Legislative Assembly of Ontario

Assemblée législative de l'Ontario

Official Report of Debates (Hansard)

SP-18

Standing Committee on Social Policy

Modernizing Ontario's Municipal Legislation Act, 2017

2nd Session
41st Parliament

Monday 24 April 2017

Chair: Peter Tabuns
Clerk: Katch Koch

Journal des débats (Hansard)

SP-18

Comité permanent de la politique sociale

Loi de 2017 sur la modernisation de la législation municipale ontarienne

2e session
41e législature

Lundi 24 avril 2017

Président : Peter Tabuns
Greffier : Katch Koch

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Telephone 416-325-7400; fax 416-325-7430
Published by the Legislative Assembly of Ontario

Service du Journal des débats et d'interprétation
Salle 500, aile ouest, Édifice du Parlement
111, rue Wellesley ouest, Queen's Park
Toronto ON M7A 1A2
Téléphone, 416-325-7400; télécopieur, 416-325-7430
Publié par l'Assemblée législative de l'Ontario

ISSN 1710-9477

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ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON SOCIAL POLICY

COMITÉ PERMANENT DE LA POLITIQUE SOCIALE

Monday 24 April 2017

Lundi 24 avril 2017

The committee met at 1401 in room 151.

MODERNIZING ONTARIO'S MUNICIPAL LEGISLATION ACT, 2017

LOI DE 2017 SUR LA MODERNISATION DE LA LÉGISLATION MUNICIPALE ONTARIENNE

Consideration of the following bill:

Bill 68, An Act to amend various Acts in relation to municipalities / Projet de loi 68, Loi modifiant diverses lois en ce qui concerne les municipalités.

The Chair (Mr. Peter Tabuns): Good afternoon, committee members. I'm calling this meeting to order for clause-by-clause consideration of Bill 68, An Act to amend various Acts in relation to municipalities. Susan Klein from the legislative counsel is here to assist us with our work.

I want to note to you that a copy of the numbered amendments received at 12 noon on Tuesday, April 18, 2017, is on your desk. The amendments have been numbered in the order in which the sections appear in the bill. You all have a brand new version before you. That is the most up-to-date, coherent collection of the amendments, and it will be to your advantage to follow the amendments in that sequence.

I want to say to all of you that this has been fairly complex, putting together all the amendments, so I'm going to go very steadily through this. If people have any confusion about where we are, do not hesitate to call out so that everyone is on the same page as we go through.

Mr. Ernie Hardeman: If I could, Mr. Chair, not only steadily, but not quickly. Thank you.

The Chair (Mr. Peter Tabuns): I take your advice to heart, Mr. Hardeman.

Are there any questions from committee members before we start? There are none.

As you've probably noticed, Bill 68 is comprised of only three sections, which enact four schedules. In order to deal with the bill in an orderly fashion, I suggest we postpone the three sections in order to dispose of the four schedules first. Agreed?

Mr. Percy Hatfield: Wait a minute. What are we doing?

The Chair (Mr. Peter Tabuns): This bill is comprised of three sections.

Mr. Percy Hatfield: Yes.

The Chair (Mr. Peter Tabuns): And they enact four schedules.

Mr. Percy Hatfield: Yes.

The Chair (Mr. Peter Tabuns): In order to deal with the bill in an orderly fashion, I suggest we postpone the three sections—which would normally, in the order of things, be voted on first—in order to deal with the four schedules first. We deal with the four schedules, then we come back to the three sections.

Mr. Percy Hatfield: All right.

The Chair (Mr. Peter Tabuns): So, with that, you're agreed that we should proceed?

Mr. Percy Hatfield: I will, thank you.

Mr. Lou Rinaldi: Agreed.

Mr. Percy Hatfield: If Lou will, I will.

Mr. Lou Rinaldi: Under duress.

The Chair (Mr. Peter Tabuns): Agreed? Agreed.

Mr. Ernie Hardeman: I do have a comment to conclude.

The Chair (Mr. Peter Tabuns): I was going there next. Are there any comments, questions or amendments to any section of the bill, and if so, to which section? Mr. Hardeman.

Mr. Ernie Hardeman: Thank you very much, and I apologize, first of all, as I start, because you asked previously as to whether we had any general comments to make, and I did. It referred to your mention of the amendments that we got. I just wanted to point out that we did prepare a list. The amendments: By the deadline, there were 50 amendments received at 2:48 p.m. on Tuesday. By Tuesday night, there were 89. Wednesday, there were 123 presented. On Thursday, there were 125 presented, and then on Friday there were 131 which includes two amendments, that I apologize for, from the PC caucus.

The reason I mention all that is I think it gets back to how, when we started with this bill at our first subcommittee meeting, and subsequently, everything was squeezed in such a timeline that no one seemed to be able to—it was very difficult to meet the timelines. We had the problem where we had people notified on Monday that they were to present Tuesday. We had people cancelling because they couldn't prepare their presentations that way, but the government deemed that it was so important that we had to get this done. Then they put in, in the subcommittee report, the timeline, which of course was the first one, Tuesday at 2:48 p.m. when there were 50 amendments that were able to be ready.

Now, if the government really believed that they were leaving the committee sufficient time, I would find it very hard to believe that, of all those other numbers that take it from 50 amendments to 131, and the majority of those are government amendments—I find it so difficult to believe that they thought they were leaving sufficient time when they couldn't meet their own deadline. I think, again, that proves that not only are we doing a disservice to this committee, but a disservice to the people of Ontario when we expect to be able to do this type of work in that type of time frame.

I just wanted to make sure that the record showed how disappointed I am that we were unable to convince the committee, at the time of the subcommittee and the first discussion, that this type of bill requires more attention than this government was willing to give it. With that, we'll go back to where we started.

The Chair (Mr. Peter Tabuns): Thank you, Mr. Hardeman. Mr. Hatfield, you wanted to comment?

Mr. Percy Hatfield: Thank you, Chair. Yes, I wouldn't want to disappoint the government members by not saying something quite similar, as well. Mr. Hardeman and I had wanted to travel the bill. We wanted more time for the bill. The NDP, I know, would have submitted a lot more amendments, except for the narrow scope of the bill. I point out for the people from the city of Toronto who are here that the city of Toronto submitted something like 20 pages of suggested amendments and, unfortunately, most would have been deemed out of order because of the narrow scope.

Had we had that opportunity to take the bill around and do more with it, perhaps that scope could have been widened because I know, in the past—I wasn't here; I've only been here for four years—the history has been that, always, public hearings were held across the province when you're updating the Municipal Act and the City of Toronto Act, as we've done prior in the previous updates.

The province's consultation process, as you know, Chair, consisted mostly of putting up a web page for a few months with an email address you could send your submissions to. As Mr. Hardeman has just said, judging by the stack of amendments that were requested after the bill was tabled, it looks—not even it "looks"—it's obvious that better consultation was needed and should have been provided, because when you get those kinds of amendments, even from the government's own side, you know this bill was rushed and they should have allowed more time for more input. I just want to put that on the record before we get going.

The Chair (Mr. Peter Tabuns): Thank you. Mr. Rinaldi?

Mr. Lou Rinaldi: Thank you, Chair. I wasn't going to make any comments, but I don't want to be left out. I appreciate the comments of the members opposite. I really do, and I mean that with sincerity. But to say that because of the number of amendments from the government side this is a flawed bill, I totally disagree. I think I will read it, Chair, as the fact is we're here, we listened, and we listened, and we listened. The fact that people were excluded—I don't think anybody was excluded from sending in a written submission, and I know I went through a number of them from people who weren't able to be here because of distance or time, whatever the case may be. Those submissions were very much considered from the government side, so I would just say that I believe—because we made amendments, because people spoke—we listened, Chair. Thank you.

The Chair (Mr. Peter Tabuns): Thank you. Mr. Hardeman.

Mr. Ernie Hardeman: Well, thank you very much, again. I wasn't going to speak again either, but I felt like I needed to to explain the erroneous assumption that the member opposite is making. I never suggested that somehow government should not have had to make that many amendments in the bill. I could see, when this bill was introduced, it was going to require that many amendments. But the truth of the matter is the time that the government set between the time that we finished the hearings, hearing from all the people, and the time that the amendments were due was not sufficient time for the government to get all their amendments done. That's why they put some in then, because they had those done, but they still had a lot of work to do. They had more to do after the time that was allotted than they did before.

I'm just saying they should have been setting another week in there where we all had time to deal properly with the amendments that we deemed needed to be made because of what the people told us. I think we're going to see the timing of how long it takes to get through this bill because of the amendments we have. It is going to be quite extensive because of the fact that we have to discuss all those amendments and how they relate to the people who made the presentations because we didn't get an opportunity to have that discussed beforehand.

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If we had gotten all that information and had the presenters been given proper time, I think we would have had a much better result here in the end. That's why I was being critical of the government for trying to get it in such a tight time frame when, in the end, it doesn't appear we're going to finish it in that tight time frame. With that, again, unless there's further comment, we'll leave that issue where it is.

The Chair (Mr. Peter Tabuns): I see no further comment. We're ready to proceed.

Members of the committee, I don't have any amendments for schedule 1, section 1 and section 2. Are you agreeable to bundling them? Okay. Shall schedule 1, sections 1 and 2 carry? Carried.

We go to the first amendment. It's NDP amendment 0.1, and it is on schedule 1 to the bill, section 2.1.

Mr. Percy Hatfield: I move that schedule 1 to the bill be amended by adding the following section:

"2.1 Subsection 23.2(2) of the act is amended by adding 'the Ontario Heritage Act, subject to any prescribed restrictions' before 'the Planning Act'."

The Chair (Mr. Peter Tabuns): Mr. Hatfield, I'm sorry to say that I'm going to be ruling this out of order

as it is, in my opinion, beyond the scope of the bill. Sorry about that.

Mr. Percy Hatfield: I'm heartbroken.

The Chair (Mr. Peter Tabuns): I know. There's heartbreak.

Mr. Percy Hatfield: I'm sure it won't be my only heartbreak of the day.

The Chair (Mr. Peter Tabuns): No, I'm sure of that.

That leaves us, members of the committee, with sections 3, 4 and 5, for which I have no amendments. I'm going to suggest we bundle them. Is there any objection?

Interjection.

The Chair (Mr. Peter Tabuns): On schedule 1, section 3, section 4 and section 5, there are no amendments.

Interjections.

The Chair (Mr. Peter Tabuns): I understand that, but given the complications in this bundle of amendments, I'm going to let the member be satisfied before I proceed.

Mr. Percy Hatfield: I'm okay with it, too, but I don't want to put any pressure on him.

Interjections.

The Chair (Mr. Peter Tabuns): Mr. Hardeman, I'm not trying to push you on this. If bundling them is a problem, then I can go one by one.

Mr. Ernie Hardeman: I'm happy.

The Chair (Mr. Peter Tabuns): You're happy with the bundling? Okay.

Shall schedule 1, sections 3, 4 and 5 carry? Carried. Done.

Now we go to schedule 1, section 6. We have PC motion number 1. That's on schedule 1, section 6, on subsection 99(1) of the Municipal Act.

Mr. Hardeman, do you want to read the motion?

Mr. Ernie Hardeman: Yes, Mr. Chair. I move that subsection 99(1) of the Municipal Act, 2001, as set out in section 6 of schedule 1 to the bill, be struck out and the following substituted:

"Advertising devices

"(1) A bylaw of a municipality respecting advertising devices, including signs, applies to an advertising device that was lawfully erected or displayed on the day the bylaw comes into force to the extent that the bylaw does not require the substantial alteration or removal of the device."

The Chair (Mr. Peter Tabuns): Any discussion? Did you want to speak to it?

Mr. Ernie Hardeman: Yes. This amendment would allow new bylaws to apply to billboards except if the bylaw required the billboard to be substantially altered or removed. In other words, it's a grandfathering clause. This bylaw would allow municipalities to set standards for billboards, such as gaming LED lights at night, while respecting the fact that people have entered into rental agreements and invested in billboards in good faith.

We heard from hundreds of small businesses that depend on the rental income from billboards. This would ensure that a new bylaw couldn't force the removal of these existing billboards, which were put up in good faith under the laws that existed at the time, while still giving municipalities the ability to set standards to ensure good maintenance.

This amendment was requested by Outfront Media Canada, Clear Channel Outdoor Inc. Canada, other billboard companies, and hundreds of people depending on income from spaces leased to billboard properties.

I also have a number of letters here that I wish to read as it relates to this. I think this is a big issue we had, after considerable discussion, when we had the presentations. We also now, obviously, are faced with the challenges that these people—it will have a large impact. We heard, when they made their presentations, that we had a large impact on not doing this one properly.

There were a number of letters and so forth that were sent in. I expect that some of the committee members may very well have—I presume the committee members have all read these letters. The people who are watching these proceedings or who will, after the fact, want to deal with these proceedings will not have seen the concerns and the challenges that we believe need to be addressed with this amendment. They will not know what negative impact that will have if they do not support this amendment. That's why we want to read some of these into the record. When I get through, I think my colleague has a few more of those that we want to deal with.

The first one is from Avanessy Accounting Services in Toronto. It is:

"Dear planning and growth committee councillors for the city of Toronto:

"Billboard sign on the roof of 91 Dundas Street East." That would be the location of the sign.

"My name is Edward Avanessy and I am the owner of the property located at 91 Dundas Street East in Toronto. There is a billboard sign on the roof of my property. The sign was there when I purchased the property in 1989.

"I am receiving a yearly income from the roof sign. One of the reasons I purchased the property was the fact that it had additional income from the roof sign.

"I am 62 years old and the roof sign income will be part of my retirement income. I have been self-employed all my life and do not have a company or workplace pension.

"Recently, I received a notice from the city that the city of Toronto intends to impose a bylaw that would give the city the right and power to remove the sign, notwithstanding the fact that it is a legal sign and was erected according to the laws and regulations at the time.

"Since I purchased the property, the property taxes have quadrupled but the rental incomes have not increased nearly enough, effectively reducing my income. These conditions and the loss of sign income will be devastating to me.

"Considering the fact that by removing the sign the city will lose the additional tax it is collecting from the sign, removing the sign will be a total loss for everyone.

"I'm requesting your support and ask you to please decline the proposal and let the sign stay, as it was erected in accordance with the law at the time."

This is a great example of the challenges that this is facing with not mandating the grandfathering clause that they've always had, which is, if it's there legally at the time it's put there, it stays there at the future updating of the bylaw. This really shows what the hardship will be.

We have another one here from Mr. G Investments Ltd.

"City of Toronto legal non-conforming signs

"Dear Sir:

"Currently you are working on potential changes to our current sign bylaw which may have serious negative consequences for the owners of signs that do not meet the parameters that have been changed over time.

"Most of my tenants probably have legal non-conforming signs of one kind or another. Policing them as a landlord puts us in a no-win situation. Loss of income is not pleasant for any of us.

"Realty taxes will be decreased as revenues for vacant space and assessments are lowered.

"I appreciate that this is a difficult task and one where we might want to tread lightly to solve the problem of illegal and noxious signage. There is never just one solution, and a radical solution may not satisfy your taxpayers.

"I don't envy your position. In fact, I actually empathize with the city's dilemma. However, I would suggest that your proposed solution is harsh and unnecessary. Surely there is something else which can be proposed.

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"Thanking you in advance for your consideration." This is Mel Goldstein, president of Mr. G Investments Ltd. Again, another great example of the challenge faced.

We have another one here, re: the grandfathering of sign rights. It's 1130 Martin Grove Road.

"I am writing to you that we do not agree with any change in procedure regarding existing non-conforming signs.

"I have signs on my property which advertise my business. Those signs have been there for years. They are legal non-conforming signs.

"How you control new signs is up to you, and to the city sign bylaw, but you should not have the right to go backward on signs which were legally built years ago.

"Even if the city does not—today—plan to have me change my signs, how do I know that wouldn't happen tomorrow, or the day after that?

"If you have a problem with illegal signs, please deal with that problem, but not at the expense of legal non-conforming signs." And it was signed by R. Sinopoli. Again, similar problems that all of these others have.

I'll go one more, and then I'm going to turn it over to my colleague.

The Chair (Mr. Peter Tabuns): Actually, when you've done one more, I have Mr. Rinaldi then I'll go to Mr. Coe.

Mr. Ernie Hardeman: Very good.

"Toronto seeks input on sign billboard regulation." This is from 3655 Keele Street in Toronto.

"As a landlord with multiple properties in the city of Toronto and also having billboards on some of these properties, I find it very disappointing to hear what is being proposed by city staff. As an investor in this city, I find that the property taxes and the restrictions put on property owners do not facilitate growth, and make owning property in the city very difficult.

"A staff report dated December 8, 2014, was forwarded to me, and, after reading this document, further enforces the lack of transparency from the staff. To say that what is being proposed has no financial impact is simply untrue. To bring first-party signs into compliance is a big expense to my tenants, not to mention the time and effort needed to understand the new sign bylaw and to reapply for permits.

"The new sign bylaw does not allow roof signs, so my third-party signs are also non-compliant. They can be requested to be removed. I will lose my tenant billboard sign company, and in effect lose the rent that I receive from the sign. I also understand that my billboard signs generate approximately $20,000 annually in taxes. The city will lose that revenue. All these factors do have a financial impact, and, in the end, I will be the one financially impacted by this proposal.

"Please review what you are planning to do, as the implications of your current projections do not encompass the scope that will result. I would doubt that the majority of your property owners would be able to understand what you are proposing with the little information you have provided." This was from Zentil Property Management Inc., again, the vice-president.

With that, I'll stop for a moment.

The Chair (Mr. Peter Tabuns): Thank you very much, Mr. Hardeman. Mr. Rinaldi.

Mr. Lou Rinaldi: Thank you, Chair. The point that the member opposite makes, one or maybe more of the letters he read, I think helps me make my case a little bit more easily. I say that because I think especially the last letter was addressed to city council. I believe that's what I heard, right? Correct me if I'm wrong.

Municipalities have that choice. We as a government treat them as a responsible level of government, and they make those decisions. I think the letter that the previous writer wrote to you, sir, was addressed to city council.

I think I mentioned that during my tenure as mayor, when we had folks come in about this—I was a mayor of a municipality that was littered with a particular sign from one individual. I guess, give him credit; he was a good, smart businessman. The municipality that I was mayor of and reeve of passed a bylaw to control that.

The point I'm trying to make is I think that that's a decision that a local responsible level of government needs to make. I don't think in this case we should be Big Brother or Big Sister and dictate to the municipality what they should do or should not do.

So I'm not prepared to support this motion.

The Chair (Mr. Peter Tabuns): Thank you, Mr. Rinaldi. Mr. Hardeman.

Mr. Ernie Hardeman: I just wanted to reply. I think the member is, again, making assumptions that aren't accurate.

Mr. Lou Rinaldi: You read it, you read it.

The Chair (Mr. Peter Tabuns): He has the floor.

Mr. Ernie Hardeman: No, no. The reason that this motion is before us is because this section of the bill is giving the city of Toronto the authority to do what these people are concerned about. The city of Toronto sent out notices that they wanted to do this, and the province said, "Okay. If that's what you want to do, then we'll put it in this bill for you." Without this bill, they can't do it. That's what it's all about. That's why these letters are here, because these are the things that these folks are trying to stop. This bill will give the city the right to do that. If this motion passes, if this amendment passes, the city can't do it. That's what it's all about.

The Chair (Mr. Peter Tabuns): Thank you. Mr. Coe?

Mr. Lorne Coe: The letter I'm reading is addressed to Mr. Han Dong, the MPP for a Toronto riding.

"We are contacting you to help the cause of many of our neighbours along College Street in Little Italy, and indeed ourselves, to not repeal section 110 of the City of Toronto Act pertaining to our legal non-conforming grandfathered sign at 637 College Street.

"It is a landmark, it's been there for many decades. When available, we even use it to promote our CHIN picnic and Little Italy events, and the billboard company, Outfront Media, has been a long-time responsible and diligent lessee, keeping the billboard and surrounding rooftop in safe and good order.

"Outfront Media spends over $4 million in annual sign taxes to the city for billboards such as ours at 637 College Street, 'legal non-conforming.'

"As a resident of this area, and business owner as well, these billboards make the College Street strip come alive with information, colour, lighting and revitalization feel. It would feel quite bare and melancholy without the billboards dotted along the street.

"We hope you will help the 'grandfathering' stay in place for billboards in this area and indeed all of Toronto."

Chair, the email is from Theresa Lombardi, the vice-president and general manager of CHIN Radio/TV International.

The Chair (Mr. Peter Tabuns): Mr. Hatfield?

Mr. Percy Hatfield: A majority of the members of this committee are former municipal councillors or mayors, or both. I suppose we all agree that municipal governments are a mature order of government that can make up their own mind on many issues. And municipal standards change. There was probably a time, 50 or 60 years ago, where you didn't need an outdoor fire escape, or whatever it is. Standards change. Bylaws change. Something that was there doesn't necessarily have to stay there because that's the way it was.

I believe this fight is between—from the letters I've heard so far—the city of Toronto and the sign industry. I have great respect for the sign industry. I think they do a great job. And I think they're obligated to keep up to the standards of the day, and to upgrade their facilities so that they don't form part of what some people might say is a blight. I'm not saying that, but that fight is between a municipal government and the signage industry. If that's where the fight should be, then that's where the fight should be.

I don't think we can sit here today and say, "Don't ever make any changes to billboards for as long as we live." That's not where we should be headed. We should be saying, "Update the signs, keep them in the standards of the neighbourhood and work with the municipal government," so that everybody is happy, rather than put the onus on us to say, "You're going to do it" or "You're not going to do it." So I can't support the motion.

The Chair (Mr. Peter Tabuns): I see no further discussion. Ah, Mr. Hardeman.

Mr. Ernie Hardeman: Again, I just want to point out in comment to Mr. Hatfield's comments: I agree that the world doesn't stand still, and I think that there are likely many signs that need upgrading or that should be upgraded. The city should even be able to decide whether there are certain types of signage and certain things that the new law should not allow.

1430

There's a certain limit on signs. I can tell you, I don't particularly like driving down the Gardiner and watching moving signs. You tend to be watching them when you should be watching the road, where you're waiting for the next thing it says. I think that those are the types of things that need to be regulated, and this motion would allow that to be done.

Secondly, I think that setting a standard of where we go from here—forget the signs for a moment—but to suggest that you can go into a part of town and say, "You know, these individual houses that we have on this street are no longer the way we want this part of town. We want to develop this with high-rises, because that's how we're going to get the density in the city; this is how we're going to build our city with higher density" and then to tell the people who presently have the houses there that they must get rid of the houses so they can build high density, I think, is just wrong.

That's why they need this change, because up until now, municipal bylaw-making authority has always been that the use that's there becomes a non-conforming use until the owner of the property deems that it either needs to be replaced or we need to put something else there, and then the non-conforming use can disappear. But to go along now and say that all these people who have a sign that the new standard is different from, to be able to say, "Oh, we don't like those anymore. We think everybody should get rid of signs if they don't meet that specific standard"—I think that's wrong and I think that's taking away the income from all these people that we're talking about.

I have another example here:

"My name is Khai Dong, I am a property owner of 1366 Kingston Road and run a business out the ground floor of the building along with two others.

"I am writing regarding your current proposal to amend the City of Toronto Act, section 110(1). As I understand from the public consultation meetings, by doing this you will remove legal non-conforming rights from all signs. This is concerning for me and my tenants as this will result in a reapplication of my current signs, and the possible redesign/reinstallation/removal of the sign.

"According to the speaker of the public consultation meeting, the two sign inspectors in the city are spending 'too much' time going through city records to determine whether they have the right documentation. The reasoning for this proposal is very one-sided, currently a two-person team is being inconvenienced by having to search through the city's records, where if this proposal were to be successful the 150,000+ sign owners would have to reapply for permits.

"The speaker had to admit that this proposal was not being received well by the public during the public consultations. I believe this is because the arguments for this proposal were very short-sighted.

"For example:

"—All signs will lose" their "legal non-conforming rights if this proposal is passed and a new sign bylaw is approved by city council.

"—All signs will need to apply for new permits under the new sign bylaw. Does the sign bylaw unit have enough admin staff to handle these new applications?

"—With all the new applications, would this put more work on the enforcement officers?

"—The last sign bylaw was written in 2010. You are proposing to write another if this proposal is passed. Five years from now what's to stop the city from writing another sign bylaw making all signs legal non-conforming again, and the process of reapplying for permits will start again?

"Overall, I believe this proposal is very hurtful to the business community and I will not support it." That's from Khai Dong of Dong Holding Investments Ltd.

Again, he points out the same thing: If we're going this route to give them the right to regulate all the signs out of non-conformity, then they have to all reapply to become in conformity. As you can see, that person in the city of Toronto does not believe that the government—and this one, to Mr. Rinaldi's point, was directly to this committee—is looking at it properly. They're moving ahead with something that nobody knows how they can manage it, and the government is just saying, "Well, don't look at us. We're just giving the city of Toronto the power to do this." But next week when they do it, what are we going to do about having given them the right to do that?

The Chair (Mr. Peter Tabuns): Mr. Coe.

Mr. Lorne Coe: Thank you. To the point and discussion about those people who rely on the income, I'll read one letter into the record so that we have it there. It's addressed to Mr. Colle, MPP for Eglinton–Lawrence.

"I'm a landlord who's had a sign on my property for over 40 years, and this is mine and my husband's source of income during our retirement. We're voting to grandfather landlords who already have signs, as removing this sign from our property will take away our retirement funds. We don't have any other source of income other than the rent from the sign and government pension.

"We're both seniors over the age of 70 and are also taking care of my son who suffered a brain injury nine years ago. Without this rent, we would be left on the street and there would be no care for my son. Please do whatever's required to ensure that section 110 is not repealed.

"It is also beneficial to the city, as the company who owns my sign pays over $4 million in annual sign taxes to the city for the legal non-conforming signs.

"Thank you in advance for your efforts,

"Mergolos family from the city of Toronto."

The Chair (Mr. Peter Tabuns): Mr. Hatfield.

Mr. Percy Hatfield: Thank you, Chair. You know, I appreciate my friends reading the letters, but at no point have I yet heard that anyone in receipt of any of these letters has received an official notification from the city of Toronto that their sign is to be removed. I'm just reading between the lines. I'm just speculating. I could be completely out of order. Perhaps the sign companies have written to all of the people who host such signs and said, "This is a possibility. This could happen. By the way, we pay all this money in taxes and, therefore, we want you to write letters to these people to say, 'Don't change the law.'"

But at no point have we ever heard of anybody being directly told—yet—that their sign is coming down, so the hardship that they express may never happen. It just may be the sign company turning the crank, trying to get more letters sent in in order to try to influence the committee.

The Chair (Mr. Peter Tabuns): Mr. Hardeman.

Mr. Ernie Hardeman: Just on Mr. Hatfield's comments, I'm not going to deny that I expect that most people have been in touch with the sign companies from whom they're getting their tenants, who are going to be asked not to—if something happens to the sign, the tenant is going to quit paying the rent, but I have no doubt that these letters that we're reading were in fact coming from people who presently have a sign. If the member would like the addresses, maybe we could adjourn the meeting while we go and inspect these to make sure they're there. But I have no doubt that these people have the sign in that last letter that was read—the two seniors who are looking after a disabled son. That is their income. I don't think there's any doubt that they are, in my mind, justifiably concerned.

If the city should remove the grandfathering clause, all these signs would—and this isn't necessarily that they know what's going to happen. This committee knows that would happen if the bylaw is changed or the laws change so that the city can eliminate all the grandfathering—all the signs that are now grandfathered would have to reapply, and if they didn't meet today's standards they would have to be either changed or removed. That's how that would work.

I don't think there's any denying that these people have a legitimate concern as to what's going to happen to their income if this bill passes. The city of Toronto, since they asked for this right, there's every reason to believe that they're going to use it, and then these people have legitimate concerns. We'll go back to the first comments we started with today: If it hadn't been for the rush, maybe some of these people, if they had known this was happening at this committee and they had had an opportunity to put their name forward, maybe they could have been heard at the committee and we wouldn't have to read these letters into the record.

This one here again was written to Peter Milczyn, Ministry of Economic Development and Infrastructure. I presume it's because they are in his riding. I'm just making that assumption. It is "Re: Section 110 of the City of Toronto Act.

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"We are property owners in Etobicoke and would like to voice our disagreement with any change to the City of Toronto Act that would cause the removal of legal non-conforming signs that are currently 'grandfathered.'

"We understand that the implementation of the current staff recommendation could result in the city of Toronto realizing a revenue loss in the range of $8 million to $10 million—that would not be wise. Furthermore, it could result in substantial revenue loss to property owners, including ourselves, from third-party sign revenues.

"The rental income we receive is important to us, and we do not want to see our property rights put into jeopardy. The sign company that we deal with pays the city over $4 million in annual sign taxes for the legal non-conforming signs in the city of Toronto.

"We do not understand the motivation or any justification for introduction of such a proposal, and therefore request that section 110 is not repealed." Again, this was John Marino and Laurel Marino, property owners, Evington Hall Ltd.

This is another one of those that is talking about their own challenges, and they again use the company because the sign companies are in fact the tenants that are paying the amount of money they're getting and also paying the city taxes. But, to be honest, they are not concerned about the owner of the sign, they're concerned about their income.

We have one here to the Honourable David Zimmer, MPP. Again, they've been writing to everybody who would listen. I presume it's because they didn't know that the place to do this would be here at this committee—we didn't give them time to find out.

"We are very disappointed that the city of Toronto has requested the province that the grandfathered sign rights be eliminated. The sign on our commercial property at 280 Sheppard Ave East is a legal non-conforming grandfathered sign which generates vital rental income to us, and we do not want to see our property rights put into jeopardy. It should also be noted that Astral, the sign company we deal with, pays the city of Toronto millions of dollars in annual sign taxes for the legal non-conforming signs in the city of Toronto.

"On behalf of our company and our employees, I will much appreciate if you consider our request and ensure that section 110 is not repealed.

"Kind regards, Sebian Developments Ltd., 280 Sheppard Ave East, Willowdale, ON" Again, they wrote to their MPP and they wanted to be heard at this committee as we deal with this issue as to whether we should or shouldn't agree with that issue.

I'll do one more here from the good people. The name starts with "Van." That would be one of mine—but he's not from Oxford county. It's from the city of Toronto.

"I am the CEO of a business that started at College and Spadina over 30 years ago, in a building that has been family run and operated since the beginning. As our business has grown, so has the space we occupy and the opportunities we have identified to keep our business viable in a competitive marketplace.

"We pay very substantial taxes to the city for the property in which we operate, have secured a number of tenants to assist us in remaining financially viable and built a business plan that incorporates business identification signs in order to market, position and operate the businesses we manage. Part of this strategy includes a third-party advertising sign on our property, to help us advertise related product lines to the businesses we run, and for which the sign owner pays some $5,000 in city taxes directly to the city.

"Although most of the signage on our property has been there for a long time, the signs appear to be in good condition. We have engaged companies to meet standards and ensure the signs are in good working condition and clean/visibly appealing at all times.

"If the city is successful with having the province strike out the grandfathering clause in the City of Toronto Act—which the province wrote in to protect grandfathered legal signs—that will give the city the opportunity to write a new bylaw which would cause our tenants to either relocate, remodel or remove their signs.

"I am at a loss as to why this is necessary for the city, and what benefits it provides. From what I can see, it clearly penalizes us, the taxpayer, the local business and the entrepreneur who are committed to ensuring the financial success and diversity of the city while adhering to the long-standing standards that have contributed to the viability of our business. We have a bylaw and that bylaw recognizes legal non-conforming signs. The status quo works for us, works for the city revenue and works for the businesses that use these forms of advertisement to communicate with the local population.

"I have read your report, and I see that you have a lot of problems with business identification signs and with attempting to figure out which of those are legal non-conforming, and which are just non-conforming.

"But the solution to this problem is not to pass a bylaw which makes all the signs non-conforming. At least, that shouldn't be the solution. To proceed in that manner would only hurt a multitude of people who are doing nothing more than trying to do their best to get by in this city.

"I am asking you to come up with another solution." It's signed by the resident at that address.

Again, it's another case of people just wanting to be heard, but people don't want something they have legitimately worked for, legitimately built up, to be taken away because somebody doesn't like the looks of the thing or whatever the reason; it's hard to tell. This amendment is meant to stop that from happening, to leave in the clause that allows for non-conforming use, as it does with every other municipal bylaw.

When they pass a municipal bylaw, they never make it retroactive. This one here is trying to change the rules, so that in one case, for signage, the city can make the bylaw retroactive. I think that's just wrong.

Maybe you have some more letters you wanted to read in?

The Chair (Mr. Peter Tabuns): Mr. Coe, you wish to speak?

Mr. Lorne Coe: Thank you, Chair. I have one letter I'd like to read into the record. It's addressed to Mr. Han Dong, the MPP.

"Dear ... Han Dong,

"The city of Toronto has recently asked the province to allow the city to repeal section 110 of the City of Toronto Act, which would grant the city power to remove grandfathered signs, such as the billboard sign atop our building.

"As the owner of a small business, it is important that we keep the sign atop our building as a supplementary (and taxable) income....

"If the province allows the city to repeal section 110, the city will lose income from taxes and our small family business will lose income from the sign.

"As our local representative, please help us (and other small business owners and independent landlords in our community) to keep section 110 intact.

"I appreciate your time and look forward to your response." It's signed by Mr. Lorne Gold.

That's what I have right now.

The Chair (Mr. Peter Tabuns): Thank you, Mr. Coe. Mr. Hardeman.

Mr. Ernie Hardeman: If no one else wants to speak, Mr. Chair—

The Chair (Mr. Peter Tabuns): Apparently not; no.

Mr. Ernie Hardeman: —I have one here that's addressed directly.

"Good morning, Premier Kathleen Wynne,

"In response to the letter that was received in the mail from Upfront Media signs, this company has been placing their advertisement on top of our building for years by assists us yearly with paying our mortgage and bills of the church during the colder season when attendance of our congregation is slow.

"We are asking you to ensure that section 110 is not repealed because this could cause our church to shut down or even struggle to pay their mortgage and bills during the winter season. Also, by you revoking Upfront Media from putting up their advertisement on our property will hinder the city from benefitting from the payment of $4 million in annual sign taxes.

"Please reconsider and please don't take away this income from us which in turn helps people in our community.

"Thank you and God bless,

"Secretary L. James" from the Fellowship Redeemed Church of God Inc.

It's the same challenges they face.

The Chair (Mr. Peter Tabuns): Mr. Hardeman.

Mr. Ernie Hardeman: I have another one here, if no one else—

Interjection.

The Chair (Mr. Peter Tabuns): No, no. Taking a break, I have Mr. McMeekin. Mr. McMeekin?

Mr. Ted McMeekin: Thanks. Maybe it's a sign of the times, I don't know, but I remember when the city of Toronto people came in and they were talking about it. I'm agnostic on this, particularly when it comes to supporting local churches and some other stuff, but they made the point that there are some crappy, decrepit, environmentally objectionable signs in various parts of the city that the city wants to undo, to get rid of. I suspect their plan is probably, if they're helping groups like some of the aforementioned—they didn't say this, but reading between the lines—you get rid of the signs that they find objectionable, and they feel that as a municipal council they want to act to do that. That would undoubtedly, I suspect, given how municipal government works, lead to their wanting to have some discussions about what would be an acceptable sign that could be put up that would continue to pay the bills of A-B-C group.

1450

As MPP Hatfield has said, we've all been there, done that, and we've had situations where just because something is legal non-conforming, people want to see it changed. We want to find a way forward to do that. The city of Toronto made some suggestions, and I think they were talking about that in the context of not getting rid of all the signs, but getting rid of the signs that are either distasteful, rundown or a blight on the city.

I offer that just to offer, without prejudice, at least a counter perspective to the numerous letters. Maybe the city could write us some letters too about some of the signs they don't like and why they think they should come down. Maybe we should adjourn for three days and ask them to pull together a list of that before we get on the bus to go tour all the signs around the city that somebody suggested.

Mr. Percy Hatfield: I support adjournment.

The Chair (Mr. Peter Tabuns): Are you seriously moving adjournment?

Mr. Ted McMeekin: No, no, no.

The Chair (Mr. Peter Tabuns): Fine. Any other speakers? Mr. McMeekin, you're done?

Mr. Ted McMeekin: I'm done, yes.

The Chair (Mr. Peter Tabuns): Okay. Anyone else?

Mr. Lorne Coe: Chair, I have one more letter I'd like to read into the record.

The Chair (Mr. Peter Tabuns): Mr. Coe, I'm quite happy to have you read the letter. I just want to note that Mr. Hardeman, in his role as the Chair in other committees in the past, has said this to me when I've gone on at length in the course of a debate: If it becomes repetitious, then you don't have the ability to keep on going. I've been keeping notes and it's pretty repetitious, so I ask for some novelty or that you move on with the motion.

Mr. Coe.

Mr. Lorne Coe: I respect your point of view. I'll stand down, please.

The Chair (Mr. Peter Tabuns): Okay. Mr. Hardeman.

Mr. Ernie Hardeman: Mr. Chairman, I totally agree. I think it could be ruled as an issue of repetition, but I would point out that it's hard to have repetition from different people speaking their piece to the committee. I think the whole committee system is based on people coming in. They're going to say the same thing, but it's not considered repetitious if it's from different people. Only the sound is repetitious. What's in the letters are heartfelt thoughts from the people who wanted to be heard at this committee.

With that, I would just—

The Chair (Mr. Peter Tabuns): Bear my caution in mind, sir.

Mr. Ernie Hardeman: I would just, then, put one more in. This is from the Finnish Credit Union Ltd. This is not a personal thing. This is a business in the community.

"I am writing at the request of our board of directors to express the concern of Finnish Credit Union regarding changes to the city's sign bylaw which would eliminate the grandfathering of existing signs. We have had a third-party sign on our building at 191 Eglinton Ave. East for decades and count on the revenue from that sign to support our activities. Our credit union supports the Finnish Canadian community in the GTA not only with direct sponsorship of activities but also grants and scholarships. When we have profits we are able to distribute them to our members in the community as dividends. With the current interest rate environment, financial margins for small financial institutions such as ours are razor thin. The income that we derive from the rental of sign space on the roof of our building directly effects the amount that we can distribute to our community—seniors, students, social organizations. Of course, the removal of these existing signs will also mean a loss of tax revenue for the city; revenue which must then be raised from other sources.

"The Finnish Credit Union urges the city to grandfather any changes in the sign bylaw.

"The Finnish Credit Union Ltd. was established in 1958 to provide financial services to the Finnish Canadian community. As a credit union, our members (customers) own the credit union and collectively direct its operations and share in its profits. We provide no-fee or low-fee services to our members and weekly travel to the Finnish seniors home to look after their banking needs. We have owned the building at 191 Eglinton Ave. East since 1971.

"If you have any questions or require clarification about any matter I have raised, please don't hesitate to contact me."

It's signed by the chief executive officer and president of the Finnish Credit Union Ltd.

With that, I think that is a cross-section of some of the people who have been writing in about this section of the bill and who have grave concerns with the approach of giving the city the right to eliminate the grandfathering on the signs.

I think we're going back to some of the comments that were made earlier, about some of them falling into disrepair, and the city wants to change that. I think we have that with every other type of function in our community too, when you have areas of the city where the buildings are not being kept up the way we would like. We have main streets in towns in Ontario that need the government's push to help move that forward and improve the streets. In some cases, it's done with a property standards bylaw. They could pass a sign bylaw, on maintenance, that if there is something wrong, they could do that.

I think taking the grandfathering out and giving the city the ability to actually shut them down and make them move them, or build a different sign, is just totally wrong.

With that, I have nothing further to say on this amendment.

The Chair (Mr. Peter Tabuns): Mr. Hatfield.

Mr. Percy Hatfield: I would just like to state again that municipalities in this day and age need all the partners they can find in order to survive.

If I've heard correctly from the letters, at least one company in Toronto pays $4 million in annual taxes to the city of Toronto for the legal non-conforming-use signage. I don't know how much they pay in taxes for the signs that we're not talking about, the ones that aren't being grandfathered, the ones that conform to everything. I'm suggesting it would be a heck of a lot more than $4 million if there is $4 million being paid for the legal non-conforming-use signs. So it's big business.

Even if it's $4 million, I cannot believe the city of Toronto is going to go to war on every sign that might be legal non-conforming-use. You're not going to turn away $4 million. You might pick out a smaller number and say, "These ones just have to go," for this reason or that reason.

Having said that, I would hope that the city of Toronto takes into account the letters that were written, the letters that were read, and the hardship that will cause for be it the churches, be it the credit unions, or be it the moms and dads, the seniors.

But at the end of the day, the municipality should have the ability, if there are some signs that are way over the top on not conforming, for various reasons—and I'm not going to make up the reasons here—then the municipal-

ity should have that ability to force the sign people to bring that sign up to standard or to remove that sign.

The Chair (Mr. Peter Tabuns): We're ready for the vote.

Mr. Lorne Coe: A recorded vote, please.

The Chair (Mr. Peter Tabuns): A recorded vote has been requested.

Ayes

Coe, Hardeman.

Nays

Dhillon, Hatfield, Mangat, McMeekin, Rinaldi.

The Chair (Mr. Peter Tabuns): No abstentions. The motion fails.

We go now to PC motion number 2, schedule 1, section 6, subsection 99(1) of the Municipal Act. Mr. Hardeman, will you be moving it?

Mr. Ernie Hardeman: I move that subsection 99(1) of the Municipal Act, 2001, as set out in section 6 of schedule 1 to the bill, be struck out and the following substituted:

"Advertising devices

"(1) This subsection, as it read on the day before section 6 of schedule 1 to the Modernizing Ontario's Municipal Legislation Act, 2016 came into force, continues to apply to bylaws passed on or before July 1, 2022."

The Chair (Mr. Peter Tabuns): Thank you, Mr. Hardeman. Do you want to speak to that?

Mr. Ernie Hardeman: Yes. This amendment would allow a five-year phase-in before new bylaws could require the removal or substantial alteration of existing billboard signs. We heard from hundreds of individuals and small businesses that depend on rental incomes from billboards. This would ensure that they have time to plan for the loss of the rental income.

1500

The government has an amendment with the same intent, which would have this section come into force on the fifth anniversary of this bill receiving royal assent. However, having the actual date in the legislation will provide more clarity and certainty to the industry and those depending on rental income. This amendment was requested by Outfront Media, Clear Channel Outdoor and other billboard companies and hundreds of people depending on income for space leased to billboard companies.

The Chair (Mr. Peter Tabuns): Mr. Rinaldi.

Mr. Lou Rinaldi: I'll try not to be long-winded, so I'm just going to say that this basically reflects our suggestions or discussion from the previous motion from the official opposition, so we're prepared to not support it.

The Chair (Mr. Peter Tabuns): Any further discussion? You're prepared to vote?

Mr. Ernie Hardeman: Recorded vote.

The Chair (Mr. Peter Tabuns): Recorded vote requested.

Ayes

Coe, Hardeman.

Nays

Dhillon, Mangat, McMeekin, Rinaldi.

The Chair (Mr. Peter Tabuns): Abstentions? It is lost.

With that, we'll vote on section 6 as a whole. Shall schedule 1, section 6 carry?

Mr. Ernie Hardeman: Recorded vote.

The Chair (Mr. Peter Tabuns): No, I'd said the word "carried."

Mr. Ernie Hardeman: Chair, you hadn't even asked for the noes yet.

Interjection: Yes, he did.

The Chair (Mr. Peter Tabuns): Let me go back, Mr. Hardeman—do you know what? I'll accede to your request. Apologies to all. Recorded vote.

Interjection: Which one?

The Chair (Mr. Peter Tabuns): This is schedule 1, section 6. That's the section as a whole with no amendments.

Ayes

Dhillon, Hatfield, Mangat, McMeekin, Rinaldi.

Nays

Coe, Hardeman.

The Chair (Mr. Peter Tabuns): It is carried.

Colleagues, I don't have amendments for the next two. I will bundle them unless you have objections. Shall schedule 1, sections 7 and 8 carry? Carried.

Now we go to schedule 1, section 9, and we have PC amendment 2.0.1. It applies to schedule 1, section 9. Mr. Hardeman.

Mr. Ernie Hardeman: I move that subsection 132.1(1) of the Municipal Act, 2001, as set out in section 9 of schedule 1 to the bill, be struck out and the following substituted:

"Entry on land re maintenance, repairs or alterations

"(1) A municipality may enter on land adjoining land owned or occupied by the municipality, at any reasonable time, for the purpose of maintaining or making repairs or alterations to the land owned or occupied by the municipality but only to the extent necessary to carry out the maintenance, repairs or alterations and only if the municipality has given notice to the owner or occupier of the land at least 24 hours before the proposed entry.

"Exception

"(1.1) Despite subsection (1), a municipality may enter on land adjoining land owned or occupied by the municipality without giving notice if the failure to carry out the maintenance, repairs or alterations in a period of less than 24 hours could reasonably result in damage to land or property of the municipality or endanger the health or safety of an individual."

The Chair (Mr. Peter Tabuns): Discussion? Mr. Hardeman.

Mr. Ernie Hardeman: This amendment is just to make sure that there was some kind of giving of notice. The amendment would require property owners to be given 24-hour notice if a municipal employee needs to access the private land adjacent to municipally owned land for non-emergency maintenance, repairs or alterations. It would create an exception that would still allow municipalities access to the property immediately if emergency repairs are required.

Bill 68, as currently written, allows municipal employees access to private property without respect for the rights of property owners. This amendment creates a better balance so that the municipality will have access when it's needed urgently, but that property owners are notified when the time is available to do so. There are practical safety reasons to provide property owners with notice. It would allow them to warn the municipal employees about any hazards that the municipal employees might not be aware of.

In Oxford and other rural ridings, biosecurity is a big issue. Giving farmers notice that municipal employees are going to access their property gives them the ability to share biosecurity protocols, such as truck washing, to ensure the safety of livestock and to stop disease from being spread.

If you desire, you can read the quotes from the OMAFRA biosecurity pages. It goes on here, and I can read them all into the record, but I think there are a couple that I do want to highlight:

"Why the concern?

"Biosecurity has become a major concern to the agriculture industry as a result of foreign and emerging disease issues, the globalization of agriculture and increasing public concerns over food safety....

"All visitors need to understand the possible risk they present when entering a farm, what a farmer expects from them, and what precautions need to be taken between farms that are visited. This applies to anyone entering or leaving the premises who may be visiting other livestock operations, and not just those of the same species or commodity type."

This includes municipal/regulatory personnel, inspectors, deadstock collectors etc.

I read that because it's there for a different reason, but it is there for the same reason: The risks involved with allowing people onto other property without notice are much greater than those of the people who are entering as needed.

The issue we're talking about in this present amendment may, on the surface, look like it's just an urban issue. But in fact, there could be issues where it's a road allowance that they want to get to, that ran right to the back end of my farm. They wouldn't look at the agricultural legislation. They would look at the right to go on property, and there they would be, and then they would be in contravention of the rules.

It says here: "Visitors can unknowingly bring harmful agents onto a farm via contaminated clothing and footwear, equipment and vehicles. Equipment used to repair buildings and machinery, to treat or handle animals, and to carry out testing or procedures are all potential sources of contamination. The risk is increased with visitors who regularly go from farm to farm as part of their employment or routine."

Again, there must be something on that property to go for, if they're doing that. With the risk that they're going to provide across that property, I think the property owner should have a right, at least, to 24 hours' notice. Rather, in the bill presently, it says that they can go in there "at any reasonable time." Who defines what is reasonable?

The Chair (Mr. Peter Tabuns): Mr. Rinaldi.

Mr. Lou Rinaldi: Chair, as I said before, I respect the member's argument, but I believe that section 435 of the Municipal Act provides that municipalities are already required to provide notice before entering onto lands for the proposed purposes. I think there is a regime in place already under section 435 of the Municipal Act.

The Chair (Mr. Peter Tabuns): Any further comment? There being none—Mr. Hardeman?

Mr. Ernie Hardeman: I just want to point out how important it is. As I said, one branch of the government, the Ministry of Agriculture, Food and Rural Affairs, deems that to be so important that they have a whole document on why they have to give notice to get on a property. Why we would allow it with no notice at all just doesn't make any sense to me.

The Chair (Mr. Peter Tabuns): I have another speaker when you're done, Mr. Hardeman. Are you done?

Mr. Ernie Hardeman: We'll have the other speaker. They sound like they want to say something to what I was saying.

The Chair (Mr. Peter Tabuns): If you're done, then I'll go to Mr. McMeekin.

Mr. Ted McMeekin: We have more than one former Minister of Agriculture here, you know.

There are times when there are people who may not want you on their property when you should be on their property. If they've got chickens that are spreading some sort of disease or something, there may be circumstances where that—I don't think, from the power we're putting in place, at the request of the city of Toronto, that they're going to start running willy-nilly all over everybody's property.

I understand that there are property rights, and some protocols that need to be followed, but there are clearly times, particularly in the agricultural sector, when you want to have the right to get onto a property.

The Chair (Mr. Peter Tabuns): Mr. Rinaldi.

Mr. Lou Rinaldi: Just as a quick note, because I believe the member maybe wasn't—I hope he was paying attention. I did say that section 435 of the Municipal Act already covers what we're talking about. Municipalities under that section are already required to provide notice before entering lands for the proposed purposes. There's a section in the Municipal Act, section 435, that already provides for that.

1510

The Chair (Mr. Peter Tabuns): Mr. Hardeman.

Mr. Ernie Hardeman: I just want to address the question back to the parliamentary assistant. I didn't hear a number in that clause that he just read, and I think that's what I was saying. They already have to give notice, but they can go there at any reasonable time. They can knock on your door and say, "We're going in now." What we're saying is that if it's not an emergency, there's absolutely no reason that I shouldn't be told when someone is going to cross my property, which they have no right to—this isn't property that they have a right of way on. This is property that is owned by someone else, and the municipality has a service that they have to get to, where they don't have any access from a roadway, and so they have to cross my lawn. And we can't expect them to have to give 24 hours' notice if it's not an emergency? I can't believe that we would be having this debate.

The Chair (Mr. Peter Tabuns): I'm going to go to Mr. Rinaldi.

Mr. Lou Rinaldi: Chair, just to be clear, the current requirements provide "reasonable notice." I would hope that the member opposite, being a former municipal politician—a mayor—and chair of AMO, of all the municipalities of Ontario, would give credit to a municipality to do the right thing at the right time. Do they make mistakes? We all make mistakes. But to say, "Hey, you guys don't count. We're going to dictate to you exactly what you have to do," I don't prescribe to that commitment. It's not one size fits all.

The Chair (Mr. Peter Tabuns): Mr. McMeekin

Mr. Ted McMeekin: Most of the time, you haven't subscribed to it either. I've heard you eloquently and appropriately defend the decision-making authority and the independence and radical right of municipalities to make important local decisions—because they're the government closest to the people and blah, blah, blah. I've heard you, sir, do that, and I agree with you when you do that.

The Chair (Mr. Peter Tabuns): Mr. Hardeman.

Mr. Ernie Hardeman: I appreciate the kind comments, but I disagree with the premise.

I think if we have total faith that the world is a perfect place and no one has to ever doubt that we're all going to do what's in the best interests of everybody, we don't need this legislation at all. All I'm saying is that if it's an emergency, everybody will do the right thing and there's nothing wrong with them coming through right beside my house with the trucks to get whatever has to be done in the backyard. But if there is no emergency, I don't think it's unreasonable to put a timeline in. I don't think that's showing disrespect for municipalities. I have nothing but respect for municipalities, but I don't think it's unreasonable to put in a reasonable time. Is there anybody in this room who would believe that reasonable time would be less than 24 hours? I don't think there would.

I just see no reason why you can't at least give some satisfaction to the homeowner. Not all homeowners are going to be as confident in the notice that the municipality's going to give when they just happen to be going by: "Why don't we slip in there and do that job, and drive across the lawn to do it." And then they get back and say, "Well, you shouldn't have done that."

People aren't all as trusting as that. That's why we have legislation. So I think putting in a timeline makes a lot of sense, to say, "Okay, that's the minimum." You can let them know a week ahead of time that you're going to come in and do this work, but you can't come in and knock on the door and say, "It's a reasonable time, because it's 3 o'clock in the afternoon and we've got nothing else to do. We're going to finish this job in your backyard. Even though you're not home, we'll just leave a little note on the door, because all we have to do is be reasonable, and that seems like a reasonable thing." I think that if it's not an emergency, it's not too much to ask that they should have to give 24 hours' notice.

The Chair (Mr. Peter Tabuns): I see no further debate. You're all ready for the vote?

Mr. Ernie Hardeman: Recorded vote.

The Chair (Mr. Peter Tabuns): Recorded vote requested.

Ayes

Coe, Hardeman.

Nays

Dhillon, Mangat, Rinaldi.

The Chair (Mr. Peter Tabuns): Abstentions? It fails.

Now we'll go to the vote of section 9, as a whole. Shall schedule 1, section 9 carry? Carried.

We now go to NDP motion 2.1, schedule 1 to the bill, section 10. Mr. Hatfield.

Mr. Percy Hatfield: I move that section 10 of schedule 1 to the bill be struck out and the following substituted:

"10. Subsection 142(8) of the act is repealed and the following substituted:

"'Bylaw re permission of conservation authority

"'(8) If a regulation is made under section 28 of the Conservation Authorities Act respecting the temporary or permanent placing, dumping or removal of any material, originating on the site or elsewhere, in any area of the municipality, a bylaw passed under this section shall include a provision requiring the written permission of a

conservation authority prior to the issuing of a permit under the bylaw in respect of an activity that occurs in an area that is subject to a regulation made under section 28 of that act.'"

The Chair (Mr. Peter Tabuns): Any discussion, Mr. Hatfield?

Mr. Percy Hatfield: It's very simple; it's not rocket science. If we don't put this in here, we're going to have a conflicting methodology of permit allocation. Conservation authorities look after the properties along our waterways, and we have to make sure that they retain control of the dumping permits and the taking and placement of soil and other material. Conservation authorities have the expertise. You should need their permission before you tamper with our waterways and our connecting links like that.

I think this is an essential part of this bill.

The Chair (Mr. Peter Tabuns): Mr. Rinaldi.

Mr. Lou Rinaldi: I certainly respect the motion put forward by my colleague, but I recommend not supporting it for these reasons, Chair: Conservation authorities and municipalities are expected to establish working relationships, best practices and administrative protocols when considering permit application for placing, dumping or removing soil in a municipality. It is the responsibility of permit applications to meet the requirements of any and all applicable bylaws or regulations.

Once again, we respect municipalities. They're responsible and provide flexibility and effectively serve their citizens' needs, Chair.

The Chair (Mr. Peter Tabuns): No further discussion? The committee is ready to vote?

Mr. Percy Hatfield: I was going to have a little bit of discussion, Chair—not long. I'm not going to belabour it.

The Chair (Mr. Peter Tabuns): No, proceed. Not a problem.

Mr. Percy Hatfield: As you know, I usually stand up and thump my chest and support municipalities, but I served seven years on a conservation authority. I know that sometimes there is a conflict between the conservation authority and the municipality. I believe very strongly in the role that conservation authorities provide for the province of Ontario, for protection of all waterways, sometimes overlapping on municipal jurisdictions.

To me, the conservation authorities of Ontario came to us and said, "We really need this, because we're going to end up with a whole bunch of permitting applications that are going to be in conflict with each other. Leave that authority with us. Make sure we provide the written permission first before a municipality can issue a dumping licence."

To me, it made common sense. It wasn't rocket science. So I stand, still to this day, with the conservation authorities on this issue.

The Chair (Mr. Peter Tabuns): Thank you, Mr. Hatfield. I see no other indication of people wanting to speak. The committee is ready to vote.

Mr. Percy Hatfield: Recorded vote.

The Chair (Mr. Peter Tabuns): Recorded vote requested.

Ayes

Hatfield.

Nays

Coe, Dhillon, Hardeman, Mangat, Rinaldi.

The Chair (Mr. Peter Tabuns): Abstentions? It is lost.

We now go to vote on section 10, as a whole. Shall schedule 1, section 10 carry? It is carried.

We now go to government motion 3 in schedule 1 to the bill, section 11. Mr. Rinaldi.

1520

Mr. Lou Rinaldi: I move that subsections 147(1) and (2) of the Municipal Act, 2001, as set out in section 11 of schedule 1 to the bill, be amended by striking out "long-term planning for energy use" wherever it appears and substituting in each case "long-term energy planning".

The Chair (Mr. Peter Tabuns): Comments, Mr. Rinaldi?

Mr. Lou Rinaldi: Yes. This will just help clarify a municipality's role in energy planning, which may help support the protection and conservation of the environment. It's just a process.

The Chair (Mr. Peter Tabuns): Further commentary? Mr. Hatfield.

Mr. Percy Hatfield: Notwithstanding my deep frustration and disappointment with the government vote on my last motion, I will support their motion on this one—hoping to curry favour, of course, for subsequent motions.

The Chair (Mr. Peter Tabuns): Mr. Hardeman.

Mr. Ernie Hardeman: This seems to be a rewording so that municipalities can provide for or participate in long-term energy planning instead of long-term energy planning for energy use. There's a slight difference in meaning, and I'd like to know whether the government has looked at long-term planning for energy use for municipalities and the impact of the increased costs on municipalities.

We're hearing from a number of municipalities that they're actually putting intensive resources into planning long-term energy use because of the high costs. One municipality reported that they had created extra holding ponds so they could pump water at off-peak times. I wonder whether the government was thinking of those examples when they originally wrote this amendment.

What is the reason for changing the wording? I'm not objecting to the change of the wording, but I really need to understand what it is that you're doing. Has it got anything to do with the fact that hydro costs are getting so high that municipalities can't pay them anymore? Have you looked at that? Or have you actually done any research to look at what impact on energy use the present hydro prices are having on municipalities—asking them if they're going to be a part of the planning process as opposed to just part of the using process? I just need some answers to make me comfortable with it.

The Chair (Mr. Peter Tabuns): Mr. Rinaldi.

Mr. Lou Rinaldi: Sure. This does not limit just the use of energy, but it can include conservation, for example, or a municipality, if they want to produce their own energy. So it's in that broad sense.

The Chair (Mr. Peter Tabuns): Mr. Hardeman.

Mr. Ernie Hardeman: That makes it a little bit more confusing. If this includes generating power, are they going to be able to generate the power themselves without government approval? Why does it need to be in the legislation to change the wording to produce power?

The Chair (Mr. Peter Tabuns): Mr. Rinaldi, do you wish to speak?

Mr. Lou Rinaldi: Sure. Very quickly, we're not debating the long-term energy plan; we're just permitting municipalities to play a role here. I'm not going to make that decision on behalf of the municipality on what role they're going to play. This is just permissive and making it clearer.

The Chair (Mr. Peter Tabuns): No further discussion? The committee is ready for the vote?

Mr. Hardeman.

Mr. Ernie Hardeman: I still haven't gotten an answer as to why you need the change. There's nothing that the parliamentary assistant has said so far that requires the change in the wording.

The Chair (Mr. Peter Tabuns): Fine. Mr. Rinaldi, you wish to speak? Go ahead.

Mr. Lou Rinaldi: I'm not sure if the member doesn't quite understand, but maybe there's an official here who could address this better from the ministry.

Interjections.

The Chair (Mr. Peter Tabuns): Gentlemen, if you'll have a seat. State your name for the record for Hansard.

Mr. Jeff Neal: My name is Jeff Neal, and I'm a manager with municipal affairs.

Mr. Jonathan Lebi: I'm Jonathan Lebi, also from municipal affairs.

Mr. Jeff Neal: I think the intent was to broaden the language so that municipalities weren't restricted in just using energy in moving forward with the long-term energy plan. In talking with stakeholders over the last several months, it was raised with us that by using the word "use," things like generating energy and some of the more innovative approaches to conserve energy in a distributed way would be restricted by that word, "use." So the broadening of the language is for that purpose.

The Chair (Mr. Peter Tabuns): Mr. Hardeman?

Mr. Ernie Hardeman: If I might, and through you, Mr. Chair, my municipality is already a leader in generating energy. My municipality already has a lot of involvement with energy: county buildings with solar roofs on them and even some windmills and so forth. Are you suggesting that this wording is required to accommodate that? Were they beyond what they were allowed to do in doing that, or is this just a clarification for the perception of it?

Mr. Jeff Neal: It was a clarification. It wasn't intended to provide either restriction or broadening of what long-term energy planning could be. It was in response to concern about the language use that as municipalities—and there are a lot of municipalities that are leaders in some of the energy planning. There was a concern that that would somehow legally tie their hands or just make it more complicated to continue with some of the projects they already had, as well as come up with some more innovative approaches as they went forward.

Mr. Ernie Hardeman: Thank you.

The Chair (Mr. Peter Tabuns): Thank you, gentlemen. I'm looking to see if there's any other discussion. There does not appear to be. Are members of the committee ready for the vote? Okay.

All those in favour, please indicate. Opposed? It is carried.

With that, we get to vote on section 11, as a whole. Shall schedule 1, section 11, as amended, carry? Carried.

Colleagues, we now have a number of sections that don't have any amendments. You're agreeable that I bundle them? Excellent. Shall schedule 1, sections 12, 13, 14, 15, 16 and 17 carry? Carried.

With that, we go to schedule 1, section 17.1. This is NDP motion 3.1, schedule 1 to the bill, section 17.1: Mr. Hatfield.

Mr. Percy Hatfield: Chair, in the interest of time, I will withdraw 3.1.

The Chair (Mr. Peter Tabuns): Then we go to the further amendment, NDP motion 3.1.1: Mr. Hatfield.

Mr. Percy Hatfield: Chair, in the interest of time, I shall withdraw 3.1.1.

The Chair (Mr. Peter Tabuns): And we go to NDP amendment 3.1.2.

Mr. Percy Hatfield: I move that schedule 1 to the bill be amended by adding the following section:

"17.1 The act is amended by adding the following section:

"'Protection of officers

"'223.1.1(1) No proceeding shall be commenced against an integrity commissioner, an ombudsman, an auditor general, the registrar for a municipality as referred to in section 223.11, or an employee in any of their offices for any act done or omitted in good faith in the execution or intended execution of their duties under this act or any other act.

"'Indemnity

"'(2) Despite their obligations to carry out their duties in an independent manner, an integrity commissioner, an ombudsman, an auditor general and the registrar for a municipality as referred to in section 223.11 shall be indemnified and saved from harm by the municipality for which they are responsible when carrying out their duties under this part.

1530

"'Testimony

"'(3) an integrity commissioner, an ombudsman, an auditor general, the registrar for a municipality as referred to in section 223.11, and employees in any of their offices are not competent or compellable witnesses in a civil proceeding in connection with anything done under

this act or any other act, except as may be required to apply to a judge under section 8 of the Municipal Conflict of Interest Act for a determination as to whether the member has contravened section 5.1, 5.2 or 5.3 of that act.'"

The Chair (Mr. Peter Tabuns): Mr. Hatfield, I was going to rule that out of order, but are you withdrawing it?

Mr. Percy Hatfield: Well, everything is good right up until the last line, Chair. If you want me to amend—there was a typo, if you will, because I had mentioned a 5.3 and there is no 5.3. So if you will allow up until "Testimony," and I'll just read the final paragraph.

The Chair (Mr. Peter Tabuns): And that's—

Mr. Percy Hatfield: That'll save time, or I could read the whole thing again. I'm here at your pleasure, Chair.

The Chair (Mr. Peter Tabuns): Do people understand what's happening? Everyone is good? Please proceed.

Mr. Percy Hatfield: From "Testimony"?

The Chair (Mr. Peter Tabuns): Yes.

Mr. Percy Hatfield: Thank you, Chair.

"'Testimony

"'(3) an integrity commissioner, an ombudsman, an auditor general, the registrar for a municipality as referred to in section 223.11, and employees in any of their offices are not competent or compellable witnesses in a civil proceeding in connection with anything done under this act or any other act, except as may be required to apply to a judge under section 8 of the Municipal Conflict of Interest Act for a determination as to whether the member has contravened section 5, 5.1 or 5.2 of that act.'"

The Chair (Mr. Peter Tabuns): Thank you, Mr. Hatfield. Committee members, I'm ruling this amendment out of order as it is, in my opinion, unrelated to the subject matter of the bill or to the clause under consideration.

Mr. Percy Hatfield: But Chair, this was requested by Toronto's integrity commissioner, Valerie Jepson, as well as by Suzanne Craig, whom we heard from, who serves as the integrity commissioner for various other municipalities. It indemnifies accountability officers carrying out their duties in good faith.

The Chair (Mr. Peter Tabuns): Nonetheless, it's—

Mr. Percy Hatfield: Okay, let me try this. With your ruling, sir—I accept your ruling. Could I ask for unanimous consent—

The Chair (Mr. Peter Tabuns): Yes, you may.

Mr. Percy Hatfield: —to include this? Could we have unanimous consent to have this included?

The Chair (Mr. Peter Tabuns): Do we have unanimous consent for the inclusion of this amendment?

Interjection.

Mr. Percy Hatfield: Did I hear a no? Did I hear a no?

The Chair (Mr. Peter Tabuns): You did, as did I.

Mr. Ernie Hardeman: I am shocked.

The Chair (Mr. Peter Tabuns): I am sorry to say that the ruling stands.

Mr. Percy Hatfield: All right. The gloves are off.

The Chair (Mr. Peter Tabuns): We go now to NDP motion 3.2. Mr. Hatfield?

Mr. Percy Hatfield: In the interests of time—I don't want to be ruled out of order again at the moment—I'll withdraw 3.2.

The Chair (Mr. Peter Tabuns): Okay. Motion 3.2 is withdrawn.

Motion 3.2.1?

Mr. Percy Hatfield: Thank you. Are you going to rule this one out of order too?

The Chair (Mr. Peter Tabuns): Yes.

Mr. Percy Hatfield: You are?

The Chair (Mr. Peter Tabuns): Yes.

Mr. Percy Hatfield: So should I bother?

The Chair (Mr. Peter Tabuns): Well, if you want it on the record, please feel free, but I will rule it out of order.

Mr. Percy Hatfield: In that case, I'll read very slowly and I'll put it on the record and I'll use all the time I have this afternoon—

Mr. Ted McMeekin: You have until 6 o'clock.

Mr. Percy Hatfield: —until 6 o'clock today.

I move that—I think that people will know where the record is, Chair. If you're going to rule me out of order, I'll step aside at this point. I'll just let you rule me out of order first. If you're not going to do that, of course, I'll continue.

Interjection.

The Chair (Mr. Peter Tabuns): You haven't moved it. I'm advising you that it's out of order. You can withdraw. Otherwise, you can move it, and then when you finish speaking, I'll rule you out of order.

Mr. Percy Hatfield: Well, I don't want to withdraw, but if you rule me out of order—you can't do it; I see. We've got to do this. Okay.

The Chair (Mr. Peter Tabuns): Yes. You actually have to follow the form and the process.

Mr. Percy Hatfield: All right; let's follow the form. I move that schedule 1 to the bill be amended by adding the following section:

"17.2 The act is amended by adding the following section:

"'Information sharing

"'223.1.2 Nothing in this part prevents the integrity commissioner for a municipality, the ombudsman for a municipality, the auditor general for a municipality and the registrar for a municipality as referred to in section 223.11 from disclosing, among themselves, information any of them may receive in respect of the municipality for which they are responsible in carrying out their duties under this part.'"

The Chair (Mr. Peter Tabuns): And with that, I'm ruling the amendment out of order as it's unrelated to the subject matter of the bill or the clause under consideration.

Mr. Percy Hatfield: Quelle surprise.

The Chair (Mr. Peter Tabuns): Mr. Hardeman, you've been trying to get my attention, so please.

Mr. Ernie Hardeman: I'm not sure quite how to approach this, because I would not want to challenge the ruling of the Chair, but are these motions out of order because they don't fit here? Or are they not part of our deliberations?

The Chair (Mr. Peter Tabuns): It's unrelated to the subject matter of the bill or to the clause under—

Mr. Ernie Hardeman: The total bill?

The Chair (Mr. Peter Tabuns): Yes.

Mr. Ernie Hardeman: Was the issue of the ombudsman, integrity commissioner and auditor general not part of the bill?

The Chair (Mr. Peter Tabuns): All I can say is, based on the legal advice I've been given, these are out of order on the basis that I've set forward. It may be that in another formulation, in another approach, they could be in order, but not what we have before us. And I hate to say this, but it is not a debateable motion. You've asked for information; I've given it to you.

Mr. Hatfield?

Mr. Percy Hatfield: Just for information, I suppose, not to challenge the Chair, can we hear from legislative counsel as to why this is not in order?

The Chair (Mr. Peter Tabuns): Mr. Hatfield, I'm happy to have legislative counsel talk to you at another point, but you are actually out of order. This is not debateable, and we just need to move on. My apologies to you.

Mr. Percy Hatfield: It's okay, I've been bullied before.

The Chair (Mr. Peter Tabuns): It's not the first time.

We now go to NDP motion 3.3 in schedule 1, section 18. Mr. Hatfield.

Mr. Percy Hatfield: We've probably been down this road before. I move that section 18 of schedule 1 to the bill be amended by adding the following subsection:

"(2) Section 223.2 of the act is amended by adding the following subsection:

"'Conflicts of interest to be included

"'(5) In addition to any subject matters prescribed by the minister under subsection (4), a code of conduct shall govern conflicts of interest, including pecuniary conflicts of interest within the meaning of the Municipal Conflict of Interest Act.'"

The Chair (Mr. Peter Tabuns): Do you want to speak to that, Mr. Hatfield?

Mr. Percy Hatfield: I don't know. Are you going to rule me out of order?

The Chair (Mr. Peter Tabuns): No. I haven't so far, so you're good.

Mr. Percy Hatfield: I'm on a roll.

The Chair (Mr. Peter Tabuns): You are on a roll, sir.

Mr. Percy Hatfield: As you know, and I expect full co-operation from the government members, this was requested by the integrity commissioners. It requires conflict of interest provisions to be included in municipal codes of conduct, and what's wrong with that? I wait to hear from the government.

The Chair (Mr. Peter Tabuns): Mr. Rinaldi.

Mr. Lou Rinaldi: To the member: Pecuniary financial conflict of interest rules are already addressed in the Municipal Conflict of Interest Act, and repeating it will only confuse municipal councils even more. It's already addressed under the rules of the Municipal Conflict of Interest Act, sir, so I'm proposing voting against it.

The Chair (Mr. Peter Tabuns): Further discussion? Mr. Hatfield.

Mr. Percy Hatfield: No, my heart is broken. I should not—

Mr. Lou Rinaldi: Why stop now, right?

The Chair (Mr. Peter Tabuns): Okay. There being none—

Mr. Percy Hatfield: Recorded vote

1540

The Chair (Mr. Peter Tabuns): Recorded vote.

Ayes

Hardeman, Hatfield.

Nays

Dhillon, Mangat, Rinaldi.

The Chair (Mr. Peter Tabuns): No abstentions. It is lost.

With that we go to the vote on section 18 as a whole. Shall schedule 1, section 18 carry? Carried.

We now go to government motion 3.4 in schedule 1 to the bill, subsection 19.

Mr. Lou Rinaldi: Thank you, Chair. I move that paragraphs 1, 2 and 3 of subsection 223.3(1) of the Municipal Act, 2001, as set out in subsection 19(1) of schedule 1 to the bill, be struck out and the following substituted:

"1. The application of the code of conduct for members of council and the code of conduct for members of local boards.

"2. The application of any procedures, rules and policies of the municipality and local boards governing the ethical behaviour of members of council and of local boards.

"3. The application of sections 5, 5.1 and 5.2 of the Municipal Conflict of Interest Act to members of council and of local boards."

The Chair (Mr. Peter Tabuns): Any commentary?

Mr. Lou Rinaldi: Sure. Chair, obviously, I recommend supporting this amendment. This is a technical change that will provide greater clarity with regard to the role of integrity commissioners for the application of codes of conduct, other ethical rules and the Municipal Conflict of Interest Act.

The Chair (Mr. Peter Tabuns): Further discussion? Mr. Hardeman.

Mr. Ernie Hardeman: A question to the parliamentary assistant: What's the purpose of this?

Mr. Lou Rinaldi: Chair, if I may: It's really to clarify. It's a technical amendment to make sure that we include, as I said before, different boards so that they're all under the same rules. I think it's pretty self-explanatory, actually.

Mr. Ernie Hardeman: The three paragraphs remove the words "of either of them" and replace them with "conduct for members of council and ... conduct for members of local boards"? You're just writing it out in full, as opposed to "of either of them"?

Mr. Lou Rinaldi: Yes, it's inclusive.

Mr. Ernie Hardeman: Okay.

The Chair (Mr. Peter Tabuns): Any further discussion on this matter? There being none, the committee is ready for the vote. All those in favour of government motion 3.4? All those opposed? It is carried.

We now go to government motion 3.5 in schedule 1 to the bill, subsection 19(1).

Mr. Lou Rinaldi: I move that paragraph 4 of subsection 223.3(1) of the Municipal Act, 2001, as set out in subsection 19(1) of schedule 1 to the bill, be struck out.

The Chair (Mr. Peter Tabuns): Any commentary, Mr. Rinaldi?

Mr. Lou Rinaldi: Obviously, I would hope that we support this. This motion would remove the integrity commissioners' role in conducting inquiries on their own initiative. This change could provide cost savings for municipalities as investigations would only be initiated after a complaint is received as proposed by Bill 68, rather than on the integrity commissioners' own initiative.

The Chair (Mr. Peter Tabuns): Okay. Further discussion? Mr. Hardeman.

Mr. Ernie Hardeman: I'm going to try it again. This here is dealing with the conduct of the commissioners' own initiative requirement that's allowed in the bill. I didn't hear it ruled out of order—

The Chair (Mr. Peter Tabuns): You're right.

Mr. Ernie Hardeman: —so we're talking here about the commissioner's conduct.

The Chair (Mr. Peter Tabuns): Do you have a question for Mr. Rinaldi? Mr. Rinaldi you wanted to respond?

Mr. Lou Rinaldi: I'm not sure. Are you finished?

Mr. Ernie Hardeman: I'm just wondering, what is it that you're doing to the commissioner?

The Chair (Mr. Peter Tabuns): Mr. Rinaldi.

Mr. Lou Rinaldi: Okay, we'll try this again. We're saying that the commissioner cannot initiate an investigation and so on. It's got to be driven by a complaint. I think that's pretty straightforward.

The Chair (Mr. Peter Tabuns): Okay. No further debate? The committee is ready for the vote? All those in favour of government motion 3.5? All those opposed? It is carried.

We go now to PC motion 4, in schedule 1, subsection 19(1). Mr. Hardeman.

Mr. Ernie Hardeman: I move that section 223.3 of the Municipal Act, 2001, as set out in subsection 19(1) of schedule 1 to the bill, be amended by adding the following subsections:

"Exception

"(1.1) Despite subsection (1), a commissioner shall not perform any function described in paragraphs 1 to 4 of that subsection with respect to a member of a local board who does not receive compensation for being a member of the board.

"Same, transition

"(1.2) Despite subsection (1), a commissioner shall not perform any function described in paragraphs 1 to 4 of that subsection with respect to a member of a local board who receives compensation for being a member of the board relating to any conduct of the member that" occurred "prior to July 1, 2019."

The Chair (Mr. Peter Tabuns): "Occurred" or "occurs"?

Mr. Ernie Hardeman: "Occurs prior to."

The Chair (Mr. Peter Tabuns): Okay. Did you want to speak to that?

Mr. Ernie Hardeman: Yes. This amendment would address the concerns of municipal organizations by limiting the role of the integrity commissioner such that they would not launch investigations on volunteers serving on local boards.

It would also allow the new integrity commissioner responsibility to be phased in by delaying the implementation for local board members receiving compensation.

This amendment would allow the new integrity commissioner functions to be applied to council members first, and then once that is in place, expanded to members of local boards who receive compensation.

Many local communities are already facing challenges getting volunteers to serve on the local boards and express concern that subjecting them to the risk of an integrity commissioner investigation is excessive and would further discourage volunteers.

This amendment was requested by AMO, ROMA and Halton region.

Chris Wray from Wawa, during his presentation to the committee, said, "Please give serious consideration to amending Bill 68 to delete entirely or perhaps delay the application of the provisions for local boards until it has been tested on members of municipal council."

I just want to reiterate the importance of not telling volunteers, when they volunteer for a local board or commission, where they have nothing but the best wishes of the municipality to do their job—to then to turn around and somebody comes along and asks the integrity commissioner to investigate something they've done. I think it implies much more pressure on volunteers than it needs to. I can understand the need, if they're being paid and working like the police services board and such things, but a local hall board, where no one gets anything, I think the community will deal with those who are not dealing according to the rules. I think it would be best to leave them.

Having said that, in the second section of the amendment, I think it's important to recognize that it isn't going

to happen overnight. This allows the phasing in of the boards and commissions. In some municipalities, that's a lot of boards and commissions that have to set processes in place and so forth. This gives them a little time to phase it in. It doesn't take any of the responsibility away, but it phases it in over a bit of time.

The Chair (Mr. Peter Tabuns): Mr. Rinaldi.

Mr. Lou Rinaldi: I thank the member for this motion. But this would create, I think, some inconsistency in how you treat the two or three different bodies. It would create a two-tier system. I think it would create more confusion, so I would recommend voting against it.

The Chair (Mr. Peter Tabuns): Is there further discussion on this matter? Mr. Hardeman.

Mr. Ernie Hardeman: I'm somewhat surprised with the parliamentary assistant's comments about the confusion it's going to cause. He was a local politician in a small, rural municipality. When I look at the local minor ball association and the local hall board, who have trouble finding volunteers to serve on the board today, and we go back with this bill and tell them that they're going to fall under the jurisdiction of the commissioner, I think it's not going to be the complication of having two systems; it's going to be trying to find enough people to fill the spots on these boards. We're going to find an awful lot of them are no longer interested in doing it when they get treated the same way—the municipality, the members of council, the people who work for the municipality. Why should the volunteer who does nothing except go to the meetings once a month and donate their evening to the cause—to expect them to come home and find that the commissioner is at their house to do an investigation because some neighbour has a disagreement with him. I don't think we're going to have volunteers very long.

I'm very surprised that a member from rural Ontario would be suggesting that that's a good idea.

The Chair (Mr. Peter Tabuns): Mr. Rinaldi.

Mr. Lou Rinaldi: Chair, could I request a five-minute recess, please?

The Chair (Mr. Peter Tabuns): Yes. Is the committee agreed to a five-minute recess?

Interjections: Agreed.

The Chair (Mr. Peter Tabuns): Okay. We are recessed.

The committee recessed from 1550 to 1557.

The Chair (Mr. Peter Tabuns): Committee has reconvened. We were debating motion 4 by the PCs. Mr. Hardeman?

Mr. Ernie Hardeman: I think I was just pointing out how I was somewhat surprised that a representative from rural Ontario didn't seem to realize the challenges we face with our boards and commissions, the local hall board and the minor ball association and so forth, in getting people to volunteer for the job with no remuneration at all. To think that it would become part of the commissioner to perform functions that they're expected to do for the full-time people—it's going to create a situation where we're not going to have people to serve on those boards. That's why I was, again, hoping that the government would see their way clear to agree to this one—

The Chair (Mr. Peter Tabuns): Thank you. Mr. Hatfield—oh, sorry.

Mr. Ernie Hardeman: I was going to say, Mr. Chair, if it makes them feel any better, I will let them put their name on the motion. They can read it into the record, and then it's one of theirs, and they would vote for it.

The Chair (Mr. Peter Tabuns): A very kind and generous offer, but I will go to Mr. Hatfield next.

Mr. Percy Hatfield: Just to play devil's advocate for a moment, I suppose the issue for Mr. Hardeman, as I understand it, is that if you're unpaid—I would suggest the name Ed Clark. Mr. Clark holds a position that supposedly is unpaid, or a dollar a year—I don't know what it is; I think it's unpaid.

If anybody needs public scrutiny and public accountability on decisions that are made on behalf of this government, I would suggest that it's that person who is unpaid, unaccountable and making decisions that affect each and every one of us here in Ontario. I think the unpaid should be held accountable, in that position alone. Thank you for the opportunity.

The Chair (Mr. Peter Tabuns): Any further debate on this matter? Mr. Hardeman.

Mr. Ernie Hardeman: I would agree with the member that there are certain unpaid positions that should have greater scrutiny than they're presently having, but I would point out that this motion deals with not people who are appointed to make decisions on their own. These are people who make decisions for their own kids, for their own community, but they're still governed by local government, who are paying them absolutely nothing to do it.

If it wasn't for no one else willing to do it, they wouldn't do it either. I think this is going to discourage a whole lot more of them from wanting to do it.

The Chair (Mr. Peter Tabuns): With that, the committee is ready to vote?

Mr. Ernie Hardeman: Recorded vote.

The Chair (Mr. Peter Tabuns): A recorded vote is requested.

Ayes

Coe, Hardeman.

Nays

Dhillon, Mangat, Rinaldi.

The Chair (Mr. Peter Tabuns): It is lost.

We go now to government motion 4.1. Mr. Rinaldi.

Mr. Lou Rinaldi: I move that section 19 of schedule 1 to the bill be amended by adding the following subsection:

"(1.1) Section 223.3 of the act is amended by adding the following subsections:

"'Provision for functions if no commissioner appointed

"'(1.1) If a municipality has not appointed a commissioner under subsection (1), the municipality shall make arrangements for all of the responsibilities set out in that subsection to be provided by a commissioner of another municipality.

"'Provision for functions if responsibility not assigned

"'(1.2) If a municipality has appointed a commissioner under subsection (1), but has not assigned functions to the commissioner with respect to one or more of the responsibilities set out in that subsection, the municipality shall make arrangements for those responsibilities to be provided by a commissioner of another municipality.'"

The Chair (Mr. Peter Tabuns): If you'd like to speak to it, Mr. Rinaldi.

Mr. Lou Rinaldi: Sure. Obviously, I recommend supporting this motion. The motion may help readers better understand a municipality's obligation respecting integrity commissioners as proposed by the bill. So this would really emphasize more what those roles are, if a municipality or members of a community don't quite understand it.

The Chair (Mr. Peter Tabuns): Any further commentary? Mr. Hardeman.

Mr. Ernie Hardeman: The issue of combining the commissioners with the municipality that doesn't have one: That was raised in the public hearings, and there was a discussion about the cost. Some of the municipalities didn't believe that they had enough tax base to pay for one of their own. Has the government done any studies on the actual cost to municipalities to have a commissioner?

Mr. Lou Rinaldi: Mr. Hardeman, I'm not sure that I have a specific answer for you, but the reality is that I think we want to make sure that municipalities are responsible and that we have a proper process in place. I think we heard ballpark figures from some presenters when they were here, depending on the complexity of an issue. And I'm sure that, as in the past, this government has provided substantial support to municipalities—although never enough; I think we hear that every day, to be fair—through the Ontario Municipal Partnership Fund and through some other funds for direct contributions to municipalities. Hopefully that will help offset some of these potential costs.

The Chair (Mr. Peter Tabuns): Mr. Hardeman.

Mr. Ernie Hardeman: Is the parliamentary assistant suggesting that we're going to have more support through these funds to cover the cost of the commissioner?

Mr. Lou Rinaldi: No, that's not what I said. I said that we already provide some supports to municipalities.

Things do change as we move forward. I mean, at one time, you were in government; things changed. But all I say is that this government already provides support to municipalities in one form or another to help offset some of these costs. But I think at the end of the day we have to make sure that ratepayers in municipalities have the right tools to deal with municipalities that they might feel are not performing their duties.

The Chair (Mr. Peter Tabuns): Further discussion? Mr. Hardeman.

Mr. Ernie Hardeman: I don't disagree, but I think the important part is that when we pass legislation that's going to impact municipalities, we have an obligation as government to have some idea of how much cost this is going to impose upon municipalities. The parliamentary assistant is saying, "Well, they already get a lot of money, so don't worry about how much this is going to cost," but I think they need more than that. They need to know some idea of what impact this is going to have before we pass the bill, not after the fact and then they say, "Oh, well, we can't afford that. What are we going to do?"

Is there anyone here from the staff—you called them up last time—who could give us some kind of idea of what it's going to cost the average municipality?

The Chair (Mr. Peter Tabuns): Mr. Rinaldi.

Mr. Lou Rinaldi: Chair, I know what the member is getting at. The reality of the day is that we have to be accountable to the ratepayers of each municipality. They want processes in place to safeguard—so I would say to you that this is not new to municipalities. I know municipalities that have integrity commissioners now. I know there are municipalities that hire them on an as-needed basis. The ratepayers know that comes off the tax base because it's locally initiated.

All I'm saying is that the government provides assistance in general to communities. I can say, if you want to go down that road, that municipalities weren't compensated for amalgamation. I was one of those municipalities that was involved, and there was a lot of cost—no handouts back then. All I'm saying is that I think we have to be responsible to the communities we serve. The province already recognizes it through—and I use the Ontario Municipal Partnership Fund.

Frankly, there have been a lot of discussions with AMO on these issues, and in general they're supportive of this approach. I would say to you that we are supporting municipalities. In general, I think, the municipalities I spoke to—some of them don't want any oversight whatsoever, because they know best. But at the end of the day, if there's nothing to hide, why worry about something? I would just leave it at that.

The Chair (Mr. Peter Tabuns): I have Mr. Hatfield, and then Mr. Hardeman.

Mr. Percy Hatfield: I say to my good friend Mr. Rinaldi, the parliamentary assistant, who's had discussions with AMO on this matter: On the previous motion, where we were talking about boards and committees of council, as I recall—I could be wrong—AMO said, "Don't do it. Phase it in. Do municipal councils first, and leave the boards and committees and agencies for another term, because it's going to take us a long while to get used to it, a long while to train people and a long while to make sure that the system works." You can't have it both

ways, sir. You can't say, "We listened to AMO and we're doing what AMO wants," when you've listened to AMO and you haven't done what AMO wants.

AMO told us that something like 200 municipalities out of the 444 have populations of such a degree that if they have to raise $50,000, they have to raise their municipal property taxes by 1%—just to get $50,000. So when we bring in a system—and I'm not arguing with the system of integrity commissioners. I believe we should have them. But to impose on municipalities a new system, without any subsidy of the cost of imposition of that new system from the provincial government, which is imposing that system on municipalities—AMO, I'm sure, would like some way, some financing mechanism to help pay, if this becomes onerous on them.

We had the discussion—we haven't had it yet today—about "any person." Any person can file a complaint. They could live in Japan and file a complaint with the integrity commissioner over the Internet. That integrity commissioner then either says that it's frivolous or it's a good point. So some guy living in Japan can file a complaint on Mr. Rinaldi's municipality up in Quinte West and an integrity commissioner can look into it and charge the municipality $2,500 or $5,000 or $15,000, depending on the length of time and the charge that is laid.

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We have to take into account small municipalities, those in the rural areas of our province, those in the northern areas of our province, those with small populations. When we do these sorts of things, when we impose these new restrictions or these new obligations upon municipalities, we should take into account—the government should take into account—the cost that it's going to have on these small municipalities.

That's exactly what Mr. Hardeman is saying. Mr. Hardeman is saying you're doing it, and that's fine and good, but you've got to help them pay for it. There's nothing in here, to the best of my knowledge at this point—I stand to be corrected—that says, "This is how we're going to help those municipalities that find it onerous because of complaints by anybody anywhere in the world who wants to file one. This is how we're going to help you pay for that, because we've imposed this on you." I think that is a glaring mistake that should be corrected as we go forward in the discussion on this bill.

The Chair (Mr. Peter Tabuns): Mr. Hardeman.

Mr. Ernie Hardeman: Again, like Mr. Hatfield, I don't have any problems with this amendment. I have a problem with the fact that no one seems to be able to answer whether the government has or has not done any study or had any correspondence with some of these municipalities as to how much this is actually going to cost, how much money in the budget, if they were planning—hopefully, everybody's got their budget fairly close to done, but there are some municipalities that are still working on this year's budget. When this gets implemented, what do they need to put in their budget to cover the cost of putting something like that in?

That's something, as you're passing the bill—and you just voted not to let it be phased in, so when it passes and it gets royal assent, they have to start working on getting it done. So they need to put it in. I would think that the government, as they were preparing this—that somebody in our masses of people in the audience here, of the people who prepared this bill, would have looked and said, "Well, how much is this going to cost the municipal sector generally and how much is that going to come to for the little municipality that's 1,200 people, when they have to hire a commissioner who, at anyone's whim, has to start work on one of those 1,200 people and do an investigation because somebody called?"

I can say, going back to the other motion—not that I'm doing that, Mr. Chair—but going back to that, the people who are being investigated, getting nothing for their services and then finding out that they have to pay a whole bunch of money to defend themselves because somebody at the same meeting got angry with them and decided to report something that needed investigation—here we are. They're in big trouble, and they were just volunteering for their community. I would think, big picture, somebody should have had some idea of how much money it was going to cost to put this in place.

The Chair (Mr. Peter Tabuns): Mr. McMeekin.

Mr. Ted McMeekin: I think there are a couple of very good generic points that are being made.

One could respond by saying, "When was it never thus?" Municipalities are children of the province, and all governments—I can think of when I was the mayor of Flamborough and there was another party in power. There were all kinds of things that came down, including "Poof, you're gone." You know, talk about decisions that had financial implications without—

Mr. Lou Rinaldi: What about roads?

Mr. Ted McMeekin: Roads were downloaded, social housing. There were things that happened—and, by the way, I wasn't keen to see those happen. But the reality was, we got called to Queen's Park one day, the first time I met the Honourable Mr. Gilchrist. He walked in ostensibly to have a consultation and said, "This, this, this and this are going to happen. Thank you all for coming," and got up and walked out of the room.

Mr. Percy Hatfield: So that's where you learned how to do it.

Mr. Ernie Hardeman: He's paying him back.

Mr. Ted McMeekin: No. We have not forcibly, as a government, amalgamated any municipality in Ontario without the consent of any two municipalities, without the consent of municipalities, just for the record. It's our policy.

That having been said, it was AMO that suggested to us, could we build into this process municipalities jointly hiring these commissioners? We agreed that made sense. One municipality in Ontario I think only has seven people in it. If the other six get mad at the one, you're going to have—anyhow, all that aside, you could jointly do that.

I would respectfully suggest, Mr. Chairman—I'm told, and I hope this is true, that there is a provision in a later amendment that the government intends to make to

narrow the scope somewhat of what the accountability and integrity commissioner can do. I don't think someone in Japan who has no direct interest, or, frankly, somebody from outside of the municipality where the complaint is being made who may not like your brother or something, should have the right to launch appeals. I don't think the integrity commissioner should have the authority to go off on his or her own on some subject that may be of interest to them. If these people are on contract, it might stand to reason—I don't want to suggest this is true, but it might stand to reason—that they might want to make work for themselves. So I think we need to be very careful about that scope, Lou, as we go forward, and make sure we're not building into the system the very kinds of abuses which on a good day all of us would pledge to try to be rid of.

I understand there are some other amendments that will narrow that. I don't think somebody in Toronto, unless there's a very specific sort of focus, should be launching some kind of integrity challenge against my mayor in Hamilton. Right?

Anyhow, I've said what I want to say.

The Chair (Mr. Peter Tabuns): Thank you, Mr. McMeekin. I've got Mr. Hatfield and then I have Mr. Hardeman.

Mr. Percy Hatfield: In direct response—I suppose it was when I mentioned that somebody from Japan could very well do it. Until we get to that point, until we get to the narrowing of the provisions, right now they can, under what's in front of us. We saw what happened, or we believe we saw what happened, in the last election in the United States of America with people in Russia having an impact on the election. If they can impact an election in the United States of America, surely—don't call me Shirley—they can have some kind of an impact, if they so choose, by putting in complaints against anybody in Ontario.

Until we get to that point, until we narrow that focus, with what we have in front of us right now, any person anywhere in the world can file a complaint with an integrity commissioner for any municipality in Ontario, as I understand the bill as it is currently written—until we get to that point later on, at some point in the next day or two, or month or more. It all depends, I'm sure.

The Chair (Mr. Peter Tabuns): I'll go to Mr. Hardeman and then back to Mr. McMeekin.

Mr. Ernie Hardeman: I agree with Mr. Hatfield. The way the bill was prepared, it says that anyone can do it, any person. Again, as I look through it, I agree with the member that hopefully we'll be looking at some alternatives that will define that down.

I just want to get back to the pricing. We mentioned that this here allows, as AMO asked, the two or three or whatever people to work together with one integrity commissioner. The member opposite said that they are going to be scoping the responsibility for the integrity commissioner down. I'd like to know whether there is anybody who has done any work on how big a money pot we were talking about before, how much we hope to scope it down, and why we're doing that. Somebody must have looked at it and said, "The way we have it now is going to be too costly." What was too costly and what can they expect to get to now?

The Chair (Mr. Peter Tabuns): I've got Mr. McMeekin and then Mr. Rinaldi.

Mr. Ted McMeekin: I'll pass. I've made my point, Mr. Chair.

The Chair (Mr. Peter Tabuns): Okay. Mr. Rinaldi.

Mr. Lou Rinaldi: I'm not sure what numbers the member wants to hear. We don't know if there are going to be any claims. Do you want to hear $1 million, $2 million, $100, $200? There are no claims. There are a lot of municipalities that don't have any claims.

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All I'm saying to the member is, you want us to speculate on what might never happen. Some will happen, and the scope for each one, I'm sure, will be, in many cases, different. We heard those folks who made a presentation here a couple of weeks ago. So I'm not sure what fishing expedition the member is on, because it will be pretty difficult to peg a number on any one of 444 municipalities in this province that this is what you're going to spend on the integrity commissioner, that this is what it's going to cost you.

I would say to the member, as I said before, the province provides a number of supports. In some of them, it's direct transfer, which the municipalities are able to use at their will. We'll leave that up to them.

The Chair (Mr. Peter Tabuns): Mr. Hardeman.

Mr. Ernie Hardeman: The more I get an explanation, the more worried I get.

The parliamentary assistant says, "There will be municipalities that don't have any claims, but we still want them to have at least half an integrity commissioner on staff." Well, that person being on staff isn't going to be there for free, for no claims. So you must have some idea how much you're imposing upon municipalities. Incidentally, that's a question that AMO wanted answered.

The Chair (Mr. Peter Tabuns): Any further discussion? If there's no further discussion, people are ready for the vote?

Mr. Ernie Hardeman: Recorded vote.

The Chair (Mr. Peter Tabuns): A recorded vote has been requested.

Ayes

Coe, Dhillon, Hardeman, Hatfield, Mangat, McMeekin, Rinaldi.

The Chair (Mr. Peter Tabuns): None opposed? It is carried.

We go now to PC motion 5, in schedule 1 of subsection 19. Mr. Coe.

Mr. Lorne Coe: I move that section 223.3 of the Municipal Act, 2001, as set out in subsection 19(2) of schedule 1 to the bill, be amended by adding the following subsections:

"Indemnity

"(2.0.1) A municipality shall indemnify the commissioner for any liability arising from an act done in good faith in the execution of the commissioner's duties or from any neglect or default in the execution in good faith of those duties.

"Immunity

"(2.0.2) No proceeding shall be commenced against the commissioner or any person employed in his or her office for any act done or omitted in good faith in the execution or intended execution of his or her duties under this act."

The Chair (Mr. Peter Tabuns): Mr. Coe, did you want to speak to that?

Mr. Lorne Coe: Yes, I will. Thank you, Chair. The basis for this amendment originates in some of the delegations that we had, in particular from Halton region, AMO, ROMA, and Suzanne Craig, the integrity commissioner for various municipalities. Interestingly, Ms. Craig, the integrity commissioner for Vaughan, shared with us a document which was a proceeding against her. This is the basis for part of what we have here, going forward.

The protection would allow integrity commissioners to do their jobs without putting themselves at personal financial risk, which is, again, another aspect that we heard both from the integrity commissioner of Toronto and from others who appeared before this committee. I think it's a reasonable expectation. None of us would want to be placed in that particular circumstance.

The government amendment on this issue, 6.0.1, does not grant immunity, and I'm perplexed by that. It appears that the government believes that section 448 would prevent proceedings against an integrity commissioner. However, as I read that, that particular part has proven not to be true when you juxtapose that to what I related in terms of Ms. Craig and her experience as the integrity commissioner of Vaughan.

There's a gap here that we believe this amendment would fill and respond directly to the testimony before this committee, in particular from those who are experts in this field: those who are practising as integrity commissioners, have lived the experience and have been very clear in what their expectations are on how we, as legislators, can address that going forward.

The Chair (Mr. Peter Tabuns): Mr. Hatfield.

Mr. Percy Hatfield: I fully support the motion. I see it as quite similar to something I proposed earlier and that was ruled out of order. So I'm just wondering why this one is in order and my previous motions on a similar topic were ruled out of order.

The Chair (Mr. Peter Tabuns): Because this is in the correct point in the bill.

Mr. Percy Hatfield: Thank you, Chair.

The Chair (Mr. Peter Tabuns): Anytime, Mr. Hatfield. Mr. Rinaldi.

Mr. Lou Rinaldi: I have to catch my momentum here.

The member is quite right in his explanation that there is a motion from the government a couple of motions down in our book here, and he's quite right that there's a section that's not quite the same. I would let the member know that section 448 of the Municipal Act already provides officers of the municipality with immunity from certain proceedings, so it's already part of the Municipal Act.

The Chair (Mr. Peter Tabuns): Mr. Hardeman.

Mr. Ernie Hardeman: We likely should get somebody from the legal branch to come and speak to this. I think there seems to be a difference here. Section 448 indemnifies employees of the municipality, but integrity commissioners are not employees of the municipality, so there's a challenge there.

That's what happened when the integrity commissioner of Vaughan shared with us the court document from the proceedings against her. It was dismissed because the court found that there was no merit to the complaint, not because of section 448. In her presentation she believed that if there had been merit to the complaint, it would have proceeded in spite of section 448.

Also, Robert Marleau, integrity commissioner for the city of Ottawa, said, "Integrity commissioners are not officers of council. They report to council as independent oversight arbitrators. As such, there is a considerable doubt that immunity section 448 of the Municipal Act of 2001 applies or is sufficient to protect the integrity commissioners from suffering considerable legal costs in defending their actions when under judicial review."

I think there's enough information there to suggest that just accepting that section 448 will cover the bill—I think this doesn't hold true with those two comments from two people practising in the field who have both agreed.

Now, remembering that there is special legislation for the officers of the Legislature for exactly the same reason: because they are not civil servants, they are servants of the Legislature. There's a different category there. The only way to protect independence for that integrity commissioner is to make sure that they are not servants of the council. If they do that, they're not covered by the indemnity.

I think that's why this motion is such a good idea.

The Chair (Mr. Peter Tabuns): Mr. Rinaldi.

Mr. Lou Rinaldi: A lawyer I'm not, so I'm going to ask staff to maybe clarify that.

The Chair (Mr. Peter Tabuns): Okay. Please have a seat and identify yourself for Hansard before you begin.

Ms. Carolyn Poutiainen: Hi, I'm Carolyn Poutiainen. I'm counsel with the ministry.

First, the point about whether or not integrity commissioners would be officers and therefore even covered at all under section 448: Yes, it is our position that they would be covered. For example, there is case law in the MFIPPA context where officers such as the integrity commissioner have been held to be officers.

I think the question you're asking about the Vaughan proceedings when—if section 448 is there, then how can

a proceeding even be brought against someone in the first place? Well, that's where the indemnity proposed by government motion 6.0.1 would come in.

So, section 448 alone can't stop someone from bringing a legal action against an officer such as the integrity commissioner. If someone does bring litigation, what will be debated is whether or not the officer acted in good faith in the course of their duties, which is the language in section 448. The problem is you won't know if they were acting in good faith until the conclusion of the litigation, which could take some time. That's what the indemnity proposed by the government would be doing. So, if the integrity commissioner is out-of-pocket—as you know, a legal proceeding can take some years—then this would provide some protection in that situation. Then, at the end of the proceedings, basically you would determine whether the commissioner was indeed acting in good faith and, therefore, entitled to the protection of section 448.

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The Chair (Mr. Peter Tabuns): Mr. Hardeman.

Mr. Ernie Hardeman: Thank you very much for the explanation. The government amendment you're speaking of, and what it will do, is the amendment we haven't dealt with yet? So if that one failed, we'd be in trouble?

Ms. Carolyn Poutiainen: There would be no indemnity provided in the statute.

Mr. Ernie Hardeman: Okay. You're suggesting the difference between the two is that this amendment is—that they did it in good faith, prior to being able to be indemnified?

Ms. Carolyn Poutiainen: If there is an action against an integrity commissioner, what will be debated is, "Oh, did you actually act in good faith? Are you entitled to the section 448 protection?" You only know whether they're entitled at the end of litigation, at which point costs will have been incurred.

Mr. Ernie Hardeman: So if you take the good faith out, then you're always covered?

Ms. Carolyn Poutiainen: I don't quite understand the question.

Mr. Ernie Hardeman: I'm trying to get my mind around the difference between the two. Obviously, we haven't gotten to the other one yet, but since it was brought up, I find it difficult not to discuss the two together.

But if we're going to indemnify the officer in the government motion and, in your opinion, that's a better indemnification than we have in this one, that being because in this one, they have to prove they did it in good faith—

Ms. Carolyn Poutiainen: Both motions refer to good faith.

Mr. Ernie Hardeman: Okay. Then what is the difference?

Ms. Carolyn Poutiainen: One difference is, in the motion we're discussing, motion 5, "A municipality shall indemnify the commissioner for any liability arising" and so on, whereas the indemnity in 6.0.1—I'm aware we haven't quite gotten there yet—is that the indemnity shall be for "defence of proceedings." It's more scoped.

Mr. Ernie Hardeman: The government one is less coverage?

Ms. Carolyn Poutiainen: In motion 5, "any liability" is any liability at all. Motion 6.0.1 is providing some clarity about what we are even talking about here. What kind of indemnity is the commissioner entitled to? It's providing some clarity about the municipal obligation to indemnify.

Mr. Ernie Hardeman: Am I wrong, then, in saying that in fact there's going to be selective indemnity in the government's motion, that it might not be covered because it wasn't anything?

Ms. Carolyn Poutiainen: They're providing more direction on what the municipality shall do. As far as the nuts and bolts of the actual agreement, that would be worked out between the municipality and the commissioner, in detail. This is just the general obligation versus the nuts and bolts. That would be done separately in an agreement.

Mr. Ernie Hardeman: I guess, so I can understand it—if I was an integrity commissioner, I would not be completely indemnified from anything arising out of the job I did.

Ms. Carolyn Poutiainen: The nuts and bolts of monetary limits would be worked out in the agreement between the commissioner and the municipality.

Mr. Ernie Hardeman: No, I hadn't even gotten to the monetary. What is it that the government motion—we've come to the point that there's a difference between the two. What's the difference?

Ms. Carolyn Poutiainen: Well—

Mr. Ernie Hardeman: For the integrity commissioner. Were you present when the integrity commissioners presented to the committee?

Ms. Carolyn Poutiainen: No, I personally was not.

Mr. Ernie Hardeman: Okay. They were very concerned that because of the structure of their office, they were not independent enough and they were not indemnified. They asked for indemnification.

In answer to their request, is this motion more protection for the integrity commissioners, or less protection than the government motion?

Ms. Carolyn Poutiainen: It's open-ended. There are fewer words in motion 5. As to how it would be implemented, that would be up to the commissioner and the municipality to work it out. The commissioner would point to it and say, "Here's this obligation, but what does that actually mean when we translate it into the details?"

The Chair (Mr. Peter Tabuns): You had further questions, Mr. Hardeman?

Mr. Ernie Hardeman: Yes. I'd want to go, just quickly, back again and make sure we understand the weight of both of them.

You mentioned the integrity commissioner of Vaughan. Would her case have been covered by the government's motion?

Ms. Carolyn Poutiainen: I'm not familiar with the details of that case, but just to your point about the

government motion, it's referring specifically to costs reasonably incurred in connection with defending themselves for a proceeding.

Mr. Ernie Hardeman: The integrity commissioner from the city of Ottawa said that integrity commissioners are not officers of council. Would you agree with that?

Ms. Carolyn Poutiainen: As I stated previously, it's my view that integrity commissioners are officers of a municipality.

Mr. Ernie Hardeman: You're suggesting they are officers. The integrity commissioner of Ottawa says they're not.

Ms. Carolyn Poutiainen: Yes.

Mr. Ernie Hardeman: Okay. They report to council as independent oversight arbitrators. As such, there is considerable doubt that the immunity section 448 of the Municipal Act applies or is sufficient to protect the integrity commissioner from suffering considerable legal costs when defending their actions when under judicial review. Are you suggesting that that's not going to happen with the motion that the government is putting forward?

Ms. Carolyn Poutiainen: I described a situation where, as officers, section 448 can apply if the commissioner was acting in good faith and performing their duties, and then the government motion would provide an indemnity to the commissioner in a situation where they have to defend themselves in a proceeding, yes.

Mr. Ernie Hardeman: One final question.

The Chair (Mr. Peter Tabuns): Yes. Please proceed.

Mr. Ernie Hardeman: There's one section, and I believe there is an amendment coming forward to more clearly define whether they are or are not an officer of council, at some point. If that was to succeed, that they are not an officer of council because of their independence—there was a presentation from one of the auditors that you can't be independent if you're hired and fired at the whim of council. Why would you ever come up with a nasty report for council if, right after, they can fire you with cause, because you caused them a lot of harm?

If that was to happen, would the government motion still protect them?

Ms. Carolyn Poutiainen: I'm not sure if I quite followed the legal question there.

Mr. Ernie Hardeman: You say they are an officer of council. If they weren't—

Ms. Carolyn Poutiainen: It's my position that they are officers of the municipality.

Mr. Ernie Hardeman: They're officers of the municipality.

Ms. Carolyn Poutiainen: Yes. Integrity commissioners are officers of the municipality.

Mr. Ernie Hardeman: But if they're not, if we change that—and we can change that. This committee can do all kinds of weird things. They can do a lot of things, right? They could pass a motion to say that they're not considered an officer of the council. Would the indemnity still protect them, in, the amendment?

Ms. Carolyn Poutiainen: The government motion 6.0.1 refers specifically to an indemnity to the commissioner, so yes.

The Chair (Mr. Peter Tabuns): Mr. Hatfield, you had questions?

Mr. Percy Hatfield: I know we're not at 6.0.1 yet, but it's a government bill. I'm just wondering, and I don't know if you can answer this or maybe Mr. Rinaldi, but earlier I tried to lump in ombudsmen or ombudspeople with auditors general and integrity commissioners, and it was ruled out of order. This proposed amendment just deals with integrity commissioners. Are we going to see more language coming for ombudspeople and auditors general, or is this just purely interested in integrity commissioners?

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Ms. Carolyn Poutiainen: If your question was about government motion 6.0.1, it's only referring to integrity commissioners.

Mr. Percy Hatfield: And my question is: Why is it so focused, so scoped, so restricted to just ICs?

The Chair (Mr. Peter Tabuns): I don't know if—

Ms. Carolyn Poutiainen: I think that was a policy choice.

The Chair (Mr. Peter Tabuns): Okay. That being the question, if Mr. Rinaldi wants to speak to that—don't go away; stay where you are. Mr. Rinaldi.

Mr. Lou Rinaldi: I think, once again, Mr. Hatfield, we're dealing with a particular piece of legislation that's very focused on the integrity—this section—on the integrity. If we want to talk about these others, that's for another piece of legislation. That's, I think, the reason for yours. We're not dealing with that. That was never part of the intent of this.

Mr. Percy Hatfield: Can I?

The Chair (Mr. Peter Tabuns): Yes, please proceed, Mr. Hatfield.

Mr. Percy Hatfield: I appreciate that. I only raised it, I guess, because everyone that came to us or wrote to us from the integrity commissioner field lumped all of the independent officers together and said, "We should all be treated equally. We all should be treated the same and we should all be indemnified, because we're all out there on a limb working for a municipality, but don't want to be sued for the work that we do in good faith on behalf of municipalities."

I see now that we're just dealing with integrity commissioners. There's nothing wrong with that, as long as, at some point, we would deal with the other independent officers in a similar fashion. If you don't want to put them all in the same amendment, then are you going to bring forth further amendments to deal with the other independent officers who face exactly the same conditions in their employment on behalf of a municipality?

Mr. Lou Rinaldi: If I may, very quickly.

The Chair (Mr. Peter Tabuns): Mr. Rinaldi.

Mr. Lou Rinaldi: That could be a possibility through another piece of legislation but is certainly not the intent on this piece of legislation.

Mr. Percy Hatfield: Thank you.

The Chair (Mr. Peter Tabuns): Mr. Hatfield, do you have further questions?

Mr. Percy Hatfield: I do not.

The Chair (Mr. Peter Tabuns): Fine. Thank you very much for your assistance.

Colleagues, we're back to amendment 5. Are people ready to vote?

Mr. Ernie Hardeman: Recorded vote.

The Chair (Mr. Peter Tabuns): A recorded vote has been requested.

Ayes

Coe, Hardeman, Hatfield.

Nays

Dhillon, Mangat, McMeekin, Rinaldi.

The Chair (Mr. Peter Tabuns): It is lost.

We go to PC motion 6: Mr. Coe.

Mr. Lorne Coe: I move that section 223.3 of the Municipal Act, 2001, as set out in subsection 19(2) of schedule 1 to the bill, be amended by adding the following subsection:

"Manner of carrying out functions

"(2.4) In carrying out his or her functions under subsection (1), the commissioner shall have regard to, among other matters, the importance of,

"(a) the commissioner's independence and impartiality;

"(b) confidentiality with respect to the commissioner's activities; and

"(c) the credibility of the commissioner's inquiries."

The Chair (Mr. Peter Tabuns): Did you want to speak to that, Mr. Coe?

Mr. Lorne Coe: Yes, thank you, Chair. What the amendment would do is have regard to the independence, impartiality and confidentiality of the functions. It applies the same requirements to the municipal integrity commissioner. What it's intended to do is to clarify and confirm the integrity commissioner's role as an independent officer and his or her relationship with the municipal council. This particular amendment was requested by the Association of Municipalities of Ontario, and, added to that, the Association of Municipal Managers, Clerks and Treasurers of Ontario as well, as part of their testimony to the members of this committee.

The Chair (Mr. Peter Tabuns): Further discussion? Mr. Rinaldi.

Mr. Lou Rinaldi: Thanks for the explanation, but I would say to the member that this provision is unnecessary. Integrity commissioners are already responsible for performing their functions in an independent manner and are subject to confidentiality provisions. I would suggest voting against it, Chair.

The Chair (Mr. Peter Tabuns): Further discussion? There being none, the committee is ready for the vote?

Mr. Percy Hatfield: Recorded vote.

The Chair (Mr. Peter Tabuns): Recorded vote requested.

Ayes

Coe, Hardeman, Hatfield.

Nays

Dhillon, Mangat, McMeekin, Rinaldi.

The Chair (Mr. Peter Tabuns): It has lost.

Mr. Percy Hatfield: Not by much.

The Chair (Mr. Peter Tabuns): Fair commentary, sir. Fair commentary.

We go to government motion 6.0.1. Mr. Rinaldi.

Mr. Lou Rinaldi: I move that section 19 of schedule 1 to the bill be amended by adding the following subsection:

"(3) Section 223.3 of the act is amended by adding the following subsections:

"'Indemnity

"'(6) A municipality shall indemnify and save harmless the commissioner or any person acting under the instructions of that officer for costs reasonably incurred by either of them in connection with the defence of a proceeding if the proceeding related to an act done in good faith in the performance or intended performance of a duty or authority under this part or a bylaw passed under it or an alleged neglect or default in the performance in good faith of the duty or authority.

"'Interpretation

"'(7) For greater certainty, nothing in this section affects the application of section 448 with respect to a proceeding referred to in subsection (6) of this section.'"

Chair, we talked about that in the previous submission, on amendment 5. Just to capture it again, it is important that the integrity commissioners be able to fulfill their duties without certain financial risks. This amendment responds to what we heard during the public hearings from stakeholders, including AMO and the integrity commissioners.

It is the government's view that section 448 of the Municipal Act already provides officers of the municipality with immunity from certain proceedings.

The Chair (Mr. Peter Tabuns): Thank you, Mr. Rinaldi.

Mr. Hatfield.

Mr. Percy Hatfield: It doesn't matter where a good idea comes from. I think the New Democrats had suggested this very similarly, not that long ago, as did the PCs. It doesn't go as far as I would have liked to have taken it, but thank you for taking our suggestions and putting that into your own language, and making that part of a government motion, a government amendment, taking the concept put forward earlier in the debate. I will be supporting your motion.

Mr. Lou Rinaldi: We take the middle road.

The Chair (Mr. Peter Tabuns): Further discussion? Mr. Hardeman.

Mr. Ernie Hardeman: I would agree. I think that this comes very close to what we were looking for just a few minutes ago in the debate. I thought that maybe the government, just to help my ego a little bit, would have accepted that there is so little difference between the two. If they had just accepted that, we might have gotten half of this bill done today, and now we're not going to, because of that.

I do want to check this; I'm sure it doesn't make any difference to Hansard. As the motion was being read, in the third line in "Indemnity," I think he said "related" as opposed to "relates." I say that, Mr. Chair, as I wanted to make sure he knew I was paying attention.

Mr. Lou Rinaldi: Well done. Chair, if it needs to be corrected, I will suggest that, to correct the record, to reflect that.

The Chair (Mr. Peter Tabuns): You're saying that the word is "relates"?

Mr. Lou Rinaldi: Correct.

The Chair (Mr. Peter Tabuns): Fine. Thank you very much.

Further discussion on this motion?

Mr. Lorne Coe: Recorded vote, please.

The Chair (Mr. Peter Tabuns): Recorded vote is requested.

Ayes

Coe, Dhillon, Hardeman, Hatfield, Mangat, McMeekin, Rinaldi.

The Chair (Mr. Peter Tabuns): None opposed. It is carried.

We now have the vote on section 19, as amended. Shall schedule 1, section 19, as amended, carry?

Mr. Ernie Hardeman: Recorded vote.

The Chair (Mr. Peter Tabuns): No. I had already asked, "Shall it carry?" You came too late. You did come too late this time.

1650

Mr. Percy Hatfield: What was the section and subsection?

The Chair (Mr. Peter Tabuns): Shall schedule 1, section 19, as amended, carry? I heard a chorus of "Carried," and then you said, "Recorded vote." You were too late.

Interjection.

The Chair (Mr. Peter Tabuns): No, I wasn't being—

Mr. Ernie Hardeman: Did you have to call a vote on it?

The Chair (Mr. Peter Tabuns): I asked if it was carried. If you had asked me at the beginning, when I said, "Is the committee ready to vote?", that's the best time, but when I've actually called for a vote and I'm hearing the voices of the members, that's too late, Mr. Hardeman.

So it is carried.

Now we go to schedule 1, section 20. There are no amendments. People are ready to vote? Shall schedule 1, section 20 carry? All those in favour?

Mr. Percy Hatfield: It's no longer needed.

The Chair (Mr. Peter Tabuns): So it has failed; it's lost.

Then we go on to schedule 1, section 21. We have NDP motion 6.1: Mr. Hatfield.

Mr. Percy Hatfield: Yes. I move that section 21 of schedule 1 to the bill be amended by adding the following subsection:

"(2) Subsection 223.4(5) of the act is repealed and the following substituted:

"'Penalties and remedial actions

"'(5) The municipality may impose any of the following penalties or remedial actions on a member of council or of a local board if the commissioner reports to the municipality that, in his or her opinion, the member has contravened the code of conduct:

"'1. A reprimand.

"'2. Suspension of the remuneration paid to the member in respect of his or her services as a member of council or of the local board, as the case may be, for a period of up to 90 days.

"'3. Removal from a council committee or local board committee or, in the case of a local board, removal from an officer position on the board.

"'4. A direction to apologize or make other amends to an aggrieved party, to the council of the municipality, to a local board or to the public.

"'5. Any other action the commissioner may recommend that is intended to remediate the circumstances.

"'Restriction

"'(5.1) For greater certainty, a municipality is not authorized to remove a member of council from office.'"

The Chair (Mr. Peter Tabuns): Did you want to speak to that, Mr. Hatfield?

Mr. Percy Hatfield: Very briefly, Chair. It was requested by the integrity commissioners, those who made presentations to us. It gives municipalities the ability to impose listed penalties for contraventions of codes of conduct.

The Chair (Mr. Peter Tabuns): Any further discussion? Mr. Rinaldi.

Mr. Lou Rinaldi: I think there are current provisions that already provide for an appropriate range of penalties for code-of-conduct violations. One is a reprimand; another is a suspension of pay that can range from zero to 90 days. It's up to council to decide whether they will sit on committees. So I would recommend not supporting this motion, Chair.

The Chair (Mr. Peter Tabuns): Further discussion? There being none—Mr. Hardeman?

Mr. Ernie Hardeman: Yes, Mr. Chair. I'm just wondering, for the mover of the motion, what—"Any other action the commissioner may recommend that is intended to remediate the circumstances"—might be.

The Chair (Mr. Peter Tabuns): Mr. Hatfield.

Mr. Percy Hatfield: I'm sure, in each individual case, it could well be—I'll just speak off the top of my head, of course, but it could be a written letter; it could be a letter to the aggrieved person; it could be a letter of apology written in the local paper. It could be any number of circumstances that the integrity commissioner may feel would be appropriate, above and beyond or below the more serious penalties that could be imposed.

The Chair (Mr. Peter Tabuns): Mr. Hardeman.

Mr. Ernie Hardeman: No, I'm fine.

The Chair (Mr. Peter Tabuns): You're done?

Mr. Percy Hatfield: I am.

The Chair (Mr. Peter Tabuns): Further discussion? There is none? You're ready for the vote? Okay. All those in favour of NDP motion 6.1? Opposed? It is lost.

We go now to government motion 6.2: Mr. Rinaldi.

Mr. Lou Rinaldi: I move that section 21 of schedule 1 to the bill be struck out and the following substituted:

"21. Section 223.4 of the act is amended by adding the following subsections:

"'Termination of inquiry when regular election begins

"'(7) If the commissioner has not completed an inquiry before nomination day for a regular election, as set out in section 31 of the Municipal Elections Act, 1996, the commissioner shall terminate the inquiry on that day.

"'Same

"'(8) If an inquiry is terminated under subsection (7), the commissioner shall not commence another inquiry in respect of the matter unless, within six weeks after voting day in a regular election, as set out in section 5 of the Municipal Elections Act, 1996, the person or entity who made the request or the member or former member whose conduct is concerned makes a written request to the commissioner that the inquiry be commenced.

"'Other rules that apply during regular election

"'(9) The following rules apply during the period of time starting on nomination day for a regular election, as set out in section 31 of the Municipal Elections Act, 1996, and ending on voting day in a regular election, as set out in section 5 of that act:

"'1. There shall be no requests for an inquiry about whether a member of council or of a local board has contravened the code of conduct applicable to the member.

"'2. The commissioner shall not report to the municipality or local board about whether, in his or her opinion, a member of council or of a local board has contravened the code of conduct applicable to the member.

"'3. The municipality or local board shall not consider whether to impose the penalties referred to in subsection (5) on a member of council or of a local board.'"

The Chair (Mr. Peter Tabuns): Thank you, Mr. Rinaldi. Did you wish to speak to that?

Mr. Lou Rinaldi: Sure. This amendment will limit certain integrity commissioner activities during the regular election period, including ensuring that code-of-conduct complaints can be brought forward to an integrity commissioner during that period.

This motion could help treat all candidates for municipal office in the same way during the municipal election period. It's only incumbents who could otherwise be subject to complaints during a regular election period.

The Chair (Mr. Peter Tabuns): Other commentary? Mr. Hatfield.

Mr. Percy Hatfield: Perhaps to legislative counsel: If you have terminated an inquiry, and then the election comes and there's a time period, and then somebody makes a written request to the commissioner "that the inquiry be commenced," should that not be "that an inquiry be commenced" or "that the inquiry be revisited" or "be continued"?

I don't believe the proper wording would be that the inquiry, which has already been terminated, be commenced. "Commenced" means "begin," as opposed to "restart."

You know what I mean? It's just technical. I think there's a word or two there that needs to be finessed somehow.

Ms. Susan Klein: You're reading subsection (8)?

Mr. Percy Hatfield: Yes, I am. Thank you.

Ms. Susan Klein: Okay. Probably the ministry would be better able to answer what they intend and whether it says what they intend.

The Chair (Mr. Peter Tabuns): Mr. Rinaldi, are you going to call someone from the ministry?

Welcome back to the table. Again, if you'd introduce yourself for Hansard.

1700

Ms. Carolyn Poutiainen: Hi. It's Carolyn Poutiainen, counsel with the ministry.

The question is about subsection (8) and the very last line, "the inquiry be commenced." The question was, should it be "an inquiry"? It's referring back to the second line: "the commissioner shall not commence another inquiry." So "the inquiry" is referring to the inquiry referred to in the second line of that subsection.

The Chair (Mr. Peter Tabuns): Mr. Hatfield, please.

Mr. Percy Hatfield: Carolyn, what I'm getting at is that if you terminate something—you don't commence it, you do something other than commence—you commence "a" new inquiry, as opposed to the one that's terminated.

Ms. Carolyn Poutiainen: Yes. To your question, that's addressed in the second line of the subsection, "commence another inquiry." So it's a new thing.

Mr. Percy Hatfield: Point me to that again?

Ms. Carolyn Poutiainen: "The commissioner shall not commence another inquiry."

Mr. Percy Hatfield: Right. "In respect of the matter," because it's been terminated "within six weeks after voting day," blah, blah, blah, "the person or entity who made the request or the member or former member whose conduct is concerned makes a written request to the commissioner that the inquiry"—the one that's been terminated; we're not going to start another one unless it's put in writing—"be commenced."

Ms. Carolyn Poutiainen: The reference that you're referring to, "the inquiry be commenced," is referring to

the inquiry referred to in the second line of the subsection: "the commissioner shall not commence another inquiry."

Mr. Percy Hatfield: I agree completely. Thank you.

The Chair (Mr. Peter Tabuns): Thank you for your assistance.

Further discussion? Mr. Hardeman.

Mr. Ernie Hardeman: I totally agree with this section. When we had the hearings, the presentation was quite explicit that under these circumstances, the legislation should direct the same as it does provincially, where the Integrity Commissioner does not report until after the election. How it's commenced or whether it's proceeded with is somewhat irrelevant, but I think the fact that it would not disrupt an election is a good move.

I wholeheartedly support this motion.

The Chair (Mr. Peter Tabuns): Mr. Hatfield.

Mr. Percy Hatfield: Let me say as well that I certainly agree wholeheartedly with this. You cannot have something hanging out there during an election. You cannot leave a certain, if you will, uncertainty out there. There are always those who believe in the conspiracy theory that if you want to damage somebody's reputation heading into an election, you launch some sort of an inquiry. Then the word gets out around the municipality, no matter how hard you try to keep it private and confidential, and they say, "Oh, Lou is up on charges. Better note vote for Lou again. You know Lou."

I agree 100% with this.

The Chair (Mr. Peter Tabuns): I don't see any indication of further discussion. Are members of the committee ready for the vote? All those in favour, please indicate. Those opposed? It is carried.

With that, we go to the vote on section 21 as a whole. Are we ready to go to the vote? Shall schedule 1, section 21, as amended, carry? It is carried.

We go now to PC motion number 7 in section 22. Mr. Hardeman.

Mr. Ernie Hardeman: I move that subsection 223.4.1(2) of the Municipal Act, 2001, as set out in section 22 of schedule 1 to the bill, be struck out and the following substituted:

"Application

"(2) Subject to subsection (2.1), the following persons may apply in writing to the commissioner for an inquiry to be carried out concerning an alleged contravention of section 5, 5.1 or 5.2 of the Municipal Conflict of Interest Act by a member of a council or a member of a local board of the municipality:

"1. A ratepayer.

"2. A person who would be entitled to be an elector under section 17 of the Municipal Act, 1996 at an election held in the municipality at the time of the application.

"3. A person who operates a business in the municipality or a business that provides goods or services to the municipality.

"Exception

"(2.1) An application may not be made in respect of a member who has been nominated for an office on the council of a municipality."

The Chair (Mr. Peter Tabuns): Mr. Hardeman, I didn't hear you say "Municipal Elections Act"; I heard you say "Municipal Act" in paragraph 2. You did mean the Municipal Elections Act, 1996?

Mr. Ernie Hardeman: Yes, the Municipal Conflict of Interest Act.

The Chair (Mr. Peter Tabuns): No, the Municipal Elections Act, 1996, in paragraph 2.

Mr. Percy Hatfield: You just didn't say "Elections" when you were reading it out.

Mr. Ernie Hardeman: Oh, the Municipal Elections Act. Okay. Thank you.

The Chair (Mr. Peter Tabuns): You did mean "Elections"? Okay, good.

Mr. Ernie Hardeman: Yes, that's what I meant.

The Chair (Mr. Peter Tabuns): Okay. Would you like to comment?

Mr. Ernie Hardeman: Yes. This amendment would limit the people who could bring forward a complaint to the integrity commissioner to people who have a connection to the municipality, specifically an elector, a ratepayer or a person who is either operating a business or doing business with the municipality.

It would also prevent applications being filed during elections.

It would prevent people with no connection to the municipality filing frivolous complaints or an individual filing complaints in municipalities across Ontario. Even though these complaints might be dismissed, there is still a cost to the municipality and the reputation of the councillors if they are filed.

The clearer definition of who can file an application will help avoid costly disputes for both councils and the integrity commissioners. Preventing the application from being filed during the election period ensures that the integrity commissioner investigations are not used as political tools during the election.

During her presentation, Lynn Dollin said, "It should be somebody doing work within the municipality, somebody directly involved that has a stake in the game as opposed to somebody from another country who could decide that they wanted to question this."

During his presentation, Patrick Daly, president of the Ontario Catholic School Trustees' Association, said, "Allowing persons from outside the board's or a municipality's jurisdiction to apply to a judge for a potential violation of the act would invite many frivolous and vexatious claims to be made against a school board's trustees."

That's why this was put forward: to address that issue, to clearly define who would be eligible to lay a complaint.

The Chair (Mr. Peter Tabuns): Any further discussion? Mr. Rinaldi.

Mr. Lou Rinaldi: Although I agree with the member, the government has proposed a motion respecting who is

eligible to bring forward Municipal Conflict of Interest Act applications to an integrity commissioner. I would say that the government motion is more consistent with Justice Cunningham's recommendations as part of the Mississauga inquiry regarding who can put forward complaints regarding the Municipal Conflict of Interest Act. Ours will be more consistent with what is already happening, so I propose voting against this here and voting for the government motion further down the road.

The Chair (Mr. Peter Tabuns): To Mr. Hatfield, and then back to Mr. Hardeman.

Mr. Percy Hatfield: I'll be supporting the motion. I'll probably end up supporting the government motion on it as well, because it's very important, as we've talked about earlier today. When you indicated that you would be bringing something forward, I didn't know at the time that you were talking about yours as opposed to the PC motion, but I'll wait and decide at the time we read and hear your motion, and I'll let you know my opinion on whether it's any better than the one I just heard, because this one is pretty good.

The Chair (Mr. Peter Tabuns): Mr. Hardeman?

Mr. Ernie Hardeman: I think I'm somewhat in the same boat as Mr. Hatfield. I think it's a bit of a challenge here when we keep running into somebody else having another motion coming up that will do similar things, only better, and then when we get there we find out it wasn't better. Maybe if I could ask the parliamentary assistant: He said that there were some areas in his motion that we're going to be dealing with in the future—that his motion had some areas that covered these situations better than this one. I wondered what they were.

The Chair (Mr. Peter Tabuns): Discussion? Mr. Rinaldi.

Mr. Lou Rinaldi: I would just add that I'm not prepared to debate the motion. All I said in my explanation before was that our motion would be more consistent with Justice Cunningham's recommendations as part of the Mississauga inquiry. There's some track record, so our motion will be more in line with his recommendations when he was dealing with the inquiry in Mississauga.

The Chair (Mr. Peter Tabuns): Mr. Hardeman.

1710

Mr. Ernie Hardeman: What recommendations did Justice Cunningham make on this issue?

The Chair (Mr. Peter Tabuns): Further discussion? Mr. Rinaldi?

Mr. Lou Rinaldi: I believe, Chair, we'll have to wait until we get to that motion. We're debating this motion right now.

The Chair (Mr. Peter Tabuns): Any further discussion? If there's no further discussion, the committee is ready for the vote. All those in favour of PC motion number 7, please indicate. All those opposed? It is lost.

We go to PC motion number 8: Mr. Hardeman.

Mr. Ernie Hardeman: I move that section 223.4.1 of the Municipal Act, 2001, as set out in section 22 of schedule 1 to the bill, be amended by adding the following subsections:

"Exception

"(2.2) Despite subsection (2), a commissioner shall not conduct an inquiry if the commissioner is of the opinion that,

"(a) a person applied under subsection (2) in bad faith or for reasons that are frivolous or vexatious; or

"(b) the application does not contain a sufficient basis on which to conduct an inquiry.

"Same

"(2.3) The commissioner shall publish brief reasons for a decision under subsection (2.2)."

The Chair (Mr. Peter Tabuns): Further discussion? Mr. Hardeman.

Mr. Ernie Hardeman: This would allow an integrity commissioner to dismiss complaints that are frivolous or vexatious rather than being forced to spend taxpayers' money to investigate them. The integrity commissioner would still be required to publish the reason for their decision.

This amendment was requested by AMO. As Lynn Dollin said at committee:

"We also believe it is wise to include in the act, for the public's clear understanding, that an" integrity commissioner "has the authority to find a complaint frivolous, vexatious or not made in good faith, or that there are insufficient grounds for an inquiry. While an" integrity commissioner "can make this finding, it should be set out in the bill, as it is in your act, as well as other pieces of legislation like the Planning Act."

The Chair (Mr. Peter Tabuns): Any further discussion? Mr. Rinaldi.

Mr. Lou Rinaldi: The municipalities and the integrity commissioners already establish their own processes for deciding which matters to investigate and whether a matter is frivolous, vexatious or otherwise inappropriate to investigate as part of the process. Municipalities and integrity commissioners are in the best position to determine local processes for dealing with complaints and investigation processes, including with regard to frivolous, vexatious or complaints made in bad faith. I recommend voting against this motion.

The Chair (Mr. Peter Tabuns): Further discussion? Mr. Hardeman.

Mr. Ernie Hardeman: I'm not disagreeing that the integrity commissioner already knows how to do the job that they've been assigned to do; my concern is that the public does not. I think it's very important that the act, as they look at dealing with filing a complaint—that they know exactly what would happen to that complaint rather than have to find out, going partway through the process, that they wonder why nothing is happening, and then finally they find out that's because the integrity commissioner didn't take it to be a serious case so they haven't done anything with it.

I think the act should be very clear. This isn't an act to tell the integrity commissioner what to do; this part of the act is to have the public know what to expect when they

file a complaint with the integrity commissioner. I think it would be of great assistance to our community and our people as to what could happen if they file a frivolous complaint or anything else. Except for the extra paper that it would take in the book, I see absolutely no harm in having a section like this to have people understand what it means to file a petition to the integrity commissioner.

The Chair (Mr. Peter Tabuns): I see no further discussion. Committee is ready for the vote?

Mr. Ernie Hardeman: Recorded vote.

The Chair (Mr. Peter Tabuns): A recorded vote is requested.

Ayes

Coe, Hardeman, Hatfield.

Nays

Dhillon, Mangat, McMeekin, Rinaldi.

The Chair (Mr. Peter Tabuns): The motion loses.

We go now to PC motion number 9: Mr. Hardeman.

Mr. Ernie Hardeman: I move that subsection 223.4.1.(3) of the Municipal Act, 2001, as set out in section 22 of schedule 1 to the bill, be struck out and the following substituted:

"Timing

"(3) Subject to subsection (3.1), an application may only be made within six weeks after the applicant became aware of the alleged contravention.

"Same

"(3.1) If the applicant became aware of the alleged contravention after the member was nominated for an office on the council of a municipality, or, less than six weeks before the nomination, an application may be made within six weeks after the close of voting on voting day for the election for which the member has been nominated."

The Chair (Mr. Peter Tabuns): Thank you, Mr. Hardeman. Did you want to speak to that?

Mr. Ernie Hardeman: Yes. Since 6.2 passed, I withdraw this motion.

The Chair (Mr. Peter Tabuns): You withdraw? Withdrawn.

That takes us to government motion 9.1: Mr. Rinaldi.

Mr. Lou Rinaldi: I move that subsections 223.4.1(1) to (4) of the Municipal Act, 2001, as set out in section 22 of schedule 1 to the bill, be struck out and the following substituted:

"Inquiry by commissioner re s. 5, 5.1 or 5.2 of Municipal Conflict of Interest Act

"(1) This section applies if the commissioner conducts an inquiry under this part in respect of an application under subsection (2).

"Application

"(2) An elector, as defined in section 1 of the Municipal Conflict of Interest Act, or a person demonstrably acting in the public interest may apply in writing to the commissioner for an inquiry to be carried out concerning an alleged contravention of section 5, 5.1 or 5.2 of that act by a member of council or a member of a local board.

"No application for inquiry during regular election

"(2.1) No application for an inquiry under this section shall be made to the commissioner during the period of time starting on nomination day for a regular election, as set out in section 31 of the Municipal Elections Act, 1996, and ending on voting day in a regular election, as set out in section 5 of that act.

"Timing

"(3) An application may only be made within six weeks after the applicant became aware of the alleged contravention.

"Exception

"(3.1) Despite subsection (3), an application may be made more than six weeks after the applicant became aware of the alleged contravention if both of the following are satisfied:

"1. The applicant became aware of the alleged contravention within the period of time starting six weeks before nomination day for a regular election, as set out in section 31 of the Municipal Elections Act, 1996, and ending on voting day in a regular election, as set out in section 5 of that act.

"2. The applicant applies to the commissioner under subsection (2) within six weeks after the day after voting day in a regular election, as set out in section 5 of the Municipal Elections Act, 1996.

"Content of application

"(4) An application shall set out the reasons for believing that the member has contravened section 5, 5.1 or 5.2 of the Municipal Conflict of Interest Act and include a statutory declaration attesting to the fact that the applicant became aware of the contravention not more than six weeks before the date of the application or, in the case where an applicant became aware of the alleged contravention during the period of time described in paragraph 1 of subsection (3.1), a statutory declaration attesting to the fact that the applicant became aware of the alleged contravention during that period of time."

The Chair (Mr. Peter Tabuns): Would you like to comment, Mr. Rinaldi?

Mr. Lou Rinaldi: Sure. This motion would provide a consistent approach with what was proposed in a previous motion, 6.2, to provide that integrity commissioners cannot receive a code-of-conduct complaint between nomination day and voting day in the year of a regular municipal election. This will ensure that only those who have an interest in the municipality are acting in the public interest in bringing forward applications to the integrity commissioner regarding Municipal Conflict of Interest Act matters. Further, the integrity commissioner will not be able to receive complaints during the regular election period, but complaints could be brought forward after voting day. This would limit an individual's ability to be able to use Municipal Conflict of Interest Act complaints as a tool for political purposes during the regular election period.

1720

The Chair (Mr. Peter Tabuns): Further comments? Mr. Coe.

Mr. Lorne Coe: I appreciate the intent of the amendment. Where this turns for us is, to take us back to the testimony that we heard from Mr. Daly, the president of the Ontario Catholic School Trustees' Association—it resonated with me, and I'm sure it did with you as well. I'll quote what he had to say, just the main extract from that testimony which I think is important to highlight: "Allowing persons from outside the board's or a municipality's jurisdiction to apply to a judge for a potential violation of the act would invite many frivolous and vexatious claims to be made against a school board's trustees."

We've got several members of municipal councils here, and we all served for a long time, and with distinction. We know that those types of claims happen. We know they happen.

When I look at this particular amendment, I think it's unnecessarily vague. I think it needs to be more precise. I think we believe that anyone with a connection to the municipality, such as those who live there, those who own property and can vote there, and those who do business in or with the municipality should have the right to ask for an inquiry. I think that's a reasonable approach. You know that, as a former mayor. Certainly Mr. Hardeman does, in his capacity as well, and as well Mr. McMeekin.

We all know that that's the general intent and what we'd like to see happen, so I'm a bit perplexed about the degree of vagueness that has entered into this particular motion. I listened carefully to Mr. Rinaldi's explanation, but I think I'd like to understand a little bit more of the nuance and subtext of what you're proposing because it's a little bit unclear to me right now, based on the testimony we heard and where we are this afternoon. So I seek some clarity through you, Chair.

The Chair (Mr. Peter Tabuns): Mr. Rinaldi.

Mr. Lou Rinaldi: I thought I was pretty clear, but I'll try it again. This will ensure that only those who have an interest in the municipality or are acting in the public interest can bring forward applications to the integrity commissioner regarding Municipal Conflict of Interest Act matters. I'm not sure how much more clear than that I can be. Somebody has to have an interest in what their complaint is.

The Chair (Mr. Peter Tabuns): Mr. Hardeman and then Mr. Hatfield.

Mr. Ernie Hardeman: Again, I want to go back to the "identified as a person with an interest." How do we define that interest? Do we have a definition somewhere in the bill that deals with how you would define that person, or does it stay as broad as it is presently before this amendment that it could be anyone from anywhere?

Mr. Lou Rinaldi: My belief is that somebody has to have an interest. Who determines that is part of the process. I don't think we want to put anybody in a straitjacket to confine them in a very closed box because, as you know and I would know and most of us would know, issues differ. So I would say, referring to Mr. Hatfield earlier on today, when he said, "Somebody from Japan could just send an email that says, 'I don't like Ernie Hardeman running for mayor.'" I think that's pretty simple, but if somebody has an interest—for example, in the past—I had been self-employed pretty well all of my life. If I had a business in another municipality and the council's decisions impacted my business, although I don't live there I think I should have an interest and I should be able to take some action or initiate some action.

I'm not sure it's going to be too hard to define because circumstances do differ. So I think you need some flexibility on how you define that person.

The Chair (Mr. Peter Tabuns): Mr. Hardeman.

Mr. Ernie Hardeman: I guess my challenge that I'm having is that I think you and I understand the connections of what it should be, so "a person with an interest"—we can figure out who that should be. But can the average citizen on the street or the average integrity commissioner under the interpretation of the strict law—is there anything in the bill that defines what a person with sufficient interest is, to be eligible to complain? Could it be just somebody who came from another province or another country and says, "I don't like the way things happened in that issue that has nothing to do with me, but I just heard that my brother-in-law had a problem, and so I'll send a complaint"?

The Chair (Mr. Peter Tabuns): Mr. Rinaldi?

Mr. Lou Rinaldi: I think that if there was an interest, that interest would be defined. I used the example before that Mr. Hatfield brought to the table: Somebody sends an email from Japan or Timbuktu or three doors down the road. They just cannot say, "I don't like Mr. Rinaldi running for mayor." I would think that good judgment would prevail. I'm not sure how defined you want to make it. You have to have an interest.

The Chair (Mr. Peter Tabuns): Mr. Coe?

Mr. Lorne Coe: To that point: You look at the particular amendment and the amendment in the application. I think, at the beginning of (2): "An elector, as defined in section 1 of the Municipal Conflict of Interest Act," is clear. It's delineated. Adding "or a person ... acting in the public interest" just adds a degree of vagueness unnecessarily. The clarity is already there.

The Chair (Mr. Peter Tabuns): Mr. Hatfield?

Mr. Percy Hatfield: I'll be supporting the amendment. I know what an elector is, and I know "a person demonstrably acting in the public interest." When I look at that definition, what I read into it is that you don't have to be an elector. You may live in a municipality and not be eligible for municipal voting—I believe that if you're a landed immigrant or if you're paying municipal taxes, even though you're not a Canadian citizen, you should be allowed to vote in a municipal election. Because you're sending your kids to school, you're using the transit system or you're using the public library system, you should have a say in how those are operated. Those

people who aren't electors, but who make up a good portion of our municipal residents: If they feel, even though they're not voters, that they want to bring something forward in the public interest, they should have a right to do so.

The other provision, of course, would be that if I live in Mississauga, but I sell stationery to the city of Toronto, and I'm having a problem with somebody that I sell my stationery to at city hall who is asking me for a kickback or whatever, I should be allowed—even though I'm not an elector within the confines of the city of Toronto, for example—to file or to raise that issue.

I don't look beyond that. I don't take the conspiracy beyond what I've just talked about, but I think this would cover some of those other possibilities. So I will be supporting the amendment.

The Chair (Mr. Peter Tabuns): Mr. Hardeman?

Mr. Ernie Hardeman: I agree that you need something more than just the electorate, but I think we need to be much more concise with "demonstrably acting in the public interest" when we don't even know: the public interest of the person and where they are, or the public interest as it relates to the person that he is applying to?

I totally agree with Mr. Hatfield's comments about, if somebody is doing business with someone in the municipality and there is a conflict and there are things that happen that shouldn't and that the integrity commissioner should look at, that person should have the right, regardless of where they're from, to deal with filing a complaint. But at the same time, if you don't define what that interest needs to be, then you do open it up that everybody thinks that they wouldn't file a complaint if they didn't have a demonstrable interest, even if it was just to see if they couldn't skew the election. Whatever reason they may have, they might think that's a demonstrable public interest from their perspective. So I think it should be much more clearly defined.

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The Chair (Mr. Peter Tabuns): Further discussion? The committee's ready to vote? All those in favour, please indicate. All those opposed? The motion is carried.

We go to government motion 9.2. Mr. Rinaldi.

Mr. Lou Rinaldi: I move that subsection 223.4.1(5) of the Municipal Act, 2001, as set out in section 22 of schedule 1 to the bill, be struck out.

The Chair (Mr. Peter Tabuns): Did you want to speak to that, Mr. Rinaldi?

Mr. Lou Rinaldi: Sure. Removing the integrity commissioner's role in conducting an investigation on their own initiative reflects what we heard during the public hearings and in consultation with stakeholders, including AMO and integrity commissioners.

The Chair (Mr. Peter Tabuns): Further discussion on this matter? Mr. Hatfield.

Mr. Percy Hatfield: I'm of the opinion that this amendment makes it clear that the integrity commissioner doesn't have to give notice that they have initiated an investigation. Is that correct?

The Chair (Mr. Peter Tabuns): Did you want to speak to that, Mr. Rinaldi?

Mr. Lou Rinaldi: I need clarification, please.

The Chair (Mr. Peter Tabuns): Welcome back. Again, if you'd introduce yourself for Hansard.

Ms. Carolyn Poutiainen: It's Carolyn Poutiainen, counsel for the ministry.

The question is about subsection (5) that's proposed to be struck out. This is just a consequential change to removing the "own initiative" investigations. It was proposed in the bill that the integrity commissioner would have to publish notice when they're conducting an "own initiative" investigation.

Mr. Percy Hatfield: Thank you.

The Chair (Mr. Peter Tabuns): Further questions? Further discussion? There being none, the committee's ready to vote? All those in favour of government motion 9.2? All those opposed? It is carried.

We go on now to PC motion 10.

Mr. Ernie Hardeman: Withdraw.

The Chair (Mr. Peter Tabuns): Withdrawn.

We go to government motion 10.0.1. Mr. Rinaldi.

Mr. Lou Rinaldi: I move that section 223.4.1 of the Municipal Act, 2001, as set out in section 22 of schedule 1 to the bill, be amended by adding the following subsections:

"Termination of inquiry when regular election begins

"(10.1) If the commissioner has not completed an inquiry before nomination day of a regular election, as set out in section 31 of the Municipal Elections Act, 1996, the commissioner shall terminate the inquiry on that day.

"Same

"(10.2) If an inquiry is terminated under subsection (10.1), the commissioner shall not commence another inquiry in respect of the matter unless, within six weeks after voting day in a regular election, as set out in section 5 of the Municipal Elections Act, 1996, the person who made the application or the member or former member whose conduct is concerned applies in writing to the commissioner for the inquiry to be carried out."

The Chair (Mr. Peter Tabuns): Did you want to comment on that?

Mr. Lou Rinaldi: Sure. This motion would help treat all candidates for municipal election in the same way during the municipal election period, as only incumbents could otherwise be subject to complaints during the regular election period. Integrity commissioners will still be able to fulfill other roles during the regular election period, including providing education and advice to members of council and the public.

The Chair (Mr. Peter Tabuns): Mr. Hatfield.

Mr. Percy Hatfield: Just a small point, Chair. In the interests of Hansard, I believe, when Mr. Rinaldi was reading, "Termination of inquiry when regular election begins," he said "before nomination day of a regular election" as opposed to "nomination day for a regular election." If that's important to Hansard, it should be noted.

The Chair (Mr. Peter Tabuns): Thank you.

Mr. Lou Rinaldi: I agree.

The Chair (Mr. Peter Tabuns): You accept that wording?

Mr. Lou Rinaldi: I accept.

The Chair (Mr. Peter Tabuns): Fine. Further discussion? Mr. Hardeman.

Mr. Ernie Hardeman: A question to the parliamentary assistant: Is this a subsequent amendment to 6.2, where it deals with similar issues?

Mr. Lou Rinaldi: Yes.

Mr. Ernie Hardeman: Thank you.

The Chair (Mr. Peter Tabuns): Further discussion? There being none, the committee is ready for the vote? All those in favour of government motion 10.0.1? All those opposed? It is carried.

We now go to government motion 10.0.2. Mr. Rinaldi.

Mr. Lou Rinaldi: I move that subsection 223.4.1(11) of the Municipal Act, 2001, as set out in section 22 of schedule 1 to the bill, be struck out and the following substituted:

"Timing

"(11) The commissioner shall complete the inquiry within 180 days after receiving the completed application, unless the inquiry is terminated under subsection (10.1)."

Chair, this motion would provide consequential changes related to government motion 3.5 to remove the integrity commissioner role to conduct the Municipal Conflict of Interest Act inquiries on their own initiative—that government motion 10.0.1 respecting termination of inquiry. So it's a follow-through.

The Chair (Mr. Peter Tabuns): Thank you, Mr. Rinaldi. Any further discussion? Mr. Hatfield.

Mr. Percy Hatfield: The 180 days has been problematic for me from the beginning. That's six months; that's half a year. Somebody launches an inquiry and it's hanging out there. Your name is in the clouds, if you will; your reputation is on the line. And rather than get it done in 90 days, to pick an example, we leave it out there for 180.

I think it's a matter where we should try to put some goal posts out there, that integrity commissioners have to get their work done in a timely fashion. I'm not trying to budget their work, but if they can do it in three months, you're going to pay them less than you're going to pay them if it takes six months. I'm not putting that out there as the argument, although I'm sure to some smaller municipalities that may very well be a determining factor in certain issues. But if somebody says something bad about you, files a complaint about you, and it hangs out there for half a year, that's a long time. As we know, a week in politics can be a lifetime, let alone six months.

Mr. Ted McMeekin: Or the first 100 days.

Mr. Percy Hatfield: Or the first 100 days, to talk about an election south of the border—or north of the border, as it is in Detroit for me.

Look, I support what it says, but I think that 180 days is problematic. If there's any suggestion somewhere down the road that you can shorten that, either through regulation or "up to" whatever it is—but just leaving it out there at 180 days for me is far too long.

The Chair (Mr. Peter Tabuns): Further discussion? Mr. Hardeman.

Mr. Ernie Hardeman: I, too, will be supporting the motion. Obviously, it's required. Since the integrity commissioners cannot do it on their own initiative because of other amendments, it would make sense to remove it from this section. I support it 100%.

But I also agree with my colleague there that 180 days is a long time. He didn't want to go so far as to say, "I'd like to see that changed," but this timing seems to be the perfect place to change it. If we're changing part of that paragraph, it would seem appropriate to reduce that to a more reasonable time. When you speak of rural and small-town Ontario, even more so than in larger centres, it doesn't take that long for somebody to get that done. If you give 180 days, everyone will assume that to earn their full keep, they should take over 180 days. I think 90 days would be long enough for any application that I've seen in my community. So I think this would be a good time, if the government would accept that, to put 90 days in there instead of 180.

The Chair (Mr. Peter Tabuns): Thank you, Mr. Hardeman. Mr. Rinaldi.

Mr. Lou Rinaldi: I don't disagree with both of the opposition comments, but I think the reality is it doesn't have to take 180 days. I've heard of some in the past where it was considerably less—actually, some in my own community where I live.

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But I would say that there could be some really complex cases, and if we shrink that time frame—that's only me speaking. I just want to be clear. If we shrink that time frame, if they're put under some pressure, they might skip some of the process. I'd rather have it done, and done right. But the reality is, not every complaint is going to take 180 days.

Once again, it's my belief that as we progress through this exercise, there will be competition on the integrity commissioner, especially for a smaller municipality, to take on a contract. I'm not sure the integrity commissioner is going to have carte blanche, and that's just my opinion.

The Chair (Mr. Peter Tabuns): Any further discussion? There being none, the committee is ready for the vote? All those in favour of government motion 10.0.2, please indicate. Those opposed? It is carried.

We go on now to NDP motion 10.1: Mr. Hatfield.

Mr. Percy Hatfield: I move that section 223.4.1 of the Municipal Act, 2001, as set out in section 22 of schedule 1 to the bill, be amended by adding the following subsection:

"Factors in determination

"(12.1) In exercising his or her discretion under subsection (12), the commissioner shall consider, among other factors, whether the subject matter of the inquiry could be appropriately addressed by the municipality under the code of conduct."

The Chair (Mr. Peter Tabuns): Please proceed, Mr. Hatfield.

Mr. Percy Hatfield: This was requested by the integrity commissioners. It relates back to motion 3.3. It allows the integrity commissioners to decide whether a Municipal Conflict of Interest Act contravention can be resolved quickly and cheaply by the municipality through the code-of-conduct process rather than through a judge and the courts. As we all know—we've heard it so many times, especially in the north and rural Ontario—the cost of these investigations can be onerous. But regardless of the cost, just to get it done in the most efficient fashion—if we can resolve it quickly and get it out of the way rather than send it to the courts and a judge, then we should do everything we can to make that feasible. I believe this amendment would do that.

The Chair (Mr. Peter Tabuns): Further commentary? Mr. Rinaldi.

Mr. Lou Rinaldi: Pecuniary conflict-of-interest rules are already addressed in the Municipal Conflict of Interest Act. It will be unnecessary and confusing for members of councils to have two sets of rules for pecuniary conflict-of-interest matters, i.e., the Municipal Conflict of Interest Act and the code of conduct.

It also would inappropriately limit the integrity commissioner's discretion in deciding whether to take a matter to court and will create confusion in relation to the integrity commissioner's role in dealing with a pecuniary conflict of interest outside the Municipal Conflict of Interest Act.

The Chair (Mr. Peter Tabuns): Further commentary? There being none, is the committee ready to vote? All those in favour of NDP motion 10.1, please indicate. All those opposed? It is lost.

We go to government motion 10.2.

Mr. Lou Rinaldi: I move that subsection 223.4.1(13) of the Municipal Act, 2001, as set out in section 22 of schedule 1 to the bill, be struck out and the following substituted:

"Notice to applicant re decision not to apply to judge

"(13) The commissioner shall advise the applicant if the commissioner will not be making an application to a judge."

The Chair (Mr. Peter Tabuns): Commentary, Mr. Rinaldi?

Mr. Lou Rinaldi: Sure. Removing the integrity commissioner's ability to conduct an investigation on their own initiative reflects what we heard during the public hearings and in consultation with stakeholders, including AMO and the integrity commissioners, Chair, so I would suggest supporting this motion.

The Chair (Mr. Peter Tabuns): Further discussion? Mr. Hardeman.

Mr. Ernie Hardeman: Yes, a question to the parliamentary assistant: What does this do?

Mr. Lou Rinaldi: This motion will make a consequential change related to government motion 3.5 to remove the integrity commissioner's role in conducting Municipal Conflict of Interest Act inquiries on their own initiative.

Mr. Ernie Hardeman: I've got here in my notes, "In the case of an inquiry conducted in respect to an application under subsection (2)": You're removing that. Is that right?

Mr. Lou Rinaldi: I'm not sure. Are we? I'm looking for some nods back there, but maybe I will—

The Chair (Mr. Peter Tabuns): Yes, Ms. Poutiainen, if you want to come back and join us. Again, if you'd introduce yourself for Hansard.

Ms. Carolyn Poutiainen: Yes, it's Carolyn Poutiainen, counsel with the ministry. The question is just about what the motion is actually doing and the changes that are made to subsection 13 as proposed in the bill versus subsection 13, proposed in the motion. As you point out, it's just removing the first few words since there would no longer be any applications on an own initiative, so it's just a consequential change to that one.

Mr. Ernie Hardeman: Thank you.

The Chair (Mr. Peter Tabuns): No further questions, Mr. Hardeman? Thank you, Ms. Poutiainen.

Any further discussion on this motion? There being none, committee is ready to vote? All those in favour of the motion? All those opposed? It is carried.

We now go to government motion 10.3: Mr. Rinaldi.

Mr. Lou Rinaldi: I move that subsection 223.4.1(14) of the Municipal Act, 2001, as set out in section 22 of schedule 1 to the bill, be amended by striking out "brief".

Chair, this motion will help clarify that the integrity commissioner will have flexibility to publish written reasons of any length for a decision on whether or not to apply to a judge for Municipal Conflict of Interest Act matters. If I may, we're removing the word "brief" to allow the integrity commissioner to make his report whatever length he wants to make it.

Mr. Percy Hatfield: Or she.

Mr. Lou Rinaldi: Or she, yes.

The Chair (Mr. Peter Tabuns): Mr. Hardeman?

Mr. Ernie Hardeman: I just can't accept to take the word "brief" out of anything. Everything should be brief. But I'll support the motion.

The Chair (Mr. Peter Tabuns): I don't see anyone else interested in wanting to speak to this. The committee is ready to vote?

Mr. Percy Hatfield: In the interest of brevity, I won't speak.

The Chair (Mr. Peter Tabuns): All those in favour of government motion 10.3, please indicate. All those opposed? It is carried.

We now go to vote on the section as a whole. Shall schedule 1, section 22, as amended, carry? Carried. Done.

We have no amendments in sections 23 and 24. With the committee's agreement, I will bundle them. Shall schedule 1, sections 23 and 24 carry? Carried. Done.

We go now to schedule 1, section 25, government motion 11: Mr. Rinaldi.

Mr. Lou Rinaldi: I move that section 25 of schedule 1 to the bill be amended by adding the following subsection:

"(2) Section 235 of the act is amended by adding the following subsection:

"'Transition

"'(1.1) Despite subsection (1), with respect to the 2018 regular election, the term of office of a person described in that subsection shall begin on December 1, 2018 and end on November 14, 2022.'"

If I may, Chair?

The Chair (Mr. Peter Tabuns): Yes, please, Mr. Rinaldi.

Mr. Lou Rinaldi: Maintaining a December 1 start of the term of office for the 2018 regular election year will address the transition issue related to the potential for a two-week overlap for outgoing and incoming councillors during the 2018 regular election year. So this will only apply once.

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The Chair (Mr. Peter Tabuns): Other questions or comments?

Mr. Ernie Hardeman: I support the amendment. I guess it's just that with all the discussions we've had about municipal elections in the last year, with the previous bill on the Municipal Elections Act and this bill, I find it hard to imagine how we could have had those two weeks in there all that time, without somebody noticing that we actually had two councils in the same two weeks.

Again, it goes back to how I started this discussion. It seems to me that we've been so busy trying to condense all this into such a short period of time—we're fixing problems that were created a while ago, but just a few minutes ago we were actually having amendments to amendments in this same package. If that package had been prepared as one package, we wouldn't have had to amend the previous amendment with another amendment because of the changes the first amendment made. It would have been all done.

Again, it goes to show that haste makes waste. It really should have been more thought out, with more time spent on how we got here.

The Chair (Mr. Peter Tabuns): Is there any further discussion on this motion? There being none, the committee is ready to vote? All those in favour of government motion number 11? Those opposed? It is carried.

We now go to the vote on section 25 as a whole. People are ready for that vote? Shall schedule 1, section 25, as amended, carry? Carried.

We now go to schedule 1, section 26, and PC motion number 12. Mr. Hardeman.

Mr. Ernie Hardeman: On a point of order: We were informed this morning that in fact there is a misprint in the motion. I have a new copy of the amendment here. If the committee wishes, rather than trying to amend that one, we have copies for everyone here to just deal with that.

The Chair (Mr. Peter Tabuns): The Clerk will circulate it. Does everyone have a copy of it? All have copies?

Mr. Hardeman, do you want to proceed?

Mr. Ernie Hardeman: I move that section 21 of schedule 2 to the bill be amended by adding the following subsection:

"(0.1) Subsection 189(1) of the act is amended by adding the following definition:

"'materially advances' means to measurably or identifiably advance;"

The Chair (Mr. Peter Tabuns): Comments, Mr. Hardeman?

Mr. Ernie Hardeman: This amendment would clarify the meaning of the phrase "materially advances" in regard to a definition of a meeting that must be open. As we all know, the lack of a clear definition of "meeting" led to a lot of confusion and disputes about whether there were proper closed meetings. The definition of "materially advances" is necessary to make the new "meeting" definition clear and avoid this confusion in the future.

During his presentation to the committee, Warren Mar, commissioner of legal and bylaw services for the town of Whitby, said, "We believe that the definition of 'materially advances,' both as it's used in the new definition of a meeting and as it's used in the closed-session exemption for education and training, needs to be clarified. The Ombudsman, in making his rulings—especially most recently, last year, with regard to Oshawa city council—has not shown any differentiation between the definition of 'advances' and 'materially advances.' This has caused problems for municipal councils and has rendered, in our opinion, the education closed-session meetings of limited value. Clarity is lacking in interpreting how and when a meeting materially advances matters."

That's why we are clearing this up. There were many concerns expressed during the presentation of what the word "materially" means. It appeared new, and we have to assume that it means something more than—

The Chair (Mr. Peter Tabuns): Mr. Hardeman, we do appear to have a problem here, because we are still discussing schedule 1. Your revised PC motion refers to schedule 2. We aren't on schedule 2 at this point.

For members of the committee, we'll just have some clarification here for a moment.

Mr. Ernie Hardeman: My apologies. I had the one—there's a similar one too—that was done for section 1. So this one goes in later.

The Chair (Mr. Peter Tabuns): That goes in later. Okay.

Mr. Ernie Hardeman: I'll withdraw that one until later.

The Chair (Mr. Peter Tabuns): That is withdrawn until later.

Another motion is now being circulated. Actually, Mr. Hardeman, this says that it's a replacement for amendment number 13, and we're on amendment 12.

Mr. Ernie Hardeman: Mr. Chair, I beg your indulgence—we're almost at six o'clock—but I believe that the legislative counsel sent the wrong printed

schedule 2, when in fact that's the amendment. It is the amendment to replace number 12, and so it's wrong.

The Chair (Mr. Peter Tabuns): My suggestion is this, Mr. Hardeman, because we only have a minute or two left: that we adjourn for the day and that all this be sorted out and we start on a fresh slate tomorrow.

Mr. Ernie Hardeman: I appreciate your indulgence, Mr. Chair.

The Chair (Mr. Peter Tabuns): I am very indulgent.

The committee, then, is adjourned until 4 p.m. tomorrow.

The committee adjourned at 1758.

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Mr. Jeff Neal, manager, governance and structures implementation section, Ministry of Municipal Affairs
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