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**Official Report
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SP-29

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des débats
(Hansard)**

SP-29

**Standing Committee on
Social Policy**

Building Better Communities
and Conserving Watersheds
Act, 2017

2nd Session
41st Parliament

Monday 30 October 2017

**Comité permanent de
la politique sociale**

Loi de 2017 visant à bâtir
de meilleures collectivités
et à protéger les bassins
hydrographiques

2^e session
41^e législature

Lundi 30 octobre 2017

Chair: Peter Tabuns
Clerk: Jocelyn McCauley

Président : Peter Tabuns
Greffière : Jocelyn McCauley

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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 30 October 2017

Lundi 30 octobre 2017

The committee met at 1402 in committee room 1.

**BUILDING BETTER COMMUNITIES
AND CONSERVING WATERSHEDS
ACT, 2017**

**LOI DE 2017 VISANT À BÂTIR
DE MEILLEURES COLLECTIVITÉS
ET À PROTÉGER LES BASSINS
HYDROGRAPHIQUES**

Consideration of the following bill:

Bill 139, An Act to enact the Local Planning Appeal Tribunal Act, 2017 and the Local Planning Appeal Support Centre Act, 2017 and to amend the Planning Act, the Conservation Authorities Act and various other Acts /
Projet de loi 139, Loi édictant la Loi de 2017 sur le Tribunal d'appel de l'aménagement local et la Loi de 2017 sur le Centre d'assistance pour les appels en matière d'aménagement local et modifiant la Loi sur l'aménagement du territoire, la Loi sur les offices de protection de la nature et diverses autres lois.

The Chair (Mr. Peter Tabuns): Good afternoon, committee members. I'm calling this meeting to order to resume clause-by-clause consideration of Bill 139, An Act to enact the Local Planning Appeal Tribunal Act, 2017 and the Local Planning Appeal Support Centre Act, 2017 and to amend the Planning Act, the Conservation Authorities Act and various other Acts. Bradley Warden from legislative counsel is here to assist us in our work.

I want to note that two additional amendments were received by the committee: NDP amendments 53.3 and 54.3. Copies can be found on your desk, as well as—I think you've brought forward amendments, Mr. Hardeman.

Mr. Ernie Hardeman: It's 46.6.

The Chair (Mr. Peter Tabuns): Yes.

We had left off with Ms. Malhi. She had the floor—

Mr. Ernie Hardeman: Mr. Chair.

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

Mr. Ernie Hardeman: Before we give the floor back: Given that the deadline for written submissions was changed after it was publicly advertised, I'd like to move a motion that any correspondence to the committee received by the Clerk regarding Bill 139 be distributed even though the official deadline for written submissions has passed.

The Chair (Mr. Peter Tabuns): Mr. Hardeman, I will call a recess so that we can distribute that and so every member has it, and then we can debate it.

Mr. Ernie Hardeman: Thank you.

The Chair (Mr. Peter Tabuns): Five-minute recess.

The committee recessed from 1403 to 1407.

The Chair (Mr. Peter Tabuns): The committee is back in session. Everyone has a copy of Mr. Hardeman's motion. I just want to note that because we are in the midst of debating another motion right now from the government, we have to finish that motion, Mr. Hardeman, before we get to yours. But everyone now has a copy and they can consider it.

Before we go further, colleagues, I have had some concerns about the sound levels. People need to pull their mikes close to them just to make sure that we have a very good recording—also, some complaints from people not being able to hear comments. So if all of you would make sure that your voice was clearly picked up by the mike, it would be appreciated.

We'll go back, then, to motion 47. Ms. Malhi had read it out, and the government has the speaker point. Mr. Rinaldi?

Mr. Lou Rinaldi: Chair, we've been through similar motions in the past, so I would just say that this would help in the mediation process and it would provide the tribunal with the authority to approve a settlement to which all specified parties would agree. Once again, I think it would expedite the process.

The Chair (Mr. Peter Tabuns): Thank you. Are there other speakers on this motion? Mr. Hardeman.

Mr. Ernie Hardeman: Just that I agree with him and I think this is a similar motion to a number we have had. We have a little different interpretation of what the intent is, but I agree with it needing doing, so I will support this motion.

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

Mr. Percy Hatfield: Chair, I would like to move an amendment to 47.

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

Mr. Percy Hatfield: This would be 47.0.0.1.

I move that paragraph 1 of subsection 34(26.5) of the Planning Act, as set out in motion 47, be amended by striking out "90 days" and substituting "120 days".

The Chair (Mr. Peter Tabuns): Before we go to any comments, that motion has to be distributed to all members of the committee. Again, I will recess for a few minutes.

The committee recessed from 1410 to 1411.

The Chair (Mr. Peter Tabuns): Back in session. Mr. Hatfield, did you want to speak to your amendment?

Mr. Percy Hatfield: Basically, Chair, it's just extending the deadline by 30 days to give everybody an opportunity—if you read subsection (26.5), “On an appeal under subsection (11) that concerns the failure to make a decision on an application in respect of which the municipality was given an opportunity to make a new decision in accordance with subsection (26.3), the tribunal may amend the bylaw in such manner as the tribunal may determine or direct the council of the municipality to amend the bylaw in accordance with the tribunal's order.”

I just think that if we give the municipality another 30 days to jump into that situation, to have the staff jump into that situation, it would be in the best interest of good planning, that they have enough time, the time they need to do it properly. I believe this was a suggestion from AMO as well.

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

Mr. Lou Rinaldi: Chair, we've been through this before, similar amendments to the motion. I think we've given municipalities more time upfront, so we want to make sure that decisions are made in a timely fashion. So we're not prepared to support it.

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

Mr. Ernie Hardeman: We will also not be supporting this motion. As I've been saying all the way through, as we look at increasing the time, we all know we want to give sufficient time, but every time you add another month, another month on the process that may or may not be needed, it seems that a lot of the planning processes go to the amount of time allotted, not to the time it takes to get it done. I think we need to make sure we don't have a lot of time put in there that's going to delay the approval of projects.

Obviously the number one concern we've heard from the development industry in this debate is that it takes too long to get a project from start to finish with shovels in the ground. I think any place we can look where we can keep that timeline a little tighter, the better off the legislation will be. In this case, I don't think we're going to see a great benefit from having longer to do it. We will be voting against it.

The Chair (Mr. Peter Tabuns): Seeing no further discussion, I'm ready for the vote. All those in favour? All those opposed? It is lost.

We go then to government motion number 47. We had discussion. Is there any further discussion? None? Ready for the vote?

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

We then go to NDP motion 47.0.1.

Mr. Percy Hatfield: Chair, I believe I shall withdraw 47.0.1.

The Chair (Mr. Peter Tabuns): Thank you. We go then to Mr. Hardeman's motion.

Mr. Hardeman.

Mr. Ernie Hardeman: I move that subsection 34(25) of the Planning Act, as set out in subsection 10(11) of the bill, be amended by adding the following paragraph—

The Chair (Mr. Peter Tabuns): Mr. Hardeman, my apologies to you: You had given a motion earlier that we had circulated.

Mr. Ernie Hardeman: Oh, the other one. My apologies. I'll have to find it. Here it is. We'll try again, Mr. Chair.

Given that the deadline for written submissions was changed after it was publicly advertised, I'd like to move a motion that any correspondence to the committee received by the Clerk regarding Bill 139 be distributed even though the official deadline for written submissions has passed.

The Chair (Mr. Peter Tabuns): Thank you, Mr. Hardeman. Any discussion?

Mr. Ernie Hardeman: Well, Mr. Chair, the reason for this motion is strictly to make sure that the people who in good faith sent applications in, and I think—not that it changes anything to what we do, but that their voice will be heard by the committee, so that they would all be distributed to the committee even though they arrived beyond the set deadline.

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

Mr. Lou Rinaldi: We're happy to support it.

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

Mr. Percy Hatfield: Thank you, Chair. Yes, in the interest of openness and transparency, I will be supporting this motion as well.

The Chair (Mr. Peter Tabuns): Okay. No further discussion? Mr. Hardeman.

Mr. Ernie Hardeman: Just one other comment: I think in both the issue of the deadline for amendments to this bill and the write-in comments to the bill, both deadlines were moved, and we have been seeing some added amendments over that period of time, too, so I think it's a good idea to let the community be heard.

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

Ready for the vote? All those in favour, please indicate. All those opposed? It is carried.

We were going on to NDP motion 47.1. Mr. Hatfield.

Mr. Percy Hatfield: I thought we were going to do 46.6.

The Chair (Mr. Peter Tabuns): My apologies. We go to PC motion 46.6. My apologies, members of the committee. Please proceed, Mr. Hardeman.

Mr. Ernie Hardeman: Well, thank you very much, Mr. Chair.

I move that subsection 34(25) of the Planning Act, as set out in subsection 10(11) of the bill, be amended by adding the following paragraph:

“7. The application relates to a new landfill site or the expansion of a landfill site other than by the local municipality.”

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

Discussion? Mr. Hardeman.

Mr. Ernie Hardeman: The motion, obviously, is to add to the bill in the section where the board—the tribunal—would be able to not hold a hearing, so it would be unappealable at that point, because when it goes to the board, the board would not hear it.

This is in applications. I guess in the normal course of events we use the words “the willing host” for a situation where, if a municipality decides to pass a bylaw not allowing a project such as a landfill site, either a new one or an expanded one—that if they pass a bylaw to prohibit that, then that bylaw would not be appealable, so that exactly.

They have a say in whether it goes to—the same as any other development. Every municipality is responsible for their own waste, but communities should not have someone else’s waste forced upon them. That’s why the word—except in the case of the local municipality, they could still have the process if it was for a municipal landfill site for that municipality. There may be still people who want a hearing, who want to hear about where the best place is to put it in the municipality, and that would still be allowed through this motion. If it was for a private landfill site for waste coming from elsewhere, that bylaw would not be appealable. It isn’t right that they have a say of where the local Tim Hortons is located but no say in the location of a landfill for someone else’s waste.

At the beginning of the meeting, I distributed a package of emails, and I hadn’t done that yet, Mr. Chair, so I’ll do that right now. This fits in the same category as a motion we passed earlier about everyone getting all of the correspondence that was received to Bill 139.

1420

This one here—I can give it to the Clerk to pass out—is the emails I received in the last few days, between the time that we were here last Tuesday and that we’re here today, of people who wanted to comment about this motion.

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

Mr. Ernie Hardeman: With that, Mr. Chair, I just want to continue on. Before they will be passed out by the Clerk, I will finish with the debate on this motion that we’re debating.

The Chair (Mr. Peter Tabuns): Yes, along with other late communications that have been received. So people will get a full package.

Mr. Ernie Hardeman: I just wanted to make sure, Mr. Chair, that those documents that the people in Oxford county sent in over the last few days with great concern over what’s happening in Oxford—

Mr. Lou Rinaldi: Point of order, Chair.

The Chair (Mr. Peter Tabuns): You have a point of order, Mr. Rinaldi?

Mr. Lou Rinaldi: I guess a question to the Clerk and the counsel: Is this motion in order?

The Chair (Mr. Peter Tabuns): Motion 46.6?

Mr. Lou Rinaldi: Number 46.6, yes.

The Chair (Mr. Peter Tabuns): Yes.

Mr. Lou Rinaldi: Okay, thank you.

Mr. Ernie Hardeman: Thank you very much, Mr. Chair. As I said, I wanted to make sure that everyone on the committee knew the concerns expressed by my community about the proposal in their jurisdiction, in our county. I share their concern, but this motion isn’t just about the situation in Oxford. There are many other places.

There was one in the House today, in the Legislature, where there was some discussion about a landfill site that had been approved and then unapproved and approved again, and the concern that a lot has changed between the time of the original motion and the original approval and the situation on the ground as it is today. To just approve that without question or comment from the municipality where it is doesn’t seem appropriate. The application would have been different years ago, in the years when the original application was made. The people, again, the local people, should have a say in that.

As I said at the beginning of the meeting, I distributed a package—they’re not quite distributed yet, but they will be—from the people in my riding who were concerned about a proposal in my riding to locate a landfill close to the Thames River and one of Ingersoll’s main drinking wells. Again, as I said, this isn’t about our community. This is about all communities in Ontario. It just happens to be in our community this time.

The mayor of Ingersoll, when he spoke, said, “Municipalities don’t have a role in the landfill decision-making process, other than as a bystander. They are not asked whether they approve the projects, where they should be, or how they should operate; yet they can have a permanent scar on the face of communities.” He went on to say that municipalities should have “the power to choose and to say yes or no. For those that say yes, it will give them the ability to negotiate agreements with these private waste companies that suit the municipality’s needs,” or to say no and they can move on to another location.

The government recognized the importance of this local say in their 2013 speech from the throne. It said:

“Because communities must be involved and connected to one another.

“They must have a voice in their future and a say in their integrated, regional development.

“So that local populations are involved from the beginning if there is going to be a gas plant or a casino or a wind plant or a quarry in their hometown.

“Because our economy can benefit from these things, but only if we have willing hosts.”

That’s directly from the government’s throne speech in 2013, Mr. Chair.

There is nothing else in this legislation or in any other legislation that gives the municipalities that ability that the throne speech spoke about, that everyone should have for those types of activities.

Other members of this government have said specifically that landfills should not be forced on unwilling municipalities. I think we discussed that a little bit when we debated the previous motion.

At ROMA, the Rural Ontario Municipal Association, in 2016, then-Minister of Municipal Affairs Ted McMeekin said that if the GTA wants to send their garbage west, they better make sure the west wants it. He went on to say that if Toronto wants to do business with regard to waste disposal, it better be with a willing host. Minister of Agriculture Jeff Leal endorsed McMeekin's comments by reiterating that "before any decisions would be made, you have to have a willing host, no question about that. I just want to emphasize what Minister McMeekin said on this topic."

Mr. Chair, it seems quite obvious that the government, in all three cases, spoke to wanting something like this for municipalities so they would have a say. I think this is a great opportunity. It lets them have their say. It just says that if they make a choice, whether it's for or against, it is not appealable to the hearings tribunal, or previously, the OMB. I think that's why we're putting this amendment forward.

I just want to, first of all, say thank you to the mayor of Ingersoll for having encouraged not only myself to introduce this motion, but for encouraging the committee to support this motion because of the benefits it will make to not only Ingersoll, but the whole county of Oxford, and in fact the whole province of Ontario.

Since we've introduced this motion, I think we'll find some emails that come from people from areas that are not involved with this landfill site that is in our riding, but with other similar issues, that they want the right to have a say in whether they are a willing host. We see signs in different places saying, "We are not a willing host," whether it's for windmills or whether it's for landfills. The people of Ontario want a say when this infrastructure comes into their community, and this will give them that.

I also want to thank the good people of OPAL, Oxford People Against the Landfill. They have been going since they first got word that the company was wanting to put a landfill site in Oxford county. It was just a preliminary discussion, but they've been working tirelessly ever since then to make sure everybody's aware that we are not a willing host. We have no sights on having the second-largest landfill site in Ontario in Oxford county. So far, they have sent almost—and we hope to celebrate the 100,000th event, where we delivered the 100,000th letter to the Minister of the Environment stating that we, the people of Oxford county, do not want this project to move forward.

This will help the situation here and everywhere else, to put an end to this type of anxiety and community pressure, because the municipality will be able to make the decision. And at least, if the municipality says no, then they don't have to spend five, six, seven years trying to keep convincing other people.

At this point, they don't even know who they're trying to convince. They're just trying to get the message out to

the world that that's not what they want in Oxford county. I think that's so important.

Every Friday, somewhere in the county, they are at the corner of a very busy street. It doesn't matter whether it's rain, snow or sleet. It's almost like the postman used to be. They are there waving their placards to make sure that everybody's aware of how opposed they are, and of the concerns they have about where this is going. It is right beside the Thames River—well, not a stone's throw as far as I can throw a stone, but within a stone's throw of one of the main wells for the town of Ingersoll.

The other big concern is that in all the legislation the government has presently got in this case, the host municipality gets somewhat special recognition to be part of the process, but if you are the municipality with the well 100 feet from the site but it's not in your municipality, you have no say at all. If this was enacted, in fact, they would have a say because the county of Oxford could pass an official plan amendment that would, if they decided not to be a willing host—that they could do that and that would not be appealable, and we would have solved their problems with that. That's why I'm encouraging everyone to vote in favour of this.

1430

I just want to say, because of the time between last week when I was hoping to be able to get this in to now, we had a weekend in between. I was home and almost every place I went there were people saying, "Thank you very much for introducing this motion because maybe that will help us with the dilemma that we face that we just can't accept having a big landfill like that coming in to our community, without ever having a say ourselves in whether we want it or not."

Nobody has so much as even asked if they want it. I don't think anyone would accept that in our lives, if they were putting something detrimental to where you live. But nobody even asks if you have any objection to it or if there's anything they could do to make it better. I think this would be a good first step to show that we at the province care about what happens to the people in Oxford county.

With that, I think that's pretty much what I needed to say. I want to thank everybody so far in Oxford county who has been working on this project. I hope that maybe this will make their load a little easier, if this committee votes in favour of this motion.

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

Mr. Lou Rinaldi: Well, thank you, Chair. Certainly, let me just say up front that spending 12 years in the municipal sector and having a landfill site in my own municipality, I can understand some of the challenges. I must say, the county—in our case, Northumberland county—operates the landfill site and they're doing a magnificent job. Kudos to them; a lot better than when the landfill site was established some 30-some-odd years ago, because then we were just filling a hole in the ground.

Let me also say that the intent that the member has brought forward in the motion, it's got merit. I would say

that. I had the opportunity to speak with the mayor of Ingersoll a couple of times after he did his presentation here, and we had a good discussion on the phone a couple of times.

I just would say this: Although this has some merit, the challenge is, I think, to make these kinds of changes—which I'm not opposed to, for the record. I think there's due process that we need to go through. I mean, certainly the Ministry of the Environment plays a huge role in this piece. The other piece is, when Bill 139 was introduced—and it went through the consultation process even before it was introduced—issues like this were never discussed with the general public until the mayor of Ingersoll came here. And rightfully so; I have total respect.

If we're going to look at what the intent of the motion is, I think we need to engage, obviously, the Ministry of the Environment. It's a bit of a longer process because, as the member said, we want to try to do this and do this right. I couldn't agree with him more, but I don't think it's as simple as bringing a motion and kind of ignoring the process. So, at this time, I'm certainly not prepared to support it.

The Chair (Mr. Peter Tabuns): Thank you. Any further discussion? Mr. Hatfield.

Mr. Percy Hatfield: I do have a few things to say, Chair, but before I do, if it's in order, through you, I'd ask Mr. Rinaldi if there's anyone in the audience on behalf of the minister who could answer what we talked about a couple of weeks ago, when the minister was here. This issue came up and he indicated that at some point in the future he would get back to us—I took the “us” to be the committee—with the ministry's response to what the mayor of Ingersoll had to say about the process. If there's anybody amongst the ministry staff here today who has those words from the minister to deliver to us today, I'd like to hear them before I make my comments.

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

Mr. Lou Rinaldi: Sure. Obviously, I think the minister's reply to that—because that was new to him as well.

Mr. Percy Hatfield: Yes, it was.

Mr. Lou Rinaldi: I think it just kind of came out of the air, which is fair. I think the response that I gave to Mr. Hardeman's motion is basically the message that I got from the minister to deliver here today.

Mr. Percy Hatfield: Okay.

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

Mr. Percy Hatfield: Thank you, Chair. Let me say on record, for the record, I have great respect for the minister. I think he's doing a good job. And I take him at his word that at some point he'll have a discussion, and the mayor will hear whatever the ministry has—I'm not here to throw them out at the ministry, all right? I'll throw them out at the parliamentary assistant, if that's okay.

Mr. Lou Rinaldi: Sure. Absolutely.

Mr. Percy Hatfield: I'm kidding. I'm kidding. But when I hear the words “due process,” I thought the com-

mittee was due process. I thought what we were doing was trying to look after a bill and some amendments to a bill, fashion something, whether you accept it or not, and then go for third reading and talk about it. I thought this was the due process, as opposed to whatever else was going on.

Chair, just moments before I came here this afternoon, I had a meeting with three representatives of the Canadian Nuclear Association. We had a discussion about the nuclear industry, and we had a discussion about the deep well repository site up on the Bruce Peninsula.

The whole issue with putting nuclear waste, nuclear rods, into the ground is something that a host municipality—the industry reaches out and says, “Who wants to be the host for our soiled waste, our waste that is going to take forever and ever and ever and a day to diminish in strength?” So people across the province or across the country say, “I want to do it,” or “I don't want to do it.” Right? It's the same—I don't know if the young students in the audience that are here today know it's the same; put up your hand, yea or nay—if you want a gambling casino in your municipality. There are all kinds of options such as that where you have a say.

Now, unfortunately, where you can decide on a nuclear waste site or whether you want to be a willing host for a gambling casino or not, you have no say, currently, on whether the province will say, “We've looked around and we've decided that your municipality is a good spot for a landfill,” or to extend the landfill that is there.

As a former councillor in Windsor, I served on the city/county landfill site committee for number of years, and we went through that. Our landfill needed some more revenue, and somebody suggested, “Well, let's bring in some of the trucks from Toronto that are now crossing our city streets over to the Ambassador Bridge going to a landfill in Michigan. Let's get some of that deposited here, and we'll get some cash.” There was a big hue and cry because of the fight that went on in trying to locate a city/county landfill site in the county the last time they did it.

When you come up with a landfill, you look at your population base, you look at your Blue Box recycling or Red Box recycling, and you look at the number of tons of garbage coming into your landfill—residential or industrial/commercial waste, whatever—and you get a timeline. You say, “Okay, this site, based on geographical area, is good for 100 years,” or 75 years, 60 years, whatever it is. In our community, when the thought was there to bring in revenue from Toronto to dump some of their waste in our landfill because we needed the money, a lot of county municipal governments said, “No. That is our space, and even though we're not filling it up as much as we used to because a lot of our industries have closed”—for many reasons. I won't be pointing fingers. A lot of our industry has closed for many reasons. We don't have as many people working in the factories creating some industrial waste, commercial waste or whatever, or as many families creating waste. Without the tipping fee coming in, where you have to pay for the

waste that is dumped, the revenue coming in was not as high as what was projected in order to maintain the landfill. They said, “No. It would be a good idea to bring in the extra money, but on the other hand, we don’t want to trim any of our shelf life, any of the longevity or the projected length of the lifespan of this landfill.”

That’s fair. Municipalities had a say on whether they wanted to sell some of the space in their landfill to Toronto or anybody else to put some of their dump there.

1440

It’s almost like, “Is that your final answer?” or whatever that line was in that game show, right?

A municipality should be able to give a final answer to a question that is going to impact everybody in their municipality and their surrounding area. If you have a landfill and you know the longevity of it, the lifespan, and you look around and you say, “Yup, this is good, we’re good,” if somebody else comes in and puts trash in there, your life expectancy for your landfill isn’t going to be as long. The people that pay the taxes in that municipality that went through all the trials and tribulations of locating that landfill in the first place now have no say whatsoever if the province steps in and says, “Yeah, but there are other people in the province that need a place to put their trash”—and I know it’s going to happen.

But I also know there are communities up north that have abandoned mine sites or quarry sites that say, “We could put some trash up here if you want to send it up here.” They would be a willing host, and it’s the same with the nuclear waste people. They have options other than Bruce, which is so close to the Great Lakes, which has led legislators in Michigan and Ohio and elsewhere to say, “You know what? That’s pretty close to the Great Lakes and we don’t necessarily want to take a chance on any shift or any leakage and getting any nuclear waste into the Great Lakes.” The Great Lakes system is, as you know, the largest freshwater system in the world and millions and millions of people get their safe drinking water from there.

I haven’t talked to the mayor of Ingersoll since he was here. We’ve exchanged emails and maybe a brief phone call, but we’ve been playing phone tag a bit on this issue. I know how sensitive an issue it is. The passion that you heard from the mayor, Ted Comiskey, when he was here—it is something that his community is very concerned about.

The people in Oxford county—if I had a dollar for every time the member from Oxford just said “Oxford county,” but this isn’t about Oxford county. If I had a dollar for every time he said the word “Oxford” I would be buying beer for the House tonight, but he’s not providing that. I’m just saying it’s not about Oxford, it’s not about Ingersoll; it’s about the province. because if you can do it in the member from Oxford’s municipality, you can do it in my municipality, you can do it in your municipality.

What we’re saying is there will be locations where people will put up their hand, jump to the front of the

line, and say, “I’ll take it. I need the tipping fee. I need it for my municipal tax base,” whereas others will say, “You know what? We really don’t want it at this time. Maybe at some point in the future.” And there might be others that say, “Keep it; we don’t want it. End of conversation, final answer.”

I’m not saying this is the end-all of it. I just would hope that somebody within the ministry would have listened to people in rural Ontario, because we’ve heard several times, numerous times—I could exaggerate and say thousands, but hundreds or dozens of times in the House from one party to another—that you don’t care about rural Ontario, or you don’t represent rural Ontario, or your decisions made in Toronto are Toronto decisions but are impacting people living in rural Ontario. Bottom line, that’s true. There is a difference in the way rural municipalities operate, different than urban, and there’s a difference between small municipal governments and big municipal governments and provincial governments.

If we want to treat people fairly and we want to be open and transparent with everyone in Ontario, then we have to take into consideration that in certain parts of the province they have a different way of doing business. If they want to have a final answer, a final say in something that is going to impact their community for years, they should be able to have that say. They should be able to determine the impact, as the member from Oxford said—and remember, now, he’s not talking about his community per se, but in his community as an example, one of the sites being considered for a landfill is within a stone’s throw from a municipal water intake well. If anything would happen to that, that would be a major problem that could impact the safe drinking water—and water is life—for a lot of people.

So we have to take a lot of things into consideration when we fashion legislation, and have vision. There are only 107 of us here at the moment. We have to look at the long-term future of Ontario, the health of everyone in Ontario. Water is life, community is life, the quality of life—we have to take all of those things into consideration.

For peace of mind for a community, if somebody from the ministry would say, “We’ve heard the representatives from Oxford, we’ve heard the mayor of Ingersoll who came on their behalf, and we want to say to those people, ‘You will have a final say’”—that’s all we’re asking for. If they say it to Oxford, they’ll say it to the rest of the province—that Toronto isn’t Big Brother, isn’t the big bad bully who’s going to dump stuff on you that you don’t want. I say “Toronto,” but I don’t necessarily mean the city of Toronto. I’m talking about larger municipalities taking it upon themselves to say, “We need a solution to a problem, and your site, unfortunately, and your small community is our solution.” That’s not the way it should work. There should be a dialogue. There should be conversation. There should be rational thought. And when you have rational thought, there should be rational decision-making, and when you make rational decisions, I would hope that people have a say. Some people may change their minds. Some people may say, “After I’ve

heard your side of it, it isn't so bad." But at the end of the day, they should have that final answer, that final decision, and be able to say, "Thanks, but no thanks. Somebody else may want it, but in our case, we don't."

So I'll be supporting this motion brought by the member from Oxford. It makes sense to me. I think it's due process that we do it here, that we don't have to rely on some regulation on some far-off future date or rely on another government to make a decision. I say we make a decision today, we put it in the bill today, and we tell the people in Oxford that the Liberal government in Toronto has heard them. They brought it up, they did due process, and they decided to support them because they know the feeling down in Oxford. I think that's a very strong message that we could send today.

Thank you for your time.

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

Mr. Lorne Coe: I'm going to stand down. I think what needs to be said has been said.

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

Mr. Ernie Hardeman: The reason that we have this bill, we were told when we started, is, we want to reduce the number of appeals in the municipal system and we want to let municipal governments decide how they should develop their communities with as little impediment from the province as possible—only to protect the provincial interest or the local official plans. Anything else, the municipality should make the final decision on.

This is one of those things that, if you look at that principle, the municipality should make a decision on. As was mentioned by Mr. Hatfield on burying the nuclear residue in the ground, the first thing they had to do was find a willing host. So people can work together on that.

This process now for landfill, if this resolution were passed—how it would start: If an applicant was wanting to place a landfill site, they would have to talk to the local municipal people who make the decision and they would have to get a willing host. The parliamentary assistant suggested that we need to have the Ministry of the Environment involved and we need to get everybody onside to make this change. It would seem to me that this isn't a change that allows people to build a landfill site. It's just a first step in the process. They must have municipal support in that municipality to proceed with the environmental assessment on a landfill site where all the issues from the Ministry of the Environment will have to be addressed. This is just at the start.

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There are two reasons that I think it's very important. One is, of course, as I said in my remarks earlier, that in an unwilling host municipality, it saves the years of animosity between the parties, because if they can't get local agreement, then they should be looking elsewhere.

But the other side of it, of course, is that if the developer knows that they have to come to some type of agreement with a host municipality to get a yes, it makes the negotiations—as Mr. Hatfield talked about, the tipping fees, but even other community benefits. We don't do that much in rural Ontario in terms of commun-

ity benefit trade-offs for allowing development. But I know in the city of Toronto, we've heard a lot about that in these planning hearings: that they can negotiate with the developer about whether they can help build playgrounds or whether they can help build other attributes for the town to make it a more livable community.

This motion here would allow that negotiation to take place with a willing host if they want to build a landfill site there. They would know right from the start if they were going to have a willing host, and they could work hard to accommodate what needed accommodating.

Presently, it's just a matter of telling people, "This is what we want to do," and then we spend six years running around trying to fight each other, trying to come up with information. Then when we get to the end of it, it has to be the environmental assessment review court that makes the decision from the environmental aspects of it. But they never get to judge whether this was the right place for it to be, other than from an environmental perspective.

This here would put that all upfront. Municipalities would have a say. I believe that if the developer was assured that the only way he was going to site a landfill anywhere would be to talk to the municipalities and find a willing host, there would be a lot more that could be accommodated between the two parties before they got to the hearing, where hopefully at the hearing they would just be hearing about the environmental issues because the planning issues had all been dealt with prior to the application.

I would just point out that, again, it's not about Oxford. But I just want to point out that so far, in Oxford county, if you were building an apartment building, you would need to go through whether the official plan covers it, whether you need zoning, whether you need a site plan. If you want to build a house, you have to make sure it's zoned properly and it's going to have the right side yards—all the things you have to have.

So far, we're about three or four years—almost five years, I think, now; I'm not sure—into this process, and no one has yet talked about the planning issues that relate to this project. It seems to me that that should have been the first thing we were talking about: Is this a good plan? Forget everything else. Is this a good place to put a landfill, if all other things come out right?

But that's not what's happening here. We're going around and forgetting the need to look at the municipal wants and needs. I can assure you that, in our case, they would not have a willing host at this point. I think that needs to be looked at.

I think it has been mentioned before that to build a casino, you have to have a willing host. No one can build a casino anywhere without a willing host. The province has put that in law. Yet we think that for a landfill, that is not appropriate.

Lastly, I really think it's important to—the parliamentary assistant said, "We have a process that we have to follow." I think the process for the planning part of any landfill anywhere in the province should start with good

planning, and good planning is what this bill was supposed to be about, dealing with all of the things. Like I said, the only thing that should be appealable—as long as it’s protecting the provincial interest and it meets the local official plan, it shouldn’t be appealable. I think this should be considered that way.

The provincial interest is to make sure that we have an environmentally safe landfill for the people to deposit their waste. But the truth of the matter is, the total responsibility for waste management is at the municipal level, and I think the municipal level should be able to make a decision on where they’re going to deposit it.

I’m not sure, if I speak again half as long as I have, that it’s going to make much difference to the other side, but I really want to impress upon them how important it is to give local municipalities some authority. If we believe that they are a mature level of government and they can make the best decisions for the planning in their communities—that’s what this bill is all about; it’s called “better communities”—then I don’t know how government could vote against this motion which just says that when the municipality makes that decision, it’s not appealable to a higher authority, to say, “You’re wrong.” That’s all it is. It doesn’t approve it environmentally. It just says, “No, we don’t want it there.”

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

Mr. Percy Hatfield: I believe Mr. Hardeman is 100% accurate when he says the municipality can have great debate at council on whether to allow a portable hot dog stand downtown or an ice cream store to open up at a given location yet would have no say in a landfill site being located within their boundaries.

I just want to remind the committee about a situation in Windsor. We used to have hundreds of big trucks, double trailers hauling garbage through our community down to the Ambassador Bridge and over to Michigan. Landfills in Michigan would accept waste from this area. It made economic sense to the people in this area and on their tax base to pay somebody to drive that great distance with a full truck down and an empty truck back, to get rid of the waste. Then, at some point, we don’t have as many of those vehicles anymore, and it’s either because the city of Toronto, or somebody around this way, bought a big chunk of land just south of London, right next to the 401, and created a new landfill there, or because some of the trucks may well be going up the 400 to Sarnia. I’m not sure how it has been diverted, but we’re not getting the same number of trucks from this area coming into our community anymore. But at one time, it was a big aggravation. So if they can buy landfill space along the 401 south of London, there are probably other communities that are willing to make land available for more landfill space, should it be needed.

At no point is anybody even talking about incineration or power from waste. There are other options out there. I know there’s a new incinerator up in one of the regions north of Toronto that is doing something. I know at one point waste pellets created at the incineration plant north of Toronto were being shipped back down to Essex

county to be used in the greenhouse industry, and it was like a recycling of waste—waste being diverted and waste then being recycled and burned to heat a greenhouse to grow our food. That made sense, as well.

So there are other options other than landfill. I think if you agree with us that municipalities should be able to say no, it just may be the trigger that some people need to come up with more options rather than landfill. We can’t be using landfill till the end of time. There’s no place to put it after some point.

The Chair (Mr. Peter Tabuns): I see no other speakers. We’re ready for the vote?

Mr. Ernie Hardeman: Recorded vote.

Ayes

Coe, Hardeman, Hatfield.

Nays

Delaney, Dickson, Mangat, Rinaldi.

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

We go to NDP motion 47.0.1. Mr. Hatfield.

Mr. Percy Hatfield: Motion 47.0.1. Did I withdraw that one already, or is it 47.1?

The Chair (Mr. Peter Tabuns): Sorry, 47.1. My apologies.

1500

Mr. Percy Hatfield: Let me withdraw this one, too, just to prove I’m a nice guy, willing to work with the government on any issue. Hopefully I’ll get an amendment passed at some point before we all go to bed.

The Chair (Mr. Peter Tabuns): Thank you, Mr. Hatfield. This takes us then to government motion number 48. Mr. Rinaldi.

Mr. Lou Rinaldi: Chair, I move that schedule—

The Chair (Mr. Peter Tabuns): Mr. Rinaldi, could you repeat the title as well? I’d like to ask all committee members—start with “Schedule 3 to the bill” and then go forward.

Mr. Lou Rinaldi: You mean “An Act to enact”? Is that what you’re asking me to read?

The Chair (Mr. Peter Tabuns): Schedule 3 to the bill, subsection 10, etc.

Mr. Lou Rinaldi: Oh, sorry, yes. Schedule 3 to the bill, subsection 10(16) (subsection 34(29) of the Planning Act)

I move that paragraph 1 of subsection 34(29) of the Planning Act, as set out in subsection 10(16) of schedule 3 to the bill, be amended by striking out “Subsections (26) to (26.6) do not apply” at the beginning and substituting “Subsections (26) to (26.1) do not apply”.

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

Mr. Lou Rinaldi: Sure, clear as mud. Chair, obviously I recommend supporting this. This is a technical motion that would amend the cross-reference as a result of another proposed government motion that will provide

the tribunal with the authority to implement a settlement to which all parties have agreed.

The Chair (Mr. Peter Tabuns): Mr. Rinaldi, I've been asked by legal counsel: Could you just reread that last line, starting with "at the beginning"?

Mr. Lou Rinaldi: Sure—at the beginning and substituting "Subsections (26) to (26.12) do not apply".

The Chair (Mr. Peter Tabuns): Thank you. Further comments? There are no further comments? Members are ready for the vote? All those in favour of government motion number 48, please indicate. It is carried.

We then go to government motion number 49. Mrs. Mangat.

Mrs. Amrit Mangat: Schedule 3 to the bill, subsection 10(17) (subsection 34 (30) of the Planning Act)

I move that subsection 10(17) of schedule 3 to the bill be struck out and the following substituted:

"(17) Subsection 34(30) of the act is amended by striking out 'repealed or amended under subsection (26)' and substituting 'repealed under subsection (26.2) or (26.8) or amended under subsection (26.8)'."

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

Mr. Lou Rinaldi: Chair, this is similar to the previous motion. It's a technical motion that will amend cross-references as a result of other proposed government motions that will provide the tribunal with the authority to implement a settlement to which all parties have agreed.

The Chair (Mr. Peter Tabuns): Mr. Hardeman, did you indicate an interest in speaking to this?

Mr. Ernie Hardeman: No.

The Chair (Mr. Peter Tabuns): No further discussion? People are ready for the vote? All those in favour of government motion number 49 please indicate. Opposed? It is carried.

We now go to voting on section 10 as a whole. Are there any comments on section 10 before we go to the vote?

Mr. Lou Rinaldi: Chair, we're ready.

The Chair (Mr. Peter Tabuns): You're ready? All are ready?

Mr. Ernie Hardeman: Recorded.

The Chair (Mr. Peter Tabuns): A recorded vote is requested. Shall schedule 3, section 10, as amended, carry?

Ayes

Delaney, Dickson, Mangat, Rinaldi.

Nays

Coe, Hardeman, Hatfield.

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

Schedule 3, section 11: We have no amendments. Is there any discussion on this?

Mr. Lorne Coe: Recorded vote, please.

The Chair (Mr. Peter Tabuns): Recorded vote? No discussion? Shall schedule 3, section 11, carry?

Ayes

Delaney, Dickson, Mangat, Rinaldi.

Nays

Coe, Hardeman, Hatfield.

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

We then go to schedule 3, section 12. We have government motion number 50. Ms. Mangat.

Mrs. Amrit Mangat: Schedule 3 to the bill, subsection 12(2) (subsection 38(5) of the Planning Act)

I move that subsection 12(2) of schedule 3 to the bill be struck out and the following substituted:

"(2) Subsection 38(5) of the act is amended by striking out 'under subsection (4), subsections 34(23) to (26) apply' and substituting 'under subsection (4) or (4.1), subsections 34(23) to (26), as they read on the day before subsection 12(2) of schedule 3 to the Building Better Communities and Conserving Watersheds Act, 2017 comes into force, apply'."

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

Mr. Lou Rinaldi: This is a technical motion. It does not change the intent of the bill whatsoever.

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

Mr. Ernie Hardeman: I'm just at a bit of a loss about what this section actually does.

Mr. Lou Rinaldi: Maybe I can get a staff person to give some explanation.

The Chair (Mr. Peter Tabuns): Welcome back, sir.

Mr. Peter Matheson-Young: Thank you.

The Chair (Mr. Peter Tabuns): Please pull the microphone up close and introduce yourself for Hansard.

Mr. Peter Matheson-Young: My name is Peter Matheson-Young. I'm counsel with the Ministry of Municipal Affairs and Ministry of Housing, legal services branch.

Subsection 38(5) of the Planning Act is a provision in the context of interim control bylaws. The particular subsection provides for the process—as opposed to repeating a whole bunch of sections about how things go to the board and what treatment they get when they're there, this incorporates by reference provisions to the Planning Act in relation to zoning bylaws. Because those are being changed, the bill proposes not to change anything in relation to interim control bylaws, and so references existing provisions today of the zoning process.

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

Mr. Ernie Hardeman: That's fine. Thank you.

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

Mr. Lou Rinaldi: Yes.

The Chair (Mr. Peter Tabuns): Okay. Did you want a recorded vote?

Mr. Lorne Coe: Yes, please.

Ayes

Delaney, Dickson, Hatfield, Mangat, Rinaldi.

Nays

Coe, Hardeman.

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

We then go to voting on the section as a whole. That's schedule 3, section 12. Any discussion?

Mr. Lou Rinaldi: We're ready.

The Chair (Mr. Peter Tabuns): Good.

Mr. Ernie Hardeman: Schedule 3 to the bill, section 12.1 (section 38.1 of the Planning Act)—

The Chair (Mr. Peter Tabuns): No, we're discussing the vote on schedule 3, section 12, as amended, as a whole. We're not going forward to another motion yet.

We had just adopted an amendment. Before we adopt the section, is there any discussion? There's none. You're ready for the vote?

Shall schedule 3, section 12, as amended, carry? It's carried.

We go on to the next PC motion, number 51. Mr. Hardeman.

Mr. Ernie Hardeman: Schedule 3 to the bill, section 12.1 (section 38.1 of the Planning Act):

I move that schedule 3 to the bill be amended by adding the following section:

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

"Landfill approval

"38.1 A landfill shall not be located within a municipality or on a reserve unless the municipal council or the council of the band, as the case may be, passes a resolution supporting the location of the landfill."

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

Mr. Lou Rinaldi: Chair, I would ask for your ruling on whether this motion is in order.

1510

The Chair (Mr. Peter Tabuns): Yes, Mr. Rinaldi. It is indeed in order.

Mr. Lou Rinaldi: Thank you.

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

Mr. Lorne Coe: We had a fairly lengthy discussion in an earlier amendment. What I took out of the discussion is that municipalities should not be bystanders.

In the room today there are several people who served as municipal councillors. I sat on the local conservation board for the better part of eight years as a regional councillor for the region of Durham. This issue of landfills came up repeatedly. It came up in instances in the

town of Whitby, and it also came up with Scugog. In the town of Whitby, it came up, Chair, in the north part of my riding, in Ashburn, and further north in Myrtle Station to a degree as well. In Scugog, it also came up.

Out of the discussion and delegations we had with the conservation board, in each instance, the heads of council made it very clear that municipalities wanted to have an opportunity and the power to choose. That's the fundamental premise of this particular amendment. Those who have been councillors prior to becoming MPPs will understand that, because they argue the same as heads of council.

Not only do they want the power to choose, they want to say yes or no. In the case of the yes, they want the opportunity to negotiate the terms, if they want a landfill to come in, with those companies. They do that on the basis of weighing what the municipality's needs are and the totality of the official plan that underpins the planning and development of that municipality. It's a fundamental right, and something that, again, in previous capacities in municipal councils, we've argued, and we've argued strongly for it. If you say no, then a council and the head of council then moves in different directions, but it's underpinned by their official plan. That's the underpinning of what's reflected here.

I'm having some difficulty understanding why there's some resistance to move in this type of direction. Historically—and my colleague to my left cited a presentation that then-Minister McMeekin made to ROMA. I was in the audience that day; I heard it. Everyone there, 500 or 600 people, heard it. It further echoed—

Mr. Lou Rinaldi: Twelve hundred.

Mr. Lorne Coe: You probably were in the audience, too. Right.

That particular statement is not out of line with what this amendment is asking for. It's an opportunity to say yes or no. It's fundamental to the official plan the municipalities have in place, fundamental to planning and development, fundamental to municipalities being autonomous bodies, local decision-makers. Yes, in my case—and the parliamentary assistant will understand this—there's upper tier and lower tier in the region of Durham, notwithstanding that particular distinction.

Again, it's an opportunity to say yes or no. Chair, that's the fundamental premise and underpinning of this amendment, and I would hope that the members of committee would accept that premise and understand and provide it to municipalities, as they have thus far within the Ministry of Municipal Affairs and Housing and the other ministries that guide the decision-making of municipalities in Ontario, all 440 of them. They are local, autonomous decision-making bodies. Provide them with that opportunity. This is the opportunity to do that. It's the right thing to do.

The Chair (Mr. Peter Tabuns): We'll go to Mr. Rinaldi.

Mr. Lou Rinaldi: I'm not going to repeat what I've said before, but basically, I think I made the argument where this should be done. It's interesting, Chair—just to

point out, it just came to mind—that members from the opposition plead against the folks in municipalities. They are respected leaders, and their decisions should count. I'm not sure about Mr. Coe, but certainly Mr. Hardeman was here when amalgamation was forced on municipalities. There was no consultation. Highways were down-loaded. There was no consultation. Eastern Ontario got the biggest download ever.

So I'm glad that you switched and you understand.

I just wanted to point that out, Chair.

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

Mr. Ernie Hardeman: I think it's so important to recognize that—I'm agreeing with my good friend Mr. Coe—this bill is all about autonomy for local municipalities and how the appeal process should work within this legislation. The intent with this motion is the same thing, only it includes a bit of a broader look at municipalities and First Nations band territory and so forth. It doesn't do anything except ask that they must get a resolution passed by the local municipality to accept it. They can go through the whole process as it presently is, but they have to get a resolution from the municipality to accept it. So, at least, not only are they going to be humoured with being allowed to come to the hearings, but in fact the municipality can say, "Yes, we heard what was said. We listened, and yes, we agree" or "We don't agree with it."

I just want to point out that using the argument of what happened 21 years ago today is not very helpful in dealing with the challenges that municipalities are facing with this legislation.

I would just ask the parliamentary assistant to look at this legislation and see how we can help the municipalities today deal with this challenge they face of having people proposing landfills in their areas, which they don't want.

The Chair (Mr. Peter Tabuns): Mr. Hatfield, you indicated that you'd like to speak?

Mr. Percy Hatfield: Yes. After hearing my friend the parliamentary assistant speak—I like to point fingers from time to time; we all do. But let me say there's no harm in admitting to a mistake. There's no harm in saying, "Yes, we did that, but we're not going to do it again," or "You've made a good point. Let's work on that together."

No party in this House is perfect. Every party in this House has to share the blame for the state of progress in Ontario on the environment, on health care, on education, on laying off nurses or shutting hospitals. If the money isn't there, actions are taken.

I know we like to point fingers all the time. I don't get a big thrill out of that, because decisions are made based on the economies of the day, the politics of the day. So we can all point fingers as to what the bad old guys in blue did 20 or 25 years ago or what the orange guys did during the Liberal Bob Rae NDP days, during the biggest recession that ever hit the world as we know it. We can all throw blame and we can all point fingers, but the bottom line is, on a go-forward basis, if we work together

to improve the legislation in front of us—I agree with the motion, that on a go-forward basis, we should be saying to our municipalities, "Some mistakes were made in the past. But you're starting to make sense. Our government is listening. Our opposition parties are on board with this. Yes, let's give municipalities the final say in whether they want to be a host municipality to a landfill, the same as we do in other areas."

That's all I'm saying. Let's work together. What are those famous words? Can't we all just get along?

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

Mr. Ernie Hardeman: Recorded.

Ayes

Coe, Hardeman, Hatfield.

Nays

Delaney, Dickson, Mangat, Rinaldi.

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

Members of the committee, we have three sections ahead of us that have no amendments. That's schedule 3, sections 13, 14 and 15. I suggest we bundle the vote. You're agreeable? All are agreeable? I will call the vote, then.

Interjection.

The Chair (Mr. Peter Tabuns): Mr. Hardeman, you're fine?

Mr. Ernie Hardeman: Yes, fine.

1520

The Chair (Mr. Peter Tabuns): Shall schedule 3, sections 13, 14 and 15, carry? They are carried.

We then go to section 16. We have PC motion number 52. Mr. Coe?

Mr. Lorne Coe: Schedule 3 to the bill, section 16 (section 51 of the Planning Act):

I move that section 16 of schedule 3 to the bill be struck out and the following substituted:

"16. (1) Subsection 51(34) of the act is amended by striking out '180 days' and substituting '90 days'.

"(2) Subsection 51(52.4) of the act is repealed and the following substituted:

"Same

"“(52.4) If subsection (52.3) applies and if the approval authority so requests, the tribunal shall not admit the information and material into evidence until subsection (52.5) has been complied with and the prescribed time period has elapsed.”"

To my colleague, Chair, though you.

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

Mr. Ernie Hardeman: Mr. Chair, this amendment would mean that failure to decide on plans for subdivision can be appealed to the tribunal after 90 days after the application is received by the approving authority. This is putting the timeline back to where it was when this government was elected.

We asked an industry expert for his opinion on these amendments, and he said, “These are the type of amendments that would help facilitate bringing supply to the market more expediently and putting some more tension in the planning system to get discussions and negotiations moving more quickly. Ontario is facing a housing crisis, and the shortage of supply of both homes and rental is contributing to the high cost of living. This would help address the delays in the planning process to encourage more building.”

In a very much condensed version, I think anything we can do to shorten the timeline between the time that an application is made to build housing—whatever we can do to move that along more expediently will help the supply.

I think it’s important to recognize that this motion is only for cases where the municipality is not making a decision, as opposed to approving or dealing with a decision. Any time after the application, if it’s not a complete application for a plan of subdivision, obviously more work needs to be done, and then the timeline starts when they have what they believe to be a completed application.

I think this is just one of those things where if everybody is just waiting to not approve it, let’s cut that waiting period down, so we can get on with the rest of the process.

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

Mr. Lou Rinaldi: I think this particular motion would undermine the intent of the bill to give municipalities enough time to make decisions, resolve matters locally and reduce appeals. I want to be clear that currently the bill does not propose any change to decision-making timelines for subdivision. The bill will be trying to claw back on municipal timelines, and this motion will result in less public consultation and more cases going to tribunal. It actually contradicts the purpose of the OMB reform.

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

Mr. Lorne Coe: Recorded, please, Chair.

Ayes

Coe, Hardeman.

Nays

Delaney, Dickson, Mangat, Rinaldi.

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

We then go to a vote on section 16 as a whole. Any debate on section 16?

Mr. Ernie Hardeman: Recorded.

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

Shall schedule 3, section 16, carry?

Ayes

Coe, Delaney, Dickson, Hardeman, Mangat, Rinaldi.

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

We then go to PC motion 53. Mr. Hardeman?

Mr. Ernie Hardeman: Schedule 3 of the bill, section 16.1 (subsection 53(14) of the Planning Act):

I move that schedule 3 to the bill be amended by adding the following section:

“16.1 Subsection 53(14) of the act is amended by striking out ‘90 days’ and substituting ‘60 days’.”

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

Mr. Ernie Hardeman: Again, it’s just a motion to try to shorten down the length of time it takes to get an application to the building stage.

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

Mr. Lou Rinaldi: I would argue that the 90-day timeline strikes an appropriate balance for proper assessment and consultation.

The Chair (Mr. Peter Tabuns): Thank you. Further discussion? There is none. You’re ready for the vote?

Mr. Lorne Coe: Recorded vote, please.

Ayes

Coe, Hardeman.

Nays

Delaney, Dickson, Mangat, Rinaldi.

The Chair (Mr. Peter Tabuns): It is lost. We then go to government motion 53.0.1. Mrs. Mangat?

Mrs. Amrit Mangat: Schedule 3 to the bill, section 17 (subsection 70.8(2.1) of the Planning Act):

I move that section 70.8 of the Planning Act, as set out in section 17 of schedule 3 to the bill, be amended by adding the following subsection:

“Same

“(2.1) If a regulation under this section provides for a matter or proceeding to be continued and disposed of in accordance with the act”—

Mr. Lou Rinaldi: Point of order, Chair.

The Chair (Mr. Peter Tabuns): Yes?

Mr. Lou Rinaldi: Just for members to know, where Mrs. Mangat is, after “Same”, the second line, we’re substituting the word “this” instead of “that”.

The Chair (Mr. Peter Tabuns): I’m sorry. It sounds like a CBC Radio show.

Mr. Lou Rinaldi: So (2.1)—I just wanted to point it out ahead of time—second line, where it says “and disposed of in accordance with”—

The Chair (Mr. Peter Tabuns): —“with the act”?

Mr. Lou Rinaldi: Yes. Instead of “the”, it should be “this”—“with this act.”

The Chair (Mr. Peter Tabuns): So “in accordance with this act.”

Mr. Lou Rinaldi: Correct.

Mrs. Amrit Mangat: Okay. Instead of “the act” it’s “this act.”

The Chair (Mr. Peter Tabuns): Thank you for pointing that out. Please proceed, Mrs. Mangat.

Mrs. Amrit Mangat: —“this act as it read on the effective date where the notice of appeal was filed after the day on which the Building Better Communities and Conserving Watersheds Act, 2017 receives royal assent but before the effective date, the regulation may also,

“(a) deem that the bill was not made;

“(b) require the tribunal to give a notice to an appellant, specifying the period of time during which a new notice of appeal may be provided to the tribunal;

“(c) require the appellant to provide a new notice of appeal to the tribunal within the period of time specified by the tribunal;

“(d) deem an appeal to have been dismissed where the new notice of appeal was not received within the period of time specified in the notice;

“(e) provide that specified provisions of the act do not apply to matters and proceedings for a period of time specified in the regulations;

“(f) provide rules regarding the application of time-lines specified in a regulation under clause 43(1)(c) of the Local Planning Appeal Tribunal Act, 2017 to specified appeals;

“(g) provide that, despite the Local Planning Tribunal Act, 2017, an appellant is not required to pay a fee charged under that act.”

The Chair (Mr. Peter Tabuns): Mrs. Mangat? Mr. Rinaldi?

Mr. Lou Rinaldi: Sure, thank you, Chair. This motion will facilitate the making of a transition regulation that would provide rules dealing with the appeals that are filed after royal assent or prior to proclamation. We plan to find the balance between applying the new rules as soon as possible and ensuring fairness for matters already in the system. The details of transition would be worked out via regulation in consultation with the public, municipalities and stakeholders.

The Chair (Mr. Peter Tabuns): Thank you. Any other speakers? There being none, you’re ready for the vote?

Mr. Lou Rinaldi: We are.

1530

The Chair (Mr. Peter Tabuns): All those in favour of government motion 53.0.1, please indicate. Opposed? It is carried.

We then go on to government motion 53.0.2. Mrs. Mangat?

Mrs. Amrit Mangat: Schedule 3 to the bill, section 17 (subsections 70.8(5) to (11) of the Planning Act): I move that section 70.8 of the Planning Act, as set out in section 17 of schedule 3 to the bill, be amended by adding the following subsections:

“Conflict

“(5) No cause of action arises as a direct or indirect result of,

“(a) the enactment of this section;

“(b) the making or revocation of any provision of a regulation made under this section; or

“(c) anything done or not done in accordance with this section or a regulation made under it.

“No remedy

“(6) No costs, compensation or damages are owing or payable to any person and no remedy, including but not limited to a remedy in contract, restitution, tort or trust, is available to any person in connection with anything referred to in subsection (5).

“Proceedings barred

“(7) No proceeding, including but not limited to any proceeding in contract, restitution, tort or trust, that is directly or indirectly based on or related to anything referred to in subsection (5) may be brought or maintained against any person.

“Same

“(8) Subsection (7) applies regardless of whether the cause of action on which the proceeding is purportedly based arose before or after the coming into force of this act.

“Proceedings set aside

“(9) Any proceeding referred to in subsection (7) commenced before the day section 17 of schedule 3 to the Building Better Communities and Conserving Watersheds Act, 2017 comes into force shall be deemed to have been dismissed, without costs, on the day that provision comes into force.

“No expropriation or injurious affection

“(10) Nothing done or not done in accordance with this act or the regulations made under it constitutes an expropriation or injurious affection for the purposes of the Expropriations Act or otherwise at law.

“Person defined

“(11) In this section,

“‘person’ includes the crown and its employees and agents, members of the executive council and municipalities and their employees and agents.”

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

Mr. Lou Rinaldi: This is a standard provision in pieces of modern legislation, and it serves to protect the public interest. It’s a precautionary amendment.

The Chair (Mr. Peter Tabuns): Any further discussion of this motion? There being none—Mr. Hardeman.

Mr. Ernie Hardeman: Yes, Mr. Chair. I have to apologize. This was passed out on our table, I think, at the last meeting when it was presented. We didn’t have it in our binder, so I must have left it elsewhere. We do have a copy of it now. But as it was being read into the record I had some concerns as to what it actually said. So I wonder if we could have the good services of the ministry to explain what this amendment does.

The Chair (Mr. Peter Tabuns): That’s okay with you, Mr. Rinaldi?

Mr. Lou Rinaldi: Sure.

The Chair (Mr. Peter Tabuns): And I know you know the routine.

Mr. Peter Matheson-Young: Yes. My name is Peter Matheson-Young, and I am counsel with the ministry.

A number of subsections here effectively serve as something of a limitation of liability. They relate to the making of transition regulations under section 70.8 of the Planning Act and would basically provide that no one can bring any action in relation to anything. There are a number of subsections dealing with a number of different ways that proceedings might arise or someone might seek to assert a cause of action or to challenge the making of the regulation or something done in relation to the regulation, and these would serve to provide immunity to the government.

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

Mr. Ernie Hardeman: Thank you very much for the explanation. But I have some real concerns when I hear the words “no cause of action arises as a direct or indirect result of,” and then it makes a listing of things. What that says to me is, at this point, the ministry can do anything they want because no one can do anything about it.

Mr. Percy Hatfield: That’s scary.

Mr. Ernie Hardeman: Yes. That’s what I read.

The Chair (Mr. Peter Tabuns): Ask the question—

Mr. Peter Matheson-Young: I don’t know that it says that. It says no cause of action arises as a direct or indirect result of certain things:

“(a) the enactment of this section”— that’s something the Legislature will or will not do, in its wisdom.

“(b) the making or revocation of any provision of a regulation made under this section”— that is the authority that the minister has. So that’s the rest of section 70.8, the parts that aren’t before the committee in respect of this motion, but that were dealt with in the previous motion. So the authority there is the authority there. This provision doesn’t do anything to enlarge or detract from that authority. It just says, when that’s done, it does serve to limit the ability to seek and raise an action in respect of the making of that regulation.

And then, “(c) anything done or not done in accordance with this section or a regulation” is a bit more of a catch-all, but, again, it doesn’t extend the ambit of the minister’s authority under section 70.8.

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

Mr. Ernie Hardeman: “No cause of action arises as a direct or indirect result of,

“(a) the enactment of this section”—so we can’t do anything about this section being enacted.

“(b) the making or revocation of any provision of a regulation made under this section”—so you can make any regulation you want, but you can’t do anything about it because that’s the way it is.

“(c) anything done or not done in accordance with this section or a regulation made” under the section. No action can arise out of anything done or not done in accordance with this section or a regulation made under this section. Doesn’t that make it so broad? Even if it’s not done for this action, it’s not—no action can arise out

of it. Is this a catch-all clause that allows the minister to do just about anything he likes under this act?

Mr. Peter Matheson-Young: Again, it does not go to the authority of the minister. I guess it goes to the ability of people to raise a cause of action in respect of things the minister does. But the authority of the minister is set out in previous subsections of the proposed 70.8.

Mr. Ernie Hardeman: Could you also enlighten me on what the section says—I have it here somewhere, but I’m sure you can find it quicker than I can—what the section that we’re replacing says this is doing?

Mr. Peter Matheson-Young: This particular motion does not replace any existing provisions of the bill. This would add new subsections to the proposed 70.8 of the Planning Act. The existing 70.8 in the bill as introduced had four subsections. There was, I guess, a fifth one added through the previous motion. And then this motion would propose to add another seven subsections to 70.8.

Mr. Ernie Hardeman: So none of this was in the original bill?

Mr. Peter Matheson-Young: That’s correct.

Mr. Ernie Hardeman: And all of a sudden, as an amendment, we’re going to add that type of power into the bill, notwithstanding—is that correct?

Mr. Peter Matheson-Young: Yes, that’s accurate.

Mr. Ernie Hardeman: During the public hearings, I don’t remember anyone coming in and asking for this, for the Henry VIII clause, I think they call it, where everything is a go. It exempts action on anything that the minister does in the bill. It just boggles the mind.

Maybe the parliamentary assistant could answer that.

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

Mr. Lou Rinaldi: As I said before, this is common in other pieces of legislation. It’s obviously good practice that as we go through the process, if we see voids or gaps, then motions as such—or they could be different—are brought forward. It’s something that commonly happens. Clause-by-clause is not just to amend what’s there; it’s also to find better ways to conduct business.

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

Mr. Ernie Hardeman: Mr. Chair, through you to the parliamentary assistant: If this is so common, why was it not in the original bill? Why did we go through the whole thing and here I am and I read this stuff and all of a sudden a red flag goes up that there’s all kinds of power going to the minister over the municipality’s authority and the Planning Act, and they say, “Oh, it’s common. We just didn’t bother putting it in through the consultation process. We just wanted to do it at the last minute at the clause-by-clause”?

It concerns me when you hear, “No cause of action arises as a direct or indirect result of all these things.” Nowhere else were we talking about cause of action, and now, all of a sudden, as an amendment, we are.

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

Mr. Lou Rinaldi: I did already, Chair.

The Chair (Mr. Peter Tabuns): Okay. Do you have any further questions for legal counsel?

Mr. Ernie Hardeman: Again, just if I could continue with the questions.

The Chair (Mr. Peter Tabuns): Yes. Proceed.

Mr. Ernie Hardeman: Who decided, and what was the decision, to put this in now?

Mr. Peter Matheson-Young: I'm sorry, sir, I don't think I can speak to that. It wasn't a decision I made. I act on instructions. I think you'd probably have to direct that question to the government members, sir.

Mr. Ernie Hardeman: Mr. Chair, I don't know whether to ask for it now or when you call the vote, but I'd like a 20-minute recess.

The Chair (Mr. Peter Tabuns): I think when I call the vote would be the appropriate time.

Do you have anything further you'd like to say?

Mr. Ernie Hardeman: I'd just point out, then, before I ask for that—I'll ask for it when you call the vote—that I have some concerns because, obviously, I want a recess to look at this to compare what it does from where it came from, and that debate would not be allowed after you call the vote on the recess. So I would ask the indulgence of the committee for a 15-minute recess without calling the vote.

The Chair (Mr. Peter Tabuns): Fair enough. Is the committee agreeable to a 15-minute recess? Agreed.

The committee recessed from 1542 to 1558.

The Chair (Mr. Peter Tabuns): The committee is back in session. I think, Mr. Hardeman, you were finishing off. We're going to Mr. Hatfield.

Mr. Percy Hatfield: I wonder if Peter could come back up. I just have a quick question for him, just to point out something else about this.

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

Mr. Lou Rinaldi: Sure.

The Chair (Mr. Peter Tabuns): Sir? Your name?

Mr. Peter Matheson-Young: My name is Peter Matheson-Young, and I'm counsel with the ministry.

Mr. Percy Hatfield: Thank you, Peter. I was taking a look at this on the break. Parts of it sounded a little bit familiar, so my question is, is this section identical or similar to sections in other acts that you would be aware of off the top of your head? I know it's not a fair question, but is this something that we could easily find in other acts that would say, "I know you have concerns about it because it's relatively new, but this wording already exists in other acts, and it's just there as a backup, a safety or whatever"?

Mr. Peter Matheson-Young: Yes. I couldn't enumerate all the acts in which it arises, but certainly the Greenbelt Act includes a very similar provision; the Lake Simcoe Protection Act includes a similar provision. Those provisions are a little bit broader because this provision is focused on actions taken under a single section of the Planning Act, the proposed 70.8, which deals just with transitional regulation-making authority, whereas in the context of the Greenbelt Act or the Lake Simcoe Protection Act, it's about all actions taken under the act in their entirety. But conceptually, absolutely, you'd find virtually identical wording in those statutes.

Mr. Percy Hatfield: All right. Thank you.

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

Mr. Ernie Hardeman: I don't know whether it's to the staff or the parliamentary assistant, but obviously when you look at this section, it applies to the transition from one system to the other. When you start off the direction that notwithstanding everything that has happened, "no cause of action rises as a direct or indirect result of" the transition—since we don't know what the transition model even looks like, it's very difficult to decide what actions we're actually talking about and what the magnitude of the risk is, as opposed to the actual end result. Have you got any numbers that would help me in understanding this section?

Mr. Lou Rinaldi: Chair?

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

Mr. Lou Rinaldi: So the member is right: This is dealing with the transition period; you are correct. This would provide greater certainty from a time period between royal assent and proclamation.

We're protecting the province to address the inclusion of all the provisions with this particular motion. This immunity provision is aimed at addressing that particular time period; that is, it's meant to get it before, between proclamation and royal assent. Specifically, the change we just introduced—and we did that—again, between royal assent and proclamation. It's not a sweeping clause, as legal folks said. This is something that happens with different other pieces of legislation.

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

Mr. Ernie Hardeman: Thank you very much, Mr. Chair. I think what's really important here is that, all the way through with the original briefing I received on this bill, including all the public hearings on it, the question always arose about the transition and how that would work. We were told, "We can't answer that because that is yet to roll out in the regulation." Now here we are at the eleventh hour, and we say, "We still don't know what it's going to be, but we are sure that we don't want the province to take any risk for anything we do. We're going to make it so it doesn't matter what impact it has on anyone; they cannot hold the government responsible for it happening." Is that a reasonable assumption of what this, in fact, says?

Mr. Lou Rinaldi: Yes, to me that's what it is.

Mr. Ernie Hardeman: What is that?

The Chair (Mr. Peter Tabuns): Sorry, Mr. Rinaldi is responding. Mr. Rinaldi, please.

Mr. Lou Rinaldi: The member would know that during legislation we provide a framework on how to get there and the regulatory regime comes down the road. I should say, with further consultation, that's normally done. So this is not uncommon, that you're setting up a framework and putting in all the provisions to make sure that we have a path to get to the regulatory process. So, process-wise, it's not something that's new. All this does is it establishes a framework where we can do that—and, I would say, with further consultation.

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

Mr. Ernie Hardeman: The parliamentary assistant suggests that this is not uncommon. I think in our lifetime, this is the first time that we have removed the Ontario Municipal Board out of the system. So, from a planning perspective, this is very unusual, to decide which applications are going to follow through and become part of the wrap-up of the Ontario Municipal Board and which ones are going under the new system, recognizing that there is a major difference between the two as to what is appealable and what they have to do to get it.

So somebody is two thirds of the way with an approval for a major project and the government passes the regulation that says, “Everything that started after this date has to go under the new regime,” so everything stops. They have to start all over again and play by the new rules, or vice versa. Somebody could say, “We have something that could go under the new rules, but no, we’re going to set the date there.”

We’re talking about major, major challenges that people could face with their development projects if, arbitrarily, the minister can set any date for it to start and finish under the Ontario Municipal Board and going to tribunal and vice versa.

I suppose they had two choices: One was to just put this clause in and say, “We don’t know yet how we’re going to do it, but we know we’re not going to take any risk in doing it. We’re going to just let the chips fall where they might and the people that benefit from it, fine. The people that don’t benefit, that’s tough luck.” Or you would do a bit of research to find out what impact the different options have. Has the government done any of that? I’d like to know how much we’re talking about here.

The Chair (Mr. Peter Tabuns): Did you want to respond, Mr. Rinaldi?

Mr. Lou Rinaldi: I don’t have much to add, Chair, with the exception of saying that he wants to put the cart before the horse.

All we’re saying is, we’re following straightforward procedure: putting in place protection for government, of course, on decision-making, to make sure that there’s no recourse at the end of the day.

As far as consultation, previous to the legislation, we had a number of face-to-face consultations across the province—not all of them, but the majority of them. There was an enormous amount of input from stakeholders, and I think that will help us determine what those regulations are.

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

Mr. Ernie Hardeman: The concern is that the government has done no analysis of what the impact will be of the transition. Obviously, they’re making recommendations in this bill to make a major transition from one system to the other, and we have no idea how that’s going to work, but I think what bothers me more is that

when they started, they knew that. When the bill was written, they just had the regulation-making ability in the bill, but they had no regulations to judge it by.

After all the consultation on the bill and we come to clause-by-clause, there’s a whole new amendment to protect the government from what they might do. If that had been part of the original bill—as the parliamentary assistant says, this is a reasonable assumption: that you have to put something in the bill to protect the government from the fallout. It’s not going to be revenue-neutral to everybody, and there are challenges. But I would think that you would know that from the start, and that should have been part of the consultation.

A while back, we were debating the ability of putting a willing host issue in on landfill. The parliamentary assistant said, “It’s not a bad idea. We kind of like the idea. But we’ve got to do consultation on that.” I can assure you that the impact of what we’re looking at here is far greater than the impact of allowing the willing host legislation or amendment. And the government says, “Well, this happens all the time. We’ve got to protect ourselves in case we really mess up. If it was small things, it wouldn’t bother us. But what if this is a really big deal? We don’t want the government to have to pay that.”

I think that as we sit here and exempt the government from taking responsibility for their actions, we as a committee should know what those actions could cost the government or the citizens of this province who need protecting, it appears, from the government’s largesse for themselves.

The Chair (Mr. Peter Tabuns): Mr. Hardeman, I’m assuming there are no further questions for counsel?

Mr. Ernie Hardeman: I don’t think so. I think this is a political issue, not a legislative one.

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

Mr. Hatfield.

Mr. Percy Hatfield: I just wanted to thank Mr. Matheson-Young for his legal advice on that issue, or his interpretation.

I suppose if it was not an amendment but part of the bill, it would not have raised as much speculation or suspicion. So I can understand where Mr. Hardeman is coming from. I am willing to accept the solicitor’s contribution that this is not irregular; this is something that falls into other legislation. But to that, my question is, why wasn’t it included as part of the original proposed legislation? Somebody somewhere along the line decided that this should be in there, and I don’t know the long-range plan of that amendment. With that in regard, I’m willing to accept what Mr. Hardeman, the member from Oxford, has suggested, that it raises a lot of suspicions about its inclusion, so I will have to vote against it at this point.

1610

The Chair (Mr. Peter Tabuns): No further debate? We’re ready for the vote?

Mr. Ernie Hardeman: Recorded vote.

Ayes

Delaney, Dickson, Mangat, Rinaldi.

Nays

Coe, Hardeman, Hatfield.

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

We go to vote on the section as a whole. Are there any questions before we go to that vote? Mr. Hardeman.

Mr. Ernie Hardeman: I won't take a long time to debate it because the original section I was in total support of, but the only real action in section 17 is the amendment put forward by the government that was just passed. They left a blank space on my page here. They appended this amendment, but they didn't want to make it part of the public consultation, and I think it's a little bit disheartening that they would do that.

With that, obviously I'm not going to debate the motion that I was totally in support of because now I'm going to be totally opposed to it.

The Chair (Mr. Peter Tabuns): Okay. Any further debate on section 17? There being none—

Mr. Ernie Hardeman: Recorded vote.

Ayes

Delaney, Dickson, Mangat, Rinaldi.

Nays

Coe, Hardeman, Hatfield.

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

Members of the committee, we have three sections that have no amendments: 18, 19 and 20. I propose to bundle them.

Mr. Bob Delaney: Agreed.

The Chair (Mr. Peter Tabuns): You read my mind, Mr. Delaney; you read my mind. There are no objections?

Mr. Bob Delaney: Years of experience.

The Chair (Mr. Peter Tabuns): Years of experience: I understand.

Shall schedule 3, sections 18, 19 and 20 carry? Opposed? They are carried.

We go to NDP motion 53.1. Mr. Hatfield.

Mr. Percy Hatfield: Schedule 3 to the bill, section 21: I move that section 21 of schedule 3 to the bill be struck out and the following substituted:

“Commencement

“21. This schedule comes into force on the day the Building Better Communities and Conserving Watersheds Act, 2017 receives royal assent.”

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

Mr. Percy Hatfield: No, I'm pretty self-explanatory at this point.

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

Mr. Lou Rinaldi: We want to make sure that the new agency, the LPAT, will be successful. There's going to be time needed for education and training, and we believe that we have to make sure that the new tribunal has that well in place and the Local Planning Appeal Support Centre be established. There's a lot of work to be done, and for those reasons we believe this is a bit too fast.

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

Mr. Ernie Hardeman: We will not be supporting this motion. The challenge is, as the parliamentary assistant says, that just because the bill gets royal assent, there's an awful lot of work that has to follow royal assent in regulations to actually make this bill operate. I'd feel much more comfortable if it said “proclamation” as opposed to “royal assent.” I think that's really why we have the system of royal assent finishing the legislative process. The proclamation, the minister can do when they have the regulations ready. I think it should be left to the proclamation date instead of royal assent.

The Chair (Mr. Peter Tabuns): No further discussion? All those in favour of NDP motion 53.1? All those opposed? It is lost.

We go to a vote on section 21 as a whole. Any discussion on section 21 before we go to the vote? You're ready to vote?

Mr. Ernie Hardeman: Yes.

The Chair (Mr. Peter Tabuns): Fine. Shall schedule 3, section 21, carry? It is carried.

Colleagues, we now go to the next section, which is schedule 4. Our first motion is NDP motion 53.2.

Mr. Percy Hatfield: Thank you, Chair. I'm sure you'll—

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

Mr. Percy Hatfield: Sorry.

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

Mr. Percy Hatfield: Thank you. Schedule 4 to the bill, section 1 (section 0.1 of the Conservation Authorities Act):

I move that section 0.1 of the Conservation Authorities Act, as set out in section 1 of schedule 4 to the bill, be amended by adding “sustainable” before “development”.

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

Mr. Percy Hatfield: No; I'll leave it at this point, unless they object.

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

Mr. Lou Rinaldi: Chair, obviously, I'm recommending not to support it. CAs are certainly valued for their flexibility to tailor their programming to their local watershed and communities. I can attest to that. I have three different CAs within my riding, and they don't all have the same programs. Some are similar, but they are different; one mostly because of geography and the sensitivity of the landscape they're in. Some CAs are involved in natural resource development activities. So there is a huge difference. The proposed change might limit the flexibility or the ability for CAs to undertake

activities that generate revenue for other watershed programs.

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

Mr. Percy Hatfield: I guess it's all in the wording or the interpretation of the words. To me, when you're talking about the purpose of an act that calls for "the organization and delivery of programs and services that further the conservation, restoration, development and management of natural resources in watersheds in Ontario," it should also say "sustainable development" as opposed to "development." To me, sustainable development means that you are going to do everything in your power to sustain the development of watersheds in Ontario, as opposed to that you're going to turn your back on conservation and protection and actually develop watersheds in Ontario—as opposed to protecting them. Sustainable development in this context, to me, means that you are going to protect the environment and protect watersheds, as opposed to develop them.

I know it's just a small word, "sustainable," but I see no harm in the government taking another look at it, thinking outside the box and saying, "What is in a word? Does 'sustainable' build this clause, empower this clause, so that conservation authorities have it in writing that sustainable development of their watersheds is a priority?" as opposed to turning their back on watersheds and, "Well, it's in there. We can develop them. They've given us the power to develop our watersheds. Yay!" There are some rogue conservation authorities that will use this as a mechanism to further develop on land that should be set aside for conservation and restoration of our natural resources and watersheds in Ontario. I cannot believe that the government members don't see the word "sustainable" as an empowering word, a word to protect the watersheds, as opposed to develop the watersheds.

The Chair (Mr. Peter Tabuns): Any further discussion? There being none, you're ready for the vote?

Mr. Percy Hatfield: I am. Recorded vote, please.

Ayes

Coe, Hardeman, Hatfield.

Nays

Delaney, Dickson, Mangat, Rinaldi.

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

We go to vote on the section as a whole. Any debate on the section as a whole? There is none. Shall schedule 4, section 1, carry? It is carried.

Colleagues, we now have a number of sections here, sections 2 to 11, where there are no amendments, and I would like to bundle them. Are you—no? Mr. Hardeman.

1620

Mr. Ernie Hardeman: I would not like number 2 bundled with it.

The Chair (Mr. Peter Tabuns): You would like it separate, then?

Mr. Ernie Hardeman: Yes.

The Chair (Mr. Peter Tabuns): Okay. We will move, then, to schedule 4, section 2. Any discussion? Mr. Hardeman.

Mr. Ernie Hardeman: I think that the whole thing about the cost and everything is not transparent enough. As we voted on the last one—and the government not being willing to put "sustainable" in. I really get concerned with this one here that the administration and maintenance cost definition will be merged in operating expenses. I think that, all of a sudden, it just becomes, "Tell us how much money you've got, tell us how much money you spent," but there's no real accounting to have the people see what it is they need. That's why we're opposed to this section.

The Chair (Mr. Peter Tabuns): Okay. Any further discussion? There being none, you're ready to vote?

Mr. Ernie Hardeman: Recorded.

Ayes

Delaney, Dickson, Mangat, Rinaldi.

Nays

Coe, Hardeman, Hatfield.

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

Colleagues, I would now, then, like to bundle sections 3 to 11. Are you agreeable?

Interjection: Agreed.

The Chair (Mr. Peter Tabuns): Shall schedule 4, sections 3 to 11, inclusive, carry? Carried.

With that, we go to section 12 and NDP motion 53.3. Mr. Hatfield.

Mr. Percy Hatfield: Schedule 4 to the bill, subsection 12(1.1)(subsection 14(3.1) of the Conservation Authorities Act):

I move that section 12 of schedule 4 to the bill be amended by adding the following subsection:

"(1.1) Section 14 of the act is amended by adding the following subsection:

"Eligibility

"(3.1) An employee of an authority is not eligible to be appointed as a member of an authority."

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

Mr. Percy Hatfield: Not at this point.

The Chair (Mr. Peter Tabuns): None? Ms. Forster.

Ms. Cindy Forster: I'd like to speak to this, but there's another amendment coming up, so I'll speak to both of them at the same time, if you don't mind—or maybe I'll wait. Maybe what I'll do is I'll wait and speak to the other one first.

The Chair (Mr. Peter Tabuns): Yes, you can speak as many times as you want, so you might as well start with this one.

Ms. Cindy Forster: Okay. You'll know that late last week, the public accounts committee passed a motion to appoint the Auditor General to the Niagara Peninsula Conservation Authority, an agency in Niagara that actually has representation from Hamilton as well as 12 Niagara municipalities. The auditor has agreed to go in and do that audit. Unfortunately, under the Conservation Authorities Act, there are pieces missing with respect to who can be appointed, who can be elected; what happens if you are actually elected to a municipal council.

These amendments are trying to address some of that. I'm not aware of any conservation authority where an employee can sit as a board member on an authority, so that really is a matter of housekeeping in this particular instance. I'm trying to address that with this amendment.

Then I'll speak to the other piece when we get to the second amendment.

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

Mr. Lou Rinaldi: Actually, Ms. Forster indicated that in some cases, the case that this is trying to do—that we know it hasn't existed and if it did exist, it certainly hasn't surfaced as an issue anywhere. But we have high suspicion that it hasn't existed.

The other piece that I would say is that we spent over two years consulting with CAs, municipalities, stakeholders, the public. This issue, to our knowledge—to my knowledge, certainly—hasn't surfaced. That's not to say that it doesn't exist. So I would suggest that, as we go through the consultation process for a regulatory regime, if there's something that certainly is of concern, it might be able to be dealt with through the regulatory process.

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

Mr. Ernie Hardeman: I think I heard it correctly from the member that there presently are no appointees on the board that are employees—

Ms. Cindy Forster: Not that I'm aware of.

Mr. Ernie Hardeman: I wasn't either. I support the motion on the fact that I think it would be very inappropriate. I just can't imagine any appointing authority appointing an employee of that authority as a member. The caution, I think, would be to make sure that doesn't necessarily apply, that an employee of one authority could be on the board of another authority. Their decisions would never conflict but they would be one of the most knowledgeable people to have on the board. I would just caution that, but I have no problem supporting this motion.

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

Mr. Percy Hatfield: Just as a word of caution, I suppose, as we move forward: Don't forget the language in the act that says a conservation authority should be appointing or should be having people on the board with their specialized expertise in certain areas. I can imagine some point down the road where nobody in a certain area has the expertise needed to deal with a specific watershed issue, but somebody who works for the conservation authority does. If somebody has to be on that board with

that technical expertise in a certain area, then it is conceivable, unless it's in writing, that that person could end up on the board as an employee making decisions. I leave that open because it's in the act. You put it in there. These conservation authorities are going to need members with technical expertise.

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

Mr. Bob Delaney: I was in the committee when Ms. Forster made a very compelling and eloquent case, subsequently accepted by the committee, to ask the auditor to do the work. It may well be that this could be a recommendation of the auditor. I would suggest that at this point it would be presuming the outcome of the work not yet done by the auditor, and Mr. Rinaldi's suggestion that this didn't come up in the course of studying the bill doesn't nullify its potential validity, but it does say that this is an issue we may wish to visit again once the auditor has weighed in.

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

Mr. Ernie Hardeman: I do believe that we can't stop the process of passing legislation because there's been a review done on one portion of that entity. It was just brought to my attention, though, the technical question on the conservation authority. The executive director is, in fact, a member of the board and, of course, employed by the board. They are a non-voting member of the board, but do we need something in there to say that is acceptable? The president of a hospital sits on the hospital board, only they're not appointed by the community to be on the hospital board. I just want to make sure that's covered off.

The Chair (Mr. Peter Tabuns): Any further discussion? There being none, you're ready for the vote? Okay. All those in favour of NDP motion 55.3, please indicate. All those opposed? It is lost.

We go to PC motion number 54. Mr. Hardeman.

Mr. Ernie Hardeman: Schedule 4 to the bill, subsection 12(2) (subsections 14(4), (4.1), (4.2) and (4.3) of the Conservation Authorities Act).

I move that subsection 12(2) of schedule 4 to the bill be struck out and the following substituted:

“(2) Subsection 14(4) of the act is repealed and the following substituted:

“Term

“(4) A member shall be appointed for a term of up to four years, as may be determined by the council that appoints the member.

“Same

“(4.1) A member's term begins at the first meeting of the authority after his or her appointment and expires immediately before the first meeting of the authority after the appointment of his or her replacement.

“Replacement of member

“(4.2) Despite subsections (4) and (4.1), a member may be replaced by the council of the participating municipality that appointed the member.

“Reappointment

“(4.3) A member is eligible to be reappointed.”

1630

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

Mr. Ernie Hardeman: This amendment would remove the requirement for qualifications to a conservation authority board. Municipal councillors often serve on the boards, and may not be able to with the requirement of qualifications. Most conservation authority members are locally elected municipal councillors. If the minister sets such a requirement, such as CA members must be engineers or biologists—those were the examples the ministry staff gave in the briefing—that would mean most councillors couldn't sit on the conservation authorities.

Municipalities cover many of the conservation authority costs and should therefore have the ability to appoint councillors to the board to ensure municipal funds are spent appropriately and that municipalities have a say on their local board.

AMO president Lynn Dollin, in her presentation to the committee, said, "Part IV, section 12 of the bill states that municipal councils continue to have the authority to appoint conservation authority board members. This makes sense. Municipal councillors are representative of all walks of life in an area, and it is the council that pays the greatest proportion of the conservation authority's funding. However, section 40(1)(a) of the bill indicates that the Lieutenant Governor in Council 'may make regulations governing the composition of conservation authorities and prescribing additional requirements regarding the appointment and qualifications of members of conservation authorities.' AMO has consistently maintained that until the province reinstates significant funding to conservation authorities, municipal government, as the major funder, should have sole right to appoint board members."

I think that really is the message, that if the municipality pays the bill, the municipality should have every right to appoint the board. I think we have to recognize how they function. Maybe there have been places where it didn't function as well as it should, but how they're supposed to function is, as it does in the Legislature, the board is supposed to set the policy direction. The conservation decisions that need to be made and the operation are done by experts hired to do the job. The board just comes once every month or two. They make the decisions when they do, and they hire the appropriate people to do the job. Those people are responsible to them, and the board members are responsible to justify that to the local municipality.

I know in my community most years at budget time, when the finance committee at the county sets the allocations for their spending, they usually peg the cost, and the members of the conservation authority—I think there are four in my riding now—can go back to their respective authority and say, "This is the amount of money that's going to be available from that number of municipalities, because that's what they told us we should do."

I think that's the responsibility of the elected members. It doesn't need to be a qualified biologist, to

make that decision. The qualified geologist should be asked to make the right decisions on how they're going to implement the programs of the authority.

The Chair (Mr. Peter Tabuns): Okay. I have Mr. Hatfield, Ms. Forster and then Mr. Rinaldi.

Mr. Percy Hatfield: Thank you, Chair. Through you to the parliamentary assistant, I wonder if we would be able to have somebody from the audience come and explain to the committee the reasoning behind the suggestion that people with certain expertise, be it engineers or be it biologists, become members of the conservation authority board.

The Chair (Mr. Peter Tabuns): Mr. Rinaldi, did you want to respond?

Mr. Lou Rinaldi: Sure. I think, if I understood you right, to have board members with certain expertise on the board, whether it's financial or—that's not uncommon with some boards. Boards are who direct staff or policy based on needs of those communities. So with that rationale, I think we have a better operating CA if there is expertise within the board to determine the needs of that particular watershed or geography.

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

Mr. Percy Hatfield: Chair, I know Mr. Rinaldi has some municipal experience. I don't know if there's a conservation authority within his riding or within his municipality.

Mr. Lou Rinaldi: There are three.

Mr. Percy Hatfield: He has three. In my experience, as I've stated before, my seven years on the conservation authority as a member of Windsor city council, every member, with one exception from Amherstburg—my first year a former deputy mayor was reappointed so that he could serve as chair because it was his turn from the county, if you go that way. But every other year, the members of the conservation authority were representatives, elected members of their municipality, because of the budget-setting mandate of the municipalities to fund conservation authorities.

I'm not suggesting that other boards don't have expertise. I'm suggesting that conservation authorities are somewhat unique in the sense that they're funded by municipalities or more than one municipality, and therefore, the members are answerable to the taxpayers in each municipality. If you're saying that it's not uncommon for laypeople, if you will, or laypersons, to be appointed instead of municipal politicians making decisions on behalf of the taxpayers when these laypeople are not answerable to the taxpayers, I'm suggesting that that is abnormal. That is not unique, and I'm wondering if you will allow someone from the ministry to come to the table and explain to us from whence that recommendation came.

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

Mr. Lou Rinaldi: Sure. If there's someone here who can help us to answer Mr. Hatfield's question.

The Chair (Mr. Peter Tabuns): Sure. Welcome. If you'd introduce yourself for Hansard, and keep the microphone close.

Mr. Jason Travers: Jason Travers, director of natural resource conservation policy with the Ministry of Natural Resources and Forestry. With respect to that one, it was following consultation and looking at all the results of consultation in the few years that we have been looking at this. It was the idea of creating a regulatory power to allow the consideration of appointing board members with expertise, but what's being proposed is just the legislative authority to create a regulation to entertain that idea, at which point we would undertake consultations going forward.

There's nothing specific. In the bill, it's not proposed that it be a biologist, a geologist or anything like that. There could be expertise in auditing. It could be expertise in anything, for that matter. It's very generic so that we can capture an idea going forward before we get too far down in the details because, as you've noted, there has been some talk about this but not very much. We want to think through and have a further consultation, which is why it's a regulatory power.

Mr. Percy Hatfield: Mr. Travers, these positions on conservation authority boards: Would they be voting members or would they be there simply for their expertise?

Mr. Jason Travers: Again, none of that has been determined yet because it's about establishing the regulatory power.

Mr. Percy Hatfield: And you are aware—or how aware are you of the municipal concern and angst about the possibility that an appointed person would have a vote and a say in raising taxes based on their expertise as opposed to never having to answer to the taxpayer?

Mr. Jason Travers: I've also heard that comment from AMO.

Mr. Percy Hatfield: Thank you.

The Chair (Mr. Peter Tabuns): I'm going to vary the order because, Mr. Coe, you had a question.

Mr. Lorne Coe: Yes. I'm trying to understand even why the regulatory power aspect has been added. I'm sure you understand that in the case of the conservation authorities, the way they're constructed right now, if they need advice from a biologist, when they need advice from an engineer, in most instances that's available from staff within the conservation authority. You understand that?

Mr. Jason Travers: Yes, sir.

Mr. Lorne Coe: Okay. Added to that, should there be other levels of expertise beyond the current staffing level of a conservation authority, depending on what the particular agenda item is that the board is discussing, the board also has the option to use the expertise of the staff of a municipality that has allocated councillors to the board. Do you understand that too?

1640

Mr. Jason Travers: Yes, sir.

Mr. Lorne Coe: Okay. Why is this regulatory power coming forward in this legislation? What is it going to accomplish? Nothing.

Mr. Jason Travers: The purpose is to—as I said, during consultation there were a few questions raised

about board composition. As such, we thought that as a measure we could introduce legislative power to establish a regulation to do just that. There are not very many opportunities to revise legislation. It has been 20 years since this one has been revised, and as such we want to make sure that we have some longevity associated with it. As such, a regulatory power was added to consider at a future time if there needs to be powers to establish some board composition specifics. Again, that would be through consultation and through regulation.

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

Mr. Lorne Coe: I've asked my questions for now, and I think I've got the clarity I was looking for. Thank you.

The Chair (Mr. Peter Tabuns): There being no others—or, no. Ms. Forster?

Ms. Cindy Forster: Not a question, just a comment.

The Chair (Mr. Peter Tabuns): Not a question—well, I'll hold you down.

Did you have a question?

Mr. Ernie Hardeman: Yes. I just want to follow up on Mr. Coe's question. I've been around a lot of years. I started in politics as a municipal councillor. When I became a municipal councillor, almost the entire conservation authority was lay people, not councillors. Councils over that period of time have changed so it's now almost exclusively politicians. We talk here about hiring experts. The only expertise that wasn't available when they were all lay people was accountability to the public, because they didn't have to get re-elected; they got appointed. The councillors couldn't do anything about it after they were appointed. The expertise that they needed—

The Chair (Mr. Peter Tabuns): Mr. Hardeman, wasn't there a question?

Mr. Ernie Hardeman: Yes, the same question. The expertise that they needed was accountability. How do you envision that accountability to stay if you start appointing the people who have the expertise but also the interest in the result rather than accountability to the people for what they're doing?

Mr. Jason Travers: Mr. Hardeman, I'm not presuming to be—I'm not sure what the right word is—belligerent in terms of my response, in that the regulations have not been formulated. We haven't contemplated the specifics of each different composition, because, as you point out, there would be other relative interests across municipalities. Some CAs are in one municipality; some CAs are across four municipalities. There are lots of things that still need to be determined before we would even proceed. Again, it's about a regulation-making power, and there are no specifics in terms of what expertise needs to be brought forward.

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

With that—no, but you don't have a question, do you?

Ms. Cindy Forster: I do not.

The Chair (Mr. Peter Tabuns): I didn't think so.

Thank you very much for coming.

I'll go back to the speakers' list. Ms. Forster.

Ms. Cindy Forster: I, too, was a municipal councillor for many years, so I'll use the example of some of the comments of the public library boards. Public libraries are funded probably 90% by municipalities, but they don't have the majority of their board members as elected officials. When they prepare their budget, they present their budget to the municipality, and the municipality says yea or nay: "Yes, we can give you some more money," or, "No, we can't give you more money."

I think there needs to be more of a balance on conservation authorities. I'm not saying that the majority of people shouldn't be regional councillors or municipal councillors or county councillors, but, in fact, there need to be people on the board who represent the interests of the environmentalists and the conservationists, and we've moved away from that.

In my particular situation, it is a 15-member board. Twelve of the 15 are elected officials: six mayors plus six regional councillors that the region gets to appoint. Many of my municipalities would prefer that the lower tier actually gets to appoint so that they're appointing somebody who is perhaps reflecting more of what the community wants. Three other members are appointed. Hamilton actually appoints non-elected officials to the Niagara Peninsula Conservation Authority, and then there's one public member out there that's been around for about 50 years, who is appointed each and every time.

I think that there's a better balance of interests if it isn't all elected officials just looking at that bottom-line dollar, but I certainly understand the need to have elected people there, to make sure that we're living within our means.

The Chair (Mr. Peter Tabuns): Mr. Rinaldi, and then Mr. Bradley.

Mr. Lou Rinaldi: I think my questions and comments were addressed, Chair. Thank you.

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

Mr. James J. Bradley: On the specific issue that we were talking about just a moment ago, Mr. Chair, Mr. Coe asked a legitimate question: Shouldn't you be relying upon the scientific and environmental people on the staff of the authority to provide those answers? The challenge is when your local authority fires the environmental people, fires the experts and decides to make political decisions, what do you do then? That has happened in Niagara.

The Chair (Mr. Peter Tabuns): Ms. Forster?

Ms. Cindy Forster: Actually, I'm glad that Mr. Bradley brought that up, because at the Niagara Peninsula Conservation Authority, almost or more than 60% of the staff have turned over since 2014, from senior managers right down to front-line workers. I'm up to 32 of them who have either been fired, severed non-voluntarily, severed voluntarily or laid off. So what expertise is left there?

And the people they have replaced those people with, in many cases, had no expertise, skills or experience in any area of conservation when they got hired. I think that's why we need that balanced board.

The Chair (Mr. Peter Tabuns): Further comments on this motion before we go to the vote?

Mr. Lorne Coe: Recorded vote, please.

Ayes

Coe, Hardeman, Hatfield.

Nays

Delaney, Dickson, Mangat, Rinaldi.

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

We go to NDP motion 54.1: Mr. Hatfield.

Mr. Percy Hatfield: Schedule 4 to the bill, subsection 12(3) (subsections 14(6) and (7) of the Conservation Authorities Act):

I move that section 12 of schedule 4 to the bill be amended by adding the following subsection:

"(3) Section 14 of the act is amended by adding the following subsections:

""Code of conduct

""(6) An authority shall establish a code of conduct for its members.

""Regulations

""(7) The minister may make regulations prescribing one or more subject matters that an authority is required to include in a code of conduct,""

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

Mr. Lorne Coe: I agree in principle with the proposed amendment, but in the case of upper-tier governments—my experience is with the region of Durham. The region of Durham had a code of conduct, and in the case of the conservation authority, which was populated by regional councillors, in part, from the municipalities that comprise the region of Durham, human resources policies that originated with the region of Durham cascaded to the conservation authority or other like authorities that were funded by the region, and funded also by the municipalities that form the region of Durham.

The code of conduct that the region of Durham implemented, and that other municipalities had implemented across the region, was also implemented with the conservation authority of Durham region, as well, rather than individual conservation authorities developing a code of conduct. In my experience, at least, with upper-tier municipalities, the expectation is that conservation authorities and similar types of organizations adopt the same code of conduct rather than variations of that code of conduct. That has been my experience. I understand the premise of this amendment. I think it's moving in the right direction. But I just offer that as part of our discussion here as a committee.

1650

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

Mr. Lou Rinaldi: The bill already expands the by-laws to include codes of conduct. The bill already proposes to give the minister the authority to force a

conservation authority to make changes to its bylaws. The bill already proposes to give the minister the authority to make regulations governing bylaws, which can be used to set specific requirements for codes of conduct.

The Chair (Mr. Peter Tabuns): Ms. Forster?

Ms. Cindy Forster: At the Niagara Peninsula Conservation Authority, once again—it could probably be an example for every one of these amendments that come forward today—they've introduced a code of conduct.

I don't disagree with codes of conduct that are principled and give direction to people on those boards or people elected to council to conduct themselves in a way that is professional and achieves some goals at the end of the day.

The code of conduct that was recently introduced at the NPCA basically muzzles anybody who is on the board who speaks out about anything that the NPCA is doing. Well, I'm sorry, but do you know what? The taxpayer pays the freight at the end of the day, and the taxpayer deserves to know what is going on when you have a budget of \$8 million or \$9 million, as they do in Niagara. A board member cannot speak out against a policy that's being introduced, a project that's being developed, a piece of property that's being purchased or divested.

So I think that the policy has to be one that allows accountability, transparency and integrity from the members who are appointed to that board.

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

Mr. Percy Hatfield: Being an opposition member in a majority government, I can certainly appreciate the muzzling that goes on at committee, when we get to speak, but our suggestions are pretty well ignored most of the time.

This shouldn't be seen as somebody trying to force a new code of conduct onto an authority. My friend from Durham, Mr. Coe, who suggested the upper tier already has a code of conduct in most cases—I appreciate that. I would hope that conservation authorities that don't already have a code of conduct would look at those that do or other codes of conduct around the province and adopt the best wording for themselves. There's nothing to prevent an authority from adopting a code of conduct from an upper tier, from a lower tier, from a neighbouring community or one from another part of the province if it makes sense in their locality.

I believe a code of conduct is a positive thing and is something that we should all—we all adhere to a code of ethics, a code of conduct in this precinct and, I would hope, in most municipalities. In our case, we answer to an integrity commissioner, as well.

So I just don't see anything wrong with this motion. It just may put in writing what is there perhaps more or less in another part of the bill. But it certainly is open and transparent and part of the dialogue we hear from the other side from time to time about openness and transparency. If it's there that you're going to do it—if you don't have one, then the bill is strengthened by the addition of this amendment.

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

Mr. Ernie Hardeman: If you read the amendment, "An authority shall establish a code of conduct for its members" in relation to—my colleague Lorne Coe suggested that the region already has one. It would seem to me this motion would just mean that the conservation authority adopts the region's code of conduct with one motion and it would be completed. I see nothing wrong with suggesting that they should be operating with some type of code of conduct in their operations.

The Chair (Mr. Peter Tabuns): Ms. Forster.

Ms. Cindy Forster: I can tell you at the Niagara region they've been fighting about trying to adopt a code of conduct for a couple of years and have spent lots of taxpayers' dollars trying to avoid putting in a code of conduct. So in that particular situation, it wouldn't work because I don't think there is one to adopt at this point in time.

The Chair (Mr. Peter Tabuns): Any further discussion? There being none—oh, Mr. Dickson?

Mr. Joe Dickson: Maybe I can bring it to a close, Mr. Chair, if I could. I'm just going to speak to that 53.3 for a second, and that is—

The Chair (Mr. Peter Tabuns): No, we're on 54.1.

Mr. Joe Dickson: Okay, I'll give a couple of words on it once you vote on this, then.

Mr. Percy Hatfield: Recorded vote, sir.

Ayes

Coe, Hardeman, Hatfield.

Nays

Delaney, Dickson, Mangat, Rinaldi.

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

We now go to vote on section 12 as a whole. Any discussion?

Mr. Joe Dickson: When are you giving me the opportunity, Mr. Chair?

The Chair (Mr. Peter Tabuns): We're talking about the section as a whole, so if you wish, Mr. Dickson.

Mr. Joe Dickson: No, I referenced 53.3.

Interjection: That's it.

Mr. Joe Dickson: That's it? If I could then, Mr. Chair, just quickly, both Ms. Forster and Mr. Hatfield—

The Chair (Mr. Peter Tabuns): Mr. Dickson, I'm sorry, people can't hear you. You have to pull the microphone over and you have to speak loudly.

Mr. Joe Dickson: I can hear Ernie all day.

The Chair (Mr. Peter Tabuns): I know.

Interjection: He's got a booming voice.

Mr. Joe Dickson: Mr. Chair, if I could, just on 53.3, MPP Forster and MPP Hatfield indicated that an employee in an authority may not be eligible to be appointed as a member or may be, but I think the point was that they had a good recommendation. I can tell you, it may not be

the greatest comparison in the world, but I just happened to think of a police officer who we dearly need day in and day out arresting someone. At that point in time, is he still a police officer or is he allowed to go to the bench and act as a judge? I don't think so. I think what Mr. Delaney said, in referencing the Auditor General, might be—I would encourage them to go there because I agree with the principle that you're talking about, that it should be looked at quickly and adjusted appropriately. Thank you for the flexibility.

The Chair (Mr. Peter Tabuns): Thank you. Any other discussion on section 12? There being none, you're ready for the vote?

Mr. Ernie Hardeman: Recorded.

Ayes

Delaney, Dickson, Mangat, Rinaldi.

Nays

Coe, Hardeman, Hatfield.

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

We go now to schedule 4. Sections 13 and 14 have no amendments.

Mr. Bob Delaney: Agreed.

The Chair (Mr. Peter Tabuns): Thank you. I'll bundle them. Shall schedule 4, sections 13 and 14, inclusive, carry? Carried.

We then go to section 15 and NDP motion 54.2.

Mr. Percy Hatfield: Schedule 4 to the bill, subsection 15(0.1) (subsection 18(1.1) of the Conservation Authorities Act):

I move that section 15 of schedule 4 to the bill be amended by adding the following subsection:

“(0.1) Section 18 of the act is amended by adding the following subsection:

“Employee of authority

“(1.1) An employee of an authority is eligible to seek to become a candidate in a federal, provincial or municipal election if the employee takes an unpaid leave of absence beginning as of the day the employee is nominated and ending on voting day.”

The Chair (Mr. Peter Tabuns): Any discussion? Ms. Forster and then Mr. Hardeman.

Ms. Cindy Forster: Yes, I'd like to speak to this. Here is the situation, if you can just bear with me and follow this through: A regional councillor gets appointed to the conservation authority as a board member. He then takes a leave of absence for six weeks. Then he applies for a top-dog position at that conservation authority. He applies for the position of director of finances, but he doesn't get that position. He then is offered the position of director of operations at the conservation authority, which he didn't apply for.

1700

That's fine. That's all fine and good, except then he runs as a regional councillor in the next municipal

election and he is elected. Now he sits as the budget chair for the Niagara region. So he's the budget chair at the Niagara region, he's the director of operations at the conservation authority. He's approving the conservation authority's budget and I have it, from some of my peers at the region, that he's not even declaring a conflict when the budget is being passed.

What I'm trying to achieve here is—if you're a municipal employee, you can run for municipal council, but if you're elected, you have to resign as a municipal employee. If you're a regional employee, you have to resign if you're elected to a region. If you're a school board employee, you have to resign if you're elected as a school board trustee. In all those situations, it is an employer-employee relationship. In this particular situation, the person is an employee of the conservation authority, but they receive the majority of their funding from the region through the municipalities and from the region.

It is really a direct conflict to be in a position at the conservation authority, getting most of your funding from the region and being able to sit as a regional councillor or municipal councillor approving your own budgets. That's what a number of my amendments are about—and that is fact; that's not hypothetical. That is actually what is happening today there. It may be happening elsewhere across the province; I'm not aware. But it certainly is happening in Niagara. So I'm trying to bring this amendment forward to rectify that situation for the future.

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

Mr. Ernie Hardeman: Mr. Coe.

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

Mr. Lorne Coe: Looking at the content of the amendment, what I find troubling about the amendment is that it seems to me to be specific to a region of the province. The implications of this particular amendment are really significant, taken in the context of the entire province.

I find it unduly punitive because the cost of taking an unpaid leave of absence is significant. It could be upwards of \$12,000 and, depending on the family household, the impact could be large going forward.

I have difficulty with the contextual basis of this amendment going forward. I have trouble supporting it on that basis.

The Chair (Mr. Peter Tabuns): Thank you. I have Mr. Rinaldi and then I have Ms. Forster.

Mr. Lou Rinaldi: I tend to agree with MPP Coe. I understand where the member is coming from. I know my good friend sitting next to me has rung my bell a number of times, and I get it. But I think sometimes we're almost trying to go through the back door to try to come up with circumstances that might impact other CAs.

With what happened last week with an investigation by the Auditor General, plus some of the other stuff that we'll talk about later on and some other amendments that

are in place already, and based on some of the pieces that you bring forward, I think we should be able to address those circumstances. But we're using a huge sledgehammer here to kill one fly.

The Chair (Mr. Peter Tabuns): Ms. Forster, then Mr. Hatfield.

Ms. Cindy Forster: Mr. Coe raised the issue of having to take unpaid leaves of absence. That applies to municipal employees, regional employees—anybody who has to run in a municipal election is required under the current Municipal Elections Act to take an unpaid leave of absence. They can use vacation; they can use whatever time they may have accrued. It is no more daunting for a conservation employee than it is for anyone else.

To Mr. Rinaldi: You know what? I'm not trying to come up with circumstances; those are the circumstances. The act is open, and so, I say, why don't we address them while it's open? Let's deal with it.

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

Mr. Percy Hatfield: After hearing the example given by Ms. Forster at the Niagara region conservation authority and going back to our prior discussion on a code of conduct and having a code of conduct rejected by the government members, it seems to me somebody over there should be saying, "Let's go back and revisit that code-of-conduct provision," because what's happening in Niagara is clearly a violation of anybody's code of conduct in any elected and appointed agency, board or commission—completely unheard of. I just don't see how they can sit there now after hearing this and not revisit the entire code-of-conduct discussion.

The Chair (Mr. Peter Tabuns): I'll go on to Mr. Hardeman.

Mr. Ernie Hardeman: I have a bit of a problem with the broadness of the motion. I think the mover just pointed out the need for—based on the municipal connection, that somehow there's a connection between the payer of the conservation authority where the individual would be working and running for that office. I suppose one could make that connection, but I don't know how you would make the connection between federal and provincial. How would that ever connect to somebody working for the conservation authority? How would what they were doing at the conservation authority impact how they were getting elected federally or provincially?

The other challenge with that is that, municipally, the day of nomination is 28 days or 27 days prior to the election. Provincially, if you look around the province now you'll see there's a great number of people already nominated for the next election, June 7, 2018. This motion is suggesting that the person on the conservation authority wanting to go provincial or federal—they would have to resign from the conservation authority the day they were nominated, and that, to me, would be totally unacceptable.

The other thing that I find interesting, when you look at the other half of that locally, a municipal politician does not have to take a leave of absence or resign when

they run provincially or federally. Most of them do, as my good friend sitting next to me did when he ran, but there was no obligation to do that. I think for an employee of a conservation authority, it's going out there quite a ways to say that you have to resign when you want to run for a federal seat.

The Chair (Mr. Peter Tabuns): I have Mr. Hatfield next.

Mr. Percy Hatfield: Just a slight variation on what Mr. Hardeman just said. I know Mr. Hardeman and others here used to serve on AMO. When I was on the AMO executive as a municipal politician, the expectation was—and I did resign when I let it be known that I would be seeking a nomination. If you're on the AMO board and you're going to run provincially or federally, you give notice of that. People hear about it, and you automatically resign. You don't step aside; you resign from the board.

I see nothing wrong with that because of the non-partisan relationship—supposedly—between AMO and the provincial government, beyond the executive and coming here for the memorandum-of-understanding meetings, when you're nominated or are going to seek the nomination of a political party, regardless of what stripe that party may be. I resigned from the AMO board when I let it be known I would be seeking a nomination, for whatever party that was, so I know municipal politicians do resign from that.

I also know that if Mr. Rinaldi decides to run federally in a by-election, he won't necessarily be stepping down from here; he's free to run in that by-election. If he wins, he would have to resign, as we just saw recently with Mr. Singh. If Mr. Singh wasn't elected as leader of the federal party, he would still be a member of this provincial Parliament.

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The Chair (Mr. Peter Tabuns): I have no further speakers on this. People are ready for the vote?

Mr. Percy Hatfield: Recorded vote, please.

Ayes

Hatfield.

Nays

Coe, Delaney, Dickson, Hardeman, Mangat, Rinaldi.

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

We go to NDP motion 54.3. Mr. Hatfield.

Mr. Percy Hatfield: Schedule 4 to the bill, subsection 15 (0.2) (Subsections 18 (1.2) and (1.3) of the Conservation Authorities Act):

I move that section 15 of schedule 4 to the bill be amended by adding the following subsection:

“(0.2) Section 18 of the act is amended by adding the following subsections:

“Effect of an election or appointment, federal and provincial

“(1.2) If an employee of an authority is elected to the Parliament of Canada or to a provincial assembly, he or she shall resign from his or her position before taking office.

“Effect of an election or appointment, municipal

“(1.3) If an employee of an authority is elected or appointed to a municipal council, he or she shall resign from his or her position before taking office.”

The Chair (Mr. Peter Tabuns): Ms. Forster?

Ms. Cindy Forster: I’ll just say my comments are the same as for the last motion.

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

Mr. Lou Rinaldi: Ditto. My comments are the same as the last one.

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

Mr. Percy Hatfield: Recorded vote, please.

Ayes

Hatfield.

Nays

Coe, Delaney, Dickson, Hardeman, Mangat, Rinaldi.

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

We then go to vote on the section as a whole. Is there any debate on section 15?

Mr. Hardeman?

Mr. Ernie Hardeman: It talks about how the government may appoint one or more advisory boards. This allows the minister to dictate which conservation authorities are required to establish advisory boards in accordance with the regulations.

What would require the province to say to a conservation authority, “You need to appoint these advisory boards”?

Mr. Lou Rinaldi: I’m sorry. I missed the very first part of your comments.

The Chair (Mr. Peter Tabuns): Please repeat it again, Mr. Hardeman.

Mr. Ernie Hardeman: In this section, the authority may appoint one or more advisory boards. This allows the minister to dictate which conservation authorities are required to establish advisory boards according to the regulations.

Mr. Lou Rinaldi: Where do you see—

The Chair (Mr. Peter Tabuns): Section 15.

Mr. Ernie Hardeman: Section 15 says, “An authority shall establish such advisory boards as may be required by regulation and may establish such ... advisory boards as it considers appropriate.” So it can appoint advisory boards. But there’s also a regulation—the minister can force them to appoint advisory boards, and I don’t know why that would be.

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

Mr. Lou Rinaldi: Can somebody help us here?

The Chair (Mr. Peter Tabuns): Welcome back. Again, please introduce yourself for Hansard and speak straight into the mike.

Mr. Jason Travers: Jason Travers, director of the natural resources conservation policy branch, Ministry of Natural Resources and Forestry.

This is a regulatory power to allow for the establishment of, basically, subcommittees or advisory committees that the conservation authorities could establish to deal with such things as indigenous consultation or development committees or any other structure. Again, it’s that forward-looking regulatory power.

The Chair (Mr. Peter Tabuns): Further questions?

Mr. Lorne Coe: What would be the basis of the advisory board? The subsection we’re talking about is subsection 18(2), “Advisory boards.” Give us an example of what type of advisory board you would anticipate and the basis for the inclusion of the advisory board. What added value do you—not you personally. But have us understand the basis for the inclusion of this in the legislation.

Mr. Jason Travers: As an example: Again, in the few years of consultation that we’ve done, there’s an example that we have in the document the government released around going forward with this where advisory committees have been established in the Upper Thames River Conservation Authority for the Trout Creek technical advisory committee. Is that a good example?

Mr. Lorne Coe: Okay. All right.

Through you, Chair, to the delegation here: Under “Same”, it says, “(3) An advisory board shall comply with any requirements that may be prescribed by regulation with respect to its composition, functions...” It’s the functionality of the advisory board that my colleague Mr. Hardeman was getting at that’s of interest to me. Could you provide us with a little more insight into the functionality that you would anticipate—not you personally, sir, but the nature of the functionality of the advisory board?

Mr. Jason Travers: At this point, we don’t necessarily have thoughts on that proceeding. Again, it would be the regulatory power that we would consult on and get interested parties to give us feedback.

Mr. Lorne Coe: And you would anticipate that part of that, when you do develop the regulation, would also define the duties and purpose of the advisory board? Is that what you anticipate?

Mr. Jason Travers: As described in terms of the regulatory powers.

Mr. Lorne Coe: Okay. Thank you, Chair.

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

Mr. Ernie Hardeman: Just a very quick one: Again, if the conservation authority gets the authority to set the advisory boards, why does the minister need to make regulations of what advisory boards they must implement?

Mr. Jason Travers: Again, it’s that understanding that reviews don’t happen very often. Creating the regu-

latory authority going forward creates the opportunity to resolve problems that may come up with regulatory solutions. There's no predetermined outcome as of yet.

Mr. Ernie Hardeman: Okay. Thank you.

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

Mr. Lou Rinaldi: If I may just add a comment: We just heard Ms. Forster with arguments about why we need to do something specific, that's not in legislation, that's happening on their CA. I'm speaking in general, very generally right now, not explicitly. I think what staff just put on the table is that a year or two years down the road—I'm sure that CA that Ms. Forster was talking about, maybe it was okay 10 years ago. This gives the minister of the day the powers to adjust to circumstances of the day. That's in a very broad sense.

The Chair (Mr. Peter Tabuns): Okay. No further discussion? People are ready to vote on this section?

Shall schedule 4, section 15, carry? Carried.

Mr. Lorne Coe: Recorded vote, please.

The Chair (Mr. Peter Tabuns): No.

Mr. Lorne Coe: Too late?

The Chair (Mr. Peter Tabuns): That was much too late, guys. When I've got people's hands already up, that's too late. It's carried.

Now we have government motion number 55. Ms. Mangat.

Mrs. Amrit Mangat: Schedule 4 to the bill, section 16 (section 19.1 of the Conservation Authorities Act):

I move that section 19.1 of the Conservation Authorities Act, as set out in section 16 of schedule 4 to the bill, be amended by adding the following subsection:

“Same

“(5.1) Despite the repeal of section 30 by section 28 of schedule 4 to the Building Better Communities and Conserving Watersheds Act, 2017, a regulation that was made by an authority under that section continues in force after the repeal until the earlier of,

“(a) the day that is one year after the day section 16 of schedule 4 to the Building Better Communities and Conserving Watersheds Act, 2017 comes into force; and

“(b) the day the regulation is revoked by the authority.”

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

Mr. Lou Rinaldi: This is one of four motions to allow the MNRF to immediately move forward with new bylaw requirements. MNRF has proposed to delay these new requirements to provide CAs with additional time to comply. Conservation Ontario and CAs have suggested that these new requirements not be delayed. Specifically, this motion will ensure existing CA bylaws stay in effect until replaced.

The Chair (Mr. Peter Tabuns): Further discussion? There being none, you're ready for the vote? Mr. Hardeman?

Mr. Ernie Hardeman: Yes, just a question, Mr. Chair: The need for this resolution, for this amendment?

Mr. Lou Rinaldi: We've heard support for updating CA bylaws. These enhanced bylaws may help alleviate concerns regarding the operation of CAs and board governance practices. This motion will make it explicit that existing bylaws remain in effect until updated to comply with new requirements. So this makes sure that this stays in place until we move to the new regime.

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

Mr. Ernie Hardeman: Yes, I'm just curious. Most of the things, as we've been dealing with this all the way through this bill, are going to be done by regulation. Why has this one, particularly, got to be in legislation?

The Chair (Mr. Peter Tabuns): Mr. Rinaldi, do you want to respond to that?

Mr. Lou Rinaldi: I wonder if Mr. Travers or one of his staff—

The Chair (Mr. Peter Tabuns): Welcome. As you've heard with others, if you'd introduce yourself, that would be great.

Ms. Kristine Bittermann: My name is Kristine Bittermann. I'm counsel with the Ministry of Natural Resources and Forestry's legal branch.

This is a technical motion as part of the package of amendments to section 30 of the CA Act, which requires conservation authorities to make regulations, effectively setting out what would now be in bylaws is going to be revoked. This ensures that those regulations would stay in effect until either they are revoked by the conservation authority, or you have that one year after the date this section comes into effect because the CAs have one year to make their bylaws. So if they make their bylaws earlier, they can revoke the regulations; if not, those regulations will be revoked automatically by operation of that section.

The Chair (Mr. Peter Tabuns): Now, Mr. Hatfield, did you have a question?

Mr. Percy Hatfield: I do. Thank you, Chair.

The Chair (Mr. Peter Tabuns): Please.

Mr. Percy Hatfield: Kristine, in other sections of the act, the provision is there, not under conservation authorities, but under the OMB, that the minister has the discretion during the transition period to decide one way or the other. Was there any thought given here to having the minister have that discretion, as opposed to *carte blanche*?

Ms. Kristine Bittermann: I would look to my policy colleagues, but I don't think that same approach was considered. Again, the transitioning provision does give the conservation authorities one year to make the new bylaws using their new power after the date the section comes into effect. So it's basically at the one-year time frame. I believe it was similar, that they had one year to make their regulations, under the former scheme.

Mr. Percy Hatfield: Thank you.

The Chair (Mr. Peter Tabuns): No further questions? None? Thank you very much for your help. Mr. Hatfield, I had you next as a speaker.

Mr. Percy Hatfield: And that was to my question prior to Kristine coming up.

The Chair (Mr. Peter Tabuns): Fine. Okay. Any other speakers? No? There being none, we'll go to the vote.

Mr. Lorne Coe: No.

The Chair (Mr. Peter Tabuns): I'm sorry, Mr. Coe.

Mr. Lorne Coe: No, we're fine, thank you.

The Chair (Mr. Peter Tabuns): Good. We'll go to the vote. All those in favour of government motion 55, please indicate. Opposed? It is carried.

We then go to the vote on section 16, as amended. Are there any comments on section 16? Mr. Coe.

Mr. Lorne Coe: I'm on page 298, for the committee members, and I'm under the subheading "Direction by minister."

"(6) The minister may give an authority a written direction to make or amend a bylaw on any matter"—and it goes on—"in subsection (1)."

Through you, Chair, in what situation would the minister overrule a conservation authority? I'm looking for the basis and trying to understand what would precipitate the minister to provide an authority a written direction. What, in effect, would amend a bylaw already previously approved by the board of the authority? It would seem to me that that would have to be a really extreme circumstance for a minister to overrule and get directly involved in an operational decision of a board. Again, I'm trying to understand the basis of this directive. And through you, Chair, perhaps either the parliamentary assistant or staff could provide that explanation, please. Thank you.

The Chair (Mr. Peter Tabuns): Mr. Rinaldi, do you want to respond?

Mr. Lou Rinaldi: I will try to give a bit of a stab to your questions and then hopefully staff might want to add to it. We just heard and went through the process with Ms. Forster's issues in her particular CA. So the intent of the minister stepping in—and I'll talk about some of those amendments down the road, or stuff that's in the bill right now—is to be able to react to that particular issue and hopefully rectify it. It's just allowing that to happen, because right now, you've heard Ms. Forster very passionately talking about the one bad apple in the basket. That will give the minister some powers.

Mr. Lorne Coe: I thank the parliamentary assistant for that answer, but again, contextually, we're looking globally across the province. I understand the example that you provided, but this seems to be, at one level, inconsistent with the government's approach. Overall, it hasn't been unnecessarily heavy-handed. This seems to be unduly heavy-handed.

The Chair (Mr. Peter Tabuns): Did you want to respond, Mr. Rinaldi?

Mr. Lou Rinaldi: Well, that could be your opinion, and I respect your opinion, but I side with Ms. Forster here about the specific issues. In some cases, we don't have those powers to deal with those issues, or the minister doesn't.

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

Mr. Lorne Coe: Thank you, Chair.

The Chair (Mr. Peter Tabuns): All right? There being no further speakers, you're ready for the vote?

Shall schedule 4, section 16, as amended, carry? Carried. Done.

The next: schedule 4, section 17—there is no motion. Are there any questions or comments on section 17? There are none. You're ready for the vote?

Shall schedule 4, section 17, carry? Carried.

We then go to NDP motion 55.1. Mr. Hatfield.

Mr. Percy Hatfield: Thank you, Chair. Schedule 4 to the bill, section 18 (subsection 20(1) of the Conservation Authorities Act).

I move that section 18 of the bill be struck out and the following substituted:

"18. Subsection 20(1) of the act is amended by striking out 'to establish and undertake, in the area over which it has jurisdiction, a program designed to further the conservation, restoration, development' and substituting 'to provide, in the area over which it has jurisdiction, programs and services designed to further the conservation, restoration, sustainable development'."

The Chair (Mr. Peter Tabuns): Thank you. Any comments, Mr. Hatfield? Ms. Forster?

Mr. Percy Hatfield: Well, let me start, Chair. The sustainable development part, I believe, is key to what we've talked about previously. You can talk about development and we all, I would think, when we discuss development, have a vision in there of somebody building a house or a resort on a protected watershed in contravention of what the conservation authority should be allowing in protected areas and watershed areas. The sustainable development, to me in my little world, I guess, of a vision is that we sustain the development of watersheds, we protect our shorelines, we try to improve them, we try to improve—be it the water lots or the watersheds, we try to make sure that there is enough of that going on to save us from flooding and to increase the habitat in the area. But without the "sustainable" in there, it just to me could easily be one of those weasel words, I think they're called, that a lawyer can take to an adjudication or to the courts and say, "But it says we can develop here." Well, it doesn't mean you can develop here; it means sustainable development of the watershed.

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But unless you put the "sustainable" in there, people—we all know it; I don't know why we don't recognize it. We know lawyers of developers will be going and saying, "But it says—it's in the act; it's in black and white—that we can develop on these lands," even though nobody in this room wants to see that happen. But if we don't put the "sustainable" in there, then I'm sure we're going to end up in the courts.

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

Mr. Lou Rinaldi: CAs are valued for their flexibility to tailor programming that best suits their communities or

watersheds. Some CAs are involved in natural-resource-development activities for recreational and revenue-generating purposes; for example, facilities in conservation areas that provide revenue to fund other watershed programs that are important to the community.

The proposed changes may limit that flexibility. For example, one of my three conservation authorities, the Ganaraska Region Conservation Authority, has got a beautiful centre in the middle of the Northumberland County Forest. They bring in folks from the private sector who might rent it for functions. They have weddings at the facility. It really is a state-of-the-art facility. That's not what it necessarily was there for. We're saying that a lot of the money that it generates goes to an enormous amount of programs that they deliver.

The Chair (Mr. Peter Tabuns): Ms. Forster.

Ms. Cindy Forster: We have one such project in Niagara. It's called the Thundering Waters project, which is a large parcel—several hundred acres—of Carolinian forest. It was bought by a Chinese developer. It was something that was owned privately, not by the municipality. Whoever owned it owned it for 20 years and then sold it recently to a Chinese developer who planned to totally develop this huge piece of property.

Unfortunately, it has been determined that 90% of it is wetlands. But we have some of our conservation authority members—when the government reached out to seek comment on changes to the Conservation Authorities Act and asked for people's opinions on biodiversity offsetting, the Niagara Peninsula Conservation Authority latched on to that and would have liked to have seen this particular project be used as a pilot project to do biodiversity offsetting, where there really is no scientific proof or evidence at this point in time that it even works. But they wanted to use it on a piece of property that had all of these wetlands.

I know where Mr. Hatfield is coming from in wanting to make sure that we add the word “sustainable,” so that we're doing the best thing for future generations across this province.

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

Mr. Percy Hatfield: Just to clarify for Mr. Rinaldi, I wasn't suggesting that a conservation authority couldn't have a facility such as what you mentioned at one of your conservation authorities, where families gather and have picnics and barbecues or whatever. That was the furthest thing from my mind.

In my area, we have the John R. Park Homestead, which is a heritage home, where they have all kinds of activities for families, be it the pioneers, the blacksmithing, the corn roasts or the apples. It's really a wonderful facility and it's a museum. It attracts a lot of people.

We have the Hawk Tower at Holiday Beach. We have camping, be it seasonal, be it weekend, be it whatever. We have picnic areas and barbecue areas. There are trailers and tents. There are all kinds of things. We're known for our birdwatching, our butterfly-watching. That's not what I'm talking about.

I'm talking about development in wetlands, development on watersheds, development—as we just heard from Ms. Forster—that is projected and proposed in an area in her part of the province that the, if you will, rogue conservation authority is promoting, despite the wetlands, despite the habitat, despite all the damage it will do to that what used to be sustainable wetland, waterfront, shoreline, habitat.

The “sustainable” part, to me, is important because it sends a message: “We're here, as a conservation authority, to look after the environment for the future needs of ourselves, our children, our grandchildren; to give them a place to go where they can see waterfowl and fish habitat, and they can have their properties protected because of the wonderful biodiversity of the wetlands and the waterfronts.” That will be all gone when we put up gaudy towers and hotels and infill on the water that are going to create new problems for the habitat in that area and the waterfowl that would normally come in.

We have to start protecting our environment. We have to make it more sustainable for future generations. If you don't consider “sustainable,” you're just encouraging what is happening on the waterfront in Niagara. You're going to have more hotels, you're going to have more development, you're going to have more tourism, which is good as long as it's inland and away from the waterfront and not on conservation authority land or land that should be protected under provincial laws and policy statements for future generations.

You've been to Windsor many times. You have family in LaSalle. You know Windsor's waterfront. When you look across the river at Detroit, it's like Toronto: It's condo tower after condo tower. We have protected waterfront. There are seven or eight kilometres of public parkland from the Ambassador Bridge to Hiram Walker, and it's open to the public. It's a community gathering place. Part of it has been developed by the conservation authority, because for every dollar we give them, they go out and get federal grants or provincial grants and they multiply that six or seven times or more over.

We have to protect that environment. We have to save it for future generations. That is sustainable development as opposed to just development, which will end up in the courts, and they'll say, “Well, the committee looked at it and they didn't change it, so that must mean we can be allowed to develop any way we want. The committee didn't stop us by putting that one word, ‘sustainable,’ in there.”

That's what I'm finding hard to accept from the majority members today. No matter how many times we ask you to think outside the box, ask you to set aside those speaking notes that somebody developed for you—perhaps somebody from Toronto who looks at the Toronto waterfront and says, “Oh, this is what I know. Why should I think of anything else? I haven't been to other parts of the province where they actually protect their wetlands, protect their waterfront and have sustainable development for future generations.”

That's all I'm saying. Think about it. It's only a word. It's not going to cause you great aggravation, but it may

protect vulnerable and susceptible pieces of property around the province on our waterfronts that could be developed unless you put “sustainable” in there. That’s all I’m asking.

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

Mr. Lou Rinaldi: I’m not reading my notes, just to be clear. I agree with everything you said when it comes to protecting sensitive areas. I congratulate whoever was the mastermind behind the Windsor waterfront. It’s a beautiful public space.

As a government, we have a number of policy statements that will direct development, hopefully in the right direction.

As a matter of fact, I can tell you that in my constituency, we have wetland. One of my kids is taking over the family business. Out of 60 acres, we have 20 acres of lakefront, which is all wetland. We have no intention whatsoever—and I’m so happy that my son thinks the same way his father does. It doesn’t happen very often. We’re grateful that we have 20 acres of waterfront property that nobody can touch. It is wetland. Especially in the spring, we’re underwater.

1740

The point I’m trying to make is, I think we have a fairly strong policy statement when it comes to land use planning in this province—for example, the greenbelt; wetlands policy. The calls I get in my office are from developers: “What do you mean I can’t develop that land? I can put in fill.” Those are the kinds of calls I get. Because there are policy statements in place, my message is very easy: “Those are the rules to protect that kind of environment.”

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

Mr. Percy Hatfield: I won’t belabour this, but my friends in the United States thought they had great protection. They had the Environmental Protection Agency; they had laws that said that you don’t log in protected forest or you don’t drill for oil in the Arctic or Alaska in certain areas that were protected. But then, out of the blue comes the Trump Tower guy, and there goes the EPA. It has been gutted. There goes all that money that flowed into Great Lakes protection. There go all the initiatives that were started under the joint treaties between Canada and the United States on protecting the Great Lakes, on conserving our water, on stopping the pollution soiling our waters, be it from water treatment plants or from industry. If it flows into the rivers, as we’ve seen in the Niagara area, if there’s effluent coming from a sewage treatment plant in Niagara Falls, New York, it’s coming into the waterway in Ontario. It doesn’t stop at the border. Mr. Trump may be putting up these great walls or something along the Mexican border, but it’s not going to stop the water from New York coming over to Ontario. There’s all kinds of stuff going into the lakes and into the rivers that shouldn’t be going there.

We have to protect ourselves. We have an obligation not only to the people in the province but the people who are either moving here or our grandchildren or our great-grandchildren. When we say that we think we’re protected, they thought they were protected in America.

Currently, I don’t think a lot of people have that same confidence in their leadership in Washington that their environment will be protected under this President,

I say to you, with all due respect, that one word, “sustainable,” isn’t going to break the bank in Ontario but it could lead to great frustration down the road. I’m not saying that to be argumentative with you; I’m just saying that, to me, it makes common sense. I’m sure there are people in the audience who would agree with me. If I could ask Jack to go to the mike, I would, but I know the Chair won’t let me.

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

Mr. Percy Hatfield: I’ll just leave it at that. We can’t risk legislation that isn’t there. It could be jackhammered away by somebody in the future anyway, but we need to protect what we have now as long as we can. We have to make it sustainable. We have to have sustainable development in our watersheds and on our wetlands, and we’re not seeing it. With all due respect, we’re not getting that from you today, that you’re out there going to protect our environment, going to protect and give the conservation authorities that want to protect the wetlands from development—I don’t have that sense of confidence that that’s on your agenda today. I sense that the word “sustainable” causes you great heartache—or great heartburn, perhaps—and you just want to move it forward. But I’m not offended by “sustainable”; I’m not afraid of it. I think it’s something that should be embraced, not rejected.

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

Mr. Ernie Hardeman: Just very quickly, I will be supporting this amendment. I find it hard to believe that anyone involved, when they get advice and develop plans over their jurisdiction, would not want the development to be sustainable. I voted for it in the first section of the bill, to add “sustainable.” I can see no reason why you would not put “sustainable” in front of it, because I think everyone would agree that that’s the type of development we want.

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

Mr. Percy Hatfield: Recorded vote, please.

Ayes

Coe, Hardeman, Hatfield.

Nays

Delaney, Dickson, Mangat, Rinaldi.

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

We now go to section 18 as a whole. Before I call the vote, are there any questions? None? You’re ready? Shall schedule 4, section 18, carry? Carried.

We now go to NDP motion 55.2. Mr. Hatfield?

Mr. Percy Hatfield: Schedule 4 to the bill, subsection 19(6) (subsection 21(1.1) of the Conservation Authorities Act):

I move that section 19 of the bill be amended by adding the following subsection:

“(6) Section 21 of the act is amended by adding the following subsection:

“‘Aboriginal consultation

“(1.1) If the exercise of a power under subsection (1) has the potential to adversely affect established or credibly asserted aboriginal or treaty rights, the authority shall not exercise the power unless the approval of the relevant aboriginal community has been obtained.”

The Chair (Mr. Peter Tabuns): Comments?

Mr. Percy Hatfield: I'll just touch on it briefly. I would hope I'd have support over there on this one. I haven't had much luck with this bill so far.

We talk a great deal about reconciliation. We talk a great deal about the lands and the territories on which we base our decisions around the province. We in the House talk a great deal about our treaty rights. It used to be that we had more conversations or consultations, and sometimes, as we've just seen recently on the bill that was adding a couple of ridings up north, we actually haven't consulted. We get the headline, we go through the motions and we don't even consult them on the names of the ridings that were being created up that way. Some of it comes back to bite us.

All I'm saying here is that it's time to walk the walk. It's time to put into writing that if we are dealing with land or property as a conservation authority and if that land or property could be adversely affected and is land where there are some treaty rights that have been written, the authority won't just walk in there and exercise its power unless they've consulted with the aboriginal community and obtained their approval. That only makes common sense.

I don't see it as stripping any power from the government; it just says that this government recognizes everything we've been talking about here for the last couple of years: recognizing treaty rights and aboriginal rights, having First Nations at the table and that we won't allow the conservation authorities to just walk in and trample those rights. They have a duty and an obligation to have that conversation and to seek the approval of the aboriginal community on projects that are going to be developed or on steps that are going to be taken on the lands of the First Nations people who have filed aboriginal rights or say they have rights under treaties.

I'm just hoping that the government will finally see: “Do you know what? He's making a point. We should accept this one.”

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

Mr. Ernie Hardeman: I agree with the amendment somewhat, but in my opinion it requires more definition of the extent of the consultation. As we know, there have been a number of cases where consultation has taken place, and then when it's challenged, the courts decide that you might have talked to them, but you didn't really consult. I think we need a clearer definition when it comes to consulting: at what point consulting with a

negative response is still sufficient to carry on with the project. I think that becomes important.

We wouldn't want this bill to cause endless debate with no resolution because there was no opportunity to find a resolution. I think that if you establish this, you need some kind of criteria as to what constitutes that consultation that you're going to have, what requires consultation and who decides whether it negatively impacts the indigenous people or groups and whether it's something that is well beyond that.

I agree with the consultation. I'm just concerned that we haven't got enough framework here to actually make sure that it's going to work to everyone's benefit.

1750

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

Mr. Lou Rinaldi: Chair, I don't think anybody would argue about the consultation with our First Nations or Métis communities. As a matter of fact, regardless of political stripes here in the province, under the aboriginal and treaty rights under section 35 of the Constitution, we have a duty. That's in place as we speak. I'm not sure that we want to confuse the matter. That's already structured in our Constitution under section 35 of the Constitution Act.

Certainly we've consulted in the past. We keep on consulting. As a matter of fact, I would say that I'm not sure what is the right amount of consultation, and that's not just with aboriginal and Métis. That's across the board. Where do you stop? But having said that, I think as a government we abided by that section 35 of the Constitution Act, and I would think that we're bound to do that. We're going to do that as we carry on. I'm not sure why we would want to duplicate the scenario.

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

Mr. Percy Hatfield: I think I just heard, “We're going to do as we've done in the past.” We know what's been done in the past hasn't worked. There's a duty to consult and it doesn't get done. We heard from AMO early on about—I forget the number—how many acts this proposed bill works on and how many pieces of legislation are being amended. AMO wanted one bill, one act that they could turn to instead of sending people off to look at this act or this bill or this policy statement. They wanted it all under one roof, if you will.

The government that professes to be open and transparent is saying that instead of adding this one clause into this bill to be open and transparent, we're going to send everybody scurrying off to all of these different bills and statements and looking under this act, which refers you to that act and somebody over there, to try to come up with, “Oh, yes, there is something hidden over there that says we have a duty to consult.”

Well, it hasn't worked. We keep hearing time and time again how it hasn't worked. I just gave you examples of how it hasn't worked and yet you continue to go back to, “But we have it somewhere.” It's good that you know that it's there somewhere. I'm not sure that every member of every municipality or every conservation

authority or every aboriginal band knows it's there, where it is and how to access it.

But if it was in the act, they could come here and say, "Look, there's an amendment. It's there. They can't do this. If I've got a claim in on treaty rights and they haven't consulted with me and got my permission, they can't do it." That is open. That is transparent. For you to sit there and say, "Oh, it'll be redundant," well, let's be redundant. Let's put it in there twice or three times or five or 10. Let's make it relevant. Let's make it transparent. There's no harm. It's a few words on a piece of paper, but it makes the information obtainable to hundreds very easily to access that kind of information. That's all that this minor amendment—major to many of us; minor in the eyes of some—seeks to do. It just says that you can't do it unless you've actually had a conversation, explained what you want to do and got permission from those whose land you want to do this on. If they have a claim in or a treaty claim, you need their permission before you do it. That's all this is about.

Don't sit there and say, "We don't want to be redundant or duplicate it." Why not? Why not let everyone in Ontario know what we're doing? Why not be open? Why not be transparent? That's all that this amendment suggests. Let's let everybody know what we're doing before we do it, before we come back and say, "Oh, gosh, we had a duty to consult, and once again, we didn't do it." It's simple to me.

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

Mr. Percy Hatfield: Recorded vote, please.

Ayes

Hatfield.

Nays

Delaney, Dickson, Mangat, Rinaldi.

The Chair (Mr. Peter Tabuns): It is lost. We go to NDP motion 55.3. Mr. Hatfield.

Mr. Percy Hatfield: Soldiering on: schedule 4 to the bill, subsection 19(6) (subsection 21(1.1) of the Conservation Authorities Act):

I move that section 19 of the bill be amended by adding the following subsection:

"(6) Section 21 of the act is amended by adding the following subsection:

"Aboriginal consultation

"(1.1) If the exercise of a power under subsection (1) has the potential to adversely affect established or credibly asserted aboriginal or treaty rights, the authority shall not exercise the power unless adequate consulta-

tions with the relevant aboriginal community have been conducted."

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

Mr. Percy Hatfield: I think the last time we talked about this, the wording was "unless the approval of the ... aboriginal community has been obtained." This motion simply says they won't exercise the power "unless adequate consultations with the relevant aboriginal community have been conducted." If they won't go along with the approval process, perhaps they'll at least consider that they've actually conducted conversations.

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

Mr. Lou Rinaldi: Just briefly: I use the same argument as previously, because at the end of the day, it's the same results. That's all I have to add.

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

Mr. Percy Hatfield: I'll just use those words and toss them back, I guess: at the end of the day, the same result? Yes, we're going to be back here saying, "We had a duty. It's written in the Constitution, and we didn't do it, because somebody forgot it's there and it's not in front of us. Out of sight, out of mind," which is what we often hear from members of the First Nations communities.

We can talk about education, health care or safe drinking water: out of sight, out of mind. We can talk about the duty, the obligation, to consult: unfortunately, out of sight, out of mind. This government is not putting in writing, in black and white, that they have a duty. They should be conducting these conversations. I'm disappointed.

Recorded vote, please.

The Chair (Mr. Peter Tabuns): No other discussion? Recorded vote.

Ayes

Hatfield.

Nays

Delaney, Dickson, Mangat, Rinaldi.

The Chair (Mr. Peter Tabuns): The motion is lost. Colleagues, we have just one minute to go, so I am going to—

Interruption.

Mr. Bob Delaney: Not anymore we don't.

The Chair (Mr. Peter Tabuns): Okay. We stand adjourned until 4 p.m. on Tuesday, October 31, when we will resume clause-by-clause consideration of Bill 139.

The committee adjourned at 1800.

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Also taking part / Autres participants et participantes

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Ms. Cindy Forster (Welland ND)

Ms. Kristine Bittermann, counsel, Ministry of Natural Resources and Forestry

Mr. Peter Matheson-Young, counsel, legal services branch,

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