

Text from TTC CEO contradicts public statements on subway memo | The Star

New evidence obtained by the Star shows outgoing TTC CEO Andy Byford privately contradicted his own public statements about the origins of a controversial briefing note that played a crucial role in a council vote on the Scarborough subway extension last year.

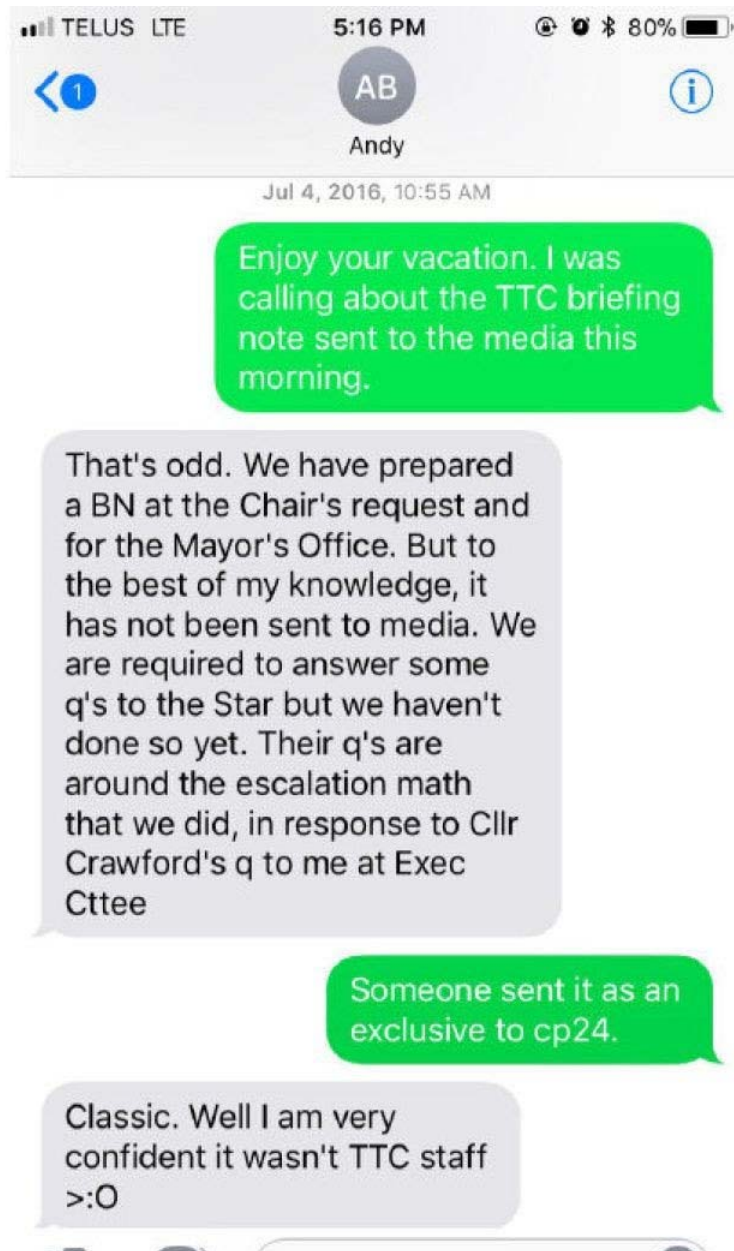
Byford has told council and the city's auditor general that the memo was not prepared at the request of either Mayor John Tory or TTC Chair Josh Colle, and that it was instead initiated by transit agency staff to prepare TTC executives for questions on an important debate. An auditor general's report on the briefing note released in October reached the same conclusion.

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Outgoing Toronto Transit Commission CEO Andy Byford Andy has told council and the city's auditor general that a briefing note on the Scarborough subway extension was not prepared at the request of either Mayor John Tory or TTC Chair Josh Colle. (J. ADAM HUGGINS / New York Times file photo)

However, a text Byford sent Councillor Josh Matlow ahead of that July 2016 council meeting states the opposite. In response to a question from Matlow about the document, Byford wrote: "We have prepared a (briefing note) at the chair's request and for the mayor's office."

Matlow provided the text message to the Star this week after Byford, in what appears to be an unprecedented step for the head of a city agency, filed a complaint against the councillor with the city's integrity commissioner.



A text message sent from TTC CEO Andy Byford to Councillor Josh Matlow on July 4th, 2016 about a briefing note leaked to CP24 contradicts what Byford publicly told the auditor general and council about the origins of the briefing note. (Supplied)

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The briefing note was prepared in June 2016, days after the public learned the cost to build a one-stop subway extension to the Scarborough Town Centre had ballooned by \$1 billion. The document cast significant doubt that a return to an alternative light rail transit (LRT) plan was possible and, significantly, relied on incorrect assumptions to conclude the cost of the LRT had also risen to nearly match that of a subway.

As the Star has previously reported, the TTC provided the note directly to Tory's and Colle's offices, despite city policy that says information from staff should be circulated equally to all of council. The mayor's office then leaked it to CP24 and used it to convince councillors concerned about the subway's rising costs that the LRT was not a better option.

In an interview Wednesday, Byford, at times reading from a prepared statement, didn't refute that he had sent the text or dispute its contents, but claimed the message was "consistent" with his earlier statements on the origin of the briefing note.

"There was no direction by elected officials to create the briefing note, nor was there direction to change or amend its contents. Full stop," Byford said.

"What did happen is we provided it to the chair, and to the mayor, because obviously they needed to know that this was a subject that I was going to talk about."

Byford cited the auditor general's report, which concluded there was "no evidence of . . . staff being pressured by elected officials" in the preparation of the memo, or of any "lack of integrity" on Byford's part.

But the report didn't address the text message because the auditor general didn't have it.

"I didn't share this text with a soul until a complaint was submitted against me and therefore it was necessary to respond and to demonstrate why I held the beliefs I have," said Matlow, who was interviewed by auditor general Beverly Romeo-Beehler. Matlow said when he was speaking to the auditor general he had "no reason to expect that Mr. Byford would make contradictory remarks" about the origin of the note.

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Matlow asked Byford directly about political involvement in the briefing note on the floor of council in November, during a debate of the auditor general's investigation.

"Who initiated the briefing note?" Matlow asked.

"It was Joan Taylor, who is my chief of staff, doing her job, councillor," Byford replied.

Matlow: "And with all due respect, has that consistently been your position when you've been asked this same question?"

Byford said he had been "crystal clear from the start who initiated the briefing note."

Matlow went further: "Did the chair's office or the mayor's office have anything to do with initiating the briefing note?"

Byford was firm: "No."

"Not at all?"

"No."

Matlow said this week those comments are clearly contradicted by the text Byford sent.

Byford, who is leaving the TTC this month to take the top post at the New York Transit Authority, filed his complaint against Matlow on Nov. 13, days after the tense exchange at council.

According to a copy of the complaint obtained by the Star, the TTC chief alleges Matlow contravened the section of council's code of conduct that prohibits members from disparaging city staff.

"On numerous occasions, councillor Matlow has publicly questioned my integrity and honesty and that of my staff on this issue," he wrote in his complaint. As one example, he cited Matlow stating on the floor of council that he did not believe the briefing note was initiated by transit agency staff without political involvement.

"The reason I don't believe that that's true is because Andy Byford told me it wasn't," Matlow told the Star in an interview.

"I asked Andy Byford if there was any political involvement in initiating the briefing note. I asked him if he can verify that he's been consistent with his response about the briefing note and in both cases what he told the auditor general and city council was different to what he told me months before. And there's one thing for certain: There's no way that both stories that he told were true."

Matlow also told the Star in an interview that Byford confessed to him during a private meeting — walking through Rosehill Reservoir last summer shortly before the briefing note was leaked — that municipal staff were being directed by the mayor’s office on how they could respond to councillors’ questions about the subway, specifically that they should call it an “express subway” because it made the plan sound better, and that the CEO had “never felt more politicized in his life.”

Byford did not deny the conversation with Matlow took place. He said he has met privately with Matlow, who happens to be his local councillor, numerous times, and had “always been frank and open with him in an attempt to communicate the realities of operating the TTC.”

However, he stated, “I have never been directed to say or do anything by any elected official that would in any way compromise my professionalism or integrity. I deny flatly any suggestion to the contrary.”

Colle told the Star he never asked for the briefing note and did not know why Byford had said that in a text.

“I am certainly sitting down with him to ask him that,” he said.

The mayor’s spokesperson, Don Peat, did not specifically respond to questions sent by the Star about whether their knowledge of a briefing note had been requested by the chair, or whether the mayor’s office is directing the advice public servants give to councillors.

Matlow texted Byford on July 4, 2016 at 9:03 a.m. asking him to call because he wanted to ask about the briefing note being reported on in an online story posted to CP24’s website, although it had not been circulated to other councillors.

According to sources, the note was leaked by the mayor’s office to CP24. That was after it was provided exclusively to Tory’s and Colle’s offices on June 29 last year, according to emails earlier obtained by the Star. Colle appeared on a noon talk show.

After the Star published a story on the briefing note’s influence, a citizen group of transit advocates complained to the city’s watchdogs, claiming Byford had deliberately misled council. The auditor general assumed responsibility for an investigation.

Romeo-Beehler’s investigation did not touch on all aspects of the briefing note. It made no mention of the note being leaked to CP24.

It also did not look at the statements the note made that cast doubt on whether the LRT was still feasible, such as that it may no longer fit in the corridor even though the Star was able to verify that it did by simply asking Metrolinx, the provincial transit agency that would have been responsible for building the line.

It’s not clear why the briefing note did not clarify those things despite the TTC saying they sent the note to Metrolinx for review.

The dispute over the briefing note has turned bitter for both Matlow and Byford. Earlier this week, the TTC CEO said allegations he had misled council had “wounded me terribly” and described the accusations, which he adamantly refutes, as “probably the low point of my TTC career.”

Byford also told the Star he was “appalled” that details of his complaint to the integrity commissioner had been leaked to the media, and warned it could have a “chilling effect” against civil servants who wish to protect themselves from accusations of wrongdoing. He charged that “the integrity of that (complaint) process has been compromised.”

“I’ve got nothing to lose in any of this, except for my reputation, which I hold dear. As such, I will continue to protect it without fear or favour, and that’s why I submitted the complaint.”

Matlow said he had “great reservation” about sharing the text and information Byford told him privately, saying he did not do so lightly.

But facing a complaint and with members of council accusing him of impugning the reputation of staff while challenging his own integrity, he felt he needed to explain why he couldn’t apologize and what had informed his beliefs.

“All of us, no matter what our views are, no matter what our objectives are, should be able to rely on staff to provide objective, independent and balanced information that informs us to be able to make a good decision on public policy and so I stand by the concerns that I raise.”

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