TAYLOR: Commissioner, could I seek a suppression order in relation to his home address?

20

ASSISTANT COMMISSIONER: Yes, I make a suppression order in respect of the home address.

SUPPRESSION ORDER IN RESPECT OF HOME ADDRESS OF MR BUTTERWORTH

30

MR DOWNING: Now Mr Butterworth, it's the case isn't it that you're a former councillor of Ryde Council?---That's right. I didn't nominate or contest the 2012 council election.

And for what period were you a councillor?---I was elected in March 2004 through to the caretaker period in August 2012.

And in the last – the September 2012 elections can I ask you how long before it was that you made the decision not to contest?---Oh personally about two years.

40

Right?---I certainly made some councillors and people aware about 18 months beforehand. But I made a very public declaration in the Council Chamber I think it was in March 2012. And the declaration was repeated on a number of occasions.

For the purposes of that election campaign, whilst you didn't personally stand for re-election you did authorise ads for a number of councillors who were standing didn't you?---That's correct.

And if I could ask you to have a look at Exhibit 21 at page 1303. And if you go down towards the bottom of the page you'll see there's an ad for Councillor Salverstro-Martin. And if you keep going down, stop it there, hopefully you can see the bottom, it's authorised by you?---Yes.

And there's an address in I take it that's your address?---
That's correct.

10 So you authorised that advertisement for Councillor Salvesto-Martin?
---Yeah. The advertisements that I authorised for Councillor Salvestro-
Martin and other councillors had my name and address on them.

You also authorised some for Councillor Laxale didn't you?---Correct.

And I take it that you're well familiar with the process of authorising political advertisements?---I'm, I wouldn't say I was actually an expert of it, but I do have - - -

20 Well what's involved in authorising an advertisement like the one that
you're looking at?---Well I understand you've got to have a name and
address on them, yes, for election purposes.

Do you have some involvement in the actual placing of the advertisement?
---No.

Is it the case you're contacted and asked whether you'll authorise it and give that okay your name and address then appears?---Yes.

30 Right?---But I didn't book advertisements or design advertisements.

Is that something that you delegated to other people?---Well to the candidates themselves.

Okay. In the period when you were running yourself was that something you delegated to other people within your team?---I think when I first ran in 2004 I'm not sure that all of these requirements were necessary. And, and I'm sorry, I don't recall from the election in 2008.

40 Can I ask you to have a look at an advertisement that appears at page 1330
and 1331 of the same exhibit and you may well have been in the
Commission and heard evidence about these, this ad before. It's an ad for a
number of Councillors, indeed including you despite the fact that you were
retiring, you'll see on page 1331. You've heard evidence about this ad
haven't you?---Yes, I have.

And you've heard evidence that it appeared in The Weekly Times on 29 August and 5 September last year?---Yes, but I have no memory of ever seeing this ad.

You've also - I withdraw that. I take it in the period leading up to the election you were having a look at The Weekly Times from time to time?
---I'm not an avid reader of both of our local papers, I'd been counting down my retirement from Ryde Council for 18 months and I may skim through it from time to time but I'm not an avid reader of either paper.

Right?---And I'm still not.

10 Did you ever look at the online edition?---Infrequently.

So is your evidence that up until the point of the election last year on 8 September you had not seen these ads?---Correct.

At all?---No, I, I have no recollection, I have seen the chain of emails that's been provided earlier, I, I do not remember seeing those emails and I certainly don't remember seeing these ads in the, in the, in the TWT.

20 Well, the emails were Exhibit 22 and so you've looked through those?
---Only from following on, on the screen earlier.

Well, perhaps if we could have a copy of Exhibit 22 put in front of you?
---I can confirm that's my email address if that's the question you're asking, Mr Downing.

I won't read it out on the record but you confirm that he hotmail address is yours?---Yes, that's my hotmail, that's correct.

30 Is it normally your practice in respect of Council matters to look at your emails?---I can assure you that by the time we got to these sorts of dates I was done with Ryde Council. I was not a, not a candidate and no offence to Councillor Tagg but I certainly delete half of his emails, I don't, half the emails I get I don't check these things.

Are you telling us positively now that you know you've never seen these before or you just can't remember?---I, I, I do not, I do not remember seeing these.

40 At the time leading up to that election you had been part of the block of Councillors who was opposed to the Ryde Civic Precinct redevelopment?
---Oh, certainly and I can, I can assure you and the Commission that I was the only Councillor a number of years previously to vote against the proposal to seek a rezoning.

Was this at a time when many of the other Councillors ultimately were part of the no block?---11/1 I understand.

Are you saying there was a period before they - - ?---Yes.

- - - changed from supporting it to opposing it?---They may have been the previous Council too though, they may have been a different mix of Councillors, I think it was prior to 2008 but I have been opposed to the rezoning and this particular development from day dot.

So to the best of your recollection you didn't look at these emails?---I, I have, I do not remember them, no.

10 And I take it it flows from that that you had no knowledge that you were down as one of the persons who had authorised - - -?---Well, if I, if I didn't, didn't remember seeing the ad I wouldn't have been down as one of the authorisers and as, as we've shown before in relation to ads for this particular Council election the ads I authorised had my name and my address on them, this one does not.

Well, it has your name?---It does not have my address though.

20 No. Do you recognise the address as that of Councillor Salvestro-Martin?
---I understand, well, I think that's his post office box, I don't know for certain but I think it is, yes.

Can I ask whether it would concern you if an ad had been placed saying it was authorised by you, that you had no part of actually being - - -?---Yes.

- - - sent out for publication?---Yes.

30 Is it the case that last year, just before the election, you became aware of an election banner with your portrait and authorisation on it?---Yes.

Is it the case you didn't see it but you'd had reports of it from somebody?
---That's right, I went looking for it but I couldn't find it.

And did you take some step in respect of that?---Yes, I did.

What was that?---I contacted the returning officer at Ryde, I think her name is Ms Park, to inform her that I'd heard reports of such a banner.

40 That is in respect - the returning officer at the Electoral Commission?---Yes, that's right, yes.

Sorry, so you contacted her to indicate?---Indicate that I, I had heard reports of such a banner but that I had nothing to do with it.

All right. Well, I'll show you a document?---Thank you. Yes, that's a copy of my email to Ms Park and her reply.

On the Friday just before the election?---Yes.

I take it that had you noticed the Save Ryde you would have taken similar steps?---Yes.

I tender the email, Commissioner.

ASSISTANT COMMISSIONER: Yes, that email will be Exhibit 25.

10 **#EXHIBIT 25 - COPY OF AN EMAIL BETWEEN MR
BUTTERWORTH AND MS PARK REGARDING ELECTION
BANNER**

MR DOWNING: Can I ask you when did you first become aware of the Save Ryde advertisements?---Yeah, Councillor Salvestro-Martin had mentioned it to me the second week of June this year.

20 So up until that point you'd had no knowledge that they'd - - -?---I, I do not remember them at all, no.

Do I take it that from what you've said that you don't also - I withdraw that, that you don't recall seeing the advertisement that appears at page 1332 of the same exhibit, Exhibit 21?---No.

So you'd had no discussions with - - -?---When, when, when, when, when did that appear?

30 That appeared just after the election on 12 September, if we scan up to the top of the page you'll see it's an ad from The Weekly Times - - -?---No.

- - - of 12 September?---I can assure you I, if I was only skimming the papers beforehand I certainly wasn't reading them after the election.

And up until June of this year you'd had no discussions with anyone about these particular ads?---No, and I have no recollection of them.

40 Did you have any knowledge of saveryde.com as a website?---Not that I can recall, no.

You've never visited that website?---Not that I recall.

Thank you, Commissioner.

ASSISTANT COMMISSIONER: Thank you. Does anybody wish to cross-examine Mr Butterworth? Yes, Mr Hyde.

MR HYDE: Yes, thank you, Commissioner.

Mr Butterworth, I appear for Councillor Petch in these proceedings.
Mr Butterworth, you said that you'd long opposed the redevelopment of the civic precinct?---Correct.

10 And it was your view that there should be community consultation?---I had a number of reservations about this particular development, I opposed the initial rezoning because I felt exactly the sort of development that would be proposed would be there and that was an inappropriate site for that. I've always believed that you get a better outcome if you take the community with you and there should be community consultation, yes.

And was that something that you agitated with your fellow Councillors, that is that there should be proper community consultation?---I think that would have been obvious from the comments I made about the different debates about this in the Council Chamber.

20 And would it have been appropriate in your mind for there to be some sort of community advisory body?---Oh, when, when that notice of motion came forward I was happy to support that because I thought that was a step in the right direction from where we had been. It was a very, very divisive - ah, divisive matter at Council, it certainly upset a lot of residents and ultimately I think that the development that they were proposing served Council's interests but not the community's.

30 All right. And would you agree with me that you had had discussions from about January 2012 moving forward to around May when this resolution or motion was posed concerned the formation of a community advisory committee from about January 2012 up to and including 8 May, 2012 when this motion was put for just that?---I don't recall a particular discussion with myself prior to that motion being put, I certainly, you know, I was, I think I signed the notice of motion to put it and that's certainly when discussions took place. I'm not certain that that took place prior to that, I don't recall.

It's possible that they did but you don't now recall?---It is possible, yes.

All right. Thank you. Now, on 17 July, 2012, you were present when the topic of an email from a concerned resident sent to all Councils and including Mr Neish was discussed. Do you recall that?---I recall that, yes.

40 And there was a motion that was moved to have Mr Neish explain why it was that he'd excluded half the Council from his response. Do you recall that?---Yes, I thought that was an appropriate thing to do.

And do you recall that on the floor of the Chamber, Mr Neish said words to the effect that, "This is the only case I have ever done this, I did decided to send it back and copy it to the six Councillors who supported the project, this was because I knew that other Councillors were spreading this information." Do you recall him saying that or words to that effect?

---Words to that effect.

And did you form a view about that response that he provide to Council?

---Yes, I did.

What was that view?---I thought it was weak.

10 Right. Did you have any other thoughts about it, that is in terms of its appropriateness or otherwise?---I think by that stage my relationship with Mr Neish had deteriorated to such that there had been a breach of trust I think between- - -

20 All right?--- - - -between us. I was not running for Council, it was pretty obvious, I thought that, you know, that sort of battle would be something that would have to be determined by the new Council. I was very concerned about Mr Neish's performance in relation to his interaction with the community. If he wanted to have disagreements with Councillors, so be it, but I felt that his interactions with the community who, who were opposed to this development, I thought it was disrespectful. And the other dilemma that I had that is clear in my mind in relation to this proposal was that when we first called for Expressions of Interest I think there were eight or nine respondents, by the time we got to the tender evaluation and awarding the tender, we got to a situation where the remaining proponent had submitted two non-compliant tenders- - -

30 All right?--- - - -and the Council voted the General Manager to then go into negotiations with that party about non-complying tenders. And I did really wonder in my own mind that if the earlier proponents had been aware that they could submit non-complying tenders and then have ongoing negotiations with the General Manager that we may very well have had a very different proposal come to Council that may have been acceptable to all the Councillors and the community.

ASSISTANT COMMISSIONER: Well, that wasn't Mr Neish's fault, was it, if the Council voted to tell him to go back and negotiate with them?

---No, but I- - -

So you can't blame him for that?---No, but I just- - -

40 We're only interested in what your concerns were about Mr Neish and if you could state them briefly, thank you?---All right. Fine. Thank you.

MR HYDE: Were they your concerns?---Yes.

Yes. Thank you, Mr Butterworth, thank you.

ASSISTANT COMMISSIONER: Thank you. Mr Butterworth, do you accept that one reason for putting forward this proposal for a community

consultative committee was to delay implementation of the previous Council resolution till after the election?---Yes, because- - -

That was really- - -?---Yes.

- - -what was the driving force, wasn't it?---Yeah, definitely, there was definitely cynicism amongst the Councillors and the community about this being awarded and rushed and done and signed just before a Council election.

10

That's right. So it was the rush that was a concern. You wanted to delay it at least till after the election?---I thought it was appropriate given the amount of community angst- - -

Yes?--- - - -and the fact that an election was almost upon us that that was the appropriate action, yes.

Thank you. Yes, thank you. Well, if there's nothing further? Yes, Mr Taylor.

20

MR TAYLOR: Could I just ask just one or two questions, please, Commissioner. Mr Butterworth, you were asked some questions by Mr Downing about ads you authorised in relation to the campaign election in 2012?---Yes.

In what capacity did you authorise those ads?---I was slash campaign director agent for the candidates.

30

And is it fair to say that candidates are required to appoint an agent under the Local Government Act- - -?---That's correct.

- - -in relation to Council election?---That's correct.

And you were appointed for a number of- - -?---That's correct.

- - -persons standing?---Yes.

Thank you. Nothing further.

40

ASSISTANT COMMISSIONER: Thank you, Mr Taylor. Yes, you are now excused, Mr Butterworth?---What do I do with these?

THE WITNESS EXCUSED

[11.15am]

ASSISTANT COMMISSIONER: Yes, Mr Downing.

MR DOWNING: Thank you, Commissioner. The next witness will be Terry Perram.

ASSISTANT COMMISSIONER: Yes.

MR ANDRONOS: Commissioner, Mr Perram's in the Commission.

ASSISTANT COMMISSIONER: Yes.

10 MR ANDRONOS: He will make an affirmation. I seek on his behalf a declaration pursuant to section 38.

ASSISTANT COMMISSIONER: Yes, Mr Andronos.

Just take a seat, Mr Perram.

ASSISTANT COMMISSIONER: Pursuant to section 38 of the Independent Commission Against Corruption Act, I declare that all answers given by this witness and all documents and things produced by him during the course of
20 his evidence at this public inquiry are to be regarded as having been given or produced on objection and there is no need for the witness to make objection in respect of any particular answer given or document or thing produced.

**PURSUANT TO SECTION 38 OF THE INDEPENDENT COMMISSION AGAINST CORRUPTION ACT, I DECLARE THAT ALL ANSWERS GIVEN BY THIS WITNESS AND ALL DOCUMENTS AND THINGS PRODUCED BY HIM DURING THE
30 COURSE OF HIS EVIDENCE AT THIS PUBLIC INQUIRY ARE TO BE REGARDED AS HAVING BEEN GIVEN OR PRODUCED ON OBJECTION AND THERE IS NO NEED FOR THE WITNESS TO MAKE OBJECTION IN RESPECT OF ANY PARTICULAR ANSWER GIVEN OR DOCUMENT OR THING PRODUCED.**

ASSISTANT COMMISSIONER: Could the witness be affirmed, please.

ASSISTANT COMMISSIONER: Yes, Mr Downing.

MR DOWNING: Mr Perram, if you could state your full name for the Commission?---Terrence William Perram.

10 And your date of birth?---24 May, 1950.

And your address?---.....

And it's correct, isn't it, that you're a Councillor at Ryde Council?
---That's correct.

And is it correct that you were first elected there back in 1987?---That's correct, I've been there 26 years.

20 And from that we take it that you have been a Councillor throughout the period where the Ryde Civic Precinct redevelopment has been- - -?
---Absolutely.

- - -before Council? So you're well familiar with it?---Well familiar.

You would have a recollection, wouldn't you, that on 8 May last year there was a motion put before Council in respect of the creation of a community advisory committee?---Yes.

30 And do you recall that that was a motion moved by Councillor Petch and Councillor Tagg?---Yeah, I recall that from seeing it on the screen, yeah.

You were present at the meeting when it went up, weren't you?---Yes.

And is it your recollection that it was Councillor Petch who came up with the idea?---Yes, it was.

40 And by that point there was fairly established lines of division between those who supported the Ryde Civic Precinct redevelopment and those who opposed it?---Yes, we knew who was going to support it and who was not going to support it.

For some time there had been a six/six vote on, on the matters before Council involving the Ryde Civic Precinct redevelopment?---That first emerged in October 2011.

And so by May 2012 there had been a number of votes where voting along those lines had occurred?---Yes.

And what was happening was that the Mayor, Councillor – or then Mayor, Councillor Etmekdjian, was using a casting vote and motions were being passed to progress the Ryde Civic Precinct redevelopment?---He needed to use the casting vote whenever all 12 Councillors were present. There were some occasions when there may have been only 11 in which case he may not have had to use it, he would not have had to use it.

10 Thinking just about the proposal for the Ryde Civic Precinct redevelopment, and it appears in Exhibit 1 at page 385 – we might bring that up so that you can see it again? See it starts on that page and then goes onto the next page, the actual, there's seven points that make up the motion?---Yes, I remember the motion.

I take it by this point there had been a number of meetings between the Councillors who were opposed to the Ryde Civic Precinct redevelopment in relation to the matters that were before Council?---That's correct. We did start meeting and agreed to do some advertising et cetera.

20 Is it your recollection that Councillor Petch came up with the detail of this motion?---Well, Councillor Petch informed me that this motion was coming and probably only just before I saw it. Now, if you go back to the top you'll see that my name's there along with that of another five Councillors. If you uplifted the hard copy of this from the Council you'll see that we've all signed it.

Right?---That's why the names are there, because we, we were all- - -

30 You signed the physical copy of the notice of motion?---We all signed the physical copy of that and that's why they've got our names at the top, otherwise it's only just the person who submitted it.

Sure. But I mean there are – looking at page 385 and 386, there are seven points that make up the motion?---Yes.

40 Is it your recollection that that was something that was presented to you by Councillor Petch?---Yes. Well he described to me that he was seeking the establishment of an advisory committee made up of some councillors and some residents to look over the Civic precinct project and a key part of it and a key part for me was that no decision would be made until after the election when this committee could report back. And that was the key part of it as far as I was concerned.

And when you that was a key part, I take it there was some discussion about the proposal amongst you, Councillor Petch and others?---No, there wasn't. Councillor Petch just informed me that he was bringing this up and when I heard that it involved delaying it until after the election I probably said, well that sounds like a very good idea. I'll be right behind that.

Was there some discussion amongst the councillors opposed to the Ryde Civic precinct redevelopment about whether – if it could be delayed until after the election, there was some confidence that people who would be re-elected would then – that there would be a change in the complexion of the council and those who were elected wouldn't then proceed with it?---Well that was the expectation. But I, I'd come to the view that it's really up to the community to decide. If we can get the, the project in front of the community and let them have a vote, if it turns out that they vote in sufficient councillors who want to go ahead with it, then I was prepared to
10 say I still oppose but I accept that decision and I'll work to just improve it from that point on. So that was the position but the main thing was to get it after the election. It was all working to a political timetable up to that point, to have it finished and signed off and sealed and a contractor on board before the election. And that was the, that was the fundamental problem.

So the fundamental point from your perspective was to prevent that contract being signed up before the election?---Exactly.

20 So that by having this referred off to the committee it would delay it until after the election?---That's right.

Then the, the electors of Ryde could make their own call about who they wanted to represent them?---That's correct. There were some details of the motion such as naming a few councillors and a few individuals in the community to review it. I was a little bit wary about such a small group being given such a major responsibility, but that wasn't the key matter, I wouldn't raise that. The fact that it would result in a delay until after the election was the key issue from my point of view.

30 I understand that was the key point from your perspective?---Yep.

Around the time that Councillor Petch presented you with the motion - - -?
---Yep.

- - - and do I take it that that was shortly before the meeting?---Well the fact is – I've looked at the minutes leading up to this and the only time when all seven, all six of us were in the one place was one week before on 1 May when there was a Civic precinct committee meeting at the council. So my best guess is that's when I would have signed it. And I think I was aware of it before Ivan put it on the table. He probably rang me about it a day or two
40 before that. So that's where I would guess I first became aware of it.

I understand. And doing your best now do you recall there being a discussion with Councillor Petch at the time it was presented about his view as to the key point in the proposal?---I think he was of a similar mind to me. The key thing was that it would allow the community to have a vote on the matter before a decision had to be made.

So delay the decision until after the election?---Yeah, I think from his perspective that was the primary focus too.

You've told us that – and doing the best you can having looked at the hardcopies, you think it was probably about a week before that you had the meeting and saw this motion?---Well we were all that the council on 1 May, and given that all signatures are there, it's very hard to get all the councillors in one place.

10 Six people in one place?---So if we've all got to sign the one piece of paper you do it when everybody is going to be there.

And I think you said a moment ago that you believed there would have been a phone call, perhaps a day or so before from Councillor Petch?---It could have been a phone call a day or so before. As you mentioned we were having meetings and we frequently had those on a Sunday evening, not every Sunday evening, but when they did have them, that's usually when it was, so he might have actually spoken to me verbally, one to one. So I don't recall that part of it, but I did know it was coming when he put it on
20 the table, would you put your signature on this please, and I went yeah, happy.

Do you have any recollection of Councillor Petch raising you with – raising with you this idea of the creation of a community consultative committee at an earlier point in 2012?---No, it just came out of the blue and then it happened. It came out of the blue and happened in a short space of time.

So to the best of your recollection and having looked at documents you believe it was probably in very early May or late April 2012 that it was first
30 floated with you?---Well if we – my consideration of it is that I would have signed it on 1 May, so it would have been late April when I first heard about it.

Thank you. Now you were present at the council when the vote occurred on the motion?---Yes.

And ultimately it's the case isn't it that the community advisory committee in the form that Councillor Petch had wanted didn't, didn't happen?---No. They changed it straight away in that first meeting.
40

An amendment motion?---Yeah, they put in an amendment and they said, okay we'll have the committee but it must not result in the manner, no sorry, that's right after the contract has been signed up then we'll have the committee. So in other words it wouldn't have the principal effect which was to delay the signing up of a contractor. And that was the amendment they put through and that was carried.

So the committee in the form that Councillor Petch had wanted didn't actually occur because of a vote that took place on 8 May?---No, it didn't happen. It didn't happen.

And after that you're aware aren't you that on 9 July 2012, and if we go to Exhibit 2, page 72, a letter signed by Councillor Tagg and Councillor Petch was circulated, sent to the Mayor and also copied to Mr Neish seeking an extraordinary general meeting?---Yes. I'm aware of that.

10 And ultimately it was for the purpose of seeking or putting up a motion seeking the termination of Mr Neish's employment?---That's correct.

And do you recall seeing this document before it was circulated?---I don't know that I saw the document, no I don't recall seeing it.

At page 73 it identifies you as one of the councillors in support of the extraordinary meeting?---Mmm. I was aware of it.

20 Doing your best can you recall when the idea of seeking this extraordinary meeting for the purpose of terminating Mr Neish's employment was first raised with you?---It would have been no more than a few days before that, the date of that letter.

Do you recall whether this, the idea of having this motion - well, I withdraw that. Do you recall whether this idea of seeking the extraordinary meeting for the purpose of terminating Mr Neish's contract was Mr Petch's idea? ---Yes.

30 Was it he who raised it with you?---He did. Well, he, he raised with me that there was an opportunity to, an opportunity had presented itself to do it.

Was that because one of the Councillors from the camp in favour of the development was overseas at the time or, sorry, away at the time?---As it was presented to me the Liberal team on the Council had had a pre-selection and one of their number was disaffected with the outcome and very likely would not attend a meeting. Furthermore, the person was going overseas or going on holidays anyway and so there would be a limited window of opportunity in which a motion of this type could be put and carried at the Council.

40 Do you recall whether Councillor Petch told you that he was preparing a motion seeking Mr Neish's contract be terminated?---Yes, he did.

And doing your best by reference to the date of the document when do you believe that was?---Well, it would have only been probably a day or two before at the most. I mean, I don't think it was on the very day but it would have been only a day or two before.

Can you recall any earlier discussion with Councillor Petch where he expressed a desire to take some step to have the termination of Mr Neish's employment occur?--I can't recall any specific conversation but there would certainly have been that matter discussed because I would have said the same thing.

Well, after the fate of the motion put before Council on 8 May the, the aim of having the project deferred until after the election had been thwarted, would you agree with that?---Yes.

10

Do you recall any discussion after that with Councillor Petch about whether the best way to prevent the contract being signed was to have Mr Neish terminated, that is his employment terminated?--I don't know whether that was every said, I think what I do - no, I don't, I don't recall that being said, that's all I can really say. I shouldn't really, you know, surmise.

I'm not asking you to speculate so if you don't recall?---No, I won't speculate, yeah, no, I don't recall it being said.

20

Do you recall when Councillor Neish, sorry, Councillor Petch spoke to you about this particular motion that was going to be put up seeking the extraordinary meeting and termination of Mr Neish's employment, whether he said something to the effect that getting Mr Neish sacked is the way we can stop the Ryde Civic Precinct progressing?---He wouldn't have said that but what he would have said without John Neish there there's very little likelihood this would go ahead.

Because he regarded Mr Neish as a strong proponent of the proposal didn't he?---Mr Neish was the primary driver of the project.

30

I understand you say that but at the time the Council had voted hadn't it in terms of the steps that it would take towards that project coming to fruition? ---Every resolution that that Council carried was crafted by John Neish and that, that has not been said in this inquiry and I think it needs to be said.

Well, I understand that as the General Manager he may well have drafted the motions but ultimately it was the Council that had to vote on them wasn't it?---The Council voted on them but there was no doubt in I think any of the Councillors' minds who was the driver.

40

You'd accept wouldn't you that as General Manager whether he drafted motions or not where they were passed by Council it was part of his responsibility to actually act in accordance with them?---Oh, absolutely, I understand that he's got to, he's got to carry out the resolutions of Council but what I don't agree is that he can divorce himself from the creation of those resolutions when he's put all those words together and it's simply been rubberstamped in the Council.

You say rubberstamped, I mean, there ultimately was a vote on each of one of these motions wasn't there?---That's, yeah, well, that's right and I consider the way the vote received with the casting vote to carry it where the Mayor said not a word in the, in the entire discussion, whenever the casting vote was used the Mayor would never declare his position, he would not speak, he would not take the community into his confidence, he would not take the Council into his confidence, he would not indicate that there is a matter of personal responsibility associated with using that casting vote.

10 Mr Perram, you understand I'm asking you about Mr Neish and his conduct?---So I, that's what I call, that's what I call rubberstamping. So I just want to explain my definition of what I mean when I say something got rubberstamped through the Council.

Mr Perram, you understand I'm asking you about Mr Neish's conduct? ---Are you? You'd better ask the question again.

You've told us a bit about your views about the Mayor, former Mayor, Councillor Etmekdjian?---Yes.

20

And you've indicated your views about the way he proceeded but you understand - - -?---Yes. Sorry, sorry if I've digressed.

Would you accept that in circumstances, whatever the vote was, whether Council had voted in favour of a particular motion it was part of Mr Neish's responsibility as General Manager - - -?---Absolutely, absolutely.

- - - to act in accordance with it?---He had to carry out the resolutions of Council, that's part of his requirements under his contract.

30

And it's the case, and I don't think there's any great surprise about this proposition, that you and the others who opposed the Ryde Civic Precinct redevelopment weren't happy with the course that was being taken in respect of it?---If you're saying that is the only issue that I had with Mr Neish - - -

40

I didn't say that to you, I simply asked you that - whether you would agree that you weren't happy with the course that was being taken in Council regarding the progress of the Ryde Civic Precinct redevelopment?---Well, I wasn't happy with the, the way it was going and the manner in which the - it was being very much rushed, the Councillors were being denied information that I think was essential for them to do their job properly and it was all being done in order to have the project ready for signature before it could be stopped by the result of an election.

And just one last matter before I'll see that the matter be adjourned for morning tea, you understand don't you that one of the motions passed by

Council was for Mr Neish to progress this to the point of entering into an agreement with a developer by the time of the September 2012 elections?
---That's right. One of the options he crafted - - -

No, Mr, Mr Perram, please, I'm not asking you to make a speech about it, I'm just asking whether you recall that that was one of the motions that had been passed?---Absolutely.

Commissioner, is that a convenient time?

10

ASSISTANT COMMISSIONER: Yes, we'll adjourn for 15 minutes.

SHORT ADJOURNMENT

[11.34am]

ASSISTANT COMMISSIONER: Thank you, please be seated. Yes, Mr Downing.

20 MR DOWNING: Thank you, Commissioner.

Mr Perram, just before the break I was asking you about the 9 July, 2012 letter seeking the extraordinary meeting?---Yes.

And your discussions with Councillor Petch around that time?---Yes.

Can I ask you if you recall around that time him indicating to you that having Mr Petch, sorry, Mr Neish sacked was a way that would prevent the Ryde Civic Precinct progressing?---It would have that result.

30

Well, do you recall Councillor Petch expressing that to you in, not necessarily exactly those words but words to that effect?---He, he expressed that view.

Now, the motion ultimately came before Council on 23 July and there was at the time a vote in favour of the termination of the contract and an immediate rescission motion filed?---That's correct.

40 Things then got a little bit more complicated in that Supreme Court proceedings were commenced initially by the Council and then by ICAC?
---Yes.

And injunctions were put in place in respect of steps to terminate Mr Neish's employment?---Well, ultimately the Mayor on behalf of Council said that the Council would take no action to terminate the employment of Mr Neish.

Sorry, the Mayor, are you referring to before the elections in - - -?---No, no, this is on the - I think it was on 28 September in the Supreme Court.

That's Councillor Petch?---Yes, Councillor Petch, made that undertaking on behalf of Council in the Supreme Court.

Now from the time the injunctions were first in place up until when Mr Neish finished up at Council do you recall any discussion with Councillor Petch where he expressed a desire to try and find a way to get rid of Mr Neish despite the proceedings and the injunctions that were in place?
10 ---I don't recall that that was every considered. I think that injunction was basically seen as final. We did have a discussion as to whether there were other ways or things we could do, such as a suspension. That was - - -

A suspension of Mr Neish?---A suspension of Mr Neish as General Manager, in order words, you know, still holds the position but temporarily suspended from duties.

Do you recall when that discussion was, and again try and think of events that might help to give you some context like the date of the election in
20 September, the date when Mr Neish finished up?---Oh, no, it was, it was well after that. I mean I did hear Councillor Li mention that it was discussed, I think he said in Council, I don't actually recall that but my recollection when it was discussed is when I attended a meeting with Councillor Petch and Mr Bryan Belling, the first time I'd met Mr Belling.

And is that this year?---It would have been this year.

And was that in the context of negotiating some type of document to bring
30 out the end of Mr Neish's employment?---No it wasn't. It was to explore what options were available. And as it turned out very little.

But the discussion about the suspension do you recall – was that a discussion about whether suspension as some form of disciplinary measure could be put in place?---It couldn't be put in place because it could be construed as a form of discipline and we weren't allowed to do that because that would be detrimental action. So that sort of thing was just not open to us.

40 So to the best of your recollection is there was a discussion about that after the election?---Oh yes.

But was that in 2012?---The discussion I'm referring to occurred in 2013.

Right. And was that the discussion with Councillor Petch and Mr Belling?
---Yes.

In the course of Councillor Petch seeking some advice about what could be done in respect of Mr Neish's employment?---Well the, the meeting was in that context, what options are available to us. And I think Mr Belling – the reason the meeting was held was I think Mr Belling indicated that he was aware of an intermediary who had suggested to him that Mr Neish was looking for a way out. And that was something – that's the reason I attended the meeting, I wanted to hear what he had to say.

10 And was that, that a person of a particular consultancy that does work in the local government area?---I had no idea who the intermediary was and Mr Belling did not want to reveal the name.

All right. Now in about February of this year do you recall becoming aware of a complaint that had been made against Mr Neish in respect of his laptop?---Yes.

And can you tell us how you first became aware of that complaint?---I became aware of that one morning in a phone call from Councillor Petch.

20 And are you able to say roughly when that was?---Oh, I could work it out because it was a few days or maybe one day before the Saturday that we opened a park called Livvi's Place. And I don't know what day that was, but it would have – I think it might have been some date in February.

Well you're aware aren't you that Mr Neish ultimately signed a deed - - -?
---Oh yes.
- - - on 8 February?---Signed it on the 8th, well - - -

30 By reference to that does that assist you at all in when it was you - - -?
---Well obviously it would have been before that. But I really can't help you with the exact date. If I saw when Livvi's Place was opened, and that is an event on the council calendar I could work it out 'cause it was a couple of days before that.

40 Right. So you received a call from Councillor Petch. Are you able to tell us – I'll withdraw that. Before I get to that soon after the election the council passed a resolution killing off the rights increasing redevelopment?---That's right. The first meeting. In fact we had to wait until midnight before we could actually put that motion because we weren't allowed to carry that until three months after the previous one and the three months elapsed at midnight.

So was it a case where the meeting was then delayed for a period. You'd go after - - -?---That's right.

- - - so it spilled over after midnight?---That's right. We temporarily adjourned the meeting and came back.

But that meant the end of the project?---As far as I was concerned it was dead.

And it hasn't been raised again since?---No, no it's over.

10 All right. Now returning to what I was asking you about. You received a phone call from Councillor Petch. Can you recall what he told you?---Well he advised me that he'd been approached by a member of the IT staff – well I think he'd been approached directly I think he said from a member of the IT staff who had informed him that he'd been doing a repair to Mr Neish's computer and had found pornographic material on it.

And did Councillor Petch indicate to you that that employee had made a complaint about Mr Neish arising from his discovery?---I think he did. I think he told me he'd complained to his supervisor or to his manager, whatever.

20 Right. And what else did Councillor Petch tell you?---He then told me, which I was very glad to hear, that he'd put the whole thing in the hands of a lawyer. And I was pleased to hear that.

Did he indicate whether the lawyer was Mr Belling?---No, he didn't mention a name. But I presumed that he meant Mr Belling because this was in the aftermath of our meeting with Mr Belling, when I first met him.

Where Mr Belling had been giving some advice about - - -?---Giving advice on that very matter about Mr Neish's future.

30 Right. All right. So he tells you of the discovery of the – and of the complaint, that is Councillor Petch when he telephones you?---Sorry, he told me?

About the discovery – well, the complaint made by the IT employee? ---Oh, yes, he told me that it was, involved pornographic images on a computer.

40 And he told you that the complaint had been made by the IT employee? ---Yes. He didn't mention the name of the employee.

Did he say anything about – or sorry, I withdraw that. And he told you he'd put it in the hands of lawyers?---Yes.

I take it that you were aware of the complaint handling procedure that the Council had?---Yes.

It's part of the Code of Conduct?---Code of Conduct.

And there is part of it that deals specifically with complaints in respect of the General Manager?---Yes, the Mayor is responsible for the oversight of dealing with those complaints.

And complaints can have different outcomes, you're aware of that under the Code of Conduct, aren't you?---Yes.

It can be things from a censure, suspending someone's rights in respect to something like Internet use?---Or the complaint can be dismissed.

10

Can be dismissed?---Mmm.

Or it can be referred off to a conduct reviewer or a conduct review committee?---That's correct.

A complaint of the nature that was made in this instance, would you agree that would normally be handled through that established complaint handling procedure?---It would have to go through that process and I believe that I mentioned that to Councillor Petch on the phone but I can't recall precisely.

20

I certainly mentioned it to him in his office the next time I was up there.

And do you recall what his response to that was?---Oh, I think he just heard what I said and understood that, mmm.

Did you understand what the nature of the engagement of Mr Belling in relation to the discovery on the laptop was?---I don't know what Mr Belling's immediate role was but I understand that Mr Neish decided that he would leave and Mr Belling was then given the role of preparing the deed of release or whatever that was going to be signed by both parties.

30

Did Councillor Petch ever say anything to you to indicate an intention to release or cause the release of information in relation to the complaint to the media?---Not that I recall, but ah, he may have mentioned something like that but I don't recall it.

Would you regard the complaint that was made in this instance as a confidential matter?---Oh, of course.

40 And would you accept that releasing material of that nature to the media would be completely inappropriate under the Code of Conduct?---It would be inappropriate. And what's more, it wouldn't be fair on Mr Neish 'cause he really hasn't done anything fundamentally wrong ah, and if he's prepared to leave the Council then that's the end of it.

Right. That's your view?---Yeah.

Now, you told us a little bit earlier about a discussion on the day of an opening of a particular – was it a disabled playground called Livvi's Place?

---Yes.

And, and that was I think you said after you'd been phoned by Councillor Petch with information- - -?---Yeah.

- - -about the complaint against Mr Neish?---Yeah. The Livvi's Place was opened on a Saturday, I was phoned on either the Friday or Thursday, one of those days leading up to it.

10 And on that day did you have some discussion with Councillor Petch and others in relation to the complaint that had been made against Mr Neish?
---Yes.

Were the others – well, Councillor Petch was obviously one of them that was present and that you discussed- - -?---Yes.

- - -this issue with? Was Councillor Salvestro-Martin present?---I think he was probably there.

20 And was Councillor Li present?---Ah, well, he was certainly there and he was probably ah, a party to the discussion. The discussion was very brief, there was nothing much really to say.

Did Councillor Petch show you some document or some form of computer disc at the time?---He didn't show me any disc but what he had was ah, was ah, there was an A4 sheet of paper with some Internet address, URLs written across the top and next to each was something the size of a pea, a very small image which you could barely work out what it was, and ah, he told me, well, this is an example of what's on it.

30 Right?---And I looked at that and gave it back to him.

And was there a discussion then about the complaint that the IT person had made and how to proceed?---No, that, all that was – the only thing that I occur – that I recall that occurred at Livvi's Place was I simply saw that piece of paper, I remember John Neish walked towards us and said, "Oh, they're having a caucus meeting." And ah, that was enough to say I've had enough of this, I'll walk away I think.

40 Right. Whether it was on this occasion or perhaps another occasion, do you recall a discussion with Councillor Petch about whether it would be preferable to pay out Mr Neish under his contract rather than going through the Code of Conduct procedure?---I don't know whether it was a case of ah, preferable to pay him out ah, I didn't think that we were in a position to offer because we were ah, the Supreme Court bar said that we couldn't approach Mr Neish with regard to his employment. As far as I was concerned, if he wanted to leave he'd have to come to us, he'd have to – well, when I say us, he'd have to come to the Council or to the Mayor.

Well, do you recall any discussion with Councillor Petch where he expressed the view that he didn't want to go through the complaint handling procedure because that would linger on for some period of time, he thought it was better to just try and have a resolution reached where Mr Petch would, sorry, Mr Neish would go immediately and he would be paid out under his contract?---Well, I think I probably put that to him, I probably said to him at some stage that the Code of Conduct process is very, very slow and if you're looking for a result from that we're still going to have Mr
10 Neish here for whatever period of time that takes. It would be advantageous if he were to, if he were to decide he wanted to leave and it would be in his interests too I thought that he would do that as quickly as he could.

Do you recall what Councillor Petch's view was about that?---I think he was hoping the same thing would happen.

Did he say something to that effect?---I can't recall the specific words.

Doing your best now was this a discussion that happened on the phone or
20 after the Livvi's Place event or on some other occasion?---Oh, I think it probably happened in the Mayor's office, that sort of discussion.

When did you meet in the Mayor's office about this matter?---Oh, you tend to meet in the Mayor's office after every Council meeting, sometimes you're there before a Council meeting. I would rarely go up there for any other purpose, occasionally there's, there's something on up there but it's quite rare.

Well, again, by reference to the date that Mr Neish signed the deed and
30 effectively stopped work which was 8 February - - -?---Mmm.

Are you able to say when you think this meeting in the Mayor's office occurred?---Well, I think - I don't know what day of the week the 8th was but the first Tuesday in February would be a, a fairly strong candidate because that would have been a day when there would have been some committee meetings on, and that's assuming that I was here, I, I, I was away a little bit in February, I'd have to check my calendar before I could even suggest a date.

40 But you're talking about a meeting that was before when Mr Neish finished up?---Yeah, this, this would have been before Mr Neish finished and I, I think I recall at one stage I was in the office and Bryan Bellings was there as well and Mr Neish walked in and it was clear that they knew each other, hello Bryan.

Excuse me just for one moment. Mr - sorry, Councillor Petch, you would have been or you may have been present in the Commission earlier where there was some evidence about some particular ads for Councillors - - -?

---Yes.

- - - with the name of a website Save Ryde on them?---Yep.

And could I ask to be brought up Exhibit 21 and pages 1330 and 1331. I'm sorry that they're split between those pages?---That's all right.

They can't be laid out but accept from me - - -?---No, I've seen that many times in the last few days.

10

All right. Can I also ask that Exhibit 22 be put before you which is the bundle of emails and finally could I put forward and we'll distribute just to the parties, you earlier produced some documents to the Commission under a summons in relation to your electoral advertising and disclosures?---I did, absolutely.

And can I give you a bundle of those documents?---Yes, indeed.

20 And if it's convenient, Commissioner, could I tender the documents from Mr Perram to the Commission under a covering letter of 16 June, 2013 at this point?

ASSISTANT COMMISSIONER: Yes, that will be Exhibit 26.

#EXHIBIT 26 - LETTER DATED 16 JUNE 2013 FROM MR PERRAM AND ATTACHED DOCUMENTS

30 MR DOWNING: And there are - - -

MR ANDRONOS: Sorry to interrupt my friend, Commissioner, can there be a suppression order of the account number.

MR DOWNING: That's what I was just going to say.

MR ANDRONOS: I'm sorry.

40 MR DOWNING: In respect of both the address and also some bank account details that appear in the relevant documents, so if there could be a suppression order in respect of those matters.

ASSISTANT COMMISSIONER: Of the bank account numbers or the whole statement?

THE WITNESS----I'd like the whole statement. I think other purposes that I'm withdrawing money for and I don't think everybody should be able to see that. It's not related to this inquiry.

ASSISTANT COMMISSIONER: Yes, I think that's right. We can refer to any particular - - -

MR DOWNING: I've got no difficulty with that, Commissioner.

ASSISTANT COMMISSIONER: - - - entries which we wish to. See your client is doing much better than you, Mr Andronos. I'm joking.

10 MR ANDRONOS: He is. (not transcribable)

ASSISTANT COMMISSIONER: All right. Look I will suppress all of the bank statements which seem to be the last pages of this bundle and the home address of the witness.

SUPPRESSION ORDER ON BANK STATEMENTS AND HOME ADDRESS OF WITNESS

20

MR DOWNING: Thank you, Commissioner. Now Mr Perram it's the case isn't it that you don't place very many political advertisements?---I place very few. I'm an independent councillor and I've gone for seven elections and during the course of those seven elections I have kept the budget very tight.

And do you fund it yourself?---I fund them entirely myself.

30 Could I ask you to look at page 2458 of Exhibit 26 which is your bundle of documents to the Commission?---Sorry, 245 - - -

2458?--- - - - 8, yes.

And 2459?---Yes.

Do you see 2459 refers to an 18 by three colour election ad in The Weekly Times for the date 29 August, 2012?---Yes.

40 At a cost of \$540?---Well plus GST.

I'm sorry, I didn't - - -?594.

I didn't mean to leave out the GST. And if you go to page 2458 you'll see there's a reference there to two ads and one on 5 September which was before the election - - -?---Yes.

- - - an 18 by three colour election ad again at 540 plus GST?---Yep.

And then another ad for 12 September, which was after the election, being a thank you ad?---Yep.

And that was a six by two colour ad at a cost of 120 plus GST?---That's correct.

Now was that the total of your advertising in The Weekly Times for the election in September 2012?---That's the entirety of the advertising that I placed in The Weekly Times.

10

All right. Now can I ask you to go back to Exhibit 22 which is the series of emails?---Yes.

And can you recall receiving these emails - - -?---Yes, I do.

- - - on 28 August?---I do recall.

And prior to receiving those emails had you any notice of a plan to place this ad that was – appears at 1330 and 1331 of Exhibit 21?---Absolutely not, which is why I was rather annoyed to receive the email.

20

Right. Well going through it your initial email I take it was from Councillor Tagg?---Yes.

Indicating Jeff had asked him to forward it for approval?---Mmm.

And did you take that to mean Jeff Salvestro-Martin?---I assumed that was the case.

And you're aware that the ad itself, the ad that I'm asking you about is an ad that promotes for re-election the various councillors who were in the camp opposed to the Ryde Civic precinct redevelopment?---Yes. It was an ad about the councillors that opposed the Civic precinct.

30

And so this was sent on 28 August, 2012. I take it you opened it and looked at it?---I did. I was sitting at my desk – that's the night of the last scheduled council meeting before the election and I was sitting at my desk, no doubt reading the business papers and that's why I got a reply back within so many minutes of the email arriving.

40

It was on the afternoon of that day was it?---Yeah, 28 August.

And in your reply and this is your email of 28 August at 2.26pm - - -?
---Yes.

- - - you responded to the request that this be approved by saying you had no objection to it going in the paper?---Yes.

But you also posed a question, and you posed the question, should I ask who is paying?---Yes. What did I mean by that?

Well you didn't ask the question who is paying you asked should I ask who is paying?---Yes.

Can I ask whether you chose those words because you were wondering whether it was better that you didn't know?---I've realised that that construction could be put on it, but that's not the case.

10

Well, can I ask- - -?---When I, when I received this email I was unhappy at the fact that I appeared to be being locked in and having to pay for an ad that I didn't want and didn't need ah, but the fact that I'm getting it here at, at 2 o'clock on a Tuesday afternoon, the paper's available in hard form, printed copy, by 8 o'clock. I, I reckoned it was already in. This is an afterthought. There's very little I could say ah, except to say, all right, go ahead with it. But- - -

20

Well, couldn't you have said, I didn't agree to this upfront and I'm not paying?---Well, I didn't think – look, the problem is that six Councillors had come together and we'd been doing a reasonably good job as a team and we were going to form a new team after the election. I didn't want to get offside with my colleagues and ah, make a fuss about it, so what I – but I did want to get the message across that hey, what's happened, we were in – we had a, a system going in the first half of the year when we were doing these community letters that we were advertising where we agreed to pay one-sixth of the cost each and I got my bill on each of those occasions and it was my share, it said on the bill, "Your share." And then suddenly here's another one. Now, they all agreed to do this and nobody forgot – some – nobody remembered to tell me? And so I'm, now I'm – looks like I'm locked into this. It's got exactly the same thing down the bottom, "Authorised by," it's got, it's got the same address as the address that we used in the first half of the year, so far as I was concerned this came out of the same stable.

30

Is that Councillor Salvestro-Martin's address?---I don't know that it is but I expect that it is.

40

All right. Now, can I ask you, when you first got the email did you read it to the bottom?---Oh, yes, where it said, "Regards," and there was nobody there, yeah.

Do you recall whether there was someone there on the version you received?---No, not on my version. I've given my version to my solicitor as well and it's the same, there's nothing there.

So you've been able to access it on your computer system?---Oh, yeah, I still have that one. There's one of them here I just don't still have but I still have that.

So the version that came through to you was in exactly the same form as what appears on the first page of Exhibit 22?---Yeah, exactly, exactly.

10 Looking at it, are you sure that what you want to try and convey through the words, "Should I ask who is paying," that you were raising a query that perhaps this might be someone I don't want to be associated with, so better I don't know?---No, look, you can't do that. What, you're suggesting that I'm going to say, oh, are we going to get this for nothing? I mean the election funding authority rules are very strict and rigid. You just can't, you just can't get election for nothing. Look, I originally wrote, "Who is paying," and put the question mark. I remember actually constructing this, "Who is paying?" And I thought that's a bit abrupt ah, that's sort of challenging these other guys that we were working together as a team, so I'll mellow it down a bit, should I ask who is paying. In other words I'm expecting that I'm paying, that's my expectation, but you blokes haven't
20 told me about this and it's just landed on my desk and I'm locked in to pay something which is half as much again in cost as my total election newspaper advertising budget.

Well- - -?---50 per cent more than what I'd already agreed to pay.

You later saw I take it the response from Councillor Tagg where he said, "Hi, Terry. I was asked to send it around. I don't know the answer to your question."?---Yeah, that, I, I believe I did see that. I couldn't find that on m
30 computer but I think I've deleted a few when I'm in archiving.

Well- - -?---But I, I do, I believe that I did, I did see that, yeah.

Well, you say that the intent of your question was to find out whether you were being asked to pay. Is that the case?---Well, to basically send the message, I think I know who's going to be paying, it's me, and I wish you blokes had have told me this before you've signed up for this. That's – because I believed that my colleagues had agreed to do this and they'd left me out of the loop.

40 Well- - -?---But I didn't want to actually accuse them of that because I didn't have the evidence that that was the case.

Well, having received this response from Councillor Tagg saying he doesn't know who's paying- - -?---Yeah.

- - -did that then suggest to you that someone else behind the scenes is paying for this?---Look, quite frankly ah, if he didn't know, I got – when was that, was it late at night?

11.45pm that night?---Yeah, look, I would not have seen that till the next day and I'm out letterboxing, I got up at 5.00am.

But you're clearly following your emails in the lead-up to the election?
---Well, I would have got that but I would have looked at it and said, this is a problem, and, but I wouldn't have done anything, I didn't do anything with it.

10 Well, given that you had an interest in finding out whether you were going to have to pay a sixth share like the earlier ads - - -?---Yeah.

- - - in respect of the Ryde Civic Precinct redevelopment did you then contact Councillor Tagg and ask him well, who is paying for this? Surely you must have some idea?---I didn't, I didn't, I didn't ask the question, I did not do a single other thing after that email came with regard to that and I would have forgotten all about it at that point except that when I've flicked through the paper I saw the ad and then I turned the page, 'cause I'm looking for mine and found mine, and tore mine out, put it in the file.

20

Well, you saw the ad in the paper I take it and - - -?---I did.

- - - noted that it was authorised in part by you?---Oh, yeah, well, when I, when I'd given my approval I guess that's the approval to authorise, you know that response I said I have no objection to it being in the paper, that means from my point of view that I've looked at it and there's nothing defamatory or whatever in there so it's not going, it's not going to cause me any strife, in other words I'm prepared to have my name at the bottom as authorising it.

30

Well, you'd, you'd given the okay to it being placed in the paper?---I'd given the okay, yeah, I agree I had done that.

Now, I want you to think again about what you meant by your comment about should I ask who is paying. As at this date, that is 28 August, 2012, you know Councillor Tagg quite well?---Oh, yeah.

40

And he was the person that had originally sent you this email raising this ad for, as something that would be placed in The Weekly Times?---Yeah, he sent the email.

Now, to your knowledge was he someone - I withdraw that. Did you regard Councillor Tagg at the time as someone who had (break in recording)

THE WITNESS: - - - since after he left the Council.

MR DOWNING: Do you think it might be that that had happened prior to this election?---No, it didn't happen prior to the election, it happened this year.

Have you ever had an instance where you'd attended a Council meeting and there was a vote on a Trelawney Road property?---Yeah, the Trelawney Street property came up a couple of times. I think on a couple of those I was overseas but it has come up and I think I'd been there for one of them at least.

10

When do you recall that being?---Well, this particular development has come to the Council over a period of a couple of years because it was sent back to the developer to go and downscale his development and then it came back to us again for another took.

Were some of those occasions prior to the elections in 2012?---Yeah, oh, certainly, it started well before that.

20

And was your observation back on those occasions before the elections that Councillor Tagg had on occasions acted as something of an advocate for Mr Goubran's proposal?---Well, I don't think you can draw that conclusion. If somebody gets up in the Council and we have a debate, and I remember being there and debating that I, that I was totally against because it exceeded the planning limits and other Councillors have other reasons for supporting it such as it's a vacant site, we need to get things moving. They are reasonable arguments and that is a political discussion and because somebody puts those points forward and votes in favour of it doesn't suggest to me there's a relationship. I think that's just their judgment.

30

So is the case that you don't, you don't hold the view that to some degree Councillor Tagg is a, something of an advocate for Mr Goubran and other developers?---Well, I don't, you know, Councillor Tagg is keen on development going ahead, I - and some Councillors are always like that. I mean they, they, they very much like to see things go ahead and that doesn't mean they're advocating on, on behalf of individuals. I mean Councillor Tagg is someone who would be on, if you had to divide the Council into pro-development and anti-development sides which is not done but if you did you'd always put Councillor Tagg on the pro-development side because he basically supports development. He's, he has strong connections with
40 the Chambers of Commerce and they're interested in getting more customers into the business areas and - - -

Councillor Perram, I should explain I'm not suggesting that you held some view that it was improper, any - - -?---Yeah.

- - - relationship that Councillor Tagg had with any particular developer but what I'm trying to find out from you is going back to the email, the source of the email to you was Councillor Tagg?---Yeah.

You made a comment in your email about, you posed the question, should I ask who's paying?---Yes.

10 Were you in fact seeking to convey in that email a bit of a concern that you'd like to know or you know, you didn't know whether it was best to find out who was ultimately behind this proposed ad that had come from Councillor Tagg because you were a bit concerned about who it might associate you with?---No, look an ad can't go in a paper if you don't know who's paying for it. And you know, basically I was asking I want to know who's paying for this 'cause I think it's me. I think that's what I thought, I thought that I'm being, I'm in a loop that I wasn't part of. I didn't approve this in advance and it's just arrived on my desk and I – as I said I think the other blokes – I thought the other blokes had agreed to do an ad prior to the election.

Sorry, do you say an ad can't go in the paper if you don't know who's paying for it?---Well I - - -

20 Was that your evidence?---I don't say it can't, no, well I don't know, I don't know who's paying for all the ads in the paper, no.

No, thinking of ads that promote you for election is it your understanding that ads promoting you for election can't go in the paper - - -?---No, because this ad went, this ad went in the paper.

MR ANDRONOS: Objection, objection

30 THE WITNESS: And I didn't - - -

MR DOWNING: Please just stop for a moment, there's an objection.

MR ANDRONOS: Objection. This calls for a legal conclusion. This witness' evidence cannot be relevant and certainly can't form an admission against him.

40 ASSISTANT COMMISSIONER: Well the trouble is he's, he's expressed the view that it can't be done and I think Counsel Assisting just wants to explore on what basis he thinks it can't be done. Whether it is for whatever, whether it breaches an Act or otherwise. He might be just talking practically. I don't know.

MR ANDRONOS: Well perhaps it could just be made clear that this is a – the question is directed to a subjective opinion and would not constitute an admission as to the construction of the Act.

ASSISTANT COMMISSIONER: No, obviously he could be wrong about the construction of the Act, but it's his view and that's all we're asking about.

MR ANDRONOS: May it please (not transcribable)

MR DOWNING: Sorry, I don't know if you remember the question now?
---No, you better come back to it.

10 I thought you'd indicated in your evidence a moment ago that you understood, your belief was that an ad couldn't be placed in the paper, that is an ad of this nature where you didn't know who was paying for it?---No. Sorry, if I gave you that impression that's not, that's not my belief. Obviously it happened, so it's, it's not a case that it can't go in the paper, it did. And I expected that I would find out that I was paying for it in due course.

Well that never happened did it?---It did never happen.

20 And in fact the email that was sent later that night indicated that in response to your question, that Councillor Tagg who'd sent the ad around to you in the first place didn't know?---That's right.

I take it you're careful in disclosing your electoral advertising?
---Absolutely.

And - - -?---Every record that I've got goes in the disclosure, in fact it also came into one I sent to ICAC which is not the disclosure but it's what you asked for.

30 Did you make some inquiries then on having become aware of that email from Councillor Tagg, the one sent late on the night of the 28th to find out who it was that was actually going to be paying?---No. Look I completely - I would have seen that but I took no action. I was, you know, the council meeting was going late and regularly going late in that previous term of council. I had letterboxing to do, I had to get up and get out predawn and there just wasn't time to be following everything through.

40 Well you're aware aren't you from the evidence that this ad appeared once in The Weekly Times on 29 August?---Yeah, and then it appeared again.

On 5 September?---Yeah. I mean, yeah.

Did you notice that at the time?---Yeah. And here I'm up for a double whammy of this. Yeah, I was less happy.

Well what did you do then? Did you contact presumably Councillor Tagg to find out what's going on here?---No. Too busy. Look I figured when the

invoice comes out we'll have a bit of talk about it. But I didn't do – look I didn't even tear it out of the paper and put it into my file. I wish I had of done that, because if I had put it in my file when I went back I would have seen it and would have said, oh hang on this has got to be sorted out. I didn't, I just turned the page until I got to my ad and I took my ad out and put that in my file.

Would you accept that those two ads that were placed in The Weekly Times with the name saveryde.com on them - - -?---Mmm.

10

- - - was an ad that benefitted you and the others in the group that it promoted from re-election?---Well in my case I think the benefit would have been marginal.

I'm not asking to try and – you to assess the degree of the benefit, I'm asking just whether you accept the proposition that having that advertisement promoting you for re-election in association with the group of other councillors who were against the Ryde Civic precinct redevelopment provided you with a benefit?---There may have been some benefit in it.

20

And it's an ad to this day you say you don't know who paid for?---I don't to this day.

And you don't know - - -?---Maybe I'll find out if I stay here till the end of this proceedings. But I don't know to this day who paid for the ad. I've seen where the invoice went and what that tells me, there's a dispute, I heard that in evidence. So it seems to me the ad has not been paid for. And maybe if the paper wants to send the invoice to the, the right place, where it should have gone then maybe it will get paid for and then I'll know who

30

paid for it.

Is it the case that you don't know who created the ad in the first place?---No, I don't know who put it together.

You don't know who came up with the idea of placing it?---I have no knowledge of that either.

You have – do you have any knowledge of saveryde.com, the Website? ---No, and in fact I didn't even look at that Website when this came through, I was too busy. I thought that was one of the community groups that ah, or fellow travellers that was against the Civic Precinct development.

40

Have you not had any communications since these ads were placed with the other Councillors identified in the ads about who was behind the ad?

---No, not at all. I rediscovered the ads last weekend when I saw your last term of reference and I wanted to work out what's this all about, so I went on the Web and found the archives of the paper and then I found, I found

those ads. And that was when, that was the next time I saw them or thought about them from when they appeared in the paper back in September 2012.

Do you know a Mr Anthony Stavrinos?---I believe I do.

And how do you know him?---Well, I believe he's the gentleman who has sometimes been in the Mayor's office after a Council meeting. I don't think I've ever been formally introduced to him but he knows me and I say hello to him and I believe that's the name that goes with the face.

10

Have you had any communications with him in respect of these ads?
---Absolutely not.

Or in respect of the website, saveryde.com?---No, and I don't know what that's got to do with him.

20

Is it your view in the ordinary course that you need to know who's paying for your electoral advertising?---Oh, absolutely, I should know, because otherwise the return that I make is not valid, except if I get an official donation and I'm aware of that ah, and I guess if I don't get an ad, if I don't get a bill for this ah, ad, then it will constitute a donation. It will constitute a small political donation, less than \$1,000, and I, and actually the return form, if you'll have a look, from the election funding authority has no provision and does not require that you identify the name of the donor. And that's – as it stands at the moment I will have to make that kind of declaration when I send it in, it's got to go in in the next month, if I get a bill from the newspaper I will pay the bill and ah, because not only because I did say in an email that I had no objection to it appearing and secondly because it will preserve my record of never having ever received a donation from anyone in any of the seven elections I stood for.

30

But at the time the ad was placed and after you received the email, you were informed that Councillor Tagg didn't know who was paying?---Yeah, and I did nothing. I forgot, I forgot all about it and I forgot all about it for 10 months or whatever it is that we've gone through.

40

Just excuse me for one moment, Commissioner, I don't anticipate I'll be much longer. Just while we're waiting, is your evidence that it was when you received the summons recently from ICAC that you were caused to go back and look at these particular saveryde.com ads?---No, not the summons, when I saw the last term of reference be added, and that happened later. When I saw that, what's this about, and that's when I went back, I'd better have a look at the newspapers and see what I can find.

What particular term of reference are you referring to?---Oh, it was the term of reference to say that ah, Councillors, who were named, including myself, had received advertising ah, or undisclosed advertising I think was the word

– you might read it, it was the last point, the last term of reference that was added.

Do you recall whether that made reference to saveryde.com?---I don't think it did.

Well, what was it that prompted you to go and look at the saveryde.com ads?---No, I didn't look at saveryde.com, I went back to the newspaper and I looked for something with my picture on it or my name on it and that
10 brought up this ad that you've had up here as an exhibit and I thought that's what it's about. And then so now at least I've got something to work on. Then I went, I went away and calculated the value of that advertising had I paid for it in the first instance and I came to a figure of less than \$700, that's for both appearances in the paper, as my share of that advertising. So I went about and did a bit of work on it.

Excuse me just for one moment, Commissioner. Thank you, Commissioner.

20 ASSISTANT COMMISSIONER: Yes, does anybody wish to cross-examine Councillor Perram?

MR HYDE: Yes, thank you, Commissioner, if I may.

ASSISTANT COMMISSIONER: Yes, Mr Hyde.

MR HYDE: Councillor Perram, I appear for Councillor Petch in this proceedings. Councillor Perram, would it, would it be fair to say that by April 2012 there was a groundswell of opposition against the redevelopment?---Yes.
30

And would it be fair to say that by that stage it was becoming apparent that those on Council who were for the development might pay a price at the ballot box?---Oh, we believed that the election would be enough to tip some of those numbers off, yes.

And you gave some evidence about the motion on 8 May, 2012 being signed by six Councillors?---Yes.

40 But that was not reflected on Exhibit 1 at page 383, is that correct?---That's correct. If you uplifted the original motion as submitted from the Council files you would find it would have six signatures on it and that's the reason that the names appear at the head of the notice of motion.

So in effect the motion was moved by six Councillors as opposed to the two in effect that appear on page 385?---Well, I think the motion was submitted with six names on it but it still requires someone to move it when it comes into the Council.

All right. And Mayor Petch as he then was never made any secret that he was opposed to the development?---No, that was no secret.

And he had discussions with you from time to time about getting the community more involved in the process?---Absolutely.

10 And they were discussions that took place from around January 2012 when it became apparent that there was a significant groundswell?---Yes, I think it probably even started before that because we had 3,000 submissions of over 90 per cent against and that occurred prior to December 2011.

So would it be fair to say that the motion - I withdraw that. Pardon me. Do you recall a motion on 17 July, 2012 when Mr Neish was called to account for an email exchange between a concerned resident and the Council?
---Yes, that was my notice of motion that was discussed into Council.

20 And were you surprised that you, you and five others were not copied in on the response that Mr Neish provided to the concerned resident?
---Absolutely, that was a documented example of I think a wrongful act on his part.

And do you recall his explanation in the Chamber?---He admitted that he had done that and he said because oh, the rest of the Councillors can't be trusted or whatever.

30 And did you consider that to be a fundamental breach of trust of the Councillors and Mr Neish?---Oh, I think it was a most unfortunate and disrespectful statement for him to make to half of the Council and I think that's where I'd leave it.

All right.

ASSISTANT COMMISSIONER: Well, to be fair I don't think the evidence is that he said you couldn't be trusted. He said there'd been misinformation spread about him or the project?---He'd mentioned that it was - and he inferred or I inferred that he was talking about the six Councillors that he did not give the information to, he was specifically speaking of them.

40 Yes, but I'm just saying as I understand it he said something like because those other six have been spreading misinformation or - - -?---I don't recall the exact words, there is, there will be a tape recording if you need them, they can be obtained.

MR HYDE: And Councillor Petch never shied away from the proposition that he wanted the redevelopment delayed until after the election?---Oh, at no time did he suggest otherwise. He, as I, wanted the election to come first so that the - all of the people of Ryde would have a say and ah - -

Yes, thank you, Commissioner, thank you.

ASSISTANT COMMISSIONER: Thank you Mr Hyde. Yes, is there any other cross-examination? Thank you.

MR ANDRONOS: Thank you, Commissioner. Just very briefly, Mr Perram, could you summarise for the Commissioner the matters that you took into account in forming the view that it was appropriate to terminate the employment of Mr Neish?---Yes, I can do that. I had reached that view at the end of the first quarter of 2012 and it was fundamentally due to the conduct of the General Manager in his pursuit of the Civic Precinct project and not for any other purpose, it was only the Civic Precinct project and the manner in which he was conducting that. Ah, I had cause, which was quite extraordinary, given that I had worked with six General Managers- - -

ASSISTANT COMMISSIONER: I'm sorry, could you just briefly outline the matters of concern?---Yes, okay.

We don't want a big explanation?---I put it in writing to Mr Neish. I wrote him a letter and handed it to him on 10 April, setting out a number of matters that I had particular concerns over. It was the fact that he had not informed the Council that he had acted on a rescission motion – sorry, he'd acted on a resolution at ah, 10.00 or 11 o'clock at night and he allowed a rescission motion to sit on the books for the next two months and allowed everybody to think that the resolution was on hold when in fact he had acted upon it and the community and the Council prepared to debate the rescission motion and then on that night two months later he revealed what he'd done. Councillors were denied information that I believe they had every right to have, replacement of Civic buildings of this nature- - -

I'm sorry – is that the issue, that he had let a rescission sit and you thought he should have done something about it? Could you just discuss the issue? We're not going to make any findings on these matters so it's no good- - -? ---No, that's fine.

- - -going into the details?---Okay. We- - -

Anything else?---The Councillors were denied an opportunity to appropriately participate in defining the concept for the new ah, Council facilities that would be included in that redevelopment. The project was being done or those matters were being decided by contractors or consultants who were in a project team and the matter was being brought before Councillors as infrequently as possible in order to maintain a political deadline to have it finished and ready for signature prior to the election in 2012. Ah, and my principal concern was the denial of information and I pursued that with Mr Neish quite frequently over the first quarter of 2012 ah, both in the Council, I wrote letters to the press, I felt that we were not

being given an adequate opportunity for what is – to become involved in what is a once in 50 year event, the renewal of Council’s facilities.

Yes, I understand what you’re saying, you don’t need to go on. You thought you were being denied information about the Ryde project I presume?---Mmm.

Anything else, any other different issue?---I think that is the - oh, no, sorry, there is, there is a further issue.

10

Yes?---And that is that there was a substantial amount of ratepayers’ money being put at risk and by risk I mean the Council was split six all and I in a private meeting with the General Manager said I think you need to take us all together and, and either get some stronger support for your project or not proceed at the rate that you are because there is such a huge amount of ratepayers’ money can potentially be wasted if as much as one Councillor changes their mind, somebody becomes ill or incapacitated and the vote changes. I thought it was a very gung-ho approach to be pursuing such a major project when there is not majority support on the Council. You’ve only got six Councillors and it just so happens that the Mayor has the casting vote. It’s not the time to be doing that development and he took absolutely no regard of that and proceeded along and over \$7 million was ultimately wasted.

20

MR ANDRONOS:----Thank you, Mr Perram. Mr Perram, the first set of proceedings which were commenced in the Supreme Court last year in relation to the employment of Mr Neish, included you personally as a defendant didn’t they?---Yes.

30

And in those proceedings you had – I’ll withdraw that. Prior to those proceedings you had been requested by council’s solicitors to provide an undertaking. Do you recall that?---I think the solicitors were the Mayor’s solicitors working strictly for the Mayor not for the council, to provide an undertaking not to vote in a certain way on the rescission motion.

Yes. And did you give that undertaking?---No I didn’t. I felt it was bullying.

40

When the proceedings came before Justice McCallum were any orders made against you?---.....
.....

Yes. Your Honour in relation to that last answer, it is a matter of public record that orders were made against some councillors but not a matter of public record that Mr Perram was not among those, although that is in fact the case. That being so, given that the names of the councillors were suppressed I’m concerned that there might be an inferential disclosure of the matters which have been suppressed in the Supreme Court proceedings with

Mr Perram's last answer forms part of the public record in this hearing. So that's an application in a roundabout way to suppress that last answer.

ASSISTANT COMMISSIONER: Yes, I do suppress it. I'm not really sure what the relevance of any of this evidence is.

MR ANDRONOS: It goes to the - - -

10 ASSISTANT COMMISSIONER: Is there a point you're trying to make?

MR ANDRONOS: It goes to the question of whether Mr Perram might be criticised for having had an interest in the matter which was discussed between Mayor Petch and the Acting General Manager in 2013.

ASSISTANT COMMISSIONER: Why, because he had not been named, he could have voted however he liked?

MR ANDRONOS: He was, he was a successful defendant in proceedings.

20 ASSISTANT COMMISSIONER: Right.

MR ANDRONOS: Therefore the usual order as to costs are under the UCPR which is costs follow the event meant that yes, he did have an interest but that interest was a legitimate expectation but whatever was negotiated he would not be required to bear his own costs in those proceedings.

ASSISTANT COMMISSIONER: Yes. All right.

30 MR ANDRONOS: That's, that's all thank you Commissioner.

ASSISTANT COMMISSIONER: Thank you. Yes. Well that concludes your evidence. You are now free to go Mr Perram?---Thank you, Commissioner.

THE WITNESS EXCUSED

[12:58pm]

40 MR DOWNING: Commissioner, in light of the time the next witness will be Councillor Salvestro-Martin, but in light of the time is it an appropriate time to adjourn?

ASSISTANT COMMISSIONER: Yes, I don't see any point in starting him now. We will adjourn until 2.00pm.

LUNCHEON ADJOURNMENT

[12.58pm]