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Wednesday 8 December 2010

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Mercredi 8 décembre 2010

**Standing Committee on
Public Accounts**

Committee business

**Comité permanent des
comptes publics**

Travaux du comité

Chair: Norman W. Sterling
Clerk: Trevor Day

Président : Norman W. Sterling
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ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
PUBLIC ACCOUNTSCOMITÉ PERMANENT DES
COMPTES PUBLICS

Wednesday 8 December 2010

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The committee met at 0905 in committee room 1.

COMMITTEE BUSINESS

The Chair (Mr. Norman W. Sterling): Okay, let's begin the meeting. The meeting today is going to be comprised of two parts: The first part will be a motion, and I think everybody has received a copy of that motion; the second part is, we will be briefed in camera—

Mr. David Zimmer: Just a second, Chair. We've raised a dollar for you. I won't tell you which one, but one of the five wouldn't chip in. There's a buck, anyway.

The Chair (Mr. Norman W. Sterling): I'd like to thank all of the other members of the Liberal caucus for their kindness.

M^{me} France Gélinas: A coffee would have been better.

Mrs. Liz Sandals: Well, now he can buy one, almost.

The Chair (Mr. Norman W. Sterling): Thank you very much.

So the first part of the meeting will be a notice of motion on the Niagara Parks Commission. The second part of the meeting, as I was saying before, will be an in-camera briefing by the Auditor General on his most recent, 2010, annual report.

I'm going to turn this over to Ms. Gélinas, who will be the proponent of this motion.

M^{me} France Gélinas: Here I go. Do I read it into the record first?

The Chair (Mr. Norman W. Sterling): Yes, you do.

M^{me} France Gélinas: I move that the Standing Committee on Public Accounts immediately request that the Auditor General conduct a special audit on the Niagara Parks Commission and that the report on this special audit be released before the end of June, 2011.

Basically, the Niagara Parks Commission has an incredibly important mandate. They're there to preserve and enhance the area surrounding Niagara Falls, which truly is one of the cornerstones of Ontario's tourism sector. Isn't it one of the seven wonders of the world also? It has a role to play in preserving our environment and creating jobs and economic opportunity.

Unfortunately, we have been made aware of a number of events that have shaken the public confidence in the Niagara Parks Commission. We're talking about questions around the tendering of the Maid of the Mist contract; we're talking about an untendered half-a-million-

dollar Niagara Parks Commission contract to a magazine publisher; we're talking about \$400,000 in questionable expenses by one of Niagara Parks Commission's executives on travel and hospitality that did pass their internal audits; we're talking about two MPPs, including the present Minister of Tourism, who were allegedly informed about complaints of financial impropriety between 2005 and 2007; we're talking about alleged forgery involving Niagara Parks Commission employees; and we're talking about a former general manager of the Niagara Parks Commission calling an internal government audit "unacceptable" and a "conflict of interest."

Given the effect that this has had on the confidence of the people of Ontario, we feel that it is in the best interests of the people of this province to shed a light on what happens. There are conflicting reports out there because basically nobody knows where the truth lies, but there are enough questions that people deserve answered.

We've heard that the government has asked for an internal audit, and I suppose this is a small step, but it won't bring people's confidence back. I'd like to quote from the new chairperson of the Niagara Parks Commission, Fay Booker, who said, "If it helps clear up any controversy in the past, there's merit to that.... I would not be standing up saying he does not need to come in." The new board and chairperson of the Niagara Parks Commission welcome the Auditor General. They also need an opportunity to tell their side of the story and to tell it in a credible way. It's basically an opportunity for all to clear the air.

The internal audit that is done for the Ministry of Tourism is not something that is public and it's not something that has the confidence of the public that it is done for them, because of some of the allegations that are already there. When you have a chairperson who says that the internal government audit is unacceptable and that it is a conflict of interest, they themselves are mixed up in that story. We need an independent third party who basically everybody trusts to shed a light. It will allow the parks commission to demystify—some of what's out there may not be true—and certainly shed a light as to what happened so that if there was wrongdoing, it never happens again. I believe only a third party such as our Auditor General has the power to do this.

The Chair (Mr. Norman W. Sterling): Ms. Gélinas, I don't think there's any question that the auditor has jurisdiction in this area, but I had asked him about the

motion and the repercussions of the motion you have written, and it's in a very general way. I'm going to ask the Auditor General just to comment. You may want to narrow the focus of the motion.

Mr. Jim McCarter: My only comment, Ms. Gélinas, was—"conduct a special audit on the Niagara Parks Commission." My interpretation of that would be that you'd want a special audit on all the operations of the Niagara Parks Commission—their golf courses, their security, the round table restaurants.

0910

My sense, just from your comments and the letter that I got from the leader of your party, is that the focus seemed to be on the areas of what I would call procurement, on travel and hospitality expenses and any other areas at the discretion of the Auditor General. That would make it more of a narrow focus. Certainly, we'll do anything, if the motion is passed, that the committee requests, but it would enable us to complete the work more quickly if there was a narrower focus to the audit as opposed to doing a special audit on all of the operations of the Niagara Parks Commission.

M^{me} France Gélinas: I really appreciate your clarification, and you are right: We are specifically looking at procurement. The stories I have read, the examples I have read, certainly speak in that way. How do I go about targeting my motion to that? Can I change it now?

The Chair (Mr. Norman W. Sterling): Would there be any objection to Ms. Gélinas withdrawing that motion and putting forward a more targeted motion? No objection seen.

What would your suggestion be, Jim?

Mr. Jim McCarter: Just something along the lines of, "The Auditor General conduct a special audit on the Niagara Parks Commission, focusing on procurement, travel and hospitality expenses and on any other areas at the discretion of the Auditor General. The committee requests that the report on this special audit be released by June 30, 2011." Something along those lines, Ms. Gélinas.

M^{me} France Gélinas: Absolutely. This is what I had in mind, and I'm sorry I didn't do this ahead of time.

The Chair (Mr. Norman W. Sterling): That's fine, it's understandable. Would you like to move the motion that was read by Mr. McCarter?

M^{me} France Gélinas: Absolutely. I don't have to re-read it?

The Chair (Mr. Norman W. Sterling): No, that's fine.

M^{me} France Gélinas: Okay.

The Chair (Mr. Norman W. Sterling): Mr. Arnott, you wanted to speak on this motion?

Mr. Ted Arnott: Yes, thank you very much, Mr. Chair. I thank the committee members for giving me the opportunity to speak. I'm subbed in for half an hour until Mr. Ouellette arrives.

I wanted to indicate my support for this motion. Ms. Gélinas said—I wrote down what she said—there needs to be an independent third party whom everyone trusts,

that being the Auditor General. I think this is an issue that cries out for that kind of study, review and report back to the House.

We've raised many issues surrounding the operations of the Niagara Parks Commission in the Legislature in recent days: the untendered contracts, the issue of expense claims, the massive personnel changes with very little explanation. It's no wonder there's a cloud of uncertainty surrounding the Niagara Parks Commission at present. These issues need to be responded to in an appropriate way, on that basis.

Even though our party would suggest that there is enough evidence to demonstrate the problems that exist at the Niagara Parks Commission, based on what has been reported in the local press in the Niagara Falls area as well as what we have raised in the Legislature, we would still agree that this motion should be passed by this committee so as to authorize the Auditor General to undertake the work that's necessary.

The Chair (Mr. Norman W. Sterling): Ms. Sandals?

Mrs. Liz Sandals: In fact, as everyone knows, there has already been a fair bit of work done here in terms of putting in place an interim board, because clearly there have been some concerns about the Niagara Parks Commission. In fact, because there has been concern about the Niagara Parks Commission, KPMG has already been in there and conducted a governance review; the Ontario Integrity Commissioner, who I'm surprised the opposition doesn't trust, has already been in and made several recommendations.

I would like to note that it is not NPC's internal auditor, it is the province of Ontario's internal audit division, which I'm also surprised the opposition doesn't trust, which is going in and actually doing an internal audit on exactly the topics that are now in the motion, which are expenses and procurement. So not NPC's local internal auditor; Ontario's internal auditor is going in to do an audit on expenses and procurement.

In addition to that, there will be a third party forensic audit for which the files are already being secured, and that will begin in the new year. But just to assure everybody, the files are being appropriately secured—and that will be a third party forensic auditor, to make sure that we have somebody who is highly skilled in forensic auditing.

With respect, I think if the Auditor General were to go in now, he would have trouble finding office space. He would be tripping over all the other auditors who are wandering around.

I would like to note that since the new Chair has been put in place—yes, there have been issues in the past, but the commission has already taken a number of significant steps to help address the issues that were raised in some of those previous audits, first and foremost being changing the corporate culture at the Niagara Parks Commission, which clearly needs changing; changing the way the board reviews and approves expenses; restructuring the operations of the commission to assure greater accountability and transparency; moving forward on the implementation of the governance review.

They have gone through a competitive procurement process to hire a permanent full-time internal auditor, but as I say, that's not the person who's doing the current audit. It's the provincial internal audit division. They've got a new code of conduct. They are in the process of finalizing new procurement policies which are in line with the provincial policies.

One of the things the auditor often talks about is "no plan," and they're working on a strategic plan.

So there is significant work that has already been done in response to the problems that have been previously identified. We don't believe that adding one more layer of auditors running around to the auditors who are already running around is a good use of public resources at this time.

The Chair (Mr. Norman W. Sterling): You have a response?

Mr. Peter Shurman: I'd just like to add something to the record. You may or may not be aware that Minister Chan stood in the House, probably five to 10 minutes ago, on a point of order to correct the record on several of the answers that he provided to our questions over the course of the past week, an example being the one I asked on competitive bids, where he told me categorically in his response that the boat tour contract was competitively bid. He has now corrected the record, which he should have, because we knew it was not competitively bid.

I appreciate the fact that the minister has corrected the record, and I appreciate the fact that there have been articles in the media quoting Fay Booker as being out of sync with the minister until he did do that correction. But the point is that the waters have been muddied, even as late as this morning, by the question of who knows what about what at the Niagara Parks Commission.

I think you have to agree, notwithstanding the fact that I accept at face value your statements that some work has been started, that it would be a good idea to go at arm's-length, take a step back—we have an Auditor General; that's why he's here—and say, "Go and get us the goods on procurement"—particularly procurement—"travel, meals, expenses, hospitality, and let's nail this thing once and for all." That's where the opposition stands.

The Chair (Mr. Norman W. Sterling): Your response, Ms. Gélinas?

M^{me} France Gélinas: The long list of actions that have been triggered by those events speak for themselves. You don't call in the province of Ontario's internal auditor, KPMG, the Integrity Commissioner and a third party forensic audit when there's no smoke.

It is obvious that things were wrong. I have no problem with trying to call in the troops to shed a light on this, to do some work internally, but none of those people will shed a light for the public. None of those people carries the authority of our Auditor General to report back to the Legislature and let the people of Ontario know that what was wrong has been corrected by the recommendation of KPMG, the Integrity Commissioner and the Auditor General, the province of Ontario's auditor,

and the third party forensic, and it goes on and on, and let them know that it is now okay. All of those people report back internally, are given a mandate internally.

0920

You have to realize that people's confidence has been shaken up. We don't trust the decision-makers that were there before, and now you're telling us that the decision-makers have ordered a whole bunch of very important people to do a whole bunch of important work to make things better—because you admit that things were wrong by calling in that many people to help make things better—but it will continue to be an inside job. They will continue to report back to the government only, which will put out what they see fit to put out.

When a third party such as the Auditor General goes in and speaks, he speaks to the Legislative Assembly, he speaks to the people of Ontario, and he speaks to us directly. All of those good people that have come in talk to the government. The problem is that the government is mixed in with this lack of trust in the Niagara Parks Commission.

So here we are. We are witness to the fact that you agree that there was something drastically wrong, because a whole bunch of government resources are now being poured into this little agency to try to correct things. You tell the people, you validate to the people of Ontario that we are right: there's something wrong there. But you say that it's okay to continue to do it internally, which is where you fall flat.

The people of Ontario don't want this to be an internal job. They want an independent third party to report directly to them. This is the only way you build trust back. To say that we will spend a fortune on changing things does not build trust. This is what we need, and this is what the chairperson of the parks commission is asking for. She wants an opportunity to shed a light, to turn the page.

I'm not against all the good work of those people—KPMG, the Integrity Commissioner, internal auditors, the third party forensic. I'm not against this; this is probably work that needs to be done. But we also need the piece that brings transparency. We need the piece that brings accountability back to the people. Only the Auditor General has the trust of the people and the knowledge and skills to look at this and report back to us and say, "Here's what it was. Here's what they're doing well now. Let's turn the page." This is what we're asking for so that the people of Ontario can have trust in their government and have trust in this important agency.

The Chair (Mr. Norman W. Sterling): Okay. Shall I put the question?

Mrs. Liz Sandals: Yes.

Mr. Ted Arnott: A recorded vote, please.

Ayes

Arnott, Gélinas, Shurman.

Nays

Arthurs, Carroll, Ramsay, Sandals, Zimmer.

The Chair (Mr. Norman W. Sterling): The motion is lost. I will—

Interjection.

The Chair (Mr. Norman W. Sterling): Is this on the—

M^{me} France Gélinas: No, let's finish about the motion, and then I'm going to ask something.

The Chair (Mr. Norman W. Sterling): This has nothing to do with the briefing?

M^{me} France Gélinas: No, it has to do with Niagara parks.

The Chair (Mr. Norman W. Sterling): Okay, go ahead.

M^{me} France Gélinas: So you have told us that KPMG did a governmental review, that the Integrity Commissioner is going in, and that the internal auditor of the province of Ontario is going in, and a third party forensic audit. Can I have the intention of the government toward making those documents public in their entirety?

Mrs. Liz Sandals: I have no authority to make any commitments. You'll have to deal with the ministry on that.

M^{me} France Gélinas: Which ministry would that be?

Ms. M. Aileen Carroll: Tourism.

M^{me} France Gélinas: Okay. Would you—

The Chair (Mr. Norman W. Sterling): I'm sorry, I was distracted. What were you asking?

Mrs. Liz Sandals: She's asking for all the documents that have been referenced, and I said that I had no authority to make that commitment.

M^{me} France Gélinas: Do they have the authority to ask their colleague to make those documents public?

Mrs. Liz Sandals: Excuse me, this is getting way outside the mandate of public accounts. Clearly, committee members do not have the authority to demand documents individually from anyone.

The Chair (Mr. Norman W. Sterling): Let me just confer with the clerk on this.

I think we would have to do that with the backing of the entire committee—to ask for that or to have the ministry appear here. It would be unusual for us to ask the minister to come in terms of this. Without a pre-report by the auditor, it would be an unusual step for us to take.

M^{me} France Gélinas: Can I have unanimous consent from the committee to take the unusual step of asking the Minister of Tourism to table with this committee the governance review done by KPMG, the report done by the Integrity Commissioner, the report done by the internal auditors of the province of Ontario and the report done by the forensic auditors?

The Chair (Mr. Norman W. Sterling): If this carried, it would be in the form of a letter from me to the ministry to ask for that.

Mrs. Liz Sandals: With respect, we have no notice of motion for this discussion.

The Chair (Mr. Norman W. Sterling): I think she was asking for unanimous consent.

Mrs. Liz Sandals: No, we don't have notice of motion.

The Chair (Mr. Norman W. Sterling): Notwithstanding that there hasn't been a notice of motion, Ms.

Gélinas is within her rights to move a motion at this time. People can make their argument with regard to whether they want to support that motion or not.

M^{me} France Gélinas: I don't need to give notice of motion to bring a motion forward in this committee.

The Chair (Mr. Norman W. Sterling): It's the usual practice, but as a member you have the right to move the motion.

M^{me} France Gélinas: Thank you.

The Chair (Mr. Norman W. Sterling): So, do you want to move the motion?

M^{me} France Gélinas: I so move.

The Chair (Mr. Norman W. Sterling): We need you to move it as a motion.

M^{me} France Gélinas: Okay. Mr. Chair, I move that you write a letter to the Minister of Tourism asking him to table with this committee the governance review report done by KPMG, the Integrity Commissioner's report, the internal auditors from the province of Ontario's report, as well as the third party forensic auditors' report done for the Niagara Parks Commission.

The Chair (Mr. Norman W. Sterling): So that's a motion which would have me requesting that information. This would in no way compel the minister to respond or to give that. I cannot force him in that letter; it's a request for that information. That's the nature of the motion. Okay?

M^{me} France Gélinas: Thank you.

The Chair (Mr. Norman W. Sterling): Any discussion? Ms. Sandals.

Mrs. Liz Sandals: The mandate of this committee, as set out in the standing orders, has traditionally been to deal with reports by the auditor, be they his annual report, which we are supposed to be reviewing, or special audits of one sort or another. This is sort of expanding the mandate of the committee without any thought, just in a very ad hoc sort of way. I don't believe that we should be doing that absent a significant discussion, both amongst ourselves and with respect to the Legislature, which has provided us with our mandate. So we are opposed to making up new mandates for the committee.

The Chair (Mr. Norman W. Sterling): Mr. Shurman.

Mr. Peter Shurman: I don't think that, with respect, Ms. Sandals, this is a question of creating new mandates for the committee. What the motion seems to propose to me is to give access to this committee to look at public information on behalf of the public. The public, after all, paid for that information and owns that information, and it clarifies a number of questions that have been in the public domain for the course of the past week. The government has no reason to deny that.

Effectively, she's handing you a hammer and you're banging another nail in. I don't understand the reason why we wouldn't just want to write a letter, which is, as has been explained by the Chair, all that this amounts to, to the minister, saying, "Make it public," and why you wouldn't support that. He has the right to say no.

It's pretty simple, so we certainly will vote for it.

The Chair (Mr. Norman W. Sterling): Any further discussion? Okay, a recorded vote?

M^{me} France Gélinas: Please.

Ayes

Gélinas, Ouellette, Shurman.

Nays

Arthurs, Carroll, Ramsay, Sandals, Zimmer.

The Chair (Mr. Norman W. Sterling): Motion defeated.

Now I think we will go into closed session to be briefed by the Auditor General on his most recent report.

The committee continued in closed session at 0934.

CONTENTS

Wednesday 8 December 2010

Committee business..... P-151

STANDING COMMITTEE ON PUBLIC ACCOUNTS

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