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Monday 10 April 2017

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Lundi 10 avril 2017

Standing Committee on Social Policy

Modernizing Ontario's Municipal Legislation Act, 2017

Comité permanent de la politique sociale

Loi de 2017 sur la modernisation de la législation municipale ontarienne

Chair: Peter Tabuns
Clerk: Katch Koch

Président : Peter Tabuns
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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON SOCIAL POLICY

COMITÉ PERMANENT DE LA POLITIQUE SOCIALE

Monday 10 April 2017

Lundi 10 avril 2017

The committee met at 1400 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 to resume consideration of Bill 68, An Act to amend various Acts in relation to municipalities.

CONSERVATION ONTARIO

The Chair (Mr. Peter Tabuns): I'll call the first witness from Conservation Ontario. I have Kim Gavine and Chris Jones. Good afternoon.

Ms. Kim Gavine: Good afternoon.

The Chair (Mr. Peter Tabuns): You'll have up to 10 minutes to present. Then there will be questions from the three parties. If you would start by introducing yourselves for Hansard.

Ms. Kim Gavine: Thank you very much. Good afternoon, Mr. Chair and respected members. My name is Kim Gavine. I'm general manager with Conservation Ontario, the umbrella organization for Ontario's 36 conservation authorities. With me today is Chris Jones. He's the director of planning and regulation for the Central Lake Ontario Conservation Authority, in Oshawa.

Conservation authorities are community-based watershed management agencies. They deliver services and programs in their watersheds to protect, manage and conserve water and other natural resources, in partnerships with governments, landowners and other organizations. Their combined programs invest more than $3 million annually into a range of water and environmental management programs, from protecting life and property from the combined hazards of flood and erosion, to natural heritage protection, to managing the placement of fill in regulated areas.

Further to section 28 of the Conservation Authorities Act, conservation authorities are empowered to regulate development and activities in or adjacent to river or stream valleys, Great Lakes and inland lakes' shorelines, watercourses, hazardous lands, and wetlands. In 2015, Ontario's conservation authorities issued approximately 8,000 permits under their section 28 regulations.

Today I come to you with a request to amend Bill 68, An Act to amend various Acts in relation to municipalities, and specifically section 10, which proposes to repeal subsection 142(8) of the Municipal Act.

At the April 3 meeting of our Conservation Ontario council, whose voting members are primarily comprised of municipal councillors, our council endorsed that Conservation Ontario staff pursue support for the draft Conservation Ontario Proposed Amendments to Subsection 142(8) of the Municipal Act.

Conservation Ontario is seeking an amendment that would maintain the essential linkage in law between municipal government and conservation authority regulatory powers, while meeting the shared policy objectives of ensuring that municipalities can apply the provisions of their site alteration bylaws throughout their geography. We believe this approach would proactively prevent negative administrative gaps in approvals, to the benefit of the landowner, municipality and conservation authority.

Rather than a strict repeal of subsection 142(8), in the third paragraph of our submission we have included the recommended text for such an amendment.

We are proposing this rather technical change to the bill, as Conservation Ontario is concerned with the procedural issues that Bill 68, as currently drafted, would have with regard to both municipal site alteration and conservation authority development permits in Ontario.

Now let me get to some of the more technical details of the issue.

We support municipal, conservation authority and other stakeholder calls for broader municipal fill regulatory powers through an amendment to subsection 142(8). The proposed repeal would create two concurrent and overlapping jurisdictions that are not harmonized. A lack of harmonization between municipal and conservation authority regulatory powers could create outcomes that add to the administrative confusion between all parties, including landowners, municipalities and conservation authorities.

The repeal, as opposed to the Conservation Ontario proposed amendment, represents a downloading of administrative issues, and necessitates the development of

additional policy and procedural work locally, when we believe that it is in the best interest to have province-wide consistency and a basic level of harmonization in law in the management of filling activities.

Conservation Ontario calls for an amendment to subsection 142(8) rather than a repeal of this section. As proposed by Conservation Ontario, a collaborative approach would require the issuance of a conservation authority permit in a conservation-authority-regulated area, prior to the issuance of an approval under a municipal site alteration bylaw.

From Conservation Ontario's perspective, it makes sense that the conservation authority permit, should one be needed, be issued first, as the issues it deals with are confined to section 28 of the Conservation Authorities Act.

The more broadly applicable municipal permit, in terms of both spatial extent on the landscape, and issues including environmental protection, climate change, plus social and economic concerns, would then be issued only after a conservation authority permit is issued for those portions of a site subject to the section 28 regulation.

Now, here's our concern: There would be nothing in the proposed enabling law to ensure collaboration between municipalities and conservation authorities when making their permit decisions. The current section, while establishing an undesirable pair of exclusive jurisdictions, compels a linkage between municipal powers and conservation authority powers. Currently, bylaws have to contain provisions limiting their scope to non-conservation-authority-regulated areas. With the repeal, there will be no linkage of any kind. The Municipal Act should provide for a minimal level of linkage to ensure that each bylaw enacted under section 142, as amended, contains provisions requiring linkages to the Conservation Authorities Act's section 28 powers.

Under the currently formed repeal, municipalities could authorize filling and site alteration within natural hazards in the absence of any conservation authority review or oversight that could affect the key five tests set out in section 28 of the Conservation Authorities Act, those being: control of flooding, erosion, dynamic beaches or pollution or the conservation of land. This has public health and safety implications that could be avoided by a re-enactment of subsection 142(8) that would maintain a linkage and harmonization with Conservation Authorities Act powers. Conservation authorities would work closely with their municipal partners to ensure that proper collaboration is built into the municipal approval processes, but this cannot be assured, or assumed, should a municipality take a different stance.

A second concern is regarding the creation of an opportunity for officially induced error or a due diligence defence if a proponent were to obtain municipal permits to undertake development within a natural hazard that otherwise would not be approved by a conservation authority. This aggravates issues of due diligence and compliance. The conservation authority's prosecutorial efforts under the Conservation Authorities Act could be impaired if the proponent demonstrates due diligence through the issuance of a municipal permit.

The currently proposed repeal of subsection 142(8) of the Municipal Act represents uncharted territory for approvals issued by both municipalities and conservation authorities. In most cases, conservation authorities issue permits in advance of municipalities due to the applicable law provisions found within the building code. Similarly, Conservation Ontario seeks to clarify who issues the approval first in the regulatory process to streamline approval processes and to avoid administrative paralysis. It is felt that having the conservation authority issue the approval first, as defined through legislation, makes the most sense, as this approach is similar to what is in place now, but still allows municipalities to have the power they need to address their broad concerns. It is also consistent with the applicable law provisions in the building code. Consistency across the province is important, as it has been demonstrated that filling issues are exacerbated in areas with weak regulatory oversight.

Conservation Ontario urges this committee to consider conservation authorities' considerable expertise in addressing excess soil placement in Ontario. Including a more collaborative amendment to subsection 142(8) will allow municipalities and conservation authorities to continue to work together to address these site alterations on the landscape. Conservation Ontario is committed to ensuring that our municipal partners have the ability to issue their site alteration bylaws in conservation-authority-regulated areas. However, a new legislative framework that avoids harmonization as a basic requirement in law could create outcomes that add to administrative confusion for both the Municipal Act and the Conservation Authorities Act's regulatory powers and necessitate the development of additional policy and procedural work locally. Conservation authorities want these procedural issues to be addressed through legislation; they fully support municipalities having an enhanced power to apply their site alteration bylaws across their full geography in partnership and collaboration where conservation authorities have a regulatory role.

Thank you for your consideration of Conservation Ontario's comments and its proposed amendment to subsection 142(8). At this point, Chris and I would be happy to take any questions.

The Chair (Mr. Peter Tabuns): Ms. Gavine, thank you very much. We go first to the opposition. Mr. Hardeman.

Mr. Ernie Hardeman: Thank you very much for your presentation. A couple of questions: Obviously you're dealing with just one portion of the bill, and I want to stay there too. First of all, in your opinion, what's the positive side of the changes that are being made?

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Ms. Kim Gavine: Chris, do you want to respond to that, please?

Mr. Chris Jones: Certainly conservation authorities and municipalities have both asked that municipal fill permits be able to not be constrained by the current sub-

section, the way it's worded, which says that if you're in a CA-regulated area, a municipal bylaw will have no effect. That means that all the other things that a municipal bylaw does, such as regulating dust, noise, vibration, hours of operation, can't be addressed if a CA regulation is in place. So it's important that the act be amended to broaden municipal powers, but that it be done in a way that maintains that essential linkage in law with the Conservation Authorities Act. Right now, it's just a repeal of the section, which doesn't achieve that objective.

Mr. Ernie Hardeman: Okay. So, on the other side of that, when we have a municipal presentation, are they going to be happier with the way it is or the way you want it?

Mr. Chris Jones: I could speak to the colleagues in Durham region I've been speaking to in municipalities, specifically in the municipality of Clarington, speaking with some of their staff who administer their fill bylaws. They see this as a concern as well. They want to see the ability to regulate, but they don't want to have a situation where there isn't a link with the CA Act so that we're not working together.

Mr. Ernie Hardeman: Okay, and to Mr. Coe.

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

Mr. Lorne Coe: Thank you, Chair, and through you to the delegation, thank you for being here. Page 2 of your presentation speaks to procedural issues that you have concerns with. Can you itemize those, please?

Mr. Chris Jones: With the repeal, if the bill as proposed passes and there's just a repeal, then all of a sudden every municipal bylaw has to be amended, for one thing, because they all have provisions that say in a Conservation Authorities Act-regulated area, the bylaw won't apply. We really would have to establish a new working relationship with municipalities, to ensure that public health and safety is protected, to make sure that they're not issuing permits inadvertently—in a flood plain, for example—without checking with us. That's the types of procedures that can get very complicated. As you may know, every municipality is different, every conservation authority is a little bit different and every bylaw is different. So there's a lot of work that would be required to reinvent the wheel, potentially.

Mr. Lorne Coe: And that's particularly true in the region of Durham where you have two tiers of government and eight municipalities to deal with, some of which have effected some of these bylaws going forward.

The Chair (Mr. Peter Tabuns): With that, I'm afraid you're out of time. We go to the third party. Mr. Hatfield.

Mr. Percy Hatfield: Thank you, Chair. Can you take five or six sentences, Chris, and summarize for me, as a former chair of the Essex Region Conservation Authority, with seven years on the authority and on city council, what has just been said? What is it you want? What is the issue as you see it now, such as the complication—what is it that you want and your suggestion to improve it?

Mr. Chris Jones: Well, sure. What we want is the section of the Municipal Act to be re-enacted as we're proposing, and that re-enactment would maintain a linkage between conservation authorities and their permitting function and municipalities and their fill-bylaw-permitting function. It's to require a basic level of harmonization between the two. We want to make sure there's a basis in law, so that everyone can be confident that when they're working on the procedures together, when Essex is working with the county and all the other townships and the city, everyone knows that there's a requirement to work together in partnership.

Mr. Percy Hatfield: And are you thinking of the planning departments, which would have a coordinated fashion or a coordinated mechanism for dealing with this, or do you want it resolved at this level?

Mr. Chris Jones: Right now, the Planning Act does require circulations to conservation authorities. That's the kind of integration. They have to circulate; therefore there's an integration provision. We're just saying that each conservation authority and municipality, based on their relationship, can design their interactions, but the law has to give a fundamental foundation and requirement for that to occur. For example, the Building Code Act does that. The Planning Act does it. The Building Code Act does it through—you can't get a building permit if you're subject to a conservation authority regulation, if that regulation applies.

It's a basic fundamental thing that should apply across the province. It's why we feel the Municipal Act shouldn't just walk away from this linkage with the Conservation Authorities Act for a repeal but, rather, put in a provision as we're proposing.

Mr. Percy Hatfield: Maybe it's my bias, but I always thought a municipality couldn't or shouldn't overrule a conservation authority bylaw. The conservation authority is there to protect our wetlands and no municipal bylaw should trample anything that they're doing. Without this provision do you see more municipal interference with what you're trying to achieve?

Mr. Chris Jones: Whether intentional or not, that would be possible through this repeal; and that's the issue, that it just creates a completely open field for bylaws to—I think it would most often be unintentional, but for them to avoid dealing with the conservation authority. When it comes to flood plain management, for example, we think that's a public health and safety concern.

Mr. Percy Hatfield: Thank you.

The Chair (Mr. Peter Tabuns): With that, we go to the government. Ms. Mangat.

Mrs. Amrit Mangat: Welcome, Ms. Gavine and Mr. Jones, to Queen's Park. Ms. Gavine, in your presentation you said Conservation Ontario represents 36 conservation authorities, and I'm very pleased to share with you that one of your conservation authorities is located in my riding of Mississauga.

Ms. Kim Gavine: Good.

Mrs. Amrit Mangat: I really appreciate your dedication for conserving, managing and restoring natural resources in your watershed basin. Having said that, my

question to you is, how do conservation authorities currently approach municipalities on important issues? Can you share with the committee members?

Ms. Kim Gavine: Sure, absolutely. There are a number of different ways. Through the Conservation Authorities Act there are our delegated responsibilities around flood management and mitigation. There's also additional work that conservation authorities do, from conservation of lands to stewardship to ecological restoration, in partnership with many of the municipalities. Municipalities, as you may know, are a significant funder to conservation authorities. A lot of those are done through MOUs, or agreements, with the municipalities. And, as Chris has alluded to already, there are very good working relationships between the conservation authorities and the municipalities. I think one of the concerns, though, with this particular piece is the fact that we want to make sure that the administrative procedures are streamlined and there's not confusion of who needs what.

Chris, did you want to add to that at all?

Mr. Chris Jones: Just that I would concur.

Mrs. Amrit Mangat: Do you see that if Bill 68 passes, there is an opportunity for co-operation on site alteration permits?

Mr. Chris Jones: There's always an opportunity. I think, though, what we need to make sure of is that when it comes to public health and safety and regulating large-scale fill activity, for example, it needs to be a requirement. I think the province really has a role in making sure that essential public health and safety concerns are addressed consistently across the province in every municipality that has chosen to invest in working with the conservation authority. I think that's how the relationship should really continue.

Mrs. Amrit Mangat: Okay, thank you.

The Chair (Mr. Peter Tabuns): Any other questions? There being none, thank you very much for your presentation today.

Ms. Kim Gavine: Thank you for your time.

ONTARIO GOOD ROADS ASSOCIATION

The Chair (Mr. Peter Tabuns): Our next presenter is the Ontario Good Roads Association, Mr. Scott Butler. Good day, Mr. Butler. As you've heard, you have up to 10 minutes to present and then we go with questions from each party. If you'd start off by introducing yourself for Hansard.

Mr. Scott Butler: Certainly. My name is Scott Butler. I'm the manager of policy and research for the Ontario Good Roads Association. I want to thank the committee for the opportunity to delegate today.

By way of background, the Ontario Good Roads Association, or OGRA, is a municipal association founded in 1894. Our membership is comprised of approximately 433 of the 444 municipalities in Ontario. Our mandate is largely to represent municipal infrastructure.

Having been at this for a long time, and having pushed for some fairly significant changes to the Municipal Act for a while, we were excited when we got word that this legislation was coming down. We had invested a considerable amount of work advocating for reform of the Municipal Act, and largely on the basis of what we saw there, we felt that this proposal actually fell somewhat flat.

What was contained in Bill 68 had policy merit. Each of those initiatives, I think, has somebody who understands the importance and who sees the merit in moving forward with them, but that rationale—which is fairly plain to see—was I think superseded, from our perspective, by what wasn't contained in Bill 68.

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What we saw—or what we didn't see, rather—in the legislation was any ambition. We didn't see any alignment between what had been speaking points tossed at municipalities for a long time, speaking points that I would contend have accelerated in recent years. If we go back to 2014, at the AMO conference, Minister McMeekin, who was then Minister of Municipal Affairs, was asked point-blank, "Would you be willing to entertain a consultation process to look at new revenue tools?" He had a very memorable answer, in part because it was very short—it was "yes"—but it was also memorable because it was the first sort of commitment we had had publicly from the government to actually begin this process.

Nothing happened in the interim period. In 2016, the Premier sent the new Minister of Municipal Affairs a mandate letter, and priority number four was addressing the municipal fiscal sustainability challenge. That priority actually contained within it the task to improve long-term municipal fiscal sustainability, "including the role of revenue tools, recognizing that municipalities are mature, accountable and responsible local governments."

Just coming back three years to what we have in terms of the current state of affairs today, we have a situation in Ontario where municipalities are still overwhelmingly reliant on the property tax to deliver their programs and their services. Approximately 43% of the municipal revenue is derived from the property tax. It presents a bit of a problem: The property tax is fairly inelastic, it's highly visible and, as I'm sure the people around the table here can appreciate, it's pretty politically contentious. It doesn't really conform to any sort of sound principle of taxation that we are aware of. It's not really fair, it's certainly not efficient, and I don't think it's simple. The idea that somehow the property tax has a correlation with either your home's value, your income or your ability to pay simply isn't there. It also has no way of actually gauging the services that you use in a reflexive or responsible way.

Against that, we have a situation now where municipalities are increasingly obligated to provide more complex and sophisticated levels of service to constituents, but they're still only receiving approximately eight cents on each dollar of taxation that comes in. To give you a sense, one quarter of municipalities in Ontario are quite small, and this isn't a matter of scale. For them, $20,000 equates to approximately a 1% increase on their property tax rate. So the need, offset against a number of other

considerations, for new and additional revenues is substantial.

When you couple this sort of reliance on the current property tax and user fees against the facts that municipalities are obligated to balance their budgets, they have a significant need to renew their municipal infrastructure and there's an increasing legislative and regulatory obligation being placed on them, the financial stress is becoming increasingly significant.

AMO has calculated that property taxes, just to maintain the status quo, would have to rise by 4.5% for the next 10 years. If you're going to make any headway on the $60-billion municipal infrastructure deficit, you're going to have to tack another 3.84% increase onto the property taxes, so in total you're looking at an almost 8.5% increase per year for the next decade to the property tax rate, and it's simply not sustainable.

So what's needed? Well, when we did our submission for Bill 68, we identified that the City of Toronto Act provisions contained specifically in section 267, subsection (1) and subsection (2), needed to be applied to all municipalities in Ontario. There's a recognition that the taxing authority contained in those City of Toronto Act prescriptions have limited application for a lot of those smaller municipalities that we talked to, so what we also wanted to see happen was a removal of the exclusion that existed on hotel and destination taxes. There's a feeling, and our board fully endorsed it, that these were the minimum steps required to address the real-world needs of Ontario's 444 municipalities.

It was also an opportunity to align action that we see coming out of Queen's Park with the words that we see coming out of Queen's Park, because as the minister's mandate letter said, and as we hear time and time again, any time a bunch of municipalities get together to engage people at Queen's Park, municipalities are mature, they're accountable, and they're responsible. We know that they are the most transparent order of government and they're the ones closest to constituents.

History is going to be kind to whichever government finally actually gets the gumption or the wherewithal to make some meaningful reforms to this and put some action behind the meaning and the sentiments. Simply put, the stresses are becoming too considerable and it is imperative that we begin taking action. Thank you.

The Chair (Mr. Peter Tabuns): Thank you very much. We go to the NDP, the third party: Mr. Hatfield.

Mr. Percy Hatfield: Hi, Scott. Welcome. Thank you for coming.

Mr. Scott Butler: Thank you.

Mr. Percy Hatfield: I guess at the heart of the presentation is the municipalities you represent would like to see more of an ability for other revenue to be generated rather than simply the property tax.

Mr. Scott Butler: We talk about this mature order of government, and I think what has happened is that the thinking has matured as well. There's a recognition that when the prescriptions of Confederation were laid out in 1867, they probably couldn't have imagined something as complicated as the city of Toronto. There were some intermediate steps taken in the City of Toronto Act to address that.

But what has happened is that all those other municipalities across the province are also dealing with these same stresses. Now they may be scaled down to small communities or large urban centres, but there's a desperation on the part of local governments to figure out ways that will allow them to generate the revenue in a responsive, fiscally sustainable manner that will allow them to renew their physical resources while, at the same time, providing the programs and policies that constituents, quite frankly, expect and are legally entitled to.

Mr. Percy Hatfield: So what would be, say, the top three new revenue tools that Good Roads would like to see enacted?

Mr. Scott Butler: Well, I think for us a destination tax would be one, or an entertainment tax. It's used under a number of different guises. That would have a fairly wide application. I've had the fortune of hearing Mayor McKean from the Town of the Blue Mountains talk about if he could stick one dollar on each ski lift ticket he sells, he'd be able to do a lot of stuff with that revenue. Another one, obviously, being the Good Roads Association, would be road pricing schemes, allowing municipalities to implement road pricing schemes. This would—

Mr. Percy Hatfield: Is that a toll tax? What's road pricing?

Mr. Scott Butler: Well, it could be anything. There are about 80 different schemes that they use. It could be tolling; it could be kilometric tolling; it could be time-of-day pricing; HOT lanes.

We've seen some preliminary action on that on the part of the provincial government, but it has become much more sophisticated. London has congestion charges, for instance. So does Stockholm. These can be implemented in really, I would contend, savvy ways. They accomplish a number of objectives. They can address the issue of congestion that we hear so much about.

A recent study out of Johns Hopkins has indicated that there's fairly pronounced health benefits from road pricing. Stockholm has seen their rates of asthma drop considerably since bringing in a road pricing scheme 10 years ago. It would be a way to kill a number of different birds with one stone while, at the same time, also providing revenue, either for maintaining and renewing the roadways that have been priced over directing—

The Chair (Mr. Peter Tabuns): I'm sorry to say that you're out of time. Sorry about that.

Mr. Scott Butler: No worries.

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

Mr. Lou Rinaldi: Thanks very much, Mr. Butler, for being here today and seeing you again. I know you've been in front of some committee or other. I guess a comment and then maybe a question.

You talk in your presentation about the lack of support for revenue tools for municipalities. I'm not sure how long you've been in your post but, regardless, prior to 2003 there was an enormous amount of downloading to

municipalities. I'm sure you would recall that. I come from eastern Ontario—the biggest. Since then, there has been a trend not just in roads and bridges but, overall, uploads and supports to municipalities.

I would ask you for your thoughts on the OCIF funding, the $300 million that's rolling out, $200 million, and that is for municipalities below 100,000 population—$200 million through a formula base that they would get every year and stackable for five years and then $100 million in a grant type of application. Can you elaborate whether that has any impact on those municipalities at all?

Mr. Scott Butler: Well, obviously. It's $300 million; $300 million is a lot of money. Set against a $60-billion infrastructure deficit, though, it sort of pales in comparison. Those communities receiving funds have benefited considerably from those initiatives.

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The program itself has not been without its challenges. One of the things that we've heard, time and time again, from municipalities is the fact that there's a bit of a black box surrounding the decision-making process. The $60-billion need means that they're all very ambitious, and they're all really looking to leverage some of those funds. Those that aren't successful are really struggling to identify how they can improve their applications.

The goodwill that comes out of that $300 million is pretty considerable. I think some of the frustration that comes out of those applicants who haven't been successful offsets a lot of that goodwill that you may be accruing on the capital investment side.

Mr. Lou Rinaldi: I mean, to be fair—and I spent some 12 years at the municipal level—it's never enough.

Mr. Scott Butler: Correct.

Mr. Lou Rinaldi: Projects never end. But following that, the government's commitment, in a broader sense, of some $160 billion over 12 years—and a couple of them, we've eaten away already—is probably one of the biggest infrastructure commitments that the province has ever made. Is that showing some results, at a broader level, in a broader sense?

Mr. Scott Butler: I think it will—

The Chair (Mr. Peter Tabuns): I'm sorry to say, with that, we're out of time.

Mr. Lou Rinaldi: Chair, we were just getting warmed up.

The Chair (Mr. Peter Tabuns): Mr. Rinaldi, I actually understand that really well. I could see that.

I'm going to go to the opposition: Mr. Hardeman.

Mr. Ernie Hardeman: Thank you very much for your presentation. I kind of want to follow up in a slightly different vein than Mr. Rinaldi.

Mr. Scott Butler: Sure.

Mr. Ernie Hardeman: You mentioned in your presentation the challenges we face with the road budget, and the fact that it's growing much faster than the ability of municipalities to raise property taxes. Raising property taxes is not conducive to being fair, so to speak, because the value of a house is not a measurement of the ability to pay.

Mr. Scott Butler: Right.

Mr. Ernie Hardeman: Reversing that, and saying that the alternatives, or using those revenue tools that we spoke about—are they more apt to be fairer on the ability to pay than property tax? It's suggesting that there's no way of measuring that the person driving the most kilometres on a road, and the person using the most municipal services, are in fact the people who can pay the bill the best too. Would you agree?

Mr. Scott Butler: I don't think they're perfect, by any stretch of the imagination, but what I would say is they're much more responsive.

There's a personal calculus that then enters the equation. You would decide, if all of a sudden a toll is put on Yonge Street, whether or not you're going to enter into that roadway and pay that additional component. You may decide that it's either too pricey—you can't afford it; you'll take the TTC, or something to that effect—or you'll wait and go at a different time. It's really dependent on the scheme. But it's certainly considerably more responsive than property taxes.

I'm sure you can appreciate that the same phenomenon we're seeing in Toronto is also happening in Woodstock. Price values of homes are going up very quickly. It's a rapidly growing community. People who have been in their homes for a long time are facing property tax increases that don't correspond to when they paid their mortgage off 30, 40 or 50 years ago.

So there are better ways to fund these initiatives.

Mr. Ernie Hardeman: Thank you.

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

Mr. Lorne Coe: Mr. Butler, thank you for your presentation. The sense I get from your presentation is that Good Roads anticipated a bill that was more expansive than what you have here. I know that Good Roads has done a lot of work in helping municipalities with their asset management programs and the development of that.

You've got five former councillors and mayors on this particular committee, and we know the importance of asset management. But I think the underlying premise of what I hear in your presentation is that you needed more funding to effect those asset management plans and have the types of returns that municipalities need, to move the pendulum a little bit further than what they're able to do alone.

Mr. Scott Butler: Yes, and I would suggest that the premise of that question is maybe even a little further ahead than the reality on the ground for municipalities. I think that as this new asset management planning regulation comes on board, that alignment is going to take place, where councils begin thinking that way. I—

The Chair (Mr. Peter Tabuns): And with that, I'm sorry to say—

Mr. Scott Butler: All right.

The Chair (Mr. Peter Tabuns): I know he gave you a good question, but such is life.

OFFICE OF THE INTEGRITY COMMISSIONER, CITY OF TORONTO

The Chair (Mr. Peter Tabuns): Our next presenter, then: the Office of the Integrity Commissioner, city of Toronto, Valerie Jepson, integrity commissioner.

Ms. Valerie Jepson: I have some things to hand out.

The Chair (Mr. Peter Tabuns): Great. Ms. Jepson, our Clerk will do that.

Ms. Jepson, you have up 10 minutes, as you've probably observed. If you'd introduce yourself for Hansard, we'll go from there. Please proceed.

Ms. Valerie Jepson: Good afternoon, Chair, and members of the committee. Thank you for having me. I've just handed out a folder that has the submissions I'm about to make. It might help if you read along with them, because there's more detail in the submissions than I'm going to be able to say in the time. Hopefully it's a helpful guide for where I'm going.

I'm Valerie Jepson, the integrity commissioner for the city of Toronto. I've held this appointment since fall 2014. As integrity commissioner, I am independent from Toronto city council and city administration. These submissions are therefore my views, and to the best of my ability, the views of the Office of the Integrity Commissioner gained over the past 10 years of experience.

There are three reasons why I am here today. First, I'm here to show support for the policy direction of Bill 68; second, I'm here to recommend specific improvements to Bill 68; and third, I'm here to provide the committee with an access to a resource about the integrity commissioner practice, if that's of any assistance to the committee.

Let me tell you very briefly a little bit about the accountability framework in Toronto. Together with other accountability officers, the integrity commissioner in Toronto is part of the most well-developed accountability framework at the municipal level in Canada. The city of Toronto was the first municipality in Canada to appoint an integrity commissioner, in June of 2004. That was prior to the province's requirement under the City of Toronto Act. The city of Toronto council has again and again embraced the concept of the accountability framework and has, through its own bylaws, fleshed out a lot of the important parts of the role.

As provided for in the city's bylaws, my current duties include providing advice, carrying out investigations, providing education and outreach, and providing policy reports to city council. I brought with me today several copies of my office's annual report. There is a copy in each of the folders for the members in case you are interested in reading more about the work of the office.

One of the main innovations of Bill 68 is to require that all municipalities in Ontario have access to an integrity commissioner that performs a wide range of duties. In some ways, the model endorsed by Bill 68 is the one that Toronto city council endorsed through its own bylaws. It is my view that the Toronto experience is evidence of the benefits of a well-developed integrity commissioner program. In Toronto, there is a culture of advice-seeking, there are complaints and those are addressed. This is a system that works.

The integrity commissioner code of conduct framework has existed alongside—and in many respects, separately—from the Municipal Conflict of Interest Act, or the MCIA, which is how I'll refer to it in my submissions. As observed by Justice Cunningham in the 2010 report about the Mississauga judicial inquiry, the two frameworks must be integrated. That's one of the things that Bill 68 does. Indeed, ever since there has been an integrity commissioner in Toronto, there have been calls to review and amend the legislative framework to incorporate the integrity commissioner and code of conduct model with the MCIA.

There are some things that could be improved about Bill 68 and I'd like to turn to those now. I'm on page 6 of my submissions, for those of you following along. The first and most important thing that I'm here to talk to you about is the issue of indemnification. I strongly recommend that City of Toronto Act and the Municipal Act be amended to require municipalities to protect all accountability officers against risks of pecuniary loss or liability related to performing their duties.

Exposure to potential lawsuits and judicial reviews related to the performance of their duties is a significant risk for accountability officers. The risk could improperly give rise to unreasonable personal liability, or more importantly, negatively impact the independence of the offices. Considering the significant responsibilities that Bill 68 assigns to local accountability officers, Bill 68 must be clear that municipalities are required to protect their accountability officers.

In practical terms, this is not an issue at the city of Toronto because of the commitment that the city council has made. So I am here as the municipal integrity commissioner office with the most experience to join the chorus of voices that you're going to hear from in this process, to ask you to consider this amendment. Tomorrow, you will be hearing from Commissioner Craig, a colleague commissioner of mine, who will speak to you in more detail about this.

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I have also joined with my other Toronto accountability officers, one of whom is here with me today, Cristina De Caprio, the lobbyist registrar, to show support for this part of our submission.

I'm now turning to page 8 of my submission, the second recommendation. I am recommending that Bill 68 prescribe that codes of conduct approved by local councils include conflict of interest provisions that are similar in nature and kind to the conflict of interest provision set out in section 2 of the Members' Integrity Act. Since the honourable members of this committee are all bound by the Members' Integrity Act, I know that you know that definition well. I'm not going to take any more time today to talk about what that means.

The overall thrust of Bill 68 is to integrate the MCIA regime with codes of conduct and integrity commission-

ers. To fully realize this vision, it is essential that the new statutory scheme clearly signal that general conflicts of interest, including pecuniary conflicts, must be addressed in local codes of conduct.

If this issue is not clarified in Bill 68, there is a risk that there will remain a legal ambiguity about whether the MCIA "occupies the field" for conflicts of interest and that, therefore, codes of conduct cannot include provisions about conflict at all. This latter interpretation is one of the reasons why many codes do not have a conflict of interest provision, including Toronto's. Unfortunately, the interpretation still persists even though it was rejected by Justice Cunningham in the Mississauga inquiry.

I'm just checking this because it has my time on it; I don't want to run over. I'm now on page 10 of my submissions, recommendation number 3. Sorry I'm going along at a clip but I know we have a time restraint.

I'm recommending that Bill 68 be amended to expand the range of remedies available to councils to deal with code of conduct complaints. The decision in Magder v. Ford interpreted the City of Toronto Act as authorizing city council only to impose one of two punitive actions on a finding of a code contravention: either suspending the councillor's pay or a reprimand. The decision in Magder has, unfortunately, had a chilling effect on the ability of commissioners—and therefore city councils—to fashion remedies that are responsive to contraventions. It must be remembered that the ruling in the Magder case was a technical application of the powers of the municipality and made no comment on the policy implications or the bona fides of the range of penalties available to councils.

It must also be recalled that Bill 68 enhances the procedural protections that must be provided to members of council, and so to the extent there were policy concerns in the Magder case, they've been addressed.

I'm now turning to the fourth recommendation. I recommend that Bill 68 be amended to provide greater clarity about how an integrity commissioner will decide whether to take a matter to court. It is understood that the overall objective of Bill 68 is to enable local integrity commissioners and councils to address allegations of misconduct against members of council. It is respectfully observed that the provisions, as drafted, create ambiguities about how an integrity commissioner ought to exercise discretion about when to take a matter to court.

The legislation, therefore, should be clarified to confirm that under the new framework, local integrity commissioners can resolve all manner of misconduct complaints, including those that involve pecuniary interests, with reports and recommendations to council. This recommendation is also consistent with Justice Cunningham's vision of the framework in the Mississauga judicial inquiry.

I have proposed recommended drafting in the submissions, which I'm not going through in detail in my oral remarks.

I'm turning to recommendation five, which is on page 12. I recommend that the City of Toronto Act be amended to introduce mandatory annual disclosure of private interests for elected officials in Toronto. The types of interests that could be disclosed include financial interests, outside employment, and outside directorships.

The Honourable Justice Denise Bellamy recommended that Toronto city council introduce financial disclosure for councillors in 2005. This has yet to be undertaken.

Several jurisdictions across Canada and in the United States permit or require mandatory disclosure of personal interests of elected officials at the municipal level. I'm not going to go through the details of the different examples, but there are some set out in my submissions.

Toronto is the fourth largest city in North America and has a government that is larger than many Canadian provinces. This committee can also look, therefore, to the provincial experience as a model jurisdiction. As all members of this committee know, you are all already required as MPPs to file annual disclosure statements, which is not the case for municipalities. As I'm sure members of this committee also know, Ontario was a leader in this regard, and I'm asking the committee to consider this with respect to the city of Toronto.

When one considers the level of direct influence that members of council have in relation to a wide variety of decisions, approvals for development projects and real property interests, there is no reasonable basis for the lack of personal financial disclosure obligations for elected officials at the city of Toronto when compared with other jurisdictions.

I'm turning to my last recommendation, and then I'll conclude my remarks. It's a brief one, the last one. I'm on page 14. The changes in Bill 68, as they are, are significant and will require time for municipalities to prepare. The implementation of Bill 68 will also fundamentally alter the oversight regime for current council and local board members across Ontario.

The Chair (Mr. Peter Tabuns): Ms. Jepson, I'm sorry to say that you are out of time. We'll go first to the government: Mr. Dhillon.

Mr. Vic Dhillon: Thank you very much, Ms. Jepson, for your presentation.

Toronto councillors and members of local boards can ask the integrity commissioner for advice. Two questions: Has this been helpful, and would other municipalities benefit from this?

Ms. Valerie Jepson: Yes, I believe it has been very helpful. What I can say in answer to that is, I think the record of the office speaks for itself. We now have over 10 years of experience in Toronto of local board members and councillors seeking advice. Through that process, there's some transparency around the types of questions that come up and a base of knowledge that now councillors can draw on so that they can ask questions before they take actions and avoid contravention of the code of conduct, which is what I think is the most important thing that the system does.

Mr. Vic Dhillon: My second question is, do you think that the expanded integrity commissioner role will help increase municipal accountability and public trust in local government?

Ms. Valerie Jepson: Yes, I do. I've explained that in more detail in my submissions, but I think it's a very important part. An integrity commissioner system with a code of conduct is a key component of any sophisticated order of government.

Mr. Vic Dhillon: Thank you very much. I believe my colleague Mr. Rinaldi—

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

Mr. Lou Rinaldi: Thanks very much, Ms. Jepson, for being here. In a selfish way, knowing the experience you bring with you to the table today, how do I tell someone like the councillors—and I have eight municipalities in my riding—they think we're going the wrong way with this piece of legislation. They're elected officials that are allowed, basically, carte blanche. I know we don't have a lot of time, but in a few words, how can you—

Ms. Valerie Jepson: In a nutshell, the reasons why these systems are important is because I think we all ought to be concerned. Elected officials in particular should be concerned about the growing level of cynicism that we all face as public officials. We have to do what we can to try to chip away at that level of cynicism. This is one way to do it: to be transparent about our conduct, to live up to high standards, to be seeking advice and following that advice and, when there are concerns about wrongdoing, there's a fair and neutral process to go through them and shed some light on it.

I think that's our duty as public officials. That's what I say to elected officials when they ask me that question.

Mr. Lou Rinaldi: Perfect. I'm going to cut and paste. Thank you.

The Chair (Mr. Peter Tabuns): We go to the official opposition: Mr. Hardeman.

Mr. Ernie Hardeman: Thank you very much for your presentation. I just want to say that it would seem, by the recommendations on the number of changes that are required, it will require almost the total revamping of the integrity commissioner section of the bill.

I was taken by the fact that the comparison that you used was—the city of Toronto, in fact, is bigger than a number of provinces are. It's much more like the provincial government than it is like my local township.

Of course, the challenge is: How do you put this together to have those types of rules and those types of administration in a small municipality that doesn't have the—I could suggest not that we're more secretive, but I would suggest that you would have a lot of municipalities with no councillors left if you told them that they had to tell the clerk of all of their handling of their finances. It's a totally different type of politics in rural Ontario. How would you suggest that we look at providing an opportunity for everybody to be treated equally and yet also fairly?

Ms. Valerie Jepson: It's a really important point. It's why my recommendation, the second-last one about financial disclosure, only pertains to Toronto, because I think that Toronto is very unique.

I appreciate that I went through a lot of changes, but I do see my changes as refinements to Bill 68. I think it's moving in the right direction and I think it actually addresses your concern because what this allows for is a local solution. Every council will still be the one responsible for implementing its code, and then there would be local commissioners or maybe regional commissioners—however it can be done with resources in mind. Through that, those local commissioners will develop a body of practice that's appropriate to the local municipality.

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That's what's happened in Toronto. I have several colleagues across Ontario now—there are about 30 or 40 commissioners. We think it represents about 60% of the population of Ontario, if you count it up that way, that are really already starting to work with commissioners. I think the experience is—and I'm not the best person to ask; you will have Commissioner Craig here tomorrow to ask—I think that those local centres will see value from it and will find that the person doing that job can provide a local solution that's suitable to address the really important issues that you raised.

Mr. Ernie Hardeman: Thank you.

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

Mr. Lorne Coe: Thank you for your presentation. I'm on page 10 of the presentation, dealing with the expansion of the scope of remedies available to councils to deal with code of conduct complaints. You suggest an amendment to 160(5) in the COTA. One of the aspects that I wanted to talk to you about is the ability of the individual councillor to appeal. Do you see that process being unchanged? How do you see that working?

Ms. Valerie Jepson: At present, members of council who are unhappy with a decision can seek judicial review of the commissioner's decision and the court decision—

The Chair (Mr. Peter Tabuns): With that, I'm sorry to say that you've run out of time.

You have a group that really wants to ask you a lot of questions; it's clear.

Ms. Valerie Jepson: Yes, I'm happy to answer other questions.

The Chair (Mr. Peter Tabuns): I go to the third party: Mr. Hatfield.

Mr. Percy Hatfield: Thank you for being here. You want protection from lawsuits. Have you been sued yet?

Ms. Valerie Jepson: I have not been sued, but many other colleagues of mine have been—applications have been made for judicial review. In one particular case, the commissioner was going to be personally responsible for the costs of that if there was no indemnification. So it can happen. But I haven't been, no.

Mr. Percy Hatfield: Well, that's good, right?

On page 14, you were coming to a point when you ran out of time. What was that point?

Ms. Valerie Jepson: Oh, thank you. It's an important point. I think that because of the magnitude of the changes of Bill 68, it will be important that I recommend that the bill, with respect to member conduct, not come into force until the beginning of the next municipal term because it will fundamentally alter the landscape that the current members of council are operating under right now. I did want to say, if you don't mind—I just want to thank the

committee for having me here today and to thank the public servants in the ministry who have really worked hard through this process to hear from integrity commissioners.

Mr. Percy Hatfield: When you get a case, how long does it take you to make a ruling on it?

Ms. Valerie Jepson: It depends. In Toronto, we get approximately 18 to 21 formal complaints a year. About a third of those are something that are potential code matters. Three quarters of them are dealt with usually within about three or four weeks—dismissed without any action at all.

Investigations are all different. They come in different shapes and sizes. I started tracking this information in 2015, and I can tell you that it takes between five to seven months to complete an investigation, which is not fast enough, in my opinion. It's a resource issue we have that I have been asking for the Toronto council to help me with. But I think we're doing as well as we can with the resources.

Mr. Percy Hatfield: I would agree: That's way too long, because it's left hanging out there. If I wanted to damage someone's reputation before an election—not me, but somebody could file a complaint and leave that hanging out there. The voters would be somewhat confused, perhaps.

Ms. Valerie Jepson: Absolutely. I agree with you, so it's a priority for me—this might not be what you're asking about, but it is a principle of fairness that the cases be resolved in a timely manner. It will be a challenge for all commissioners, with this new system, to make sure they have enough resources to be able to do that.

Mr. Percy Hatfield: Thank you.

The Chair (Mr. Peter Tabuns): Thank you very much, Ms. Jepson. That's it.

Ms. Valerie Jepson: Thank you.

MUNICIPAL FINANCE OFFICERS' ASSOCIATION OF ONTARIO

The Chair (Mr. Peter Tabuns): Our next presenter: the Municipal Finance Officers' Association of Ontario; Nancy Taylor, president. Ms. Taylor, good afternoon. Have a seat. As you've seen, you have up to 10 minutes, and then there will be questions from the parties. If you could introduce yourself for Hansard.

Ms. Nancy Taylor: Thank you. Good afternoon, committee members. My name is Nancy Taylor. I am the director of finance/treasurer for the municipality of Clarington and current president of the Municipal Finance Officers' Association of Ontario. I have with me Mr. Dan Cowin, executive director for MFOA, and Ms. Shira Babins, manager of policy, to assist with any questions you may have.

The Municipal Finance Officers' Association was established in 1989. It's the professional association—

The Chair (Mr. Peter Tabuns): A bit closer to you. Great; thank you.

Ms. Nancy Taylor: Thank you. The Municipal Finance Officers' Association was established in 1989. It's the professional association of municipal finance officers in Ontario with more than 2,300 individual members. We represent individuals who are responsible for handling the financial affairs of municipalities and who are key advisors to councils on all matters of finance policy, including investment policy.

MFOA has a fully owned subsidiary called CHUMS Financing Corp. CHUMS, in partnership with LAS, oversees the One Investment Program. LAS is a subsidiary of the Association of Municipalities of Ontario or AMO.

The One Investment Program is a co-mingled investment pool for the Ontario municipal sector. Our program includes five investment products:

—a high-interest savings account;

—money market portfolio;

—bond portfolio;

—universe corporate bond portfolio;

—Canadian equity portfolio.

Our investors are municipalities and their boards and commissions. Our products are fully compliant with Ontario law regarding municipal investments. Our goal with the program is to offer quality investment vehicles that are professionally managed and that cover all investment horizons, from short-term to long-term.

As of January 2017, 135 municipalities have invested a total of $1.3 billion in the program. We have been very active with respect to municipal investment products and investment legislation for several decades. Consequently, my remarks today will focus largely on the sections of Bill 68 that deal with municipal investment powers.

Currently in Ontario we describe the legal framework for municipal investments as a legal-list approach. Municipalities are able to invest in securities that are included on a list of eligible securities as specified in Ontario regulation 438/97.

In our experience, the legal-list approach presents a number of challenges:

—the list does not respond to changes in capital markets or the introduction of new investment products;

—it is very time consuming and labour intensive to update the list since it requires regulatory amendments;

—it can provide a barrier to adopting the proper level of portfolio diversification.

For these reasons, AMO and our partners at LAS/AMO have advocated for the prudent investor standard for a decade. That standard requires that investors develop their overall investment portfolio with regard to the criteria set out in the new subsection 418.1(10). I won't repeat that. You can see it in my notes here.

We have undertaken analyses with the assistance of our professional portfolio managers that indicate that a prudent investor standard could result in greater portfolio diversification. This means we could give investors higher returns with less risk than they currently face. That is a very positive outcome. Therefore, we are very pleased to see that section 73 of Bill 68 will extend access to the prudent investor standard to municipalities

in Ontario beyond the city of Toronto, which already has enabling legislation and regulation in this regard.

With respect to what Bill 68 envisions, it envisions two distinct approaches to investing by municipalities. Municipalities that meet certain conditions and pass a bylaw will have the prudent investor standard apply and will not be subject to the legal list. Others who do not meet the conditions or who meet the conditions but choose not to pass a bylaw will be governed by the existing legal-list regime. It's not possible to know how many municipalities will gain access to the prudent investor standard from a read of the legislation because the conditions that will determine access will be set out in regulations that will come forward if the legislation is approved.

That raises two issues for us. We are concerned that a municipality may be willing to undertake the work to develop a statement of policies and procedures and to adopt governance structures consistent with the prudent investor approach but be denied access to the standard because it does not meet some regulatory condition that we're not yet aware of.

Secondly, under the Bill 68 approach, we will continue to have many municipalities using the legal list with its inherent weakness.

In short, some municipalities will enjoy access to an investment standard that will permit greater diversification and better risk management, and others will not.

This brings me to our first recommendation. We're recommending that we amend the Municipal Act to grant all municipalities access to the prudent investor model if they are willing to adopt best-practice investment policies, procedures and governance structures. So we would prefer a slightly different approach where the act gives the prudent investor standard to any municipality that adopts the proper policies and governance consistent with the standard. These policies and procedures, which are important in managing risk, could be set out in regulations to the act.

The act should grant the broader investment power; the regulation should set out the risk management conditions. This gives greater scope for municipalities to make their own decisions about whether to take on added responsibilities, monitoring and reporting that are implied under the prudent investor standard. Municipalities that do not wish to take this on could invest under the current rules. Specifically, the status should be extended to municipalities with the capacity to develop and execute an investment plan and governance or oversight of the portfolio managers.

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In the interest of time, I'm going to jump to the bottom of page 5 in my notes here. Some municipalities already have years of experience working with the prudent investor standards. That's important to note when you're reflecting this through.

Again, I'm going to jump through some of these items and move to "Adopting the prudent investor standard" in the middle of page 6. Adopting the prudent investor standard should not be irrevocable. As currently written, the bill requires municipalities to decide to use the prudent standard or the existing legal-list framework. In addition, a decision to adopt the prudent standard is irrevocable. This seems unnecessary. We certainly agree that a transition process would be required for a municipality to adjust its portfolio holdings to comply with the legal list, but we don't see a reason why such rules cannot be set out in advance. The regulatory power to do this is already set out in Bill 68, where an amended clause 418.1(16)(d) provides for a Lieutenant Governor in Council regulation to set out transition rules.

So it's our recommendation that we eliminate the provision that makes a municipal bylaw to adopt the prudent investor model irrevocable, and outline transition rules in regulation that municipalities can follow, if they chose to abandon the prudent investor model and return to the legal list.

A final word on the Bill 68 approach: As I have said, the bill envisions a two-pronged approach to municipal investing, whereby some municipalities will have access to the prudent investor standard and others will remain on the legal list. We have serious concerns that the legal list will not be reviewed and updated in a timely way to continue to expand and improve investment options for those who continue to use it.

In fact, this has been our experience for many years. We know that there is no amendment to Bill 68 that we can recommend to deal with this matter, but we just wish to go on the record to say that the introduction of the prudent investor standard for some should not be thought to end the debate around investment law in Ontario. A need will remain to subject the legal list to continuous review and improvement, so that municipalities using it can have greater scope to diversify, manage risk and potentially enjoy enhanced financial returns.

Our recommendation is, although not an amendment to the act, it's recommended that rigorous reviews of the legal list be conducted with provincial staff reporting publicly on changes to be made to the existing investment regulation.

In conclusion, after advocating for the prudent investor standard for a decade, we are very pleased to see the amendments in Bill 68 dealing with this issue. Our hope is that the act can grant this power as of right to any municipality willing to adopt the policies, procedures and compliance regime that we imagine will be set out in regulation. In our view, these are the keys to managing risk, and are a welcomed departure from the current approach of the legal list.

I truly appreciate the opportunity to bring these four items forward for your consideration and, with the assistance of my companions, I'm happy to answer any questions you may have.

The Chair (Mr. Peter Tabuns): Thank you, Ms. Taylor. We go first to the official opposition: Mr. Coe.

Mr. Lorne Coe: I'm on the bottom of page 2 of your presentation. It begins: "It is not possible to know how many municipalities will gain access to the prudent investor standard" because the legislation doesn't really

provide the conditions. You make an important point. In absence of the regulations, you probably never will know, because they haven't been made public yet. Would you subscribe to the notion of consultation about the regulations before they are effected?

Ms. Nancy Taylor: Absolutely. Certainly, we, as well as AMO, I know, would be happy to participate in any discussion and dialogue.

Mr. Dan Cowin: To be clear, sir, we participated in some of those discussions already, and more tomorrow morning, in fact. Some of that has taken place, but we still can't quite gauge where things are going.

The Chair (Mr. Peter Tabuns): Sir, could you identify yourself for Hansard?

Mr. Dan Cowin: Oh, I beg your pardon: Dan Cowin, executive director of the Municipal Finance Officers' Association of Ontario.

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

Mr. Lorne Coe: Yes, thank you for that answer.

Mr. Hardeman, please.

Mr. Ernie Hardeman: I just wanted to go on with that. It's one thing to say, "We're going to have a regulation to set the standard in the future," but if it's such a tool that's strictly dependent on those regulations, it will work very well in some areas, but it won't work at all in others. Somebody in Toronto is going to decide that for the rest of the province, as to which ones are which by the standards they set.

Wouldn't it make more sense—just your comment on this—to have some kind of guidelines in the legislation to say that this is what it's about? You can set rules for the standard by regulation, but actually have a definition of who fits the category and who doesn't.

Ms. Nancy Taylor: If I may, as an answer to that, on page 3 in our submission here, we reference the fact that our hope is that the act would grant the broader investment power, and that the regulation should set out the risk management conditions, so that the municipalities themselves could determine if they are prepared to undertake the amount of work and commitment necessary to obtain prudent investor status. They could determine, based on their own level of sophistication and amount of risk management expertise and practice, to be able to comply and be eligible.

Mr. Ernie Hardeman: But then if there's no standard set at all, it's possible that when we get finished, we've had all the debate and we've heard from all the people involved, the standards are set to the position that any municipality that doesn't have at least a population rate of 2.5 million people does not qualify.

Ms. Nancy Taylor: That would present challenges for those members of ours that—I would suggest to you that size doesn't necessarily dictate level of sophistication, or interest in a level of sophistication through some of these processes. Depending on the thresholds that are selected, that could present some challenges for some very forward-thinking and progressive municipalities.

Mr. Ernie Hardeman: I'm just trying to impress on you the importance—

The Chair (Mr. Peter Tabuns): I'm sorry, Mr. Hardeman. I apologize, but you're out of time.

We go to the third party. Mr. Hatfield.

Mr. Percy Hatfield: Thank you, Chair. As a former councillor, I have great respect for your association. It's your members who keep councillors on track, on budget and focused, many times, in the debate on how we should spend our money.

I'm also worried about too much being left to regulation. When you're having discussions with the ministry about your concern about too much being left up to regulation, what do they tell you?

Mr. Dan Cowin: I think we get a sense that there's a keen interest to manage risk, and it's not clear to us what the approaches to that will be. I think we worry about some of the things Mr. Hardeman cited: that we could have criteria that say if you're a certain population size or your portfolio is of a certain size, you'll have access or you may not.

I think we've given our positions, but we don't always get a good sense of what their reaction is to it. I think we're still a bit concerned about where the regulatory regime may go.

Mr. Percy Hatfield: Yes, because municipalities are a mature order of government, and should be able to make decisions for themselves without a big brother or sister in Toronto who's dictating terms. That's the way I look at it.

Your recommendation number 4, on the review: How often do you think there should be a review? I think it's on page 7: "That rigorous reviews of the legal list be conducted with provincial staff reporting publicly on changes to be made."

Mr. Dan Cowin: I think every other year, at a minimum, or as required, as the sector may identify issues that come up. We have all kinds of changes in capital markets and securities markets. It's difficult to stick to a rigid timeline when change is fairly common, but we would certainly like to see it on a very regular basis, biannual at the very least.

We've had recommendations in front of what is known as the debt and investment committee, which considers these sorts of things. It's a provincial-municipal group. We've had a request in for three years, and that's a little long to wait for answers on recommended approaches.

Mr. Percy Hatfield: I know that when we meet regularly with ROMA and other people, they've told us for years that there should be a change so that smaller municipalities can get in on the investments and group investment. I think this is a step forward. I think with your input on some amendments, the government, if they're listening, could make a better bill. Would you not agree?

Mr. Dan Cowin: Yes, sir.

Mr. Percy Hatfield: Thank you very much.

The Chair (Mr. Peter Tabuns): Thank you, Mr. Hatfield. We'll go to the government. Ms. Vernile.

Ms. Daiene Vernile: Good afternoon, Nancy and Dan. Good to see you here this afternoon. Thank you for your feedback regarding Bill 68 and for the ongoing work of your association in working with the province to review municipal investments.

I think it's important to note in this discussion that we're having that the government has worked very hard to reset the relationship between the municipalities and the province that we have in terms of the investments that we're making. Just in the past, I'm going to say, 13 years since the Liberals came into power, we have seen the investments locally quadrupling, from $1 billion a year to $4 billion, so we're always happy to continue having this discussion with our municipal partners on investing and local priorities.

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Nancy, you talked about prudent investor provisions that are within Bill 68. What kind of feedback are you getting from municipalities on this?

Ms. Nancy Taylor: If I may speak overall, and perhaps Dan can interject: My view is that the feedback from the more sophisticated municipalities is that they are very pleased with the opportunity. They're concerned with making sure they're eligible to take advantage of that opportunity, but they are very pleased that the province is moving forward on this.

Mr. Dan Cowin: I think Nancy is right. A lot of our members are very pleased with the broader investment powers that could emerge here. I think a lot of places imagine using investment revenues as a tool to finance asset management plans in a way that they haven't been able to before because some of the types of investment in securities have not been legal. I think there's a lot of excitement about potentially using some of these investment tools as a way of financing infrastructure in the future.

Ms. Daiene Vernile: One of the recommendations you made is for smaller municipalities to have the ability to adopt best practices. What does that look like to you?

Mr. Dan Cowin: To us, it's fairly clear that there will be a lot of municipalities that will be unable or unwilling to adopt the level of rigour that's going to be required to adopt a prudent investor standard. They will be required to invest under the legal list, which is also why we think it needs constant upgrading because the investment world changes so dramatically.

For those that are willing to take on the added responsibilities, policies, procedures, governance structures, and independent third-party advice, whether it's financial or legal, I think there's a lot to be gained from a prudent investor model, particularly as it comes to financing capital works down the road.

Ms. Daiene Vernile: Thank you very much for the feedback. We really appreciate it.

The Chair (Mr. Peter Tabuns): Thanks, Ms. Vernile.

With that, we're finished. Thank you very much for your presentation.

Mr. Dan Cowin: Thank you.

MR. ANDREW SANCTON

The Chair (Mr. Peter Tabuns): We have on the line Mr. Andrew Sancton. Mr. Sancton, you're there?

Mr. Andrew Sancton: Yes, I am, Mr. Chair.

The Chair (Mr. Peter Tabuns): My name is Peter Tabuns. I'm Chair of today's meeting. I wanted to let you know who else is here. On the government side: Lou Rinaldi, Ms. Amrit Mangat, Ms. Daiene Vernile, Mr. Vic Dhillon; from the opposition, Mr. Ernie Hardeman; and from the third party, Mr. Percy Hatfield.

Mr. Sancton, as you probably heard, you have up to 10 minutes to present. If you'd start by introducing yourself, we'll go from there.

Mr. Andrew Sancton: Yes, Mr. Chair and members of the committee. My name is Andrew Sancton. I'm a recently retired professor of political science at the University of Western Ontario. My whole career has been related to teaching and researching about municipal government in Canada. Thanks for giving me this opportunity and especially allowing me to talk by phone rather than making the trek in to Queen's Park. I understand you have a copy of my remarks that might help following along.

I'm mostly talking about representation by population, but before I get going on that, I just want to say that I very much support the proposed new definition of a meeting of a municipal council or board that is contained in subsection 26(1) of Bill 68. It is a great improvement on the definition of a meeting that was invented by the previous provincial Ombudsman when he acted in his capacity as a municipal closed-meeting investigator. I want to remind you all, however, that if this new definition were applied at Queen's Park, most meetings of the cabinet and the caucus of the governing party in the Legislature would be illegal. Even under the new definition, municipal councillors are much more restricted in how they talk with each other outside the council than you are outside the Legislature. I couldn't resist that because I had a run-in with the provincial Ombudsman on this point.

Now I want to talk about the main subject of my presentation. I want to address the committee concerning subsection 14(2) of Bill 68, particularly the part of it that proposes to amend section 218 of the Municipal Act by adding subsection (10) concerning "the principle of representation by population" on regional councils.

I've been involved with this issue in various capacities over the years, including making an earlier submission to the Ministry of Municipal Affairs and in leading an educational session on this subject in 2016 for York regional council.

I applaud the government for proposing an amendment to the Municipal Act so as to provide some kind of provincial action if regional councils do not address unfair systems of municipal representation. However, in my view, the proposed new subsection 218(10) of the Municipal Act is so weak as to be virtually useless. The proposed subsection (10) states, "When considering whether

to make a regulation under subsection (7), the minister shall, in addition to anything else the minister wishes to consider, have regard to the principle of representation by population."

I suggest that unless someone were to claim that all municipalities should be represented equally on an upper-tier authority, such as states are in the United States Senate or countries in the United Nations, it is impossible not to have regard to the principle of representation by population. Surely the only issue in dispute is to what extent the principle can be violated.

It's at this point that somebody inevitably raises the Carter case, decided by the Supreme Court of Canada in 1991. The case is important because in its decision the court articulated a requirement in Canada for effective representation. While the court recognized the importance of the relative parity of voting power, it determined that parity is not the only consideration in determining whether or not effective representation exists. There are other considerations, including community history, community interests and minority representation, which may need to be weighed to ensure that elected bodies are effectively representative.

Among observers and policy-makers concerned with Canadian electoral representation, this doctrine of effective representation has now become a kind of mantra, apparently justifying almost every conceivable reason for departing from the principle of representation by population.

Among its adherents is the Ontario Municipal Board, which has appealed to the authority of the Supreme Court's rulings in many of its decisions concerned with municipal electoral representation, notably an important decision requiring extra rural representation in the amalgamated city of Ottawa. I'll come back to this at the end of my presentation.

The Carter case, however, is related solely to the interpretation of section 3 of the Canadian Charter of Rights and Freedoms. It's really important to know what this section says: "Every citizen of Canada has the right to vote in an election of members of the House of Commons or of a legislative assembly and to be qualified for membership therein." The issue in the case was the extent to which the right to vote required relative parity of voting power, or representation by population.

I'm not a lawyer, obviously, and it certainly does not require legal training to point out that section 3 is worded in such a way that it does not apply to municipal councils. Indeed, in another case, the Supreme Court has specifically noted that it did not so apply.

So there is no reason at all for the Ontario Legislature to pay any attention to the Carter case when it is contemplating amendments to the Municipal Act. I suggest that the Legislature should be paying more attention to subsection 15(1) of the charter, which states, "Every individual is equal before and under the law and has the right to the equal protection and equal benefit of the law without discrimination...." The next subsection states that this "does not preclude any law, program or activity that has as its object the amelioration of conditions of disadvantaged individuals or groups...."

I believe that both the charter and our democratic values suggest that the principle of representation by population is the only principle that should be relevant in determining municipal representation on regional councils.

Some might claim that rural municipalities deserve extra representation because they are small, but I suggest that in most cases—not all—we would be hard-pressed to find that residents of rural municipalities were generally disadvantaged compared to most of the people who live in urban areas. It is true that their municipalities are less populous. Other things being equal, I would consider that to be a sign of being advantaged, not disadvantaged, because their local government at the local level is genuinely more local.

My recommendation is that subsections (6) to (10) of the new section 218 be redrafted to make it clear that the only relevant principle in determining municipal representation on regional councils is representation by population.

If anyone thinks this might be difficult to implement, I would remind them that subsection 218(3) already allows for weighted votes on upper-tier councils. In other words, the principle of representation by population can be implemented for large municipalities, not necessarily by enlarging the size of upper-tier councils but by allocating more votes to their representatives. This system is already in place in some counties in Ontario and in all of the regional districts in British Columbia.

On the subject of counties, I recommend that the same rules contemplated for reviewing municipal representation on regional municipalities be extended to all upper-tier municipalities, including counties.

Another point on implementation of this: It should be stipulated, I think, that regional or county representation reviews must take place in the first year after a municipal election so that lower-tier municipalities have time to adjust their own electoral systems to match the new requirements of the regional system in time for the next local election.

In conclusion, I want to suggest that the same argument I have just made applies equally to the establishment of wards within lower-tier or single-tier municipalities, except here the principle of representation by population should only be the foremost principle, not the only one, because other factors such as keeping territorial communities of interest together must also be considered. These comments relate to section 223.1 of the Municipal Act—a section that Bill 68, in its current form, does not contemplate changing.

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As I stated earlier, the OMB has made some rulings on ward boundaries that fly in the face of the principle of representation by population, often justified by appealing to the Supreme Court's position in the Carter case. There is nothing wrong or illegal in anyone making use of the Carter reasoning to justify unequal voting power at the municipal level. The OMB is certainly entitled to draw inspiration from the wisdom of the Supreme Court of

Canada. What no one, including the OMB, can do, however, is to claim that the Supreme Court, through the Carter case, has proclaimed that its doctrine of effective representation applies municipally, because it does not.

My view is that if an area is so isolated within a territorially large municipality, then that is likely a good reason to restructure the boundaries of the municipality, not to violate the principle of representation by population. The Municipal Act, in my view, should be amended to instruct municipal councils and the OMB to treat representation by population as the foremost principle in making ward boundary changes.

Thank you very much.

The Chair (Mr. Peter Tabuns): Thank you, Mr. Sancton. We go first to Mr. Hatfield.

Mr. Percy Hatfield: Thank you very much, Andrew. I liked your point off the top about the definition of "meetings." You're absolutely right; we do have a lot of conversations up here that could put us in violation if we were doing this under municipal rules.

On your views on representation by population: I notice, again, using provincial examples—I believe Toronto–Danforth, for example, may have 104,000. Timmins–James Bay may have 84,000. I think in Windsor–Tecumseh I have 116,000. There is no magic formula at this level for representation by population. So I just want to hear more of your professional opinion on rearranging representation at the lower tier and the upper tier when we do these annual reviews, or reviews after subsequent elections.

Mr. Andrew Sancton: Well, you're right that there is some variation at the federal and provincial levels. The general rule at the federal level is that there can be no variation after a census of more than 25% one way or the other, although exceptions are allowed, and now they're almost encouraged by the Supreme Court. I'm still very much a rep-by-pop guy at all levels. I think we should have regular reviews and the rules should be much tighter: 10% one way or another. In the US, they're even tighter than that. In Quebec, the province requires that when ward boundaries are redrawn, there only be a 10% variation. So there can be provincial rules about that.

I think there should be a regular mechanism that requires municipalities to review ward boundaries at least, say, every 10 years, and that they stick to these kinds of standards. My recommendation would be the 10% variation.

Mr. Percy Hatfield: Prince Edward Island, I guess you would argue, would have way too few—

Mr. Andrew Sancton: Prince Edward Island always comes up in this discussion. I've been on the federal electoral boundaries commission in the past, and every time this comes up, somebody mentions Prince Edward Island. They got that guarantee in the Constitution, but not at the beginning—in 1910, I guess it was.

We're talking about municipalities here. They're generally much smaller than Prince Edward Island. If we can't have representation by population at the municipal level, where can we have it? It's true that we can't have it for all Canadian provinces because of the way the country was set up, but surely we can have it at the municipal level, and surely it's a good thing.

Mr. Percy Hatfield: I agree. In Windsor, when I was on council—when I was elected, there were 10 wards with—

The Chair (Mr. Peter Tabuns): Mr. Hatfield, I'm sorry to say, you're out of time.

Mr. Percy Hatfield: And there's a good story to be told about that.

The Chair (Mr. Peter Tabuns): I have no doubt.

I'll go to Mr. Dhillon and then Mr. Rinaldi. Mr. Dhillon.

Mr. Vic Dhillon: Thank you, Mr. Sancton, for your presentation. Would you explain your perspective on the proposed definition of "meeting" in Bill 68?

Mr. Andrew Sancton: In the current Municipal Act, there's basically no definition. It just basically says, "A meeting is a meeting." When the Ombudsman looked at it, he gave his own definition of a meeting, which was that it happened whenever councillors got together to lay the groundwork for a decision.

Bill 68 uses language about materially advancing the process of making a decision. It comes from judicial decisions on this matter and it requires that there be a quorum of a group of members in order for a meeting to exist. Both of those things are a great improvement on the freelancing that was done by the previous Ombudsman.

Mr. Vic Dhillon: Can you tell the committee what your perspective is on electronic participation by members of councils and local boards in meetings that are open to the public?

Mr. Andrew Sancton: I'm not an expert on that. I don't have a particular view, but if it's technically possible, I think my general view is that it's probably a good thing. I don't see any reason to be opposed to it, but I'm sure there are. I imagine you'll be hearing from people who might have views on it. But I don't have any strong views one way or another on that.

Mr. Vic Dhillon: Okay. Bill 68 permits a local municipality to appoint an alternate to attend a meeting of the upper-tier council. Can you elaborate on the effect this will have for lower tiers with only a few or even one member?

Mr. Andrew Sancton: I think this is a very important provision. I favour it. It was discussed at this education session that I was involved in at York regional council, where there are some large municipalities and some small municipalities. The small municipalities felt under great pressure if their single member couldn't go to a meeting. I think this is a major improvement, a good thing, and I'm in favour of it. Obviously, there has to be some paperwork that goes along with it to make sure that the proper delegated person is there.

This follows the model of regional districts in British Columbia. As far as I know, and I've looked at the system there, it works well and is a good thing.

Mr. Vic Dhillon: Bill 68 would require regional municipalities to review their composition every two elections. If they can't come to a resolution, the minister

would have the ability to pass a regulation that has regard for the principle of population by representation—

The Chair (Mr. Peter Tabuns): Mr. Dhillon, I'm sorry to say that you're out of time. Thank you.

Mr. Vic Dhillon: Thank you very much.

The Chair (Mr. Peter Tabuns): We'll go to the official opposition. Mr. Hardeman.

Mr. Ernie Hardeman: Thank you very much, Dr. Sancton. It's good to hear you again, even though I can't see you. I remember days when you were talking about this—the municipal government review, I think.

Mr. Andrew Sancton: Yes, it's good to hear you, Mr. Hardeman.

Mr. Ernie Hardeman: We did a program or two on the radio together.

Mr. Andrew Sancton: Yes.

Mr. Ernie Hardeman: There are two issues I just wanted to touch on. One was, as Mr. Dhillon mentioned, the closed meetings. I know in my 14 years on municipal government, I found it interesting that there was more discussion that went on at the meeting after the council meeting about what had happened than what actually happened at the meeting. It would seem, under the present rules, that that would then be considered a council meeting.

But I wanted to go to where it says that it would only be a council meeting if it "materially advances" the issue. How would you materially advance the issue without having council take a position at that meeting?

Mr. Andrew Sancton: That's a very good question. I think that what is contemplated here is a group of councillors getting together and saying, "At the next meeting, we are going to do such-and-such." Then when the meeting happens, they just kind of rubber-stamp something that they had already done. That would be my view of materially advancing the process.

Mr. Ernie Hardeman: Okay. Going on to the other one, the issue of changing ward boundaries or changing representation on regional council, most of that is presently available in the Municipal Act, is it not?

Mr. Andrew Sancton: Well, there is a process for that happening. It requires the council making a decision. I guess it's kind of a triple-majority thing, and the minister has to approve and everything. But there's no requirement that a council do anything at all, and it enables the principle of representation by population to be completely eroded over time. There are some municipalities that have been woefully underrepresented and there's basically nothing they can do about it. These new provisions at least open the door for the minister to take action if the regional council doesn't do anything.

1530

Mr. Ernie Hardeman: Oh, so this is really then if the province can't step in and make it happen, if the municipalities are not in the position to get it to happen on their local—

Mr. Andrew Sancton: That's right, yes.

Mr. Ernie Hardeman: Okay, thank you very much.

The Chair (Mr. Peter Tabuns): Thank you, Mr. Hardeman. With that, Mr. Sancton, I thank you for presenting today and we'll go on to our next presenter.

Mr. Andrew Sancton: Okay, thank you.

ONTARIO CATHOLIC SCHOOL TRUSTEES' ASSOCIATION

The Chair (Mr. Peter Tabuns): The next presenter is Pat Daly, president of the Ontario Catholic School Trustees' Association. Good afternoon, Mr. Daly.

Mr. Patrick Daly: Good afternoon, sir.

The Chair (Mr. Peter Tabuns): As you're probably aware, you have up to 10 minutes to present, and then we go to questions by the different parties. If you could start by identifying yourself for Hansard.

Mr. Patrick Daly: Thank you very much, Mr. Chair. My name is Patrick Daly. I'm the president of the Ontario Catholic School Trustees' Association. We're very pleased to present to you today on behalf of OCSTA. I want to thank you, first of all, for inviting us to comment on Bill 68, Modernizing Ontario's Municipal Legislation Act, 2016. As you know, locally-elected Catholic school trustees have, throughout the history of the province of Ontario, served as stewards and strong advocates of publicly funded Catholic education. Today, we as those democratically elected men and women, represent over two million Catholic ratepayers in Ontario.

The 29 Catholic school boards they serve on provide excellence in faith-filled education to over 550,000 students in 1,500 schools across the province. While we support the overall objectives of the proposed legislation, namely to improve the accountability and transparency of municipal governments and school boards, OCSTA has some concerns and recommendations with regard to the proposed amendments and its impact on the governance of Catholic school boards.

Based on consultation with our member boards, the following proposed amendments to the Municipal Elections Act and the Municipal Conflict of Interest Act we believe are unnecessary and in some cases potentially disruptive to the optimal functioning of school boards.

First, the proposed amendments to sections 8, 9, and 10 of the Municipal Conflict of Interest Act: 8(1) states, "Any person may apply to a judge for a determination of the question of whether" a municipal councillor or school board trustee has either failed to file a written conflict of interest statement or used his or her office to influence a decision where they have a conflict of interest.

We strongly object to this change. Currently, as you know, the Municipal Conflict of Interest Act states that only an elector or a ratepayer within a board's jurisdiction may apply to a judge indicating a potential breach of the act. These are the classes of persons that may be affected by a breach of the act, not any person in Ontario. 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. Therefore, we believe these sections of the act should remain unchanged.

Second, changing the start date from December 1 to November 15 in an election year for school boards will impose disruptive changes onto its scheduled meetings and various administrative functions. December 1 has been the start date for school board terms of office for many, many decades, and we feel strongly that the change is unnecessary.

Third, requiring trustees to file written conflict of interest statements for each board meeting, where the trustee declares his or her financial interest, will impose a significant administrative burden on trustees and school boards. All of our boards have policies currently in place whereby at the beginning of each meeting trustees publicly declare conflicts of interest and the reasons for such conflicts. A record is kept in the minutes of each meeting which are available to the public on our websites, making this additional requirement unnecessary.

Fourth, requiring school boards to create and manage a public registry of written declarations of a financial conflict of interest for its trustees is an unnecessary administrative burden. Trustees already declare their financial conflicts at each board meeting, and these are noted in the minutes of each meeting, which, in turn, as I said, are posted on our websites. If the Ministry of Municipal Affairs insists on a public registry and posting of trustee conflicts, then we suggest a quarterly written statement for each financial conflict of a trustee that would be posted on the new registry. This reduces the burden on drafting written statements for each school board meeting, while advancing the goals of transparency and accountability.

Finally, one proposed change outlined in other amendments in Bill 68 concerns pregnancy and parental leave policies. The proposed amendment would provide that a council member's seat will not be vacated due to absence related to pregnancy, birth or the adoption of the member's child for a period of 20 consecutive weeks or less and would require municipalities to adopt and maintain policies with respect to pregnancy and parental leaves of council members. OCSTA would strongly request that this suggested amendment be extended to school boards as well as our municipal friends. We strongly support that amendment.

Once again, I want to thank you on behalf of Catholic school boards throughout the province for the opportunity to provide the ministry and all of you with our comments and concerns about Bill 68. We would be happy to respond to any questions.

The Chair (Mr. Peter Tabuns): Thank you, Mr. Daly. We go first to the government: Ms. Vernile.

Ms. Daiene Vernile: Good afternoon, Mr. Daly. Thank you very much for being here this afternoon and for sharing your views with us representing the Ontario Catholic School Trustees' Association. We've been hearing a lot of feedback on the conflict of interest piece to this, so I want you to know that we're listening and this is helping to inform us as we move forward on this.

In particular, I want to ask you about the provision within Bill 68 that's going to be addressing the policy for having pregnancy and parental leave. By way of background, this was an issue that was brought to me in Kitchener Centre by one of our councillors. This was an issue for her, so we advanced this as a private member's bill and it was adopted into this particular bill. So we have Kelly Galloway-Sealock in Kitchener to thank for that.

If you were to have this at the local level for trustees, how do you see that impacting the way that you do your business?

Mr. Patrick Daly: I wouldn't see it impacting us at all. I think it's a fairness and justice issue, and individuals should not have to request leave of their colleagues. I've been a trustee for 32 years on our board and a number of times for various reasons—educational, health—trustees have had to come to the board and ask the majority to support the request. In those cases, I think it was right to ask. In the case of maternity or parental leave, I think absolutely that should be a right and they should not have to make that request.

Ms. Daiene Vernile: From the point of view, though, of removing the barriers that exist right now for women who want to get involved serving their communities, do you see this as being useful?

Mr. Patrick Daly: Yes, very much so.

Ms. Daiene Vernile: Okay. I understand that trustees are also able to attend board meetings electronically. How does that affect a board's ability to carry out its business?

Mr. Patrick Daly: The ability to participate electronically?

Ms. Daiene Vernile: Yes. How do you see it serving you?

Mr. Patrick Daly: I think it serves us in a number of ways. Obviously, for a variety of reasons, trustees can't attend—for a number of our boards, distance is a prime factor and they're just unable because of weather or other reasons. So we think they should be allowed to participate and represent their constituents. We think it's a very healthy and helpful thing.

Ms. Daiene Vernile: Thank you very much for being here and providing your feedback.

Mr. Patrick Daly: Thank you.

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

Mr. Ted McMeekin: It's good to see you, Mr. Daly, as always. Pat and I go way back.

I'm particularly interested in your first point about any person may apply to a judge. I've had several calls from mayors recently about this—not from school board people but mayors—suggesting that this could open it up to any busybody in Ottawa or Toronto, these folks who run for mayor 13 terms in a row and nobody knows on the 14th term who they are. I see that as a potential problem. Is that—

1540

The Chair (Mr. Peter Tabuns): Mr. McMeekin, I'm sorry to say you're out of time.

Mr. Patrick Daly: Just to say, absolutely, that's our position.

The Chair (Mr. Peter Tabuns): Thank you. To the official opposition.

Mr. Lorne Coe: Thank you, Chair. For the record, my daughter is a teacher with the Durham Catholic School Board.

Mr. Daly, welcome.

Mr. Ted McMeekin: Write out a report.

Mr. Lorne Coe: Pardon me?

Mr. Ted McMeekin: Write out your report.

Mr. Lorne Coe: Thank you, Mr. Daly. Welcome, Mr. Andrews. Welcome to Queen's Park once again.

Mr. Daly, I just want to take you to recommendation 2, to begin, of your paper today. You talk about the start date from December 1 to November 15; it would "impose disruptive changes onto its schedule of meetings and various administrative functions." Can you let the committee know a little bit more precisely what some of impacts would be, please, for the record?

Mr. Patrick Daly: As you know, with the election dates as they are, there's a need for the current board to finish its work and then for the administration to have orientation sessions for the newly elected trustees, which in some cases can be a number of trustees on any given board. So there's the period of time needed for that. We see all of those important functions as being put in jeopardy with the change.

The other side of it is, we have just not heard or seen any real reason to make the change. It's part of, "why change it?" and then the disruption part.

Mr. Lorne Coe: Just adding another regulatory burden.

Mr. Patrick Daly: Yes, exactly.

Mr. Lorne Coe: In your estimation.

Mr. Patrick Daly: Yes.

Mr. Lorne Coe: So, number 3, again, talks about imposing "significant administrative burden" on trustees and school boards. I understand that, because school board trustees—at the beginning of each meeting, each councillor does stand up if they feel that there's an item on the agenda—and they declare their pecuniary interest and the nature of that pecuniary interest. Is that not correct?

Mr. Patrick Daly: Absolutely, it's correct.

Mr. Lorne Coe: That particular pecuniary interest is captured as part of the minutes of that meeting. Is that not correct?

Mr. Patrick Daly: Yes, what the actual subject is and then the reason for the conflict is captured.

Mr. Lorne Coe: Those minutes are available to members of the public and the media, that you know?

Mr. Patrick Daly: Yes.

Mr. Lorne Coe: Is that correct?

Mr. Patrick Daly: Yes, on all of our boards it is.

Mr. Lorne Coe: Thank you.

Recommendation 4—I'm going to put my glasses on, Mr. Daly; sorry—"requiring school boards to create and manage public registry of written declarations...." Well, we just talked about all the steps that you already take. There are three consecutive steps, are there not, in place at the present time?

Mr. Patrick Daly: Yes, sir, there are. That's why we think it's unnecessary.

Mr. Lorne Coe: It's available to the public, so it's open and transparent.

Mr. Patrick Daly: Right from their computers.

Mr. Lorne Coe: The media regularly attends all the meetings, to your knowledge?

Mr. Patrick Daly: Yes. I can't guarantee they represent every board, but they're there at most, for sure.

Mr. Lorne Coe: All right. To my colleague, Chair.

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

Mr. Ernie Hardeman: Yes. I'm just going to the electronic voting. There's been a concern expressed to me by quite a few people. They have concerns that in fact it becomes handier for the majority of council—or the minority of council, because the legislation says it has to be a majority there to have—

The Chair (Mr. Peter Tabuns): Mr. Hardeman, you're out of time, I'm afraid.

Mr. Ernie Hardeman: That's too bad.

The Chair (Mr. Peter Tabuns): It was a good question.

Mr. Ernie Hardeman: It was going to be, yes.

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

Mr. Percy Hatfield: Thank you, Chair. I really do like it when I hear those words saying that Mr. Hardeman is out of time.

In the interest of full disclosure, my wife is a long-serving public school trustee in Windsor. In the interest of full disclosure, she was the campaign manager and encouraged our current board chair in Windsor, Barb Holland, to run many years ago, our next-door neighbour. You'd be interested to know that the NDP proposes an amendment that would provide the same provisions for trustees as councillors when it comes to maternity leave.

I am somewhat curious about your wording of "significant administrative burden" to hand in a piece of paper that outlines the conflict of interest. I mean, if it's the same conflict of interest, if it's the same trustee, surely you can make a photograph or run off 20 sheets at the beginning of the year and just hand them in. I don't see the significant administrative burden to that.

Mr. Patrick Daly: No; well, there would be. Some you would not know, until the meeting is under way sometimes, if one had a conflict of interest.

Mr. Percy Hatfield: You have it in your desk drawer though, Pat—come on—if it's the same one all the time.

Mr. Patrick Daly: No, not all of us do. We don't all have secretaries assisting us in all of this work. One can debate the adjective "significant." For sure it's a burden; unnecessary, as other members have indicated, since it's already available to the public through our minutes.

Interruption.

Mr. Percy Hatfield: Were those bells of some importance?

The Chair (Mr. Peter Tabuns): Nope.

Mr. Ted McMeekin: Just the applause meter.

Mr. Percy Hatfield: The applause meter, yes. Okay, I'll go along with that.

Have you had previous discussions with the ministry about your presentation? When you were talking about pregnancy leave for trustees, what had they told you?

Mr. Patrick Daly: I haven't participated in those with administrative staff in the ministry. I know that our staff have, but at the political level, we haven't had any conversations.

Mr. Percy Hatfield: I was told by the minister that they had a really good reason for not putting it in here, but he couldn't recall what it was, and I haven't been able to find out what it was.

Mr. Patrick Daly: I haven't heard the reason, so I don't know, sir.

Mr. Percy Hatfield: I'll be looking forward to it.

Interjection.

Mr. Percy Hatfield: Yes, thank you.

The Chair (Mr. Peter Tabuns): Thanks, Mr. Daly.

Mr. Patrick Daly: Great. Thank you very much.

CITY OF BRAMPTON

The Chair (Mr. Peter Tabuns): The next presenter, then, is the city of Brampton: Gael Miles, regional councillor. Good afternoon, Ms. Miles.

Ms. Gael Miles: Good afternoon.

The Chair (Mr. Peter Tabuns): As you've heard, you have up to 10 minutes to present, and then there will be questions from all three parties. When you have a seat, if you'd start by introducing yourself for Hansard.

Ms. Gael Miles: Okay. Good afternoon, Chair—I don't see your Vice-Chair—and honourable members of the standing committee. My name is Gael Miles, and I'm a regional councillor in the city of Brampton. How nice to see some representatives from the city of Brampton here today, and also some familiar faces around the room.

I'm proud to be here this afternoon with the majority of the members of Brampton council, who are here behind me, and our CAO, Mr. Harry Schlange. I will be speaking for them. Today, we are here speaking as one voice on a subject that we all feel very passionate about—an issue that we have been looking to the province of Ontario to help us resolve since 2004.

While Brampton's written submission touches upon several areas of Bill 68, I am going to be using my allotted time to speak to you about only one issue, and that is regional governance. Through my presentation, I think you'll understand why.

Through four terms of council, Brampton has been asking for fair representation at the region of Peel. The fact that the Municipal Act requires a triple majority to change the composition of council has prevented the residents of Brampton from having an equitable say at regional government.

In the most simplistic terms, imagine we're a family with three children. You know that municipalities are often told that they are children of the province. In most families, all children expect to be treated fairly.

The eldest child, Mississauga, had all the advantages it needed to succeed. The child went to school, participated in sports, and eventually, they attended university. The family gave them the tools that they needed to succeed.

Now the second child comes along. His name is Brampton. Brampton needs the family to support them so that they, too, can be successful. But the oldest child refuses to see that by supporting their sibling, the whole family is going to benefit.

Is it not the time for the wise parents to step in and assume their parental responsibilities, recognizing that their second child, Brampton, deserves the very same opportunities as the first?

Mr. Ted McMeekin: Who's the third?

Ms. Gael Miles: The third is Caledon.

Mr. Ted McMeekin: That's what I thought.

Ms. Gael Miles: I want you to know that in principle, the city supports the proposed amendments to regional governance in Bill 68—in particular, the proposed amendment of removing the requirement for a regulation before changing the composition of regional council, with a mandatory review every second term.

Unfortunately, the bill does not go far enough, and that's really what I want to talk about today. It doesn't address the current imbalance of representation at the region of Peel. The bill does not ensure that Brampton will be fairly represented by 2018. If we don't fix this now, by the 2021 election—the next election—a Brampton councillor will represent 91,000 persons, compared to Mississauga's 64,000.

1550

The 2016 census further emphasized our unprecedented growth. In the last five years, 70,000 people have moved to Brampton, compared to Mississauga at 6,000—yes, 6,000. With a population of nearly 600,000 people, Brampton saw the second-highest net population increase in Ontario.

So what does that mean to us in the area of governance? Brampton council has, for many years, expressed concern with the disparity of elected representation at the region of Peel.

I'm going to take you back to 2003. Brampton took a bold step and reduced its size of council from 17 members to 11 members—10 councillors and a mayor—with 10 wards, to prepare for all members of council to serve at the region of Peel, just like the Mississauga model.

In 2004, Justice Adams was commissioned by the Premier to look at the issue of representation at the region of Peel. After a full review with the chairs and the mayors, Justice Adams recognized Brampton's population growth and inadequate governance model. He recommended to the Premier full representation at the region of Peel—all 10 Brampton councillors. Unfortunately, the mayor of Mississauga's influence carried more weight than that of the good Justice Adams.

As a result, 13 years later, only six councillors plus the mayor sit on regional council. Yet, all of the Mississauga councillors have been at the region for over two decades.

In 2013, Brampton also underwent a ward boundary review; we had to, because we had so much growth, and we wanted to prepare for full representation at the region. During the last term of council, a regional task force was once again formed with the regional chair and the mayors, who discussed the issue for months and months and months, and no triple majority was ever found.

In 2015, we were in another new term of council, and once again we requested regional council to review our request. This time, an impartial facilitator was hired to work with the regional chair and the mayors to do a full review of the existing governance model. A lengthy and vigorous review took place. The region's recent governance review noted that the members of regional council support representation by population, fairness and efficiency as critical factors in determining council size and composition.

Based on the census and year-end population count for 2015, the region's consultant indicated that Brampton residents represent 29% of the vote share in Peel and warranted 10 seats on regional council.

To be clear, currently, today, each Brampton regional councillor represents 87,815 residents, compared to Mississauga councillors, who represent 63,583 residents. Should all 10 members of Brampton council be at the region of Peel, we would represent about 60,000, comparable to the city of Mississauga.

The facilitator also noted that Brampton's governance model is a source of local dysfunction. Just to speak to this for a moment, imagine this. We have a 10-ward system. We elect five city and five regional councillors. Then council has to appoint one more to the region. We've got 10 wards, so there's no way of electing the other regional councillor. So then we have to do it ourselves; that in itself is divisive. Each councillor has to run in two wards, representing approximately 120,000 people. So you have a city councillor and a regional councillor representing two wards. This causes duplication and friction. We are representing too many people. Regional councillors receive remuneration from two sources, yet everyone on Brampton council works hard and long hours. Is it any wonder that Brampton council does not always seem to function smoothly?

The solution? We need to have equal representation: one ward/one councillor serving their residents at both the city and regional governments, a model that Mississauga has enjoyed since the region of Peel was formed.

Brampton is standing here today, all of us together, 14 years later, asking for your help. Even though the majority of council said that we support rep by pop, fairness and efficiency as critical factors in determining council size and composition, at last week's regional council meeting, despite the provincial regulation that would have triggered both a public consultation and the triple-majority vote that followed our resolution, Mississauga once again would not support it, and the resolution was defeated.

Mr. Rinaldi is not here today.

The Chair (Mr. Peter Tabuns): Yes, he is.

Interjection: He's right there.

Ms. Gael Miles: Oh, Mr. Rinaldi; I knew I recognized you. I'm sorry.

Interjections.

Ms. Gael Miles: Mr. Rinaldi, I had the opportunity to speak to you on this subject at AMO, along with our mayor.

Mr. Lou Rinaldi: You did

Ms. Gael Miles: Your advice to us was to finish the process. Well, for the third time the process is finished and Brampton is no further ahead. We respectfully ask you to support the principles of fairness and equity for the 600,000-plus residents in the city of Brampton and also to recognize that, in Brampton, each and every day 40 new residents move to our city looking for opportunity and a chance to succeed.

The Chair (Mr. Peter Tabuns): Councillor Miles, I'm sorry to say that you're out of time.

With that, we go to the official opposition. We go to Mr. Hardeman.

Mr. Ernie Hardeman: Thank you very much for your fine presentation. I have a couple of questions. The first one is on your election of council in Brampton: 10 wards, five city—how do you decide which wards are city and which ones are county?

Ms. Gael Miles: All 10 wards have a city councillor and a regional councillor. What happens is we have to run for two wards.

Mr. Ernie Hardeman: The regional councillors run in two wards?

Ms. Gael Miles: Yes, and the city councillor runs in two wards, representing—

Mr. Ernie Hardeman: It does get rather complicated, doesn't it?

Ms. Gael Miles: The reason why we downsized to 10 originally was so that we would have a one-ward system: one councillor/one ward. But all our attempts at the region of Peel to get 10 representatives there have fallen on—not on deaf ears, but Mississauga just absolutely refuses to allow it to happen. The triple majority required by the Municipal Act will never work for Brampton. That's why we need your intervention.

Mr. Ernie Hardeman: Have you had any consideration of a plebiscite in the region of Peel on their structure?

Ms. Gael Miles: With all due respect, I think if we had a plebiscite, the city of Mississauga would probably not support increasing Brampton's representation at the region.

Mr. Ernie Hardeman: Okay. What you propose in this bill is that the government is going to step in, if you can't find a solution after the 2018 election. Is that right?

Ms. Gael Miles: We want you to step in before the 2018 election because we already represent almost 30,000 persons more than the city of Mississauga councillors. We have gone through the process outlined by the Municipal Act three times, and we have not been able to get the triple majority because, at the end of the day, the city of Mississauga goes back to Mississauga and they vote not to support Brampton having all of their councillors there.

Mr. Ernie Hardeman: So your suggestion is that we put an amendment in to change the date to bring the moment of reckoning before the next election as opposed to after the next election?

Ms. Gael Miles: I think we believe that the Premier of the province is going to have to step in on this one. Quite frankly—

Mr. Ernie Hardeman: I guess the way it is now, the Premier, through this legislation, has said she is willing to step in, but not till after the next election. So I guess there would have to be an amendment in order to move that forward.

Ms. Gael Miles: That's right, because we are continuing to be the fastest-growing municipality in Ontario. Our numbers are burgeoning, and we don't have the representatives at the region—

The Chair (Mr. Peter Tabuns): And I'm sorry to say, again, with that you're out of time. There's a lot here to discuss.

Mr. Hatfield.

Mr. Percy Hatfield: Hi, Gael. Nice to see you again. I'm just trying to use Google as I sit here and try to figure out what's going on. As I see, Mississauga has 713,000 and you have 524,000, getting close to 600,000—

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Ms. Gael Miles: No. The last census put us at 600,000.

Mr. Percy Hatfield: Okay, Google is out.

Ms. Gael Miles: In reality, we're probably more like 650,000.

Mr. Percy Hatfield: How many in Caledon?

Ms. Gael Miles: Sixty thousand.

Mr. Percy Hatfield: Yes, that's what Google said: 60,000. Does Caledon have four reps for 60,000?

Ms. Gael Miles: Four plus the mayor.

Mr. Percy Hatfield: Four plus the mayor. So Mississauga has 11 plus the mayor—

Ms. Gael Miles: Twelve.

Mr. Percy Hatfield: Well, if you count the regional chair, right?

Ms. Gael Miles: Then it's 13.

Mr. Percy Hatfield: All right. Anyway, obviously Mississauga is getting a pretty good deal for the number of representatives for the population compared to everybody else. I can see: If I was in Mississauga, why would I want to change? If I have the hammer, why would I want to be the nail?

How do we propose an easy solution? A simple amendment to this bill would correct it, do you believe?

Ms. Gael Miles: Yes, absolutely. Bill 68 addresses the fact of equity and fairness, and obviously in the city of Brampton, there is no equity and fairness. We will never be able to achieve a triple majority because Mississauga refuses to allow us to have the representatives there. They don't want to give up that balance of power.

Mr. Percy Hatfield: And probably you wouldn't want to give it up either, if the table was reversed.

Ms. Gael Miles: That's when we need our parents, as in my story, to step in and do what's right, because we have exhausted all opportunity, as a city, to do what needs to be done. We have followed legislation, to no avail.

Mr. Percy Hatfield: I wait with bated breath to hear how they're going to resolve this over there. I'm sure Mr. McMeekin has a great proposal—probably a private member's bill, right?

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

Mr. Vic Dhillon: Thank you, Councillor Miles, and thank you to your colleagues who are here today, in large numbers. Can you tell us what efforts Brampton has made to come to an agreement with Mississauga? What are you getting from them? What's their reason for not allowing this?

Ms. Gael Miles: They don't want to give up the—I had a conversation last week with a member of council. They do not want to give up their balance of power. It doesn't matter, the fact that the city of Brampton continues to grow in leaps and bounds. As long as they have the balance of power, they don't have to give it up, based on the existing legislation through the Municipal Act.

Mr. Vic Dhillon: What key benefits are they getting as a result of this balance of power?

Ms. Gael Miles: They control the vote.

Mr. Vic Dhillon: Can you comment, in general, about Bill 68? Do you think it's a step in the right direction?

Ms. Gael Miles: Yes, I think that the—

Mr. Vic Dhillon: Or Mr. Schlange can speak as well, if you'd like.

Ms. Gael Miles: Okay. Well, I believe we've given you some of our comments on it. We have a few issues that need tweaking but I think, for the most part, we are in support of Bill 68. But in the area of regional governance, we cannot wait until 2026 to be allowed to increase the size of Brampton council.

Mr. Vic Dhillon: I believe my colleague Mr. McMeekin has a question.

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

Mr. Ted McMeekin: Yes, thanks. Councillor, I don't want to add a "deeper darkness to a night already devoid of stars," but let me—this has been a difficult situation to try to extricate from, for a number of political reasons. I think there are two ways to go—three ways to go. You can wait until after the next election and as the process kicks in, but you've already experienced that phenomenon. The other way to go would be to amend the act, and I think you've made a pretty good case for some action. The third way to go, and I don't mean to be mischievous, but a private member's bill co-sponsored by the two members from Brampton on this—I would support that, if it came to that. You've got two very good members. One is the Leader of the Opposition, and one is one of our folk. You could put that there with a clause that it be done before the next election. I don't know how others feel, but I would support that.

Ms. Gael Miles: Okay.

Mr. Ted McMeekin: It's something to think about.

The Chair (Mr. Peter Tabuns): Thank you. And with that, thank you, Councillor Miles.

Mr. Percy Hatfield: Look at the makeup of this committee: five, two and one. I'd support anything that gives one more voice.

The Chair (Mr. Peter Tabuns): Colleagues, thank you. Thank you, Ms. Miles.

Ms. Gael Miles: I do have copies of my presentation. We gave you a copy from the city of Brampton.

The Chair (Mr. Peter Tabuns): Yes.

Ms. Gael Miles: And is mine there? Yes. Okay, good.

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

Ms. Gael Miles: Thank you very much for your time. We appreciate having the opportunity to be here.

MUNICIPALITY OF WAWA

The Chair (Mr. Peter Tabuns): Our next presentation, then: the municipality of Wawa, Chris Wray. Good afternoon, Mr. Wray.

Mr. Chris Wray: Good afternoon.

The Chair (Mr. Peter Tabuns): As you've probably observed, you have up to 10 minutes to present and then questions from all three parties. If you'd start by introducing yourself for Hansard.

Mr. Chris Wray: Sure. My name is Chris Wray. I'm the chief administrative officer/clerk-treasurer for the municipality of Wawa.

First off, I want to thank you all very much for allowing me to appear here today. As I indicated, my name is Chris Wray, and I'm the CAO/clerk-treasurer for the municipality of Wawa.

For context, I'll tell you that Wawa is a small community on the north shore of Lake Superior, about 220 kilometres north of Sault Ste. Marie. Wawa is also home to the world-famous Wawa goose, known locally as Grady. Economically, the community and, in fact, the Superior east region has struggled with ongoing job and population losses since the late 1990s. As a result, the municipality of Wawa has difficulty adapting to new provincial legislation due to a lack of capacity and technical expertise.

I am also a member of the board of directors for the Rural Ontario Municipal Association. ROMA is the rural municipal voice in the province of Ontario. Representing rural communities in the north, south, west and east, our board of directors takes pride in promoting, supporting and enhancing strong and effective rural governments. We are the rural arm of the Association of Municipalities of Ontario and work very closely with AMO. It may interest you to know that due to the rural nature of our province, ROMA even has representation from the cities of Ottawa and Hamilton, as those communities have large rural areas.

While this submission may not be as comprehensive as others, I think it important that the perspective contained herein be heard from a CAO/clerk-treasurer who will be on the front lines of the implementation of Bill 68, should it pass in its present form. The intent here is to assist you in the great work you do for the people of the province of Ontario.

I understand that AMO has made a comprehensive submission to this committee. We are in complete support of the submission made by AMO and we strongly urge you to give serious consideration to the changes suggested.

Our submission contains comments that for the most part deal with statute changes associated with the office of the municipal integrity commissioner. We also have a few thoughts on some of the other proposed changes contained within Bill 68 that we'd like to offer for serious consideration of this committee. All of these comments and suggestions are made from the perspective of a responsible municipal government and a municipal professional who has worked extensively with the Municipal Act and other provincial legislation over the course of the past 21 years in communities of varying sizes.

With respect to the integrity commissioner, I've got several points here:

(1) In its current form, Bill 68 would allow "any person" the ability to make a complaint related to the municipal code of conduct or the Municipal Conflict of Interest Act. It is not clear what the intention of the term "any person" is, but this would seem to indicate that a complainant would not need to live in the subject community, pay taxes in the subject community or have any other dealings in or with the community. Surely this is just the law of unintended consequences rearing its ugly head. We are urging you to consider some further qualification to this term, such as being a ratepayer, a resident or perhaps someone who is conducting business in or with the municipality.

(2) 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. We're sure that you are aware that there are thousands of local boards across the province, including business improvement areas, that have memberships of citizens who give their time and expertise as volunteers for the betterment of their community. We are also sure that none of you would like to see these community volunteers leave their board positions or not volunteer because their reputation is far more important than the obvious potential for abuse by the newly proposed integrity commissioner complaint system.

(3) It would be unfortunate if Bill 68 was not amended to limit complaints or investigations during municipal elections. Aligning the bill with your own Members' Integrity Act, for example, when an election writ is issued, so that municipal complaints or investigations could not be conducted between nomination day, May 1, and election day would seem to be a reasonable approach. In this way, the changes could then not be used as—what would appear to be—an unethical election tool.

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(4) We agree that the office of the municipal integrity commissioner does have a useful role in providing proper advice to members of council on matters pertaining to codes of conduct, or the Municipal Conflict of Interest Act, or to investigate a complaint. It would, however, appear that allowing an integrity commissioner to con-

duct their own investigation on an "own initiative" matter provides authority with very little restrictions, which could play havoc with municipal governments. This authority should be removed from the bill entirely.

(5) At a time when municipal budgets are already sensitive to change, the potential cost of the current design of the integrity commissioner regime is concerning. Installing a complaint system where anyone can file a complaint, that then requires the action of the integrity commissioner to determine whether or not a complaint has merit through a preliminary investigation, and subsequently closing the file, will be costly.

Moreover, any letter that will trigger an inquiry by the integrity commissioner means that local taxpayers will bear the burden of the resulting costs, even if that complaint is made from someone outside the municipality in question.

Finally, there is not much solace to be gained in the sharing of an integrity commissioner, and certainly there would be no cost savings, as the majority of costs are a result of the investigations themselves, along with the geographic distances between rural communities, particularly in the rural north.

Further to other provisions in the bill:

(1) Reducing the amount of time between election day and the start of a council term is welcomed. This would result in the reduction of what is known as the lame duck period. Lame duck periods are notorious for delaying the business of the municipal corporation, so providing a range of dates within which a council term would begin is something that would be appreciated by any CAO or municipality. Effectively, such a change would benefit both large and small communities. Changing Bill 68 to reflect a time such as November 15 to December 1 would still ensure that a first meeting is held by December 1, but would also provide flexibility to move the date if a council was eager to start their new mandate.

(2) Bill 68 contains a definition of "meeting"—thank you. This is something that has long been requested by the municipal sector. Speaking as a clerk, this will make the explanation of this term easier and may reduce questions around violations of the closed-meeting provisions of the Municipal Act.

However, I would like to suggest that an amendment to the bill should be made to section 239(2)(h) of the Municipal Act, to also allow the closing of a meeting for the exchange of confidential information between municipal governments, such as joint acquisitions or pending acquisitions. Such discussions are becoming more common in the sector.

(3) Like all municipalities, the municipality of Wawa is an active and responsible investor. Along with many other municipalities, we participate in the One Investment Program through LAS, the business arm of AMO. Adding "prudent investor status" to the bill is something that we're keen to support. It is vital that these changes reflect modern investment tools for all municipalities, and not just for cities. It's so important that we all have the ability to achieve better rates of return on the money that we collect and manage on behalf of our ratepayers.

(4) The present draft of Bill 68 adds a new broad authority that is related to climate change. The bill also requires each municipality to have a policy statement on how it will protect and enhance its tree canopy. There is no question on the role that trees play in climate change. It is somewhat confusing why a separate stand-alone policy is needed to protect and enhance tree canopies when it's covered under the broad authority section and is a major part of land use planning documents. It's our belief that these questions surrounding the confusion in this section of the bill need to be addressed.

In summary, in the province of Ontario, there are 270 municipalities that have a population under 10,000 residents. Some of these communities have less than 300 residents, and one has a population of fewer than 10. Of the 270 municipalities under 10,000 in population, 250 of those are limited to raising between $20,000 and $50,000 with a 1% tax levy increase.

I can tell you that my peers and colleagues around the province work diligently to comply with all legislation that affects municipal governance and servicing. It is important for you to understand that new legislation must take into account the amount of added workload, responsibility and cost that this will place on an already overworked and underfunded sector.

To some, it may appear that comments regarding added workload and responsibility are simply a way to avoid transparency or accountability—not true. In fact, the practices of public access and interaction show that municipal governments are leaders, compared to any legislature or other public sector organization.

The administrative and fiscal capacity of municipal governments are already strained by other pieces of legislation and regulation. I would like to draw your attention to a recent report completed by the Association of Municipal Managers, Clerks and Treasurers of Ontario entitled Bearing the Burden: A Review of Municipal Reporting to the Province, of which I've provided a copy to you. I strongly encourage you to read this report if you haven't already.

I would like to briefly highlight the five key findings of the report:

"(1) Reporting" to the province "negatively impacts service delivery and prevents municipalities from innovating and preparing for the future.

"(2) Reporting is onerous and excessive.

"(3) The purpose of reporting is often unclear.

"(4) Municipal-provincial reporting is highly fragmented.

"(5) Municipalities think reporting is important."

While many of the provisions of Bill 68 appear to be well intended, some will create additional burden for municipal staff. The municipality of Wawa developed a code of conduct well ahead of the Municipal Act requirements, and was one of the first municipalities to adopt the new provisions to appoint an integrity commissioner. I have been at the forefront on more than a few occasions where the services of our integrity commissioner had to

be called upon, and I can tell you that in addition to creating a stressful situation, it creates additional work for the municipal employees. The addition of a mandatory integrity commissioner regime, which at this point also applies to all local boards, will severely test the resolve of all rural municipal governments.

I want to again thank you very much for the opportunity to be here today and present our thoughts on Bill 68. I wholeheartedly encourage you to consider our submission and our support for the comprehensive submission made by AMO.

The Chair (Mr. Peter Tabuns): Thank you very much, Mr. Wray. We go to Mr. Hatfield.

Mr. Percy Hatfield: Chris, good to see you again. Do you know how much trouble you're in? AMO hasn't presented yet. You just told us everything they're going to tell us.

Mr. Chris Wray: Actually, I didn't.

Mr. Percy Hatfield: Did you? You knew that?

Mr. Chris Wray: This is our presentation, with Wawa.

Mr. Percy Hatfield: How do you and other small municipalities now deal with complaints that would go, in a larger municipality, to an integrity commissioner?

Mr. Chris Wray: Well, we have an integrity commissioner. When we get complaints, they come to the office of the clerk, they're forwarded to the integrity commissioner and he makes a determination. If it's frivolous or vexatious, he could dismiss it; if not, then he conducts an investigation.

Mr. Percy Hatfield: So you're budgeting for that now. What about other small municipalities?

Mr. Chris Wray: Actually, it's a very difficult thing to budget for. We just finished one that cost us $10,000, but I've seen numbers for our investigations as small as $1,800. We budget a mediocre amount in our budget simply because we can't afford to budget any more, and hope that we don't get too many complaints, if any at all.

Mr. Percy Hatfield: And yet, about half of the municipalities in Ontario, to raise $50,000, have to increase taxes by 1%?

Mr. Chris Wray: That's correct. It is very onerous, absolutely.

Mr. Percy Hatfield: I was also interested in tree canopies in the bill. Be it Kenora, Wawa or any municipality that has a lot of trees, the bill treats us all with a cookie-cutter approach, saying they have to do more for tree canopies. How do you—in the north, if you will—look upon that suggestion?

Mr. Chris Wray: I referred to planning documents. If you look at things like our zoning bylaw and our official plan, you'll see some verbiage in those two plans with respect to that. It would be very different if you were somewhere outside of Toronto. There would be stark differences.

But the other thing is that I think the broad policy statement that's made is good enough. Let the municipalities figure out how they're going to do that, because even in the north, municipalities, one to another, will approach it in different ways.

Mr. Percy Hatfield: Now that Brampton has left as the referee, how would you resolve that Brampton/Mississauga dispute?

Mr. Chris Wray: I think Mr. McMeekin had the right thing in a private member's bill. That's the way I would have done it.

Mr. Percy Hatfield: Thank you.

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

Mr. Lou Rinaldi: Chris, good to see you again.

Mr. Chris Wray: Good to see you, Mr. Rinaldi.

Mr. Lou Rinaldi: Thank you for all your contributions, not just towards this bill, but other contributions from the municipal sector. We are going to hear from AMO tomorrow, I think, and I look forward to their presentation, which I'm sure is not going to be much different from the things you said.

We have very little time, but a couple of questions for you: You touched on integrity commissioner costs in small municipalities. The thought of a municipality having the opportunity to share, co-op or whatever you want to call it, whether that would ease some pressure—as you said, even in a small municipality, you run across those challenging complaints.

The other piece you talked about is that only taxpayers in the community are allowed to put in a complaint. If I had a trucking company in Wawa but I lived in Brighton, and if there was something detrimental that I felt impacted my trucking company, how do I deal with that? I leave that up to you.

Mr. Chris Wray: I would agree with you. I would say that if you were conducting business in a municipality and a council member behaving badly was a concern to you, then I think you should have the right to complain about that.

What I disagree with is if you lived in Ottawa, had a trucking company there and knew nothing about Wawa, and you decided that you wanted to make a complaint. I don't think there's anything to be gained by that. In fact, I think the detriment is to the taxpayers of Wawa, and not to the individual making the complaint.

Let's face it, there are people in society who make it their lifelong thing to complain about things—

Mr. Lou Rinaldi: No, say it's not true.

Mr. Chris Wray: I'm just saying.

Mr. Lou Rinaldi: So how do you deal with the other piece, about sharing integrity commissioners?

Mr. Chris Wray: I particularly have a problem with this in the north. We have us and five other communities, probably within 400 kilometres of each other if you took one from the east and one from the west. We've cooperated on a number of things, but an integrity commissioner is not something that we would be willing to do, simply because there was no cost savings. In fact, it probably would have cost more because of the travel costs involved. Let's face it, the costs of an investigation are the costs of the investigation. Where the ramp-up on cost is going to come from is from the travel. That's a difficult, difficult issue.

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Mr. Lou Rinaldi: How do we deal with the complaints?

Mr. Chris Wray: Well, I think individual councils or municipalities have to have their own integrity commissioner. It's not that we disagree with it; it's just that component. I don't think anything can be satisfied through the sharing provisions.

Mr. Lou Rinaldi: Okay. Thank you.

The Chair (Mr. Peter Tabuns): We go to the official opposition, then. Mr. Coe.

Mr. Lorne Coe: Thank you very much for your presentation. On recommendation 1 that you have, you're talking about "any person." The proposed amendment to the Municipal Conflict of Interest Act would allow a "person," which could include a non-resident, corporation or municipality. Do you think, if that was removed in favour of the existing requirement, that only an elector can apply for such a determination, you would be comfortable with that language?

Mr. Chris Wray: Personally, I'm in favour of it not being an elector. I think it should be a little broader. Further to what Mr. Rinaldi said, if somebody is doing business in your municipality and there's a problem there, I think they should be able to complain about it, frankly, because they are affected by it.

But—I'm living in Wawa; if somebody in Sault Ste. Marie, just for the sake of wanting to complain, made a complaint, I think that's inappropriate, because our taxpayers have to bear the burden of that. There's a lot of political damage that can be done in these situations if they're not handled appropriately as well.

Mr. Lorne Coe: Let me take you to another area. There's another proposed discretionary exemption in the legislation which allows consideration of certain third-party information supplied in confidence—and you'll have experience of this as a clerk—in a closed meeting. Do you think that should be clarified by further defining "third-party information" and "supplied in confidence"?

Mr. Chris Wray: I do. As a clerk, I'm not in favour of anything that's overly broad, because I've seen—and probably all of you in your careers have seen it as well—where broad interpretations can be used for nefarious purposes. I'm not suggesting for a minute that that's the majority of people; it's not, but it does happen. As a clerk, I like things to be a little more narrow, so if a council member asks me, I can give them an appropriate answer.

Mr. Lorne Coe: If you had suggestions, beyond today, that you could provide with respect to that proposed discretionary exemption, it would be welcome, I'm sure, by the committee members to have a look at.

To my colleague, Chair.

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

Mr. Ernie Hardeman: I just wanted to ask a little bit about the complaints to an integrity commissioner just prior to an election, which we know will not have a decision before the election is over. What's your suggestion? I see that was number three.

Mr. Chris Wray: That's why I sort of limited the comments to there should be no investigations or no complaints conducted between nomination day and election day. To me, that just leaves it open for misuse of the system. People will do it. It happens.

I think that you could entirely ruin somebody's ambitions to run for a local municipal council simply by making a complaint. The rumour mill being what it is—particularly in a smaller community—elections can be won or lost just on the basis of that rumour, so it would be unfortunate if the legislation allowed that. I don't think that's the intention of the legislation, but it would be unfortunate if it did.

The Chair (Mr. Peter Tabuns): I'm sorry to say that you're out of time. Thank you, Mr. Wray.

Mr. Chris Wray: Thank you.

TOWN OF WHITBY

The Chair (Mr. Peter Tabuns): Our next presentation, then, is the town of Whitby, Warren Mar. Mr. Mar, if you'd come forward. As you've heard, you have up to 10 minutes to present, and then we go to each party for questions. When you start, if you'd introduce yourself for Hansard.

Mr. Warren Mar: Thank you very much, Mr. Chair. My name is Warren Mar. I'm the commissioner of legal and bylaw services with the corporation of the town of Whitby.

I've come today on behalf of the town of Whitby to provide a presentation with regard to some of our comments as a municipality on Bill 68. I have three parts to my presentation. I'm happy to take any questions.

The first part is with regard to items in Bill 68 that the town of Whitby does support and is happy to see. The first is the definition of a "meeting." We're happy to see the clarification with regard to that. I think it's been a long time in coming, especially with regard to the wording that has been chosen in Bill 68. The town of Whitby is happy with that, with the exception—and I will get to this in a moment—with regard to the use of the words "materially advances."

In addition, the town of Whitby supports the new section 418.1 of the Municipal Act with regard to the prudent investor status. We look forward to seeing what the regulations will say with regard to eligible investments and related financial agreements.

We are also supportive of parental leave for mayors and councillors in the new subsection 259(1.1) of the Municipal Act, as well as subsection 238(3.1) of the Municipal Act, the change that allows council to establish meetings, committees and local board meetings through telephone or video conferencing. This is especially important, as I've seen in the past, with regard to accessibility advisory committees. Depending on the nature of the meeting or the inclemency of weather, it is very important, we've found, to have the ability for members on that accessibility advisory committee to participate

remotely when they don't have the ability to access accessible public transit.

Sections 218, 219 and 221 of the Municipal Act as well, with regard to the composition of upper-tier councils and the review, are supported by the town.

The new section 1.1 of the Municipal Conflict of Interest Act: The town does appreciate the new wording that is enshrining the principles of ethics and integrity in the conduct of municipal officers and councillors. As well, allowing elected officials to seek advice from an integrity commissioner is supported and approved.

The new closed-meeting opportunities—and this is a very important topic for my council—are also supported with regard to expanded opportunities for receiving confidential information between governments, which we believe should be expanded to intermunicipal agreements; information that could prejudice significantly the position of the municipality or interfere with contractual negotiations; information that belongs to the municipality that has monetary value; and discussions regarding negotiations being undertaken by the municipality. We believe these are all constructive, measured responses to the need for municipal councils to discuss these items in closed session.

For the second part of my presentation, I just wanted to briefly go over items in Bill 68 that the municipality believes require further clarification.

We understand that, under section 223.4.1, integrity commissioners will have the power to investigate potential Municipal Conflict of Interest Act violations on their own and then apply directly to a judge upon completion of an investigation to determine if a member has contravened the act. However, we would bring to the attention of the committee that municipalities will end up bearing the cost of an integrity commissioner's self-initiated investigation. This is a challenge for smaller municipalities that do not have an in-house integrity commissioner and have one on contract, including the town of Whitby.

We are also concerned that, if the integrity commissioner determined that an application should be made to court for a judicial decision on whether a member violated the Municipal Conflict of Interest Act, then the municipality could bear the costs of such legal action, including the costs associated with a finding that the application was brought incorrectly and costs are awarded against the municipality or the integrity commissioner. This would put the municipality in the very awkward position of funding a conflict-of-interest application in court against one of its council members, without any input or approval by council.

We are also asking for the Municipal Conflict of Interest Act to be clarified with regard to pecuniary interest and conflict of interest. We believe that a conflict of interest can go beyond monetary reward, and the act should reflect that.

Under proposed changes to the act as well, we note that section 8 would be revised to permit "any person" to apply to a judge for a determination of whether a member of a municipal council has violated the act. We believe this is too broad. Under the current wording, only an "elector" is permitted to bring such an application.

A "person," as considered in common law—I think it's fairly well known—can include a corporation and, under the Municipal Act, can include a municipal corporation, unless the context otherwise requires. We are concerned that this allows the Municipal Conflict of Interest Act to be politicized and have municipal councils involved in bringing actions against their own members when they might not have full understanding or knowledge of the situation upon which a council member may have voted or not voted on a particular matter.

We would like the definition under section 8 to be removed back to either "elector" or clarified so a municipality itself cannot bring a Municipal Conflict of Interest Act application.

Finally, with regard to clarification: 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.

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We are concerned the Ombudsman has taken it upon himself to ignore that definition and the use of the word "materially." Every word in a statute must have a meaning, and it's not appropriate statutory interpretation to ignore a word's function or application. We are asking for the province to clarify that definition.

In terms of new provisions that the town would like to see included in Bill 68, we are concerned that only the city of Toronto has the ability to have a diverse municipal revenue base. We do not, as a municipality outside of Toronto, have that ability. Toronto remains unique in that perspective because they have a wider array of available revenue and taxation tools, such as a municipal land transfer tax, than any other provincial municipality, despite the increased needs for revenue sources and demands for services from residents.

In addition, we believe the Municipal Conflict of Interest Act should have an accountability framework that gives clear authority and sets out safeguards to prevent and address frivolous and vexatious complaints. I believe it is important to note that frivolous and vexatious complaints, especially with regard to a municipal election campaign, can undermine the ability of the Municipal Conflict of Interest Act to achieve its goals.

We also believe that the Municipal Act or the Municipal Conflict of Interest Act should require that accountability and transparency training is completed within 90 days of councillors taking office. We believe this would

support the accountability and transparency changes proposed in Bill 68 and would eliminate the excuse from municipal councillors that they either did not know or were not aware of their responsibilities with regard to accountability and transparency.

Finally, we note that nothing is included to support the engagement of electors during municipal elections. Current municipal legislation considers a municipality's role during an election as passive, with the main goal, and it's a laudable goal, of conducting a fair, open, impartial and transparent election process. There's no specific mandate for municipalities to have a public engagement process under the Municipal Elections Act, even though it is considered a best practice. Unlike Elections Ontario, municipalities do not have the mandate, tools or provincial support to engage the public during elections to encourage voter participation. We've seen that in the ultimate voter turnout percentages in each municipal election moving forward, at least outside of Toronto.

At the very least, then, we are requesting that provincial support be provided to municipalities to allow them to better respond and engage with residents leading up to, and during, a municipal election.

The Chair (Mr. Peter Tabuns): Thank you very much. We'll go first to the government. Mr. McMeekin.

Mr. Ted McMeekin: Thanks very much, Mr. Mar—an excellent presentation, by the way. I was pleased that you validated many of the concerns that we have. You went down a list of all the places where you agree with the initiatives, and we've heard mostly agreement on those from those who have come before you. All the questions I had prepared for you, you answered for me in your presentation, so I'll ask something different.

On the Municipal Conflict of Interest Act—I hadn't thought of this until today. If integrity commissioners are on contract, there's an incentive for them to create work for themselves at the municipality's expense, right? So they could go looking for things to investigate that may be frivolous, that may be serious. If it was serious, I'd want to think that they'd come to the council and say, "I think this may be something you want me to investigate," but it should be at the direction of council. Is that your position?

Mr. Warren Mar: Through you, Mr. Chair: Yes, I agree. That is our position.

Mr. Ted McMeekin: Okay. Thank you. I think that's a good point.

The other thing that I note, under the current wording, only an elector is permitted to bring such an application before the court or otherwise. It occurs to me that—you know, we don't want to throw the baby out with the bathwater here. You could have somebody from Calgary launch an appeal, I think, under the current terms and—who knows?—maybe somebody who doesn't like you or doesn't like somebody on your council.

So your preference would be to ensure that anyone who launches an appeal is in fact a bona fide elector in the municipality in which they're launching the appeal?

Mr. Warren Mar: Through you, Mr. Chair: Yes, we believe that would preserve the integrity of that complaint process, as well as allow electors who are engaged in the municipality to have that right of appeal while disallowing people who have frivolous appeals, such as maybe corporations who are upset about the outcome of a procurement, to launch frivolous appeals against a municipality.

Mr. Ted McMeekin: Yes. That makes a lot of sense to me. Thanks very much.

The Chair (Mr. Peter Tabuns): Thank you, Mr. McMeekin. We go to the official opposition. Mr. Coe.

Mr. Lorne Coe: Thank you, Chair. Welcome, Mr. Mar. I served on the Whitby town council until February 12, 2016, so welcome.

I'm on item (b) of part 1 of your presentation today. It has to do with a section of the legislation that we heard some comments on earlier today from the Municipal Finance Officers' Association of Ontario. Your submission also talks about the regulations, and not being specifically aware about the effect of this part of the revision of the legislation until you see the regulations. Do you think it would be beneficial to have some consultation on that regulation before it's in effect?

Mr. Warren Mar: Through you, Mr. Chair: Yes, we believe it would be and we would appreciate the opportunity to comment on those regulations.

Mr. Lorne Coe: Very well. Thank you for that answer. I'll go to Mr. Hardeman, please.

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

Mr. Ernie Hardeman: Thank you very much, Mr. Chair. I want to go just quickly to section (d) of part 2. The issue of materially advancing a meeting—a closed meeting is not a closed meeting unless the issue is materially advanced in the closed meeting. You suggest here that "materially advancing council business should involve the actual discussion/consideration of the recommendation for which the training and education was taking place." What difference would that make? How would that make it material?

Mr. Warren Mar: Through you, Mr. Chair: I think the difference is between having a council learning or gaining more information about a particular topic—so let's say it's selling a stake in its hydro energy commission and trying to understand from its hydro board what exactly is being proposed so they can have some understanding of it while maintaining confidentiality in those discussions—and actually discussing the merits of whether or not they should sell, which I think would go beyond just education and training and would be, in fact, materially advancing.

There's a time, I think, and a place for councils to have and receive information about what they are intending to maybe consider later on down the line, six months or 12 months later, because they need to make informed decisions. Sometimes, confidential discussions need to be had in order for those decisions to be made on an informed basis.

Mr. Ernie Hardeman: I put this to another presenter earlier: It would seem to me a material decision has to, in fact, include the "straw vote" is what they call it, because anything else, you can have a discussion about it, you can even know where everybody is going, but the issue hasn't gone any further than everybody's individual opinion. It would seem to me that you should be able to define if it's material on whether it actually has taken action. I was told the answer was that if you're just going to take it to council pre-decided, that would be considered material.

Mr. Warren Mar: Through you, Mr. Chair: I would agree. That would be considered material as well. The difficulty comes from the way the Ombudsman has tried to determine what is materially advancing and advancing. From the decisions we've seen, the most recent decision in Oshawa, the Ombudsman has said that for practical purposes, there's no difference between materially advancing and advancing a matter, because they can't make a distinction as to what that is and said they won't try. We believe that that's inappropriate statutory interpretation.

Mr. Ernie Hardeman: Okay. Do I have more time left?

The Chair (Mr. Peter Tabuns): Yes, a very brief amount.

Mr. Ernie Hardeman: Okay. I also wanted to go to the one on (c): "Under proposed changes to the MCIA, section 8 would be revised to permit 'any person' to apply to a judge" to determine. Presenters have told us today that just having it the way it presently is, that only an electorate can do it, would not be broad enough, and yet, the way it is now is too broad. Would you consider businesses being allowed—

The Chair (Mr. Peter Tabuns): Mr. Hardeman, I'm sorry to say you have used up your brief time.

I'll go to the third party. Mr. Hatfield.

Mr. Percy Hatfield: Thank you. In hot pursuit of what Mr. Hardeman was just saying, do you believe a person doing business with the municipality should be in there, as opposed to "any person," a voter or a person doing business with the municipality?

Mr. Warren Mar: Through you, Mr. Chair—

Mr. Percy Hatfield: Is that what you wanted to say? Go ahead.

Mr. Warren Mar: Through you, Mr. Chair: I think that potentially could be acceptable, but there need to be very clear parameters. There is an ability for people who are doing business in a municipality to take legal action, and that is through civil courts and through civil litigation. It isn't necessarily appropriate for them to make that charge against a municipality for a conflict of interest where they might not have full knowledge about what happens or they have a passing interest in terms of the business. So if there needs to be a clarification we can accept that, but it really shouldn't be as broad as "any person."

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Mr. Percy Hatfield: We're also dealing with other definitions, "meeting" and so on, but "pecuniary interest" and "frivolous and vexatious complaints." "Pecuniary interest"—what is your definition of a pecuniary interest in a conflict of interest?

Mr. Warren Mar: Through you, Mr. Chair: It would involve monetary interest related to oneself or one's close family as defined under the act. What we have seen is that very often an interest can be in conflict not necessarily because of the monetary gain, but because of some other perceived advantage that a councillor may have. So there is the common-law notion of a conflict of interest, and we believe that should be fairly enshrined within the legislation so it's very clear that municipal councillors need to be acting not only in a clear financial interest, but also in a clear common-law conflict of interest.

Mr. Percy Hatfield: So if we're going to deal with a sidewalk discussion or some enhancement to my neighbourhood, am I in a conflict at all if I take part in that discussion if it might possibly somewhere down the road lead to an increase in my property value if I now have sidewalks in front of my house?

Mr. Warren Mar: Through you, Mr. Chair: I think there is an exemption for that, and I would support the exemption, because it is an interest in common with electors, generally. What we're concerned about is somebody who may have a conflict of interest not necessarily financially, but in seeing potentially one of their opponents be hobbled by a lawsuit for completely frivolous reasons, but it may assist them in an election.

That's part of the concern, that there are conflicts involved in those types of actions or in any particular vote where they might not receive a direct advantage, but it may directly advantage a business partner or a friend; somebody might get business down the line, not necessarily of a financial nature, but it could assist one with growth of the reputation or potentially other related conflicts of interest that aren't necessarily financial.

Mr. Percy Hatfield: And that phrase "materially advances" that Mr. Hardeman was speaking to, what would be your suggested wording—

The Chair (Mr. Peter Tabuns): Mr. Hatfield, I'm sorry to say you're out of time.

Mr. Mar, thank you for your presentation today. I appreciate it.

Mr. Warren Mar: Thank you.

CITY OF KITCHENER

The Chair (Mr. Peter Tabuns): We next have the city of Kitchener. I believe that they're on the line. Mayor Vrbanovic, can you hear me?

Mr. Berry Vrbanovic: Yes. How are you?

The Chair (Mr. Peter Tabuns): Very well, very well. My name is Peter Tabuns and I'm the MPP for Toronto–Danforth and Chair of the committee. Just to let you know who is here, on the government side I've got Vic Dhillon; Ms. Daiene Vernile, who you'll be familiar with—

Ms. Daiene Vernile: Hey, Berry.

Mr. Berry Vrbanovic: Hi, Daiene.

The Chair (Mr. Peter Tabuns): —Ted McMeekin; Lou Rinaldi; opposition, Lorne Coe and Ernie Hardeman; third party, Mr. Hatfield.

Mayor, if you could introduce yourself for Hansard and then proceed to make your presentation, I would appreciate it.

Mr. Berry Vrbanovic: Sure. So it's Mayor Berry Vrbanovic, and I'm here with Councillor Kelly Galloway-Sealock. Both of us are going to be sharing this time to present. I'm really going to use the opportunity to just touch on two quick things and then get to the third one where I'll turn it over to Councillor Galloway-Sealock to present.

To begin with, we appreciate the opportunity to speak to the committee about the proposed changes to the Municipal Act. There are a number of changes I think that have been proposed that certainly are very worthy and meet the needs of municipalities.

I do want to encourage you in particular on the expanded list of items for closed sessions; in particular, the one that deals with our ability to go into closed session when we're dealing with agreements and so on. That is something that there has been some lack of clarity on recently and I think having this new clarity in the proposed changes, assuming they're adopted, will be very helpful for municipalities.

The second point that I just wanted to touch on was the proposed change to the date in terms of the start of term for new council. I note that the date is being proposed to be moved back to November 15. As someone who has been on a council a long time, but this past term was a new mayor, I would say to you that having that additional planning time in the transition from the old council to the new council was certainly very helpful. I would just caution that perhaps moving it back to November 15 might be rushing things a little too quickly after an election, particularly in municipalities where significant changes are taking place.

Finally, I want to thank the government for introducing the section with respect to elected officials and maternity leave. This is an item that we were working very closely on with Daiene Vernile, initially as a private member's bill, and then it was incorporated into the proposed legislation.

Councillor Galloway-Sealock, whom I'll turn the phone over to now, has had three children during her time on council. While we've had a supportive council in that regard, across the province we've certainly heard of some situations that haven't been as accommodating to young women. I believe we want to see more young women seeking elected office, and if we do want to see that, then we need to see this kind of accommodation take place.

I'll now turn it over to Councillor Galloway-Sealock, and she can give you some of her own first-hand experiences.

Ms. Kelly Galloway-Sealock: Can everybody hear me okay?

The Chair (Mr. Peter Tabuns): Yes, we can.

Ms. Kelly Galloway-Sealock: Okay, perfect. As Mayor Vrbanovic has already mentioned, it's my pleasure to be here and present this to you. I am pleased to speak in support of Bill 68 as it relates to pregnancy and parental leave for elected officials.

As the mother of three young children, I have first-hand experience with the challenges facing elected officials who start or grow families while in office. When I started with my first son—they're all boys—I looked at the Municipal Act just to see what the leave would be, and seeing absolutely no wording in the Municipal Act, it was absurd to me that there was nothing that covered parental or maternity leave.

That's kind of where I started digging in. While it would fall under a different reference within the Municipal Act, I think we need to bring this up to date. My advocacy has really been around putting language in the Municipal Act with respect to maternity and parental leave.

I was able to, as Mayor Vrbanovic mentioned, bring all three children with me to council meetings. They were all there from either two weeks old or three weeks old. But it has been challenging to be present at all the meetings. As most of you are aware, every time you leave a room, you're counted as absent, whether it be for a vote or for a long time. So if I have to leave the room in order to feed my baby, if I choose, or to do a diaper change or because the baby is fussing too much, I'm actually counted as absent, which is one of the challenges that I've faced. So I try to minimize the amount of time I'm out of council chambers.

I think it's really important for us to continue to advocate for young women, or just young people. Let's change the demographics of what we see around municipal councils, and have this language in the Municipal Act to encourage more young people to participate and seek office in municipal government.

I was fortunate to have the support of most of my colleagues around council while I balanced the demands of caring for newborn babies and serving my constituents. However, not everyone can count on that support, nor should they have to.

As Mayor Vrbanovic mentioned, we're aware of some other colleagues around the province who didn't have the same situation. They reached out to me to see how my council handled it when I was having my first child, and they were under a completely different circumstance where they didn't have a supportive council. They faced barriers there, and they faced public backlash because of having children.

I think that that defeats the whole purpose of being in public office and trying to represent your constituents. I think it's important for us to be supportive of all demographics, whether you're going to have children or not. So my advocacy is strongly behind language pertaining to maternity and parental leave.

I can appreciate where the Municipal Act changes or amendments have been brought forward with respect to 20 weeks. While I didn't need those 20 weeks—I was fortunate that all of my babies had very mild behaviours

and I was able to bring them with me—not everyone is going to be under that circumstance. And my deliveries went very well, so I didn't need extended time off. There could be other possibilities when you're dealing with a pregnancy that would require you to take a longer duration off. So I think it's important that it's not a council decision whether or not you get more time. I think the 20 weeks that is being proposed is adequate. I know in Quebec they've gone with 18 weeks, so it's all within the same realm. I think that's really important.

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For me, it's important that the Municipal Act acknowledge with specific wording the need for accommodation when a new child enters a family. This protection is too critical to be left up to the discretion of each municipal council. I also believe that adding this wording will encourage more young people, specifically women, to consider running for municipal office. In fact, not offering this protection may act as an unintentional barrier.

Women and younger people need to have their voices heard and be directly represented on council. Updating the Municipal Act sends a strong signal to those who may be considering running for office if the municipal sphere is a welcoming space for everyone. Their participation is important for democracy. I am very pleased that the Ontario government is looking to modernize the Municipal Act with this important amendment.

We appreciate your time, and we thank you for your consideration.

The Chair (Mr. Peter Tabuns): Thank you very much. We'll go to questions. We'll start with the official opposition. Mr. Hardeman.

Mr. Ernie Hardeman: My first question would go to the mayor. Relating to the meetings, the council in-camera meetings, and the issue of what—obviously, the definition of the in-camera meeting and what constitutes one of those. It describes it based on you can discuss anything you want as long as it doesn't materially advance the issue to council. Do you have any explanation or do you have the definition of what "materially advances" means?

Mr. Berry Vrbanovic: What I would say to you, Mr. Hardeman, is that—first of all, I would disagree that we can discuss whatever we want, because we are quite limited currently in terms of what we can take into caucus. It includes a list of items—personnel items, security of property, legal advice and so on. In terms of anything that materially advances, if it moves the decision process forward in the municipality and it's not an item to be in caucus, then we cannot discuss it in caucus.

Mr. Ernie Hardeman: I just want to explain a little bit more. I think it's more to do with the fact that this isn't going into legal and personnel at a council meeting, but in the past, there have been challenges based on a group of councillors meeting and the integrity commissioner deciding that it should have been constituted as a council meeting because they discussed council business. This says that you can have those meetings provided you don't materially advance the issue for council, so no decisions can be made in that type of—as they would say, around-the-coffee-table discussions about a municipal issue. This isn't to deal with what you discuss in legal and personnel. That will still be under the same umbrella as it has in the past. This has to do with what constitutes a meeting.

Mr. Berry Vrbanovic: You're asking a question about what is an item we can specifically speak to. What I would say to you, Mr. Hardeman, is that on that issue, you will see—for example, if you take the legislation as it's purely written right now, municipal councils could potentially find themselves at least being questioned if they all happen to be at the same social gathering in the same evening. For example, we host an annual mayors' dinner that all the local MPPs from all sides of the House have attended locally. It generally brings a quorum of council together. In the strictest sense of the word, if those councillors—

The Chair (Mr. Peter Tabuns): Mayor, I'm very sorry to say that you're out of time with this questioner.

Mr. Berry Vrbanovic: Okay.

Mr. Ernie Hardeman: And I want to thank you, Mayor, because I think you gave me the answer.

The Chair (Mr. Peter Tabuns): Okay. I go on to the third party. Mr. Hatfield.

Mr. Percy Hatfield: Hi, Berry. How are you doing?

Mr. Berry Vrbanovic: Good. How are you, Percy?

Mr. Percy Hatfield: I'm okay. A couple of questions; I just don't know where to start. Let me start with the extra revenue provisions. The City of Toronto Act gets to raise some money in ways that you can't. Do you have any advice for us on this committee if we're going to make amendments to what has been proposed already?

Mr. Berry Vrbanovic: Again, it's not an item that we were really looking to speak to today. I would say to you that, generally speaking, municipalities have been looking to get into a discussion with parties on all sides of the House around a new fiscal arrangement for local government in the future. That is a much broader discussion than the proposed legislation is getting at.

What I would say to you, though, that's specifically in terms of looking at options for municipalities: I personally—and this is personal view, not an official view of council—I am of the view that if those opportunities or methods are going to be made available, they should be made available for all municipalities across the province and they should be implemented across the province so that we're not seeing inequities potentially developing or competition developing between municipalities in areas where it hasn't existed before.

Mr. Percy Hatfield: Thank you. You did start off by talking about the change when new councils take over. You appreciated the time for the transition from councillor to mayor, but what about incumbent councils, when pretty well the old guard is back in, with perhaps one or two new councillors but the mayor is the same? Does that change your perception of the starting date for the new council in those circumstances?

Mr. Berry Vrbanovic: Do you know what? I think councils have planned for, in an election year, the timing that's necessary in order to get things done. Whenever there's a change, or even if there's an existing council that's re-elected—when there's still time that needs to happen around organizing the events: the formal council inaugural, getting invites out and so on—none of that can happen until after the election is done and after the results have been certified. We don't want to rush those things. And I think—

The Chair (Mr. Peter Tabuns): Mr. Mayor, I'm sorry to interrupt you, but—I know this is very substantial, but you've run out of time and I now need to go to the government. Ms. Vernile.

Ms. Daiene Vernile: Good afternoon, Berry and Kelly, it's great to connect with you this afternoon.

Mr. Berry Vrbanovic: Likewise.

Ms. Kelly Galloway-Sealock: Good to be here.

Ms. Daiene Vernile: I'm going to start with Berry and then I have a couple of questions for Kelly. I just want to tell my colleagues that Berry Vrbanovic has been our mayor since 2014, and before that he served for many, many years in Kitchener as a councillor. He has been the president of the Federation of Canadian Municipalities. Berry is the top Twitter mayor in Canada.

Mr. Berry Vrbanovic: No, no, no. I was number 10.

Mr. Percy Hatfield: No, the mayor of Calgary.

Ms. Daiene Vernile: Take the credit, Berry.

Okay. Berry, we heard what you had to say about closed sessions and start of term, so that is duly noted. We've heard from some municipalities that there is a benefit to shortening the so-called "lame duck" period after an election. Do you see any advantage to that?

Mr. Berry Vrbanovic: Listen, Daiene, I would say to you that certainly there can be some advantage because you're shortening the period, but I would say that on the balance of everything that we're talking about, I think the potential disadvantages outweigh the advantages. I would think you're better off keeping it the way it is.

Ms. Daiene Vernile: Okay, thank you. Now over to Kelly. Kelly, is baby Logan there with you?

Ms. Kelly Galloway-Sealock: He is not. It's a short enough meeting that I didn't have to bring him along.

Ms. Daiene Vernile: Okay. Baby Logan, I'll tell my colleagues, is five months old. I had a chance to see him on Saturday. Without prejudice, I think he's just the cutest baby I have ever seen.

Ms. Kelly Galloway-Sealock: Thank you.

Ms. Daiene Vernile: Just to reiterate some background on this issue of extending parental leave, it was Mayor Vrbanovic who brought this to me last June. He said to me, "Daiene, you have to fix this." I'm so glad that we're addressing this. Kelly, you know the barriers that exist when you're trying to get involved in politics and, as a woman and as a young mom, what you face. How do you see this impacting local politics—extending the leave?

1700

Ms. Kelly Galloway Sealock: I think it just gives a clear outline for anybody who is looking to get into municipal council, if they're in those child-rearing ages, that they have the ability to see what the rules are in advance. I think you can make that educated decision, then, on whether or not you're going to run or not run.

Or if you find yourself in a situation where it's unexpected—whether it be an adoption or whatever—you have these opportunities to take that leave and to take that time that you need, in order to bond with your baby.

Ms. Daiene Vernile: Many women in particular will choose local politics because they think it's more family-friendly, compared to going to Toronto or to Ottawa. But how family-friendly is it if you can be fired from your job if you're not there just 12 weeks after having a baby, right?

Ms. Kelly Galloway Sealock: Right, exactly. For me, it is a family-friendly job, because I'm still able to be with my kids a lot of the time, except for when I'm in my meetings—when they're still young and I'm not bringing them to meetings with me. I definitely find it to be a family-friendly job, so my advocacy is around getting more young people involved in politics, and I think it's an important provision.

The Chair (Mr. Peter Tabuns): Councillor, I am sorry to say that you're out of time.

Ms. Daiene Vernile: Thanks, Kelly and Berry.

Ms. Kelly Galloway Sealock: Thank you.

Mr. Berry Vrbanovic: Thank you.

The Chair (Mr. Peter Tabuns): Thank you very much for the presentation.

Colleagues, we are slightly ahead of time. Our next presentation is at 5:20. I know there is some interest in discussing our schedule.

Mr. Hatfield, did you want to speak to that?

Mr. Percy Hatfield: I do, Chair. Thank you. I actually would propose a motion and then speak to it. The motion would be:

I move that the Standing Committee on Social Policy ask permission from the House leaders to add one more day of hearings outside of its regularly scheduled meeting days so that the city of Mississauga, and any other delegations not chosen initially to present, may do so.

I make that presentation because when I came in this afternoon, a member from the government side asked if we would voluntarily start early tomorrow in order to hear Mississauga, because they had asked them to try to get on the list.

I guess my consideration is that I personally have an issue with fairness. We narrowed down the list to add one person that wasn't chosen, without giving an opportunity for anybody else on the list that might want to present to do so. So I would just suggest, in all fairness, that we add a day so that we can accommodate Mississauga and anybody else that wants to present, just so that we're not seen not to be open and transparent about the selection process on who can present to the committee.

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

Mr. Rinaldi.

Mr. Lou Rinaldi: I respect the member's recommendation here, but my understanding is that this issue has already been ready to be dealt with, if not already dealt with, in the House, because that's ultimately where the decision has to be made. My understanding is that with support from, I believe, another party already, this has been dealt with.

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

Mr. Hardeman?

Mr. Ernie Hardeman: I stand to be corrected, but the House has had no part in making a decision on the schedule under which we're working. The schedule was presented through the subcommittee to this committee, and the committee accepted the schedule, but the House leaders and the House have not had any impact. We're not in a time-allocated mode here.

In support of the suggestion, I would like to point out, first of all, that we had this discussion at subcommittee and again when we debated this issue in full committee. We had this discussion that there just wasn't sufficient time for people to prepare, apply and come in to present.

Of course, I was told that there were enough people in the wings, waiting to be heard, and we could notify them on Monday and they would be here on Tuesday to make presentations. Then, of course, the rest had a little bit more time. But it does appear that Mississauga really wanted to prepare, but because of the timing and the lack of time, shall we say, they were unable to get their name in.

From a previous presentation today, we found that they are the other part, or the other half, of one of the presentations that we heard this afternoon. I think it is very important that they are heard, to help us deliberate that part of the presentations today.

I think this is a great way to do it. Rather than just put a half an hour for one presenter, put a block of time to give more people the opportunity to also take part in that—those who didn't have time to prepare because of the shortness of time—and allow them to have an extra day of hearings. I do believe that since it's not time-allocated, when we start doing clause-by-clause, we can start the clause-by-clause slightly later on the following day and just move everything up one day. I don't think it would have a great impact on the committee's operation. I think it would solve the problem of everybody being heard who wants to be heard.

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

Mr. Lou Rinaldi: Thank you, Chair. I just want to partially correct my record. The House has not dealt with it but I believe there's agreement between two of the House leaders, one being the official opposition, and the government side, that there will be a motion addressed in the House that is going to deal with this issue. So, Chair, I request we vote on it.

The Chair (Mr. Peter Tabuns): If there's no further discussion—members are ready to vote?

Mr. Percy Hatfield: Recorded vote.

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

Ayes

Coe, Hardeman, Hatfield.

Nays

Dhillon, Mangat, Rinaldi, Vernile.

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

Mr. Lorne Coe: Can we take a little break?

The Chair (Mr. Peter Tabuns): We may. We don't have Mr. Di Ciano here—no?

Mr. Percy Hatfield: Can I just make one quick point before we break?

The Chair (Mr. Peter Tabuns): Okay, quickly.

Mr. Percy Hatfield: I just want to help out Ms. Vernile who was perhaps mistaken in saying that Mayor Vrbanovic was the top tweeting mayor in Canada. He is number 10, with 12,000 tweets, as opposed to Mayor Nenshi of Calgary who has 353,628. I know she didn't want to slam the mayor from Calgary. He's in the top 10 but he's not the top tweeting mayor in Canada.

The Chair (Mr. Peter Tabuns): Colleagues, with the record set straight, I'm going to suggest that we adjourn until 5:20. You're agreeable?

We are recessed until 5:20 p.m.

The committee recessed from 1708 to 1720.

The Chair (Mr. Peter Tabuns): Members of the committee, we're back in session.

CITY OF TORONTO

The Chair (Mr. Peter Tabuns): The next presentation: Justin Di Ciano, councillor, ward 5. Councillor? I apologize if I mispronounced your name.

Mr. Justin Di Ciano: It's all right. It was pretty good.

The Chair (Mr. Peter Tabuns): You have up to 10 minutes. Then there will be questioning by the three parties. If you'd start by introducing yourself.

Mr. Justin Di Ciano: Great. Thank you. Good afternoon, Chair and committee members. My name is Councillor Justin Di Ciano, and I am the Toronto city councillor for ward 5, Etobicoke-Lakeshore. I was also a member of the mayor's panel that analyzed and reported on the City of Toronto Act during the course of the ministry's municipal legislative review.

To my right is Paul Parsons, senior adviser in the city of Toronto's corporate, intergovernmental and agency relations division for the city manager's office.

Thank you for taking the time today to listen to our concerns with respect to Bill 68. It is my pleasure to present to the Standing Committee on Social Policy the city of Toronto's position regarding the proposed legislative amendments to the City of Toronto Act within Bill 68.

As part of this process before us today is the opportunity for the city of Toronto to share with you our concerns that we believe will negatively affect the city of Toronto and its residents, should Bill 68 pass in its current form. Also, in our review of the bill, we did find several areas where the proposed legislation requires amending to achieve the desired outcomes.

This past January, Toronto city council considered a report from the city manager and city solicitor on the implications of Bill 68 that included an assessment of how we did with regard to the City of Toronto Act review. City council adopted those recommendations and proposed several additional amendments to Bill 68. I've brought copies of the council decision and accompanying staff report to submit to the standing committee.

The first concerns the proposed new rules around third-party advertising in the Municipal Elections Act that would come into force in 2018. In December 2016, council adopted a report, Changes to the Municipal Elections Act and Related Matters Impacting the 2018 Election. In doing so, council directed that we propose some amendments to the Municipal Elections Act in our submission to you regarding Bill 68; specifically, that the province strengthen the third-party advertising regulations from the Municipal Elections Act or, alternatively, allow the city to impose additional conditions on third-party advertisers.

Basically, we see two potential concerns with regard to third-party advertising: first, that they might be used to conduct smear campaigns against a candidate; and second, that they might be used to subvert expense limits.

My suggestion is that we need to increase transparency. Either the province can do it by building on its proposed framework to regulate third-party advertisers, or the province can allow the city to do it by letting us put our own rules in place. One way to increase transparency is to mandate that third-party advertisers must post in real time the donations their respective organizations receive directly or indirectly for public consumption.

Also, under the Municipal Elections Act, there is the issue of changes to the start dates for terms of office. Bill 68 proposes to move up the commencement date for the next term of council from December 1, 2018, to November 15, 2018. We don't have any objections to this. We just ask that the province also adjust the end-of-term date for currently sitting mayors and members of council so that the two do not overlap. We believe this was simply an oversight and expect that it can be easily corrected by adding a transition provision to the Municipal Elections Act for the 2018 election providing that the current term of office ends on November 14, 2018.

Now we come to our suggested City of Toronto Act amendments. Through the City of Toronto Act review process, the city submitted a number of requests related to land use planning and the Ontario Municipal Board process.

Council's direction is that I express our strong dissatisfaction that the city's requests were not accepted. I remain hopeful that some of these requests are still on the table, in particular our request for OMB reform, such as getting rid of de novo hearings and putting limits on OMB appeals of major municipal decisions, effectively sheltering them from appeal at least for a couple of years. My colleagues and I look forward to hearing more from the province in the near future regarding OMB appeal and reform.

City council also has two amendment requests related to heritage protection. The first request has two variations. We're asking that the province either amend subsection 21(2) of the City of Toronto Act to add the Ontario Heritage Act as a listed act, or list the Ontario Heritage Act in whatever regulation would be appropriate using the existing authority in subsection 21(2). Either way, the intent is the same. We want the city to be able to delegate council's power under the Ontario Heritage Act in order to help speed up that process, to avoid unintended or unwanted demolition of heritage properties.

The other heritage protection amendment we are proposing is to add to the City of Toronto Act a non-residential demolition control provision identical to section 33 of the Planning Act: demolition control for residential properties. This would enable the city to consider whether and when demolition permits are issued for non-residential buildings within Toronto, including institutional and commercial buildings.

Let me be clear: We are trying to find ways to avoid situations like the recent demolition of the historic Bank of Montreal building at Yonge and Roselawn, where the city did not have the opportunity to properly consider whether there might be heritage considerations. Even if we had the time, we did not have the authority to prevent a rapid demolition. I see no reason why the province would not take into consideration this incredibly important request.

Our next point is an objection in principle to the proposed regulation-making authority set out in section 28. This section says that the minister may make regulations "prescribing actions that the city must take" with regard to integrated service delivery planning if these actions are considered necessary "in the opinion of the minister." In the opinion of the city, this power is unnecessarily broad and has the potential to give rise to political interference on important service delivery planning matters.

We have no objection to integrated service delivery planning. In fact, we strongly support it and we are striving to work towards this ideal. A great example is the work we are doing with local school boards and various provincial ministries to create community hubs. If the province is of the view that there are things we could do better in this area, we think that the province should come to us and talk about it. We're open to these conversations but we ask that the province consult with us as a partner, not dictate actions that we must take. Our specific request at this time is that this section be struck from Bill 68.

Our next suggested amendment relates to transparency. Back in December of 2015, city council considered a review of the functions of Toronto's accountability of-

fices. As part of that, we approved the recommendation that the City of Toronto Act be amended to clarify and reinforce the accountability officers' ability to share information between them. The idea is that the accountability officers—our auditor general, the lobbyist registrar, integrity commissioner and ombudsman—should be able to share information for concurrent investigations. We are asking for a City of Toronto Act amendment to explicitly clarify the ability to share information for concurrent investigations by noting this as an exemption to the duty of confidentiality.

Next, council has asked us to add an additional exception to the vacancy provisions in the City of Toronto Act. We would like to add one more exception to that provision to avoid removal of a councillor because of chronic illness.

Our next requested amendment is intended to protect the city's financial interests. Currently, the City of Toronto Act allows for forfeit amounts in tax sale proceedings to be given to the city in any other case besides those where ownership of the lands revert to the crown. Bill 68, as currently written, would remove this ability. The city would no longer be able to apply for excess tax sale proceeds paid into court. As a result, the city may end up with unpaid liabilities that cannot be recouped through the tax sale process, for example, charges added to the tax roll that do not have first priority lien status and so cannot be included in the cancellation price of a tax sale property. While the amounts recouped will vary from year to year, I can tell you by way of illustration that the city took in approximately $1.5 million by this method from 10 tax sales in the past two years alone.

We object to the proposed changes in Bill 68 because of the financial implications.

To conclude, I want to thank you for the opportunity to appear before you today and hearing our concerns. I am hopeful that my deputation will result in the necessary changes required to improve the city of Toronto's governance capabilities. This is, after all, what this process is about. City council appreciates your—

The Chair (Mr. Peter Tabuns): Councillor, I'm sorry to say that you're out of time.

Mr. Justin Di Ciano: Thank you, sir.

1730

The Chair (Mr. Peter Tabuns): We go first to Mr. Hatfield.

Mr. Percy Hatfield: Thank you, Justin, for coming in. Earlier last week, we met with somebody who owns a bunch of billboards in downtown Toronto. He was concerned that you were going to be having too much power to take down billboards that were non-conforming. He wanted to be grandfathered. How much of an issue is that, how much of a problem is that for the city?

Mr. Justin Di Ciano: How much of a problem is it that we have too much power or that the province has too much power? I'm not sure I understand the question.

Mr. Percy Hatfield: No. I guess, how much of a problem is it that there are old billboards that are legally non-conforming in use, as opposed to ones that you have approved?

Mr. Justin Di Ciano: Right now, our sign bylaw people are telling us that it is a big problem, that there are a lot of signs out there that are in nonconformity. There's more that we can do to make it easier for us to allow people to follow the rules.

Mr. Percy Hatfield: In your presentation, you were talking about how the province should be coming to you as an equal partner to talk about some things. I take it you weren't too happy with the decision on toll roads.

Mr. Justin Di Ciano: Personally, I was not, since I voted to support them.

Mr. Percy Hatfield: OMB reform: I hear it's coming. They keep telling me, "It's just around the corner. It's almost here." When you want to add simple things such as chronic illness, have you met with the government to get their reaction to those types of suggestions?

Mr. Justin Di Ciano: The only opportunity we've taken is the opportunity here today. We currently have a member of council who's suffering from a chronic illness. It would be prudent for all of us to make those considerations.

Mr. Percy Hatfield: And the sharing of confidentiality amongst your commissioners—nothing back from the province on that, either?

Mr. Justin Di Ciano: Not yet.

Mr. Percy Hatfield: All right. The overlap: Have you heard anything back from them on the overlap from one term of council to the next in the next election? You said it was just an oversight that could be avoided very easily.

Mr. Justin Di Ciano: I can refer to Mr. Parsons, if he has heard anything from his office.

Mr. Paul Parsons: Not anything specific as of yet, but all our concerns that council raised were in our staff report. We shared those with the province when council approved them, so they have been in the air for a while.

Mr. Percy Hatfield: Thank you.

The Chair (Mr. Peter Tabuns): Thank you. We go to the government. Mr. Rinaldi.

Mr. Lou Rinaldi: Thanks for being here, Mr. Di Ciano. It's good to hear from you. Your presentation has got a lot of subtitles, subheadings. It touches a lot of things. Just to follow up on Mr. Percy's question, the OMB, as you know, is going through a review. I know, as parliamentary assistant to the minister, that we've undertaken an enormous amount—it started off with Mr. McMeekin here—an awful lot of consultation. I would say stay tuned. It's not that far away. I would just pass that on.

I want to follow up, though, on a question about signage. We did have folks here the other day, and I'm not sure I understood the answer right. The bill, if passed the way it is, will give the municipality the right to regulate, whether it's past signs, new signs and so forth. The proponents, like some of the companies, are obviously against that. Does this address what you were looking for, giving you or the level of government the ability to make your own decisions?

Mr. Justin Di Ciano: Within my remarks today, we were referring to third-party advertising within the Municipal Elections Act.

Mr. Lou Rinaldi: I understand that.

Mr. Justin Di Ciano: Okay. So you're asking a question outside of the remarks. Fair enough.

Mr. Lou Rinaldi: But the bill does address what I just said—

Interjection.

Mr. Lou Rinaldi: Yes.

Mr. Justin Di Ciano: I'll let Mr. Parsons address that.

Mr. Paul Parsons: Sure. I think we can say yes, it does address. It was one of the city's requests when you came forward with the legislative review in 2015. We'd ask for the ability to harmonize our sign regulations, yes.

Mr. Lou Rinaldi: Okay. I just want to make it clear, because we did have delegations.

The other piece that I would mention: You mentioned about hubs in your presentation, where the province and the city have been working collaboratively to establish those hubs to better deliver some needs to the local community. How is that working for the city?

Mr. Justin Di Ciano: Any time you can break down barriers with different levels of government to work together it's something that's positive. With two different levels of government, there are different concerns that must be shared with each other. To be able to just dictate to a city like Toronto on how it should move forward on certain issues—we find a little problematic.

Mr. Lou Rinaldi: On your third-party advertising—

The Chair (Mr. Peter Tabuns): Mr. Rinaldi, I'm sorry to say you're out of time.

Mr. Lou Rinaldi: Oh, no.

The Chair (Mr. Peter Tabuns): I know, you have great questions, but you've run out of time, sir.

We'll go to the official opposition. Mr. Coe.

Mr. Lorne Coe: Good afternoon. Thank you for being here.

There's a proposed amendment to the Municipal Conflict of Interest Act in this legislation that would allow a person—which could include a non-resident, a corporation or municipality—to apply to a judge for a determination of whether a member, such as yourself, or another member of council, violated the act. Are you fine with that amendment, or would you be more comfortable removing it in favour of the existing requirement that only an elector can apply for such a determination?

Mr. Justin Di Ciano: I don't think that council as a whole has any issues with respect to that provision.

Mr. Lorne Coe: Okay. Earlier this afternoon, we had a presentation from the Office of the Integrity Commissioner from the city of Toronto. You will know through your review of this legislation that it expands the scope of the office. To what extent has council discussed the costs associated with that?

Mr. Justin Di Ciano: We don't usually discuss costs in our debates at city hall, which is a little problematic. For the most part, city council debates the merits of what we allow and what we don't, and the costs are, therefore, an afterthought. They go to budget, and we make sure that, in accordance with the law, we balance our budget.

Mr. Lorne Coe: Through your answer, then—you favour the proposed amendments in Bill 68 that expand the scope of the integrity officer's office?

Mr. Justin Di Ciano: I do, and I think council does as well.

Mr. Lorne Coe: To my colleague.

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

Mr. Ernie Hardeman: Thank you very much for your presentation.

You're the first one who has spoken to the overlap of the two councils. If you start the term of office for the new council two weeks before you end the contract with the old one, you'll have a bit of a problem as to who gets the key to the mayor's office. I'm sure that was an oversight by the drafters of the legislation, which will be corrected. We appreciate you bringing it forward.

My question is really about the integrated service delivery planning. This section says the minister may make regulations prescribing actions that the city must take with regard to integrated service delivery planning if these actions are considered necessary in the opinion of the minister. Would that not be an appropriate way of looking at it: to say that if we're going to talk about integrated services, who but the minister is going to be able to decide that could be done—integrated with someone else delivering part of it and you delivering part of it?

The Chair (Mr. Peter Tabuns): Mr. Hardeman, I'm sorry to say you're out of time.

Mr. Ted McMeekin: Oh, no.

Ms. Daiene Vernile: But they were good questions.

The Chair (Mr. Peter Tabuns): There's disappointment all around.

Thank you, Councillor, for your presentation. We appreciate it.

Mr. Justin Di Ciano: Thank you for having us today.

OUTFRONT MEDIA
CLEAR CHANNEL OUTDOOR

The Chair (Mr. Peter Tabuns): The next presenters are from Outfront Media: Stephen McGregor and Paul Seaman. Gentlemen, please have a seat.

As you've observed, you have up to 10 minutes to present, and then we have questions from the three parties. When you start, would you please introduce yourselves for Hansard? Thank you.

1740

Mr. Paul Seaman: Sorry.

The Chair (Mr. Peter Tabuns): Better to get it done right.

Mr. Stephen McGregor: Apologies.

The Chair (Mr. Peter Tabuns): Not a problem. Don't worry.

Mr. Stephen McGregor: Mr. Chair and members of committee, my name is Stephen McGregor. I'm from

Outfront Media Canada. I'm joined today by Paul Seaman from Clear Channel Outdoor Canada.

If I may, I would like to go back to a question which was asked of Councillor Di Ciano. There is an important distinction between illegal non-conforming signs and legal non-conforming signs—

Interjection.

Mr. Stephen McGregor: I'm sorry, sir?

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

Mr. Stephen McGregor: Staff, in fact, has a tremendous problem with illegal non-conforming signs. They do not have a problem with legal non-conforming signs. I have a staff report here which recommended certain increased regulatory authority, but not the power to remove them, which is why Paul and I are here. There is a big difference.

Normally, Paul and I compete with each other. Today we've chosen to appear before you together to discuss Bill 68. This bill poses a grave threat to our industry and to the many men and women who work in the billboard industry, and to our many landlords who rely on the income we pay.

Specifically, we'd like to draw your attention to section 6 of schedule 1, and section 11 of schedule 2 of Bill 68. These two sections seek to repeal section 99(1) of the Municipal Act and section 110(1) of the City of Toronto Act.

The existing legislation grandfathers signs and billboards that were in place prior to a municipality enacting a new bylaw. As legislators, you will be familiar with the principle of legal nonconformity—that is, property which was built when one set of bylaws was in place, and later on, if there's a new set of bylaws or rules, that property is protected by the principle of legal nonconformity.

This city and this province are full of houses and commercial uses that, today, would not necessarily be approved by their municipalities. However, they cannot be ordered to be taken down or demolished because they were legal when they were put up.

The city of Toronto has a very restrictive sign bylaw in place today. Since it was passed in 2010, Paul's company and my company, and companies like ours, have in fact built very, very few signs.

We acknowledge the city's right to pass and enact bylaws on a go-forward basis. However, the vast majority of billboards in Toronto—well over 90%—were built prior to that new sign bylaw being passed, and they do not conform to that sign bylaw. By definition, they are legal, and they are legal non-conforming, and they are protected by section 110.

Just like the houses a few blocks from here in neighbourhoods like the Annex, which were built very close to a property line or which might have knob-and-tube wiring, those houses would not be approved by today's bylaws, but they're legal and non-conforming, like our signs. You would not pass legislation allowing a municipality to order houses like that to be demolished. Yet that is what you're being asked to do here with Bill 68. It is simply not fair.

Before I turn it over to Paul, it won't surprise you to know that I have been in this business a long time. When the City of Toronto Act was passed in 2006, section 110, which grandfathered non-conforming uses, wasn't a mistake or oversight. That government and that Legislature knew full well what they were doing. There was a question of fairness put before them, and they made the right decision. We ask you again to make the right and fair decision, and not take away legal non-conforming rights.

Thank you very much.

The Chair (Mr. Peter Tabuns): Thank you. With that, we go to the government for first—

Interjections.

Mr. Paul Seaman: We will continue—

The Chair (Mr. Peter Tabuns): Oh, my apologies. Please.

Mr. Paul Seaman: Good afternoon, Mr. Chairman. I will add that as well as being devastating to our companies and our employees, empowering municipalities to order grandfathered billboards to be removed will have a very detrimental effect on our landlords.

Typically, we pay rent to install our signs and billboards to property owners, who range from very large companies like Cadillac Fairview Corp., to small, family-owned businesses who depend on rental income from us to remain commercially viable, pay their employees and their taxes. Be assured that the damage to be inflicted here extends beyond a few companies like ourselves.

Beyond the fairness question, as legislators and policy-makers, both in the chamber and in committees like these, you are asked to consider not only a particular piece of legislation before you, in isolation, but also the precedent a bill may set, its constitutional implications and even whether or not a bill may place Ontario offside with agreements such as NAFTA.

To our knowledge, passing this bill as drafted would be the first erosion of the principle of legal non-conforming properties. You should ask yourselves if this is the beginning of a slippery slope. After this, how long will it be before other interests, and their lawyers, show up here or in the courts relying on this bill as a precedent to further erode the principle? I suspect not long.

We believe that it is never the intent of legislators to knowingly pass legislation that will inevitably result in litigation or court challenges. We have obtained, and have shared with you, a legal opinion from Aird and Berlis, which speaks to both the principle of legal non-conforming and how it is embedded in Canadian law, as well as cases that have gone to no less than the Supreme Court as charter and constitutional challenges. I will read a few excerpts into Hansard:

"The legal non-conforming use principle was given statutory form in Ontario and elsewhere to provide a limited form of protection to vested property rights in the teeth of the necessary zoning powers of local governments to control the orderly development of municipal lands in light of ongoing and constantly changing circumstances.

"Without this protective principle, the local landowner would be at the mercy of the passing whims and fancies, as well as the reasoned planning and zoning judgments, of local officials and could face indirect expropriation or forfeiture without compensation. Thus, the non-conforming use principle has been statutorily embedded in the zoning process to prevent retroactive injustice from being wrecked upon the landowner."

The opinion goes on to say:

"It is suggested in Rogers' Canadian Law of Planning and Zoning that the basis for legal nonconformity with regard to the preservation of property rights does not just concern the concept of natural justice, but is also concerned with the public interest.

"The natural justice concept prevents the violation of such rights and permits an owner to retain the value which he or his predecessor in title create in his property at a time when the law permitted him to do so. The community has an interest in the continuation of such value notwithstanding that the property it protects would not be considered a desirable development of such land in the light of good planning principles, although it is not necessarily detrimental to the rest of the conforming community."

Members here should also be aware that when the municipality of Saint-Hyacinthe, Quebec, passed a bylaw prohibiting billboards in certain parts of that city, the resulting court challenge was brought to no less than the Supreme Court of Canada, which found that the town had infringed upon section 2(b) of the Charter of Rights and Freedoms. The question then becomes, why would Ontario go down the road of giving this province's municipalities the authority to remove what are up to now legal signs and billboards, fully expecting similar court cases? The answer is, you would do well not to.

Finally, the people who drafted this bill may not have been aware that allowing cities and towns to order the removal or to confiscate existing signs and billboards may have implications under NAFTA. Specifically, legislative counsel may wish to advise members on chapter 11 of the North American Free Trade Agreement.

In summary, this bill as drafted offends and begins to erode the long-standing principle of legal non-conforming properties. It will be financially devastating for advertising companies and our landlords. It has the potential to create a legal morass.

As policy-makers, you begin with the questions, what problem are we trying to solve, and do the solutions create even bigger problems? We respectfully submit to you that Bill 68, as drafted, fails that test. We would encourage you to consider and adopt the amendment which appears at the end of our materials. Thank you.

The Chair (Mr. Peter Tabuns): Thank you, and sorry to have tried to pre-empt you earlier. To the government: Mr. Dhillon.

Mr. Vic Dhillon: Thank you for your presentation. Have you engaged with the municipalities on this issue, and what feedback have you gotten, if any?

Mr. Paul Seaman: Sir, we have, for many, many years. Respectfully, typically in this world there is a group of people who simply hate signs and advertising, and there is a mass of people who frankly don't really think too much about it. This matter has been something that's been brewing with I'll say a very, very small minority on Toronto city council for many years, who frankly would like all billboards to go away, regardless of whether it was legal non-conforming or not. They simply don't like signs in the public realm. This is a bit of a slippery slope, and frankly this act is being used to further that mandate of a few individuals.

Mr. Vic Dhillon: Are you aware that municipalities will have the flexibility to shape sign bylaws if Bill 68 passes? For example, they would be able to include grandfathering clauses.

1750

Mr. Stephen McGregor: Sir, I can't be condemned for telling the truth. If the city of Toronto has the opportunity to shape such a clause, it will require the removal of a large number of legal non-conforming signs.

Mr. Vic Dhillon: Thank you.

The Chair (Mr. Peter Tabuns): No other questions? We go to the official opposition: Mr. Hardeman.

Mr. Ernie Hardeman: Thank you very much for your presentation. I too was intrigued by the issue that a bill would try to, for one purpose or another, remove a legal non-conforming use. I live in a legal non-conforming house, so I understand that and I would have some challenge with people coming to tell me that because of a change in the rules I no longer can live there, when I've lived there for just about 40 years.

Also, looking at the big picture, if the city decides that they want to change the environment of signs—you couldn't replace a legal non-conforming sign with one that's less than conforming?

Mr. Paul Seaman: Respectfully, you can't because the bylaws that are created today are, frankly, so draconian that there's really no other opportunity to build. We've been in somewhat of a survival mode for the last few years.

I would also state that we've lost, through natural attrition, some billboards. I've been saying for a while now that I'm not sure why the city endeavours to do something that, through the course of time and development, will happen anyway. For those of you who have driven the Gardiner, every so often you'll notice that a large billboard is gone. It's not uncommon to have a landlord say, "I've sold my property to a large condominium corporation and we're tearing the building down, and so too goes your sign."

As a business decision, I think a landowner certainly has the right to do what they will with their property. The reality is, the footprint of Toronto's signs is getting smaller and smaller with each passing month. In 10 years, we may get here through natural redevelopment anyway, but that's a wholly legal process and not one of forced condemnation.

Mr. Ernie Hardeman: Can you tell me: On an average sign along the Gardiner, how much do you invest in a sign like that? What's the cost of putting it there and what's the revenue generated by it, for the people who own the property underneath it?

Mr. Paul Seaman: It really depends on the type of structure. Digital billboards can be anywhere from a half a million dollars and greater, to the more traditional signs that can fall a bit short of that. I certainly can't speak for my colleague here today, but typically landowners will receive somewhere in the neighbourhood of 70% to 80% of all of that money; it will go directly to the property owner.

Mr. Ernie Hardeman: Short of the option to not—if the bill was to be changed, is there any solution other than just eliminating the—

Mr. Stephen McGregor: There certainly is. MPP Hatfield, when I mentioned at the outset that there was a profound difference between illegal signs and legal non-conforming signs—

The Chair (Mr. Peter Tabuns): I'm sorry to say, with that, you're out of time with this questioner. Mr. Hatfield may continue that, though.

Mr. Percy Hatfield: Let me apologize again. If I said "illegal non-conforming use" as opposed to "legal non-conforming use"—

Mr. Stephen McGregor: We're very sensitive about that.

Mr. Percy Hatfield: I know the difference and I would have meant to say "legal," so please accept my apology again.

Mr. Stephen McGregor: I'm sorry, again. But to answer Mr. Hardeman's question, then?

Mr. Percy Hatfield: Yes, please do, very quickly, though; because it's my time.

Mr. Stephen McGregor: All right. To the layman, the rules are slightly arcane, and I apologize for that myself. Yes, there is. There was a series of public consultations which the city asked its sign unit to conduct concerning legal non-conforming signs. The result of those consultations—and the city heard loud and clear that people did not want their legal non-conforming signs interfered with. Staff came forward with recommendations which would allow staff greater authority to regulate legal non-conforming signs but which would not provide the city the authority to have them removed.

In our brochure today, you will see that we have proposed just that. We've proposed, in fact, what the city of Toronto staff has recommended to council. They gain greater regulatory authority, which is fine with us. These legal non-conforming signs are all we have, essentially, and we'd like to retain them.

If you don't have that, I'd be happy to read it into the record.

Mr. Percy Hatfield: No, that's okay. It's my time, not his.

Mr. Stephen McGregor: Oh, okay. All right.

Mr. Percy Hatfield: Let me just ask this: I think the argument from Saint-Hyacinthe, Quebec, the way I heard it, was, "We can put up a billboard anywhere we want. You can't restrict us from any neighbourhood." Is that what the court ruled?

Mr. Paul Seaman: No, that's actually incorrect. What it said is that you can't prohibit something. We certainly agree that cities have the right to impose bylaws and certainly to regulate where things go, but in fairness, you can't change the past. How would you have any sense of economic development? How could you ever have any sense of justice or law and order if you can simply change the rules as you go along?

Mr. Percy Hatfield: I agree that you can't change the past. Would you agree that there's a different generational elevation of quality, of standards, within billboard advertising; that there might be some old, outdated, legal non-conforming-use billboards out there that perhaps should have been upgraded or could be upgraded?

Mr. Paul Seaman: I would suggest to you that if the city proposed legislation that required companies to improve the overall aesthetics, I don't think anyone would have any claim to argue against that. I think it makes perfect sense. If that's the compromise, then I think that's an excellent compromise.

There are issues today, however, that go to substantial alterations. If I endeavoured, as an example, to put a bunch of money into a legal non-conforming sign, it could then be determined to be illegal by having put a substantial amount of capital into it. Typically under construction law, "substantial" is determined as about 10%, so there's a bit of limitation—

The Chair (Mr. Peter Tabuns): And with that, I'm sorry to say we're out of time. Gentlemen, thank you very much. We appreciate your presentation today.

Mr. Paul Seaman: Thank you.

Mr. Stephen McGregor: Thank you.

The Chair (Mr. Peter Tabuns): Members of the committee, we're reconvening tomorrow, April 11, at 4 p.m. This committee stands adjourned.

The committee adjourned at 1757.

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