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Wednesday 21 November 2001

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Mercredi 21 novembre 2001

**Standing committee on
general government**

Municipal Act, 2001

**Comité permanent des
affaires gouvernementales**

Loi de 2001 sur les municipalités

Chair: Steve Gilchrist
Clerk: Anne Stokes

Président : Steve Gilchrist
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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

**STANDING COMMITTEE ON
GENERAL GOVERNMENT**

**COMITÉ PERMANENT DES
AFFAIRES GOUVERNEMENTALES**

Wednesday 21 November 2001

Mercredi 21 novembre 2001

The committee met at 0910 in committee room 1.

MUNICIPAL ACT, 2001

LOI DE 2001 SUR LES MUNICIPALITÉS

Consideration of Bill 111, An Act to revise the Municipal Act and to amend or repeal other Acts in relation to municipalities / Projet de loi 111, Loi révisant la Loi sur les municipalités et modifiant ou abrogeant d'autres lois en ce qui concerne les municipalités.

ONTARIO CHAMBER OF COMMERCE

The Chair (Mr Steve Gilchrist): Good morning. I call the committee to order. My apologies for the delay in starting. Our first presentation this morning will be the Ontario Chamber of Commerce. Welcome to the committee.

Ms Mary Webb: Good morning. I'd like to introduce myself. I'm Mary Webb and I'm the chair of the Ontario Chamber of Commerce finance and taxation committee. With me is Atul Sharma, our vice-president of policy development.

We certainly thank the committee for the opportunity to make comments and recommendations with regard to Bill 111, the proposed Municipal Act. As many of you already know, the Ontario Chamber of Commerce is a federation of 156 local chambers of commerce and boards of trade across Ontario. Through this federation, the OCC represents over 56,000 businesses across the province and has been Ontario's voice of business since 1911.

The legislation governing Ontario's municipalities came into being a century and a half ago, and it is now antiquated. Since then, numerous amendments have made this legislation lengthy, complicated and prescriptive. The current act does not reflect today's realities and does not recognize the strategic resources required for urban growth management. It does not acknowledge the range of services municipalities are now providing for their citizens, nor does it provide a framework of accountability.

The Ontario Chamber of Commerce understands that encouraging and managing urban growth has become an increasingly important issue for Ontario. Municipalities must be partners in this management process. Consequently, cities require the ability to respond quickly

and effectively to changing economic and social circumstances. We therefore applaud the government for responding to the needs of Ontario and proposing a new Municipal Act. The OCC believes this act goes a long way toward balancing municipal demands for flexibility in exchange for increased accountability.

There are two primary aspects of this legislation that are of particular interest to us at the OCC, namely licensing and user fees and municipal corporations. We are fairly pleased with the overall legislation; however, we have some concerns and suggestions that we think could improve the final bill.

With respect to user fees and licensing, one of our chief concerns has been that the new legislation would give municipalities greater access to user and licensing fees as a source of revenue, placing an undue burden on businesses. We've advocated that a strong accountability framework would balance this increased flexibility in the proposed new Municipal Act, and we commend the government for incorporating these suggestions into the legislation. The proposed Municipal Act clearly states when a municipality can exercise its business licensing powers, particularly in matters of health and safety, nuisance control and consumer protection. Licensing fees would not be permitted to exceed the costs of administration and enforcement, and public notification would be required when a municipality wants to establish a bylaw, change fees or change the classes of businesses that are to be licensed. The Ontario Chamber of Commerce supports all these proposals.

The issue of inter-municipal licensing is one we believe the government should consider for further consultation. An example of this issue is whether a trucking company or an independent trucker requires a licence from every municipality they pass through. The Ontario Chamber of Commerce also supports the provisions outlined in the proposed act for public discussion of new user fees.

With respect to municipal corporations, the Ontario Chamber of Commerce believes that if municipalities are given the ability to establish for-profit corporations, those corporations must be subject to the same rules and regulations as private sector corporations. In a recent survey, our members indicated overwhelmingly—96% of them—that they favour municipal corporations being subject to the same rules as private corporations.

We also encourage the government to clarify the provision on the transfer of assets. Municipal assets that

are transferred to a municipal corporation should be transferred at fair market value so they do not constitute an unfair subsidy.

A very interesting example of the types of corporations that municipalities will be able to set up under this act is a downtown development corporation, a public-private partnership to enhance the downtown core. The potential possibilities with this new municipal corporation provision will be very interesting.

In summary, the Ontario Chamber of Commerce believes that the new Municipal Act provides a very solid foundation upon which the government can build through its municipal initiatives such as brownfield remediation, Smart Growth and transportation development. There are, however, sections that we mentioned that we would like to see clarified: the licensing procedures for businesses operating across municipal boundaries and the rules under which a municipal corporation acts. The OCC is confident that the final draft of the bill will effectively balance municipal needs with public accountability.

Once again, we'd like to thank you for this opportunity to present our submission.

The Chair: That leaves us about three minutes per caucus for questions. The first question will go to Mr Colle.

Mr Mike Colle (Eglinton-Lawrence): The question I had was, in this legislation there is quite a dramatic change in terms of user fee collection and imposition, in that if user fees are not paid by businesses or homeowners, that will create a lien against that person's business or property. Does the Ontario Chamber of Commerce support that extra onus or restriction on a person's real property?

Mr Atul Sharma: We haven't looked at that provision in particular, but what we did support was the fact that there was a more public process to the establishment of user fees. The OCC was one of the organizations advocating a three-pronged approach, that there should be different classes of user fees, some fees that do not require as much public consultation and ones that have greater impact upon businesses and individuals, which should be more fully discussed. That's the proposal we made. We didn't actually make any recommendation on the issue you've raised.

Mr Colle: Would you agree with me that the property taxpayers across Ontario should be notified that this change has taken place as a result of this legislation?

Mr Sharma: I'm sure there will be a number of things the public will need to be notified about through the legislation because it does represent some dramatic changes in certain areas.

Mr Colle: Will you let your members know that this change might impact on their businesses, that they may not only have a lien if they don't pay their property taxes, but also if they don't pay municipal user fees?

Ms Webb: Yes. In our bi-weekly newsletter we have a municipal affairs box and we keep our members apprised of just such developments as this very comprehensive Municipal Act. I think we also have to see it

from the standpoint of the municipalities. They are under an increasingly severe revenue squeeze with a lot of infrastructure needs that are not being met. Therefore, as long as the public consultation process ensures that these user fees are a fair representation of the cost to the municipality, they have to be borne by the people who are using them.

Mr Michael Prue (Beaches-East York): I have two questions, if I can get them in in three minutes. The first has to do with licensing fees. They're restricted to matters of health, safety, nuisance control and consumer protection. In the city of Toronto, licensing is also contingent upon the fact that it cannot be predatory on existing businesses. The best example is probably a hotdog cart setting up in front of a restaurant. That's excluded here. Do your members care about that at all?

Mr Sharma: I'm sorry. Predatory in what sense? That they buy and restrict them from being—

Mr Prue: In terms of businesses that set up a restaurant. They pay business tax and property tax, all the things in order to operate a restaurant, and then a guy comes along with a hotdog cart and sets up in front of them. This legislation will now allow that. Do your members agree with that? You've said these three things only. This is going to be pretty important to all the restaurants in Toronto; I don't know about other places.

0920

Mr Sharma: You'll probably hear representations from other people who have probably dealt with the issue more directly. In terms of licensing, what we have—again, the OCC was involved in the consultations in establishing the principle that licensing fees should not become a source of revenue for a municipality and place an undue burden upon businesses. With respect to regulating competition within businesses, we'd certainly be willing to take a look at that aspect of the act.

Mr Prue: Is there time for another question, Mr Chair?

The Chair: Very brief.

Mr Prue: OK, very briefly, the second one has to do with municipal corporations. Section 106 seems to deal entirely with your fear; it literally doesn't allow municipal corporations any rights at all. But we did have a group from Brantford Hydro, which came and talked about how difficult it would be for a public utility to live with this. Has your group thought about public utilities?

Mr Sharma: I think municipal utilities are incorporated under the Ontario Business Corporations Act and I think this will be discussed through the regulations consultations. But my understanding is that these municipal corporations will fall under the Municipal Act, so they may be regulated by different acts.

Mr Garfield Dunlop (Simcoe North): Welcome this morning to our general government committee on the Municipal Act. Needless to say, we're quite pleased with this piece of legislation. As the Ontario Chamber of Commerce, do you feel that this legislation brings municipalities in accordance with everything else that's

occurring in the 21st century? Is it an act that fits the 21st century?

Ms Webb: I think it's a first step. I think it does give the municipalities more flexibility, a flexibility that was needed. But yes, one of the reasons we struck a municipal affairs committee within the Ontario chamber was that we saw urban priorities and urban growth as almost one of the forgotten issues. So the Ontario chamber has been concerned from a number of different vantage points, and actually one of its primary concerns was the whole transportation/transit issue that led us to recommend a transportation authority. So is this a step in the right direction? Absolutely.

Similarly, the brownfields legislation was a very positive step in the right direction and we supported that as well. Is there further work to be done? Absolutely.

Mr Dunlop: Can you suggest to us right now what that work may be? What type of work would you like to see in the future for another step?

Ms Webb: I think where we're coming from is the whole issue of Smart Growth and how we best manage municipal resources. Going forward, I think we'd like to see much greater municipal accountability. We'd like to see how this act plays out and then respond. Our concern, of course, is in the considerable discrepancy in business taxes across the province. This has been just a huge issue for our members.

Mr Dunlop: So as a first step, the chamber is pleased with this.

Ms Webb: Yes.

Mr Dunlop: OK. Thank you very much for being here today.

The Chair: Thank you very much for coming before us this morning. We appreciate your comments.

STIG HARVOR

The Chair: The next presenter will be Mr Stig Harvor. Good morning. Welcome to the committee. Just a reminder, we have 10 minutes for your presentation.

Mr Stig Harvor: I called the office of the clerk of the Legislature two weeks ago to request an appearance before your committee. I was told a hearing would take place today but they could not tell me if I would be selected to appear. A year earlier, I had prepared a submission on another bill for which hearings had been promised. These hearings were cancelled on the pretext that the opposition had taken too much time to debate the bill. I was therefore not inclined to prematurely prepare my submission for Bill 111.

Late last Friday, a message from the committee was left on my message machine. I was told I could appear here today at 9:30. The message gave me four short days to prepare my submission.

Why do I mention these details of procedure? I do it in order to tell you that I am appalled by my present government's disdain for democratic debate and procedures. Ever since the government's infamous omnibus bill of 1995, upon its taking power, this government has degraded the democratic process to which our province had

been accustomed for many years and which we, the citizens, took for granted. This degradation has occurred both inside and outside the Legislature.

Bill 111 is only the last one in a long list of bills which is being rushed through the Legislature with only a token amount of time for detailed consideration and debate. It has been calculated that the time for a bill to become law under the previous provincial government compared to the present one today has been reduced by an astounding 80%. Time allocations for bills are now disturbingly common. Bill 111, a long, complex and important bill of 320 pages—and I have a copy of it here—was tabled only a month ago. A closure motion for November 28 was introduced three weeks later. So far, only around a dozen hours of legislative debate have been allocated, and in view of the closure, no further debate is possible on a bill which will have important consequences for the governance of our province.

This short time span seriously hampers public understanding of issues. It stifles public participation in the political process. It is an attack on democracy. This is serious. The government should be ashamed of itself. Only three days of public hearings will be held. It's interesting to speculate why a fourth day of hearings in Windsor was cancelled, allegedly for lack of interest. Could it be that there is not enough time to really study the bill, understand its effects and prepare for a hearing? Or could it be that many municipalities are intimidated by past actions of this provincial government and by the wide discretionary and possibly punitive powers of the minister still peppered through this bill? Better to keep quiet than have the minister bite you.

My concern with Bill 111 is primarily in its effect on my city, Toronto. Toronto has been seriously destabilized under the previous outdated Municipal Act. The present provincial government has taken advantage of the absolute power over municipalities conferred by our Constitution and the old act. It forcibly amalgamated my city and reduced its elected representatives by one half. Without prior notice, it then unilaterally chopped city council further by one fifth, to 44 councillors for a population of 2.4 million people. On this basis, North Bay, our Premier's city of 60,000 people, should have 1.1 councillors. Is this the government's common sense?

Additional serious interferences in the affairs of Toronto without consultation are numerous. I'll just touch on three: (1) downloading of services without adequate fiscal compensation; (2) limiting the municipal sources of revenue to the property tax and exempting businesses and industries from increases in tax; (3) abolishing rent control of vacant apartments and disallowing control of demolition of low-rental housing.

The provincial government has acted as if it knows best how to run my city. It treats me and my municipal representatives as children incapable of governing ourselves. This is plain arrogance. It destroys local democracy, which is a foundation of our democratic structures.

0930

What in the new Municipal Act, the new bill, will prevent such high-handed, unilateral, undemocratic actions

by this and future provincial governments? My understanding is that very little will change. Unlike changes made in some other provinces, our Ontario government will retain its absolute power over all municipal matters. Section 3 of the bill only “endorses the principle of ongoing consultation between the province and municipalities in relation to matters of mutual interests.” Who defines “mutual interests” and what does “consultation” mean? If consultation means what happened in the three years since the draft of the bill was released, we’re in for trouble.

The province received some 320 submissions. I’m told the submissions have not been published nor responded to. No information is available on the discussions at the 13 meetings which were held, significantly limited to only municipal and business representatives, probably like the chamber of commerce that just preceded me.

It is indeed remarkable that a city like Toronto, which is larger than six of our provinces, contains over 20% of Ontario’s population, creates 20% of our national wealth and contributes billions of dollars in taxes to our provincial and national governments, should be treated like a child by the province. Why is it that MPPs anywhere in our province should have unlimited power to run Toronto? Does the rest of the province know more about the needs of Toronto than those of us who live here? This of course also applies to every other city in the province.

Present attitudes of our provincial government have led to calls by informed and concerned Toronto citizens for a city charter for Toronto. The charter would convey certain powers upon the city to allow it some autonomy and flexibility in its affairs. There are even citizens who advocate a new province, the province of Toronto.

Bill 111 fails to respond to these legitimate concerns. What is lacking in the bill is a definition of municipal powers which will enable municipalities to act autonomously in certain vital areas. Yet sections 299 to 303 take us in the opposite direction. They empower the provincial minister to require any municipality, its boards, committees and agencies to meet standards of “efficiency and effectiveness” set by the minister. If they fail to meet these standards, the minister can cut funding of any kind and even demand the return of funds already paid. Talk of municipal tutelage.

In today’s and tomorrow’s world, large municipalities like Toronto play an increasingly important role in the provincial and national life and economy. They become centres of wealth generation, innovation and culture. It’s in the interests of everyone, whether they live in cities or not, that cities have the financial resources and administrative flexibility to create liveable, lively, stable and healthy communities. The cities must be free to allow their citizens to make meaningful choices in how they will govern themselves and allocate their resources.

To conclude, Bill 111 is a long-overdue updating of the 149-year-old Municipal Act. The updating was needed, but the process was and is flawed. The new bill has some positive aspects but does not go far enough. Above all, it fails miserably in the vitally important re-

definition of the basic relationship between our province and its municipalities.

Bill 111 must not be passed in its present form.

The Chair: Thank you very much for your presentation. Our next presenter—

Mr Harvor: How much time did I take?

The Chair: You’ve actually gone a minute and a half over your allotted time. That’s how dictatorial we are. Thank you very much for your presentation.

Mr Colle: Mr Chair, perhaps—

The Chair: No, you don’t. The next presenter will be the Toronto Board of Trade.

Mr Colle: On a point of order, Chair—

The Chair: Yes, what is your point of order?

Mr Colle: Sorry, but as a member of the committee I have the right to make a point of order, do I not?

The Chair: That’s right. I’ll entertain a point of order.

Mr Colle: Fine. May it be possible for the Chair to notify the presenter that they have one minute left so that, therefore, they can either wrap up or perhaps stop at that time for questions? Is that possible?

The Chair: That’s an excellent suggestion. Were it the case that the presenter was not going to be able to present their whole written brief, as we had before us, I would have made that interjection. Instead, I allowed him the time.

Mr Colle: I would think it would have helped just to indicate.

Mr Harvor: It would have been helpful, Mr Chairman, if you had told me before.

The Chair: Thank you.

The Toronto Board of Trade will be our next presenter.

Mr Harvor: I feel you’re being excessively strict here, perhaps because I don’t agree with some of the things you are doing.

The Chair: No, it is because we like to respect the time that’s been allocated to all the individuals. Sorry that you feel—

Mr Colle: You were late coming here, Mr Chairman.

The Chair: He got 11½ minutes, Mr Colle.

Mr Colle: If you’d started on time, we wouldn’t have had this problem.

The Chair: Bizarre thinking. You’re dismissed, Mr Harvor.

Mr Colle: To start on time is bizarre?

The Chair: You weren’t here either.

Mr Colle: I was here; you weren’t here.

The Chair: Mr Harvor, thank you.

Mr Harvor: As a citizen, I find it quite disturbing the way citizens are treated these days.

The Chair: No doubt.

TORONTO BOARD OF TRADE

The Chair: Now we will have the Toronto Board of Trade. Welcome to the committee.

Ms Elyse Allan: Good morning. Thank you very much. My name is Elyse Allan. I’m president and CEO

of the Toronto Board of Trade. With me today is Louise Verity, our director of policy. We are both here to present to you and answer any questions you might have. We appreciate the opportunity.

At the outset, we would like to congratulate you on the process that led to the introduction of the act. The Minister of Municipal Affairs and Housing played a very visible role in the consultation process and was genuinely open to many of the ideas coming forward, many of which have been captured in the legislation. The Toronto Board of Trade was pleased to have actively participated in the consultations leading up to the introduction of this legislation. We provided input to numerous consultations covering several areas, including a number of sessions on municipal business licensing, meetings of the committee on municipal debt issuance and investment policy, and a session on municipal corporations.

Our comments today are going to focus on three key areas where we continue to have some concerns: municipal business licensing, municipal financing flexibility, and the area of municipal corporations.

While we do support the legislation in general, the board of trade continues to have concerns related to questions of clarification. Some of these concerns will no doubt be answered as the regulations supporting the legislation are drafted. There are specific areas, however, particularly around business licensing, that require some immediate clarification prior to the legislation being passed.

It is clear that some genuine compromises have been made in the municipal business licensing area. The act would continue to allow municipalities to license businesses, but would specify that municipalities could only exercise their licensing powers, including imposing conditions on licences, for the purposes of health and safety, nuisance control and consumer protection. We have been told that certain businesses will continue to be exempt from municipal licensing and that others will be exempted by regulation. We believe it is extremely important that the list of businesses that will be exempt be tabled immediately, prior to the passage of the legislation. Many of our members—for example, the hotel and trucking industries—are good examples. They are looking for additional reassurances that they will not be subject to inconsistent and onerous new licensing fees.

Our members are also looking for clarification of the scope of licensing powers for municipalities surrounding health and safety, consumer protection and nuisance control. We would also like clarification that where there is a defined provincial interest, a municipality would not be involved. We support the guarantee under the legislation that licensing fees would not be permitted to exceed the costs of administration and enforcement. This will ensure that licensing fees do not become a hidden source of municipal revenue. We also support the requirement for public notification when a municipality wants to establish a bylaw or make a change in licensing fees or in the classes of businesses that are to be licensed.

We do remain concerned that there is no appeal process set out in the legislation. Businesses and individuals should not have to proceed immediately to litigation if there is a dispute with a municipality over the fairness or reasonability of a fee or charge. We believe a solution would be to reinstate the right to bring these disputes over a fee or charges to the Ontario Municipal Board.

In the area of finance instruments, reforming the Municipal Act provides the opportunity to give municipalities the flexibility they need to better manage their own finances.

0940

The city of Toronto is under enormous pressure to fund core services and promote economic development. Affordable housing, accessible transit and cost-effective services create significant budget challenges. Right now, the majority of municipal spending must be financed on the backs of property taxpayers. We have long argued that our large urban centres need greater access both to the wealth they create and to new sources of revenue generation. A fundamental requirement for enhanced revenue generation is the ability of municipalities to implement creative and flexible financing arrangements, both with other levels of government as well as with the private sector. Regrettably, the legislation does not go as far as we would like in this area. This is due in part to the scope of the legislation, as well as the fact that I guess some of the debt and investment provisions in the legislation are to be dealt with later in the regulations.

We believe there are workable solutions that should be included in the legislation. We have argued that municipalities should be able to dispose of assets while they are still required for municipal purposes. Their inability to do so has prevented municipalities from taking advantage of opportunities for sale and leaseback of assets. We have also pressed for the ability to use secured debt to raise funds. Municipalities are currently limited to debentures or short-term debt. This places significant limitations on their ability to raise capital for large-scale infrastructure reinvestment. Finally, we have also asked that municipalities be permitted to depreciate capital equipment and sell the allowances to the private sector. This is a potentially huge source of cash flow for cities, as it creates revenue for custodians of municipal assets. We understand that regulations may be drafted that would address some of our recommendations in this area.

In the area of corporations, we are very pleased that the legislation opens the door for the creation of municipal corporations. Under the existing legislation, municipalities cannot form municipal corporations, with the exception of those permitted under the Energy Competition Act. We have argued that this has been a lost opportunity for outsourcing and partnerships with the private sector. Again, however, all of the conditions and purposes for which corporations would be permitted are to be set out in the regulations. We are concerned that the conditions under which municipalities may be able to form corporations will be too restrictive. We urge the province to allow municipalities flexibility with respect

to the extent to which the private sector participates in municipal corporations.

Municipalities should also have the power to adjust the level of private sector involvement as experience accumulates and circumstances change. The board of trade believes it is extremely important that there is a prohibition against bonusing or any other preferential treatment for municipal corporations. While municipalities should have the ability to create municipal corporations, there should be adequate safeguards to ensure these corporations are treated similarly to private sector corporations for taxation purposes. It will be important to ensure that any transfer of assets to municipal corporations is at fair market value and is not treated like a subsidy. Our concern here is that municipal corporations will receive preferential treatment at the expense of the private sector rather than competing on a level playing field. This is clearly a section of the legislation where much more work is required. We welcome the opportunity to continue to work with the government in the development of regulations governing corporations. We also look forward to our ongoing participation on the committee on municipal debt issuance and investment.

In closing, we urge the government to be as inclusive and consultative in the development of the regulations to the Municipal Act as you have been in the development of the legislation. It is critical that you move very quickly to clarify the business licensing provisions prior to the passage of the legislation and seriously consider an appeal process to avoid unnecessary litigation. There remains much work to be done in the area of municipal finance. While some of our recommendations on municipal finance may go beyond the scope of the legislation, it is vital that the regulations governing debt and other financial instruments are very thoroughly evaluated. To that end, the Toronto Board of Trade looks forward to contributing to ongoing consultations as the regulations to the Municipal Act are developed.

Thank you for your time.

The Chair: Thank you very much. That affords us just under four minutes per caucus for questions.

Mr Prue: I asked this same question of the chamber of commerce before you arrived. It goes back to the conditions under which municipalities can issue licences. As you have correctly said, the licences can only be issued in matters of health and safety or for consumer protection. What it leaves out is licensing which has been used by some municipalities, particularly Toronto, to stop people from using unfair commerce. The best examples I think I can give are hot dog stands in front of restaurants or ice cream trucks in front of a Dairy Queen. The municipalities do not allow for that, and this right is going to be taken away. Does your group have any problem with this as far as business is concerned, that municipalities will no longer be able to regulate?

Ms Allan: I actually don't think we have looked specifically at that instance. We've been looking at what is included, not perhaps at what has been missed. At this point I'll ask Louise, but my sense would be that we

could take that back to our members very specifically because I'm sure a lot of the BIAs would have very specific comments on that.

Ms Louise Verity: I would just echo Elyse's concern. It isn't something that our municipal affairs committee has considered at this point. It's probably something, after hearing the concern raised, where we would look to talk to our friends as well at the city of Toronto to get an understanding, now that they've had a chance to look through the bill as well and understand what some of the implications are, as to what some of the limitations and restrictions may be as a result of the act as it is currently written.

One of the things we are looking for that may help in this regard is some clarification around the application of municipal business licensing fees. I think once we get that sort of information straightened out, both in terms of what's allowed under the act and what happens now that will be allowed to go forward under regulation and what is already under an existing provincial act, that may perhaps clarify some of those sorts of questions.

Mr Morley Kells (Etobicoke-Lakeshore): I only have a few comments and then I'm going to turn it over to the honourable member beside me. I do appreciate your second paragraph, where you comment on the process and the fact that the government did allow a great deal of process to be taken into our consideration of the Municipal Act, which somewhat flies in the face of the testimony of the previous person.

Actually, I haven't much to say. It's a very well-rounded presentation. In your comments and your worries about the appeal, I think you've talked about reinstating the appeal process to the OMB, but it never was there, to my knowledge. As you know, the OMB is kind of a long-drawn-out process, trying to get before them. I think you might be better with the courts. But I think you make a very good point that maybe there should be some kind of appeal that should be triggered if there's a conflict right at the beginning of a request. I think we will take that into consideration and discuss it, and you might see it reflected in a reg or somewhere.

Ms Allan: Just to comment, the OMB would not necessarily be the preferred route. On the other hand, right now it's the only existing route that the group felt, or that our committee and members felt, at least, was there and we could offer as a very real solution, because we do believe there should be an appeal process. But perhaps there is some alternative option that could be brought forward.

Ms Verity: The OMB is not necessarily seen as a desirable place to go as well. It can take a long time to get there, and quite often the proceedings themselves take a long period of time as well.

Mr Kells: I appreciate those comments, because we have to deal with that continually. I guess the huge criticism of the OMB is the time it takes to get before it and the time it takes to get a decision.

Mr Dunlop: Welcome this morning. This is an excellent presentation and there are some very positive comments you've made in that.

I'd like you, if you could, to talk just very briefly about the role you had in the consultation leading up to this. I know we've talked about the Municipal Act for decades, a new Municipal Act in the province. In more recent years, and particularly, say, in the last 10 or 15 years, can you tell us the type of role you've played in the consultation process leading up to this? Because there's no question the government of the day feels very strongly about the support of the board of trade in this particular piece of legislation and your input. Could you just elaborate a little more on the consultation that has actually taken place?

0950

Ms Allan: Yes, thank you. I'll ask Louise to join too, because there were so many areas that we participated in. I guess I'll comment generally on the overall process, in which there were many direct consultations. Another thing which I think was quite pleasant to see from the person in this role was that the minister himself participated in so many of the consultations and actually would come back to you, call afterwards, and discuss issues that were raised, or staff would follow up on very specific issues, and that was happening with everyone involved in the consultation. So it was a very engaging process and one which had all members of the ministry, including the minister himself, quite involved.

There were a number of very specific committees around financing, the committee on debt issuance, as well as specifics around business licensing, where there were subgroups that were working, or specific topics, all of which we were participating in both as staff as well as volunteer committee members. Louise?

Ms Verity: I would just perhaps add that the parliamentary assistant and certainly the staff—the ministry staff as well as the political staff in the minister's office—have been very open.

Our tenure really is only over the last five years or so, but looking back over time it's certainly something that the governments of the day have been fairly open on, but it's really this minister and this government that have shown the willingness to move forward in an expeditious type of way. That's certainly something that, from the business community's perspective, we are very appreciative of. But I would also temper that with the fact that there are some major areas in the legislation that do require some more work, so we're expecting that to continue and are looking forward to participating in that process as well.

Mr Colle: I have the same question I asked the Ontario Chamber of Commerce. Is the board of trade in support of the new powers to impose liens on people's real property if they don't pay the new municipal user fees?

Ms Verity: I would say on that particular element, that isn't something we have discussed in detail. I think you can probably appreciate the fact that the act itself is a 295-page document, and so we have not considered absolutely everything. But from a business perspective, I guess we're caught on both sides. The first is that, as any

viable business, and the board of trade is certainly an example of that, we want to make sure we can continue to be viable and offer services to our members by ensuring that we are collecting our membership fees and that people are paying up. So I think this is something we should also perhaps look at. It isn't something that at this point we had considered.

Mr Colle: This wasn't discussed in your wide-ranging deliberations with the minister?

Ms Allan: It may have been brought up; it's just not something that, when we've brought it back to our committees and our members, we have then taken a position on. There were so many different areas. The ones that we've spoken to you about are the ones that we tended to spend the most time on and have consensus on a decision. But we can bring this back for comment and certainly provide input to it.

Mr Colle: I would appreciate that.

Ms Verity: I would say too that we have genuine appreciation for the city of Toronto and the budget constraints and the challenges there to deliver the kinds of services that are expected. So I think the act itself has to be flexible, and this is something that has been provided after some consultation. So we can understand why it's there. I think we would have to do some further due diligence with our own members and our committee—

Ms Allan: And the city.

Ms Verity: —and the city in order to respond appropriately to your question.

Mr Colle: I have another question. The Premier of British Columbia is leading a movement across Canada to basically recognize municipalities with charter rights as a recognized government entity, which isn't in this act. Secondly, he's also proposing the prohibition of downloading by provincial governments on municipalities. Does the board of trade support those two British Columbia initiatives?

Ms Allan: No, we have not supported those initiatives. We believe we can work within the frameworks that exist to get the support that's necessary.

Mr Colle: So you don't support the restrictions on downloading by provincial governments on municipalities?

Ms Allan: I don't think, in sort of a general mandate like that—no, we would not. I think that downloading can be successfully achieved if one looks at the balance of what's coming with that downloading. I think I would agree—and we have worked with the other major cities. We accompanied our own mayor to meet with the five major cities in terms of looking at what we have in common and where we might want to be making joint requests to the federal and our own provincial governments. There are a lot of best practices that the cities can share with one another with respect to arrangements they have set up with their province to meet their own particular needs.

Mr Colle: If I can get that straight, the board of trade is saying you don't oppose downloading, whether it be

by the provincial or federal government, on to municipalities? The board of trade isn't opposed to that?

Ms Allan: You asked if we were supporting the current efforts that the BC Premier is making.

Mr Colle: No, no. Then I'm asking you about downloading specifically.

Ms Allan: With respect to the downloading that occurred, we were not supportive of social services, for example, being moved on to the property tax. We did not support that and we continue not to support that move. But in terms of general downloading I think we have to understand the specifics that one is talking about.

Mr Colle: So you don't have a problem with putting in a general rule which prohibits or would oppose unilaterally the downloading of services on municipalities.

Ms Allan: The board's position on downloading over the past several years was very much specific around social services because we felt it was inappropriate—

Mr Colle: So other kinds of downloading would be permissible, but social services you would be against.

Ms Verity: Just also to perhaps help in responding, I think the question itself is leading. There is a lot more to it in terms of legislating something like this. Elyse, with her colleagues, as heading the larger chambers across the country—we have been actively working with them to ensure that cities the size of Toronto receive more in the way of their fair share from the federal government as well.

On the issue of downloading, originally, back in 1996 when the legislation and the Who Does What exercise were implemented, the board was actually very active in a very public way and in a way that actually resulted in some positive ends on that. We actually were very successful, I think, in getting the government to change its position there. So I don't think it's fair to say that the board supports downloading, because we don't. But are we looking at bringing in legislation to accomplish that? At this point, we're certainly not.

The Chair: Thank you very much for coming before us here today. We appreciate your presentation.

ASSOCIATION OF MUNICIPALITIES OF ONTARIO

The Chair: Our next presenter will be the Association of Municipalities of Ontario. Good morning and welcome to the committee.

Mr Pat Moyle: Good morning. My name is Pat Moyle. I am the executive director with the Association of Municipalities of Ontario. I am joined by Pat Vanini, our director of policy and government relations. Ann Mulvale, our president, unfortunately is out of the country on a one-week vacation and we are subbing for her.

Ann asked me this summer if there would be any AMO business to be attended to during the week of November 19. I assured her there was nothing pressing and that most certainly there was no need for her services for anything related to a new Municipal Act. I based this

comment on history. You see, the discussions around the need for a new Municipal Act and what should be in the document began on September 6, 1899, in Hamilton. At that first meeting of AMO, mayors from across the province met and determined that the Baldwin Act of 1849 was old, outdated and too prescriptive.

As they boldly looked ahead for the challenges of the approaching new century, they asked the Premier in 1899 for a new deal. The discussions have now spanned three centuries. So when Ann Mulvale asked me in July of this year if the third week of November was a good time for a vacation, the furthest thing from my mind was a standing committee presentation on, of all things, a Municipal Act, after 102 years of talk. But here we are, and the phrase "Better late than never" comes to mind.

AMO's former president, Mayor Hazel McCallion, who will be addressing you later, remarked on the day this bill was introduced that she couldn't believe it was actually happening. Our current president, Mayor Mulvale, has worked for the past six years on a number of provincial and AMO committees to develop a new act. She is very disappointed that she is unable to personally attend the hearings today.

Our members have asked, "Is this bill better than the 1998 draft Municipal Act and should the municipal sector support it?" Our answer to them is yes, Bill 111 is better than the proposed 1998 version. While it is not the complete framework that we envisioned based on the Crombie panel's recommendations of 1996, it is clearly a better starting point. Hopefully it will continue to evolve over time.

AMO's submission will focus on what this new Municipal Act represents and recommendations for improving it. However, before doing so, we want to discuss timing. We encourage you to proceed with this bill as quickly as possible. AMO understands that some members of the House were concerned with proceeding with passage of the legislation this session. Why does this act need to proceed at this pace? There are two fundamental reasons.

First, AMO, through its interaction with other provincial municipal associations, is well aware that Ontario is one of the few provinces that continues to operate in a very prescriptive environment when it comes to its Municipal Act. Many of the other provincial governments have extended enabling powers to their municipal governments through natural person powers and have clarified shared responsibility. Such a legislative framework provides those municipal governments with the ability to respond to local needs as local needs demand. Creative, timely solutions to purely local issues are a greater privilege as a result.

1000

Ontario's municipalities need to benefit sooner, not later, from such a governing framework. This bill does not make Ontario the leader in terms of municipal empowerment, but it does put us in the middle of the pack, so to speak. It means that our mutual success will come from mutual respect and trust. It means that we will have to work better together and in better ways.

Secondly, municipal governments will need sufficient time to implement the legislation and its associated regulations, and this will require education and training of both elected and staff officials. If additional time is taken to consider this bill, then the effective date of January 2003 would have to be pushed back to 2004, which is a long way in the future. It is also coincident with the next municipal elections and incoming councils' deliberations on municipal budgets. Having to implement a major piece of legislation at the same time would be overly burdensome. We urge this committee and the House leaders to get this bill into the House for third reading debate as soon as possible. There is a great deal of work to undertake to ensure the municipal sector is prepared for its implementation.

On another related matter, there will be a number of policy suggestions and technical issues raised by parties appearing before the committee. AMO has relied on several municipal staff associations—the Ontario municipal administrators, the AMCTO, the municipal finance officers and the Ontario Good Roads Association, to name but a few—to undertake a detailed technical review of the bill. We are leaving it to those groups to put forward technical amendments for the committee's consideration. In addition, our board has put forward a number of improvements regarding the licensing regime, and they have been forwarded to the ministry under separate cover. AMO strongly urges the committee to implement as many of these technical amendments as possible. If timing is such that this becomes difficult, then it could be part of the future companion piece of legislation. But we need to get the framework in place now.

AMO's comments that follow will deal with the more substantive policy areas of the new act, what they mean and what improvements we are seeking.

The first question is, what is this Municipal Act about and how can the bill be improved? The act is about municipal governance and administration on day-to-day matters and how two orders of government should relate to one another.

The current Municipal Act is about one order of government, the province, directing the municipal order of government what to do, how to do it and when to do it on virtually every aspect of municipal responsibility. If municipalities can't find the authority to act in the current legislation, chances are they don't have the authority and must seek legislative recourse, and everything that entails, to address the problem. Often it has meant convincing the government of the day that the matter was of critical importance, with response in a government bill, or to seek a private member's bill or private legislation.

To many people, it makes little sense for the provincial Legislature to spend its time and resources on local issues when there are many pressing provincial matters, so Bill 111 should be about relieving the provincial Legislature of local issues. Therefore, one indicator of the bill's success will be a reduction in the many amendments that the current act has experienced.

This and the need for flexibility to deal with local circumstances are some of the rationale for moving to natural person powers, which AMO supports. Natural person powers were contained in the 1998 draft. As well, however, it was accompanied by a provision that we have termed the "notwithstanding" clause, which proposed to give the minister the authority to basically rewrite legislation by way of regulation. We are pleased to see this particular provision eliminated from the bill and clarity brought on matters of pure local interest—the 10 spheres of jurisdiction—versus those interests shared with the province.

Time will tell whether this legislation has enough flexibility for municipalities to be responsive to the changing circumstances and to deal with future unpredictable situations and needs. As with our comments in 1998, we must point out that we think the natural person powers approach could have been more fully applied in sections to further eliminate the continuation of existing provisions that direct authority and set out conditions. We recognize that while the Ministry of Municipal Affairs and Housing has embraced this approach, it may have been more difficult for other ministries. Perhaps over time and as a result of municipal performance under a new legislative framework, these ministries may want to join us in a re-examination of the detail that remains in the bill.

AMO recommends that a provision be added to this bill that requires a review of the legislation and the regulations every five years from the date of proclamation. Other provinces are proposing the expansion of municipal autonomy, particularly British Columbia, and a requirement for review in five years will permit Ontario and the municipal sector to learn from those experiences and adopt them if they are appropriate.

In the absence of any regulatory review, then the regulations would sunset unless the review indicates otherwise. Considering that the current act, which this bill is to replace, has been in existence since 1849, good public policy would best be served by an obligated review process. Let us ensure that the next iteration of the Municipal Act is not another 150 years in the future.

As previously mentioned, the bill is about how the two orders of government should relate to one another. AMO undertook a survey last year on the state of provincial-municipal relations and indicated that better communications, better consultation and recognition of the municipal government's role are critical to improving government relations. In every speech and at every meeting with government members on both sides of the provincial Legislature as well as in Ottawa, our President, Ann Mulvale, speaks of the one voter. She notes that the one voter elects all three orders of government and expects their governments to work together, to collaborate, to anticipate problems and to put solutions in place before the problems become too big. The public has little patience for finger pointing and foot dragging.

AMO is pleased that this bill, for the first time, recognizes municipalities as a responsible governing body. For

the municipal sector, this provision, while simple in words, speaks volumes in meaning, particularly when accompanied by the prior-consultation provision. We can all identify areas of policy development at the provincial level that would have benefited from government-to-government discussions and a municipal perspective on possible implementation impacts. Getting it right from the beginning makes more sense than trying to fix it afterward or having to live with unintended consequences.

AMO is supportive of the memorandum of understanding as a vehicle for confirming a pre-consultation process between the two orders of government. AMO's goal is to conclude the memorandum as quickly as possible. As a sign of good faith, Minister Hodgson has agreed to consult the municipal sector on the key regulations required by the act. Certainly, having the regulations available now in draft form would be preferable, as it would lend more transparency to this legislative process. Since the opposition parties have reflected on the advantages of pre-consultation, AMO assumes, should they form the government in the future, that a similar MOU would be one of their initial actions. However, to guarantee this, the principle of an MOU should be enshrined as a provision in this bill.

Ms Pat Vanini: While many parts of this bill have not changed substantively since 1998, there have been some positive changes that have resulted in a higher confidence of the business sector, which was lacking in 1998. Through several working groups with municipal representatives as well as business groups, including the Ontario Chamber of Commerce, the boards of trade and the Canadian Federation of Independent Business, difficult discussions resulted in some consensus building on licensing and user fees, among other matters. In fact, it was AMO's previous president, Michael Power, who convinced the then minister, Tony Clement, to have all parties at the same table rather than dealing with us separately. It is clear that the legislative framework for these areas benefited from working together.

In the spirit of supporting business, we offer the following recommendation: that the three categories for licensing powers in subsection 150(2) of the bill be clarified to cover all of those situations for which municipalities presently and legitimately license. For example, many municipalities license transient traders, which may benefit the consumer but are not fair to local businesses that pay taxes and participate in the life of a community.

We also encourage an amendment to the licensing section that provides for an amalgamated municipality to retain any special powers granted any one of its previous parts and to apply it to the new municipality. The incorporation of such authority to the other parts of the new municipality should only require a decision of the council, not legislation.

As mentioned previously, this act is about the day-to-day management of municipal corporations. A good part of this management flows from its financial management

and accountability. In terms of the former, we are pleased that the legislation and related regulations will provide additional investment tools and added flexibility for smaller municipalities to participate in pooled investment opportunities. Having the municipal property tax dollar earn a higher rate of return will benefit the taxpayer.

On the accountability front, there is no level of government that is more accessible and more accountable to its taxpayers. Bill 111 continues many of the existing accountability provisions and adds two new ones: (1) the improvements in the efficiency and effectiveness of service delivery and (2) identifying barriers to achieving efficiency and effectiveness. AMO sees no fundamental difficulty with these, as oftentimes municipalities do see opportunities for improvements, but just as often they do not have the ability to make those improvements, as there are barriers at either the federal or provincial level. When viewed as a way to identify and then motivate change at other government levels to improve services to the one voter, these provisions are supportable measures.

Given the accountability measures in Bill 111, the municipal sector sees absolutely no need for it to be captured by Bill 46, the proposed Public Sector Accountability Act, or, for that matter, the proposed private member's bill, Bill 95, the Ethics and Transparency in Public Matters Act. Having several pieces of legislation that deal with the same policy area will be confusing, cumbersome and will create such interpretative issues that the courts may be petitioned.

In line with this accountability and recognizing the close and needed relationship between municipal government and the communities they serve, AMO is recommending that the bill be amended to ensure that all municipalities, from the largest to the smallest, have the authority to redefine ward boundaries. It is not fair to treat some municipalities differently from others. Every municipality should be able, in consultation with its citizens, to determine the internal governing structure that makes sense over time. Resting some of this authority with the provincial government for parts of Ontario is wrong.

1010

As well, there are new provisions around restricting the authority of councils during a municipal election. While the current act says a lame duck council cannot hire or fire a municipal senior official, this bill extends that to all employees. This could make it very difficult to carry on business, including those mandatory services that we are regulated by the province to deliver. We do not believe this was the intent and recommend that this particular reference be deleted. This action is preferable when the alternative could be legal disputes that authority for this could or could not be delegated. Clarity before passage is the preferable course.

We are also supportive of the ability to have municipal service boards and joint municipal service boards. The latter would certainly facilitate combining expertise and resources related to services while ensuring accountability and without the need to restructure municipalities.

Having spoken to some of the policy matters within the act and some improvements, we recognize that this act could not deliver on several matters, which we would like to briefly discuss.

First, we knew this act was not going to reshape the local services realignment arrangement. While a municipality, as the government closest to the people, does deliver quality services, it does not make sense that social and community health services are financed through property taxes. Services to property funded by property taxes does make sense. Social services, particularly given a looming aging society and the effect of the global economy on incomes, should not be funded by a tax envelope that is rather rigid. To the government's credit, we are seeing some changes in how these services are being funded. However, AMO will continue to press for the uploading of these costs as well as new financing arrangements and new revenue sources.

Second, we knew this act could not deliver on charter status. We recognize that this concept is important but it also has federal and provincial constitutional elements attached to it. We need to have a full tripartite discussion of our respective problems and solutions if Ontario's municipalities are to remain globally competitive and continue to be quality places in which to live and work.

Finally, we knew this act would not change the current property assessment and taxation regime. This is not to say that there are not changes needed. AMO supported the move to market value assessment, but some of the government's subsequent policy decisions have created a very complex, confusing and difficult property taxation system that needs fixing still. We will continue to advocate for remedies so that we can get to a market value system sooner rather than later in many parts of Ontario.

We hope that the recommendations we have offered, along with the technical comments of the municipal staff associations and member municipalities, will be adopted by the committee or find their way into a companion act in the future. Given the size of this act and in the absence of an available cross-reference, there very well could be additional technical changes to make to the legislation in order that it be clear and concise. We expect that as we continue to become more familiar with the legislation we will continue to identify some of those needs.

Having said this, we do need to get on with a new governing framework for municipal government in Ontario, a more modern framework that allows municipal government to manage many of its daily operations based on local needs and local circumstances. Ontario is noted for its diversity, from rural to urban, from northern to southern, based on its geographic differences, its demographic and cultural makeup. Local governments must operate within all of these opportunities and challenges. Bill 111 is the right step in the right direction. It could be better, but it definitely is an improvement from the 1998 proposal. Bill 111 is a good springboard that will allow us to further evolve a legislative framework that supports municipalities as a responsive order of

government in the 21st century. Thank you for your attention and your consideration.

The Acting Chair (Ms Marilyn Mushinski): Thank you for your presentation. There are about three minutes for questions. We'll start with Mr Colle.

Mr Colle: Is it the government's turn?

The Acting Chair: No, it's Mr Prue. My apologies.

Mr Colle: I think it's the government.

Mr Prue: I'm sure it is. I started the last question.

Mr Colle: Yes, it's the government's turn.

The Acting Chair: We'll start with the government side. I was attempting to be fair and reasonable to all.

Mr Kells: Thank you, Chair. Actually, there's one basic thing I would like to comment on and that is your comments about timing. I assure you, speaking on behalf of the government, that we have plans to pass the Municipal Act this session. As long as the process stays in place, that will be done. Your comments on why it's important are well taken, and the government agrees wholeheartedly and will pursue that. Other things that may be needed around this bill that are related to this bill could be in a companion act, and that could be done in the spring. I would like to comment on the 149 years, because it keeps coming up as a recurring theme.

Mr Colle: Were you here all those years?

Mr Kells: I know a little about it, but I wasn't here. I had some relatives who were.

Actually, as you know, back in those days governments didn't sit very often. I would like to point out that there were a couple of world wars and a major depression. In about 1950, our government of the day proceeded to rebuild the province. In that process, we learned the hard way that when you start tinkering with municipal affairs, you disrupt a lot of people and you lose a lot of votes. If I recall correctly, when I was around here in the 1970s, every time we did one of those amalgamations or whatever, we invariably lost a seat for 20 years. So there are some pressures that played upon government.

I would like to point out too that our government has been in power for 40 of the last 50 years. But from 1985 to 1995, the opposition was in power and had plenty of opportunity over that five-year period for each of them to address these problems and changes that need to be made. We understand the criticism, but I'd just like to somehow try to put the 149 years to rest. Let's deal with the future.

Mr Dunlop: I appreciate the efforts. As a former municipal councillor for a number of years, I've seen the demands for a new Municipal Act in the last 20 years. I just want to congratulate all the members of AMO and President Mulvale for her efforts in helping the government form this piece of legislation.

Mr Moyle: We'll certainly pass that on. Thank you.

The Acting Chair: Thank you for your presentation this morning. There isn't time for another question, unfortunately, Mr Colle.

Mr Colle: We have to have equal time.

The Acting Chair: No, I'm sorry, there isn't time. We will start with you next time, Mr Colle.

Mr Colle: Excuse me, under the rules of order, don't we get equal time? If it was three minutes, it should be one minute each.

The Acting Chair: No. I said there were three minutes and they took the three minutes, so we will go to the next presentation.

Mr Colle: That's not proper procedure.

The Acting Chair: Just as you took the previous three minutes, Mr Colle. We will go to the next presenter, which is Mayor McCallion.

Mr Colle: This is not proper procedure. They got the full time.

The Acting Chair: Mayor McCallion, please.

Mr Colle: This is incredible. We're walking out. We can't be part of this.

The Acting Chair: Mayor McCallion, we're going to take a five-minute break.

The committee recessed from 1018 to 1022.

Mr Kells: Madam Chair, may I ask that we have unanimous consent to have the opposition members ask a question of the previous delegation from AMO?

The Acting Chair: Is there unanimous consent? Yes. Mr Colle, one question.

Mr Colle: In BC, there is this movement to introduce charter recognition for municipalities and also to prohibit downloading and put in specific terms of reference. Is AMO in support of those two general initiatives to do those things to give municipalities more autonomy?

Mr Moyle: On the issue of downloading, obviously AMO is supportive of ensuring that there isn't further downloading, so the answer is yes. In terms of their charter movement, it is a bit more complicated than it at first appears. The Premier of British Columbia was speaking in Toronto about a month ago and was describing their charter proposal. It is a proposal. It is not in legislation. It is scheduled to be considered by their Legislature I think a year from now, which is why we made a suggestion in our submission that if that proposal in fact becomes reality in British Columbia two or three years from now, if there is a five-year mandatory review of the Ontario act it would be a good opportunity to determine whether that experiment worked. If it did, certainly it is something that AMO would embrace as a concept and would recommend it be considered as part of the five-year review.

Mr Colle: But at this time, you have no position on it.

The Acting Chair: You've had your question, Mr Colle.

Mr Prue: I'm going to preface my question, since I have three minutes—

The Acting Chair: I did not say you had three minutes. I said you have one question.

Mr Prue: OK, but I would like to preface just with a congratulatory note to AMO. You've touched on points that others, at least in the deputations we've had to date, have not talked about, and that's the review in five years of the licensing criteria, the special power extension,

some unique problems related to Toronto in setting up its electoral system that are unique to the province. I congratulate you on that.

My question is specific to the memorandum of understanding. It is the position of my party not to agree with this Municipal Act until we are satisfied that the memorandum of understanding is written in such a way as to guarantee, if not charter status, at least something very strong so that the municipalities will not be bullied by the province in the future. Are you now, or will you be in the next few weeks, signing that memorandum of understanding, and what does it contain?

Mr Moyle: We've had some very preliminary discussions with staff at the Ministry of Municipal Affairs as to what would go into a memorandum of understanding. The main principles we want in the MOU are the requirement for the province to provide prior consultation and notice of any decisions that the province may be contemplating that would impact a municipality's budgets, governance or essentially the way it does its business. That's a clear position that has been set out in terms of what we would like to see in the memorandum of understanding. We are working with municipal affairs staff at this point and advancing some of those ideas, but we haven't got an MOU signed yet. We obviously haven't brought it back to our board of directors for consideration either.

The Acting Chair: Thank you very much for your presentation, and thank you for your patience too.

Mr Moyle: A pleasure. Thank you.

CITY OF MISSISSAUGA

The Acting Chair: Mayor McCallion, you have 20 minutes.

Mrs Hazel McCallion: Thank you. I don't think I'll take the whole 20 minutes. Members of the committee, I appreciate the opportunity to speak to you this morning. I was involved in the consultation that took place on the new Municipal Act. I think it's great progress that we have one. I call Chris Hodgson the Baldwin of 2001; in fact, after the presentation he took me out and said he wanted a picture with me under the Baldwin thing out in the lobby. It takes a long time for the provincial government to move on something. When I think of all the years—in fact, I've been in politics now for 34 years, and I've said I thought I would possibly retire before a new Municipal Act came into being, so I'm just delighted that it has. We've been promised one for many years. I was president of AMO in 1979 and we took up that responsibility, so it has been a long time. All parties are guilty of not bringing forward the Municipal Act; they all had an opportunity to do it and didn't. So I do appreciate what Chris Hodgson has done in bringing forward the act. He moved very quickly when he became Minister of Municipal Affairs.

Yes, it is not perfect and it is not all we would like to see in the act. I want to say to you that I fully endorse AMO's position this morning, the total position. There

have to be changes to the act, and I hope you will take that into account. One of the main changes is that it's got to be reviewed in five years. It is too major an act which affects the economic success of this province.

Quite honestly, I don't care how successful you folks think you are at Queen's Park; the municipalities are your success. The economic development taking place this year in Mississauga of \$2 billion is not because of the province. It's because we turned cartwheels to make it happen in Mississauga. I want you to know that the municipalities are your success, and in order for them to do their job—yes, you still consider us children of the province, but I'll tell you, the children have grown up and we no longer should be classified.

Now, there are some children who need to be disciplined. I sometimes get very annoyed at the province when they bring something in, but then I read the greater Toronto newspaper, the Toronto Star, and I understand fully why some of this legislation has to come in. I know that not all municipalities are well managed and handle their finances in a very businesslike way. Unfortunately, this legislation that comes in to affect those that don't do that certainly affects those municipalities that are operating successfully and financially successfully, but I understand why you do it.

1030

I'm concerned about the regulations. The minister has promised—and I know his promise will be fulfilled, or it better be—that we will be involved in the regulations. I can give you many acts where the legislation has passed—let's take the electricity act, Bill 35. The legislation said one thing, but the interference in the implementation of the restructuring of electricity in the province of Ontario has been enormous and very frustrating. Really, on many occasions we didn't know where we were going as municipalities even though we followed the act. We don't want that to happen.

The five-year review is absolutely essential. That's got to be in the act; otherwise we'll never get another government, no matter which party it is, to sit down and do the necessary work, because the act is not perfect.

I also want to tell you that I was disappointed in the private sector's involvement in the discussions. About setting licensing fees, I asked the bankers' association if they would allow the government to determine their fees. I said, "The government sold 407. I understand the cost of travelling on the 407 has gone up twice. Is there any control on that?" Yet the private sector is very concerned about the licensing fees that we will pass in a municipality.

When I read the newspaper every morning and pick up the Globe and Mail and the National, I'm not sure the private sector is operating any more efficiently than government when you see the layoffs and the mismanagement that occurs in the private sector. I don't think the private sector can really, as far as it applies to Mississauga, come in and tell us how we should improve our operation. Yes, we can improve it, as we do every year. But I was disappointed in the presentations: the lack of

confidence from the private sector in local government when it has been the best-managed government in Canada, with the lowest taxes of any government. I find that hard, having been in the private sector for 30 years before I became a member of the public sector.

Another thing: we want the government to take us out of Bill 46. I know why you brought in Bill 46. You brought it in because many of the special-purpose bodies spend a lot of money, like hospital boards. But they're not elected; they never go before the people. They're appointed. Why would you mix us up with appointed boards? We are elected. In fact, we go to the public more often than you folks do. You dictate when we go: every three years. We have no choice. We have to stand on a public platform and defend what we have passed during three years. It's hard for people to forget what we've done in three years, but you folks have four and five years. That's fine; I appreciate that. But I don't feel that municipalities should be tossed in with hospital boards and all the other special-purpose bodies. We're elected. Come on. Democracy must be working. Therefore, I pleaded at AMO with the government to get us out of Bill 46. There's no need of you being in with this new Municipal Act either. That's a must, I have to tell you. I've spoken to the minister on it.

It's very important that this act be carefully reviewed over the next five years as well, and monitored, which AMO will do, I can assure you, and I will work with AMO.

I take real exception to the fact that the province tells me the type of tax bill I send out and how it should be structured. You have done it, but I can tell you, you'll never control what I put in the tax bill. That will be the message that'll go to the people, because if I feel strongly that the province—

I also take exception to the interference into the taxation in the municipality. We don't come down and tell you that you should give a provincial sales tax elimination to this group of people and that group of people and that organization. We don't do that. But you tell us that we have to give a tax break to this organization, to this group of people etc. I thought the old Municipal Act was quite sufficient in dealing with tax reductions in the municipality. But now there are so many items where you're telling us, "You've got to give a tax break." Do you realize that that interferes with our budget and with our revenue? Then, with your downloading, of course, that means you've added again.

As AMO says, in regard to our taxation and assessment, we are in a terrible mess. Let me give you an example. You capped the industrial-commercial, right? It cost the region of Peel \$4.4 million. We don't need capping of the industry and commerce in Peel. We have a good relationship between industrial-commercial and residential. By doing that, we would have had to transfer \$4.4 million to the residential taxpayers, who are paying their way in the region of Peel. They're not paying their way in Toronto. I realize that the reason the government did it is to bail out the situation in Toronto. But it applies

to us, who don't need it, and it may have to apply to other areas. What do we do with \$4.4 million? Tell the residents, "The province just capped the industrial-commercial. Now we have to pick up \$4.4 million, so we'll just transfer it to the residential," when our residential are paying their way?

The act is great. We're excited that we now have a new Municipal Act. It is not exactly what we wanted. We've made that clear, and AMO made it very clear this morning. I think you can improve it before it goes through the Legislature. There are some basic things that AMO has recommended today that I think the government should act on. It means it would be a much better situation. Please get it through quickly. We need it. Municipalities in the province are hamstrung right now. Things have changed in the 100-and-some years since the Baldwin Act, but the act does not recognize how municipalities have grown up and become the economic engines of the province. We are the economic engines.

I told the Prime Minister of Canada, "You can go on Team Canada all you want across the world and try to encourage investors to come to this country, but if an investor comes to this country and sees that our infrastructure is not up to date, sees they can't move their goods and move their people, you can travel all you want." It's the municipalities that must provide the infrastructure to provide the necessary services to attract the investor to this country. We must be given the tools to do it, as well as the funding.

What we need in this country is a sustainable source of revenue for municipalities. We can no longer continue our responsibilities on the property tax. It's outdated. It's not possible. And we don't need handouts. The federal and provincial governments are great. They're smart, quite honestly. They say, "We'll give you grants." It depends which party is in power at Queen's Park or Ottawa that determines the grants. Then try to get the money to flow. And who's going to get the grants? Is it going to be political decisions etc? What the municipalities of this country need—and I would like to see Ontario take the lead in providing a sustainable source of funding for the responsibilities we have accepted and implement, not the property tax. Social services and education should be off of it. Then we can get on with providing transit and some of the things that are very essential to the economic health of our municipalities.

If the municipalities are healthy, folks, the province is healthy. If the municipalities are not healthy, then I don't care what you do at Queen's Park, it is not going to make the province healthy.

1040

I plead with you to get on with the act and get it in. Make the changes that AMO is requesting. They're identical to what we want as a municipality, as the city of Mississauga. It is very essential that this act be reviewed in five years to see how it is performing. Make the necessary changes through consultation, definitely. But let's also be involved in the regulations. I've been disappointed when legislation has been passed—by all the govern-

ments—and then we get the regulations and wonder if we were at the same consultative process. I ask you to give AMO that opportunity as well. I know the minister has assured us of that and I hope it takes place. But let's get on with it. Let's get on with a new act. Let's look at things differently. Let's look at the success of this province.

I want to emphasize again that I don't care how many laws you pass at Queen's Park and what great things you do; the success of the province of Ontario is completely dependent on how the municipalities operate in this province. We're right there. We need the infrastructure.

This garbage disposal issue, that 300 to 400 trucks are going to go across the highways to take Toronto's garbage to Michigan: have you ever thought about how many loads of material, products, that manufacturers want to get across that border while they wait for the 300 to 400 trucks to get across the border with garbage? Isn't that interesting. We should have Ontario garbage disposal. I don't like dumping our garbage on another country. We should be dumping it in Ontario. You see the situation we have? Peel's garbage has to go to Michigan as well, because we don't have a landfill site. It'll be completed shortly. Folks, think of the economic impact of all that garbage going. Don't underestimate that the United States will close its border, and then you will have to deal with it and what will it be? Another moraine issue or another garbage disposal issue, a crisis situation that the province will be dragged into to solve.

I plead with you, give us the flexibility to do our job. We're able; the city of Mississauga has proved it. I can't speak for other municipalities. We are debt-free. We have \$650 million in reserves. We run the city like a business. We've just been declared one of the best 100 employers in Canada. We've been declared twice now as the most crime-free city in Canada. Look at some success stories and then determine your legislation accordingly.

The Chair: Thank you very much, Your Worship.

We have about two and a half minutes. While you didn't appear to agree with the policy, it is the committee's policy for it all to go to one party when it is less than three minutes. Mr Colle, it is your turn.

Mr Colle: Thank you very much for the very helpful input and your references to past bills. You hit the nail on the head when you talked about the lack of flexibility. Nowhere else is it more apparent that municipalities don't have the flexibility than when I look at page 221 of this bill, where it says that "a municipality shall not vary the form" of the tax bill "unless the variation is expressly authorized by the Minister of Finance." So you issue a tax bill, and what you put in a tax bill as a municipality cannot be—as the act says, other information is prohibited and variance is prohibited unless authorized by the Minister of Finance. I don't know how AMO could not object to this. I don't know how the government could continue to say it is going to give municipalities some kind of autonomy when it even tells you what you can and cannot put on the tax bill you send your citizens.

Mrs McCallion: I just said that I object to that strongly.

Mr Colle: I'm glad you mentioned that. The critical thing here, as you said, is that the municipalities are really the engines of the province. Perhaps by giving you more autonomy, you can make your city stronger and the province stronger. I hope that some of the amendments proposed by AMO can be included. I hope that this section especially is removed from the bill to show good faith that municipalities are mature successes that we should be encouraging rather than constraining in what they can even put in a tax bill. I applaud the mayor for her continued efforts to stand up for what are success stories, that is, our local municipalities. Mississauga is a stellar example of what good municipalities can do for their people and for the province. On behalf of all of us here—I'm sure my colleagues will agree—we want to say we are thankful for the great work that cities like Mississauga have done in making this a better province. May you get the continued power to do that.

The Chair: Thank you, Your Worship. I probably should've allowed Councillor Moscoe time to respond to some of your latter comments, but I'll let you sort that out back in a different forum.

ASSOCIATION OF MUNICIPAL
MANAGERS, CLERKS
AND TREASURERS OF ONTARIO

The Chair: Our next presentation will be from the Association of Municipal Managers, Clerks and Treasurers of Ontario. Good morning. Welcome to the committee. If you'd be kind enough to introduce yourselves to Hansard at the outset of your speech.

Mr David Calder: Thank you, Mr Chairman and members of the committee. My name is David Calder. I am the director of public access and council services for the city of Cambridge. I am president of the Association of Municipal Managers, Clerks and Treasurers of Ontario, otherwise known as the AMCTO.

The replacement of the current Municipal Act is welcomed by the AMCTO. I think there is a consensus that the current act is outdated, overly prescriptive and generally inadequate in dealing with the complexities of managing and operating a modern municipality. We're here because we are the members who will be responsible for ensuring the effective implementation of this new legislation. We want to work with the government to ensure that whatever becomes law is workable and provides municipalities with as much stability as possible. With me today are John Craig, city clerk of the city of Barrie and a director of AMCTO, and Ken Cousineau, AMCTO's executive director.

As you may know, the AMCTO is the largest voluntary professional association for municipal government managers in Canada. Today our members are represented in approximately 97% of Ontario municipalities. Therefore, we believe we have a duty to flag any concerns or issues that could be problematic from an administrative

point of view once Bill 111 is proclaimed and applied across Ontario. Our approach has always been to focus on more technical or administrative matters and leave the broader policy issues to others. Our detailed concerns and recommendations regarding 111 can be found in our written submission.

Our presentation today will focus on five key issues. You may notice that the first two of these issues unfortunately are not new. We raised them previously in our response to the 1998 draft legislation. Today's issues for AMCTO are (1) permissive authorities, (2) regulatory authority, (3) the subdelegation of administrative authority, (4) notice provisions, and (5) definitions.

Generally, the AMCTO is disappointed that two of our most significant concerns with the 1998 edition of the proposed legislation persist in Bill 111. In the main, these concerns relate to how the bill grants natural person powers, then proceeds to restrict the exercise of those powers. In our 1998 submission we wrote, "If increased flexibility, a businesslike approach to administration and natural person powers are to be meaningful, the government must avoid imposing restrictions on municipalities that detract from or conflict with flexibility, businesslike conduct and the exercise of natural person powers. The AMCTO is concerned that the government on one hand is granting natural person powers and, on the other hand, is unduly and seriously circumscribing the exercise of those powers and thus retaining power and responsibility itself."

1050

This leads us to our first issue, permissive authorities. With municipalities having natural person powers, we question the need for the long list of permissive statutory authorities included in the bill. In fact, the existence of such provisions begs the question, why explicitly permit this and not that? Such provisions could lead to a judicial interpretation that says that which is not explicitly permitted may be denied, that is, ultra vires of the powers of the municipality. As natural persons, municipalities do not require permissive provisions with respect to agreements, highways, utilities commissions or any other component of the bill that falls within the scope of the 10 spheres of municipal jurisdiction.

The necessary exception would be provisions to empower municipalities to exercise governmental powers, such as the ability to levy taxes. These sections should, however, be general in nature and simply provide the authority. Any restrictions should be specific and limited to vital provincial interests. Furthermore, restrictions should be incorporated in the new Municipal Act itself and not in regulations. In summary, we propose that permissive authorities be removed from the bill except as they are necessary to permit municipalities to exercise governmental powers.

Our second item, regulatory authority: the AMCTO is concerned with the breadth and scope of the proposed regulation-making powers contained in the bill. Our preference is to see many of the regulatory provisions eliminated, but we understand this is not the direction in

which the government is heading. So the AMCTO respectfully requests that the bill be amended to require that reasonable consultations occur prior to regulations being filed, or, at a minimum, that notice of at least 30 days be provided to municipalities prior to the issuance of any regulations. In addition, to allow for proper transition between the current act and Bill 111, it is imperative that regulations be filed by March 31, 2002.

Item 3, subdelegation of administrative authority: throughout the proposed legislation, there are provisions pertaining to the subdelegation of administrative authority to undertake various municipal activities. In some areas, the legislation is very specific, while other sections of the bill refer to the ability to subdelegate in very broad terms. We are concerned that the more prescriptive clauses unduly limit a municipality's ability to subdelegate activities in a manner that is best suited to municipal operations. A less prescriptive approach would be more consistent with the principle of natural person powers. We suggest that the more prescriptive subdelegation provisions found throughout the bill be removed and replaced with a general clause indicating that where a municipality has the authority to subdelegate administrative responsibilities, these responsibilities can be subdelegated in the manner which best suits the municipal operations.

Item 4, notice provisions: in various sections of the bill, when requiring municipalities to give notice, the responsibility for giving notice rests alternatively with council, as noted in subsection 173(3), the municipality, subsection 238(4), or the section may simply state that notice must be given, subsection 210(1). As we stated previously regarding the subdelegation of administrative authority, the AMCTO is concerned that legislative prescription to this level of detail could lead to problems should a municipality inadvertently fail to adhere to the letter of the law. The AMCTO recommends that the bill's provisions regarding notice be limited to identifying those areas where the provincial government has reasonable justification for wanting to ensure that municipalities provide notice. The municipality, through its council, should be able to subdelegate both the timing and nature of notices to the clerk. The clerk should be able to subdelegate further if it is reasonable and administratively efficient to do so.

A common theme throughout the four points just discussed is the bill's propensity to overprescribe. Overprescription, in our view, is a flaw in the current Municipal Act and is inconsistent with the natural person formulation. It will continue to confuse accountability and responsibility between municipal and provincial governments and could also lead to interpretative problems and hamper efficient municipal operations.

Our last issue, number 5, definitions: our final point relates to the definitions contained in the bill. While several definitions are incorporated into part I of the bill, we have noted that definitions are evident throughout the entire bill. In fact, the same term may be defined differently in different sections. We believe that this will be a

source of considerable confusion. The AMCTO recommends that the government refrain from sprinkling definitions throughout the legislation. Definitions should be consolidated in part I of the bill and be applied consistently throughout. If a definition modification is required, then a new term should be used and defined in part I.

The AMCTO also believes that definitions, by their nature, should be definitive and should leave as little as possible to interpretation. Currently, this is not the case. For example, in section 1 of the act, the term "system" is defined as "one or more programs or facilities (including real and personal property) of a person used to provide service and things"—my emphasis on "things"—"to the person or to any other person and includes administration related to the programs, facilities, services and things"—again, my emphasis on "things." We recommend that all definitions should be reviewed and be subject to a reasonable person test. What would a reasonable person, without bias or prejudice, read from any given definition?

We have addressed today five key issues our members have raised. Other specific issues are contained in our submission. Notwithstanding the issues and concerns raised today and in our submission, we and our members want to see Bill 111 receive royal assent. We want to have a new Municipal Act implemented in 2003. We have already waited too long to replace the current antiquated legislation. We will continue to work with the government to ensure that the legislation and subsequent regulations work. We look forward to continued participation as a stakeholder group in the development of the subsequent regulations.

On behalf of AMCTO, this concludes our oral submission. I thank the government very much for the opportunity to present to the committee the views of the AMCTO. My colleagues and I are willing to take any questions.

The Chair: Thank you very much. That affords us about seven minutes for questions. We will divide it equally among the parties. We'll start with Mr Prue.

Mr Prue: Does that mean I have two minutes? I want to be clear, because we—

The Chair: Two minutes and about 15 seconds.

Mr Prue: All right, then I guess I have a comment and then a question.

The comment is that I commend you. This is very good. We are seeing this from a very different perspective, particularly around the natural person powers. You are right; it is overly prescriptive.

My question comes to the definitions. There are many definitions left out of the bill. One that I noticed and flagged was that of "consumer." Although it is used several times within the bill, there's no definition of what a consumer is.

You've shown us here one of the worst gobbledegook definitions I have ever seen. Can you explain to me what you think this means? I'm having a real problem in my own head understanding what a "system" is now. Can

you explain to me what you think this is? If you can't, I'm going to ask the lawyers later what they think this is.

Mr Calder: Our point is that obviously there is some difficulty in the interpretation based on wording used, and we're recommending that clarification be given regarding that terminology, particularly what is a "thing"? Is that something that has to be defined further, or is it having some legal term that we're not aware of? These are the issues we're raising in terms of the definitions. We feel that a review of all the definitions should be undertaken, and then put them all in one place so it is clear.

Mr Kells: I do find this a very fine presentation; it is laid out well. I have just one comment in relation to the drafting of the regulations. It would seem, given the type of work you people do, that you're as close to a municipality as anybody can get and your relations with AMO would be as strong, I would think, as anybody's. I would hope, as we are pledged to consult with AMO on every step of the way in the regulations, would that not be a satisfactory way to have your opinions felt as we continue to deal with AMO and draft the regulations?

1100

Mr Calder: I believe it would be. It is a relationship that has developed through this process between AMO and AMCTO that we have been able to provide some technical advice, and we would continue to do that. A rapport has also developed with ministry staff in terms of assisting in regulations and what might be coming, again from a technical aspect. I would hope that would continue, and we would certainly be willing to participate in that way.

Mr Kells: Just a comment. You have a concern about it's being overprescriptive, and then you have a concern about its not defining things well enough. Possibly your points are well taken both ways, but in drafting any kind of legislation it is pretty difficult in the first go-round. Even though we've been at it for about five years now, to pin this down—it's the first time I've heard the concern about definitions. I kind of like the idea of having them spelled out. I don't know whether that is overprescriptive or not, but it's something the ministry should take a look at. I appreciate the thought in that regard. Possibly you have your own ideas on what some of those definitions may be, and we're not averse to receiving anything from you in that regard.

Mr Colle: I want to congratulate the Association of Municipal Managers, Clerks and Treasurers of Ontario. In the past, you've been very helpful in pointing out some of the consequences of some of the rushed legislation this government has put forward. That's why I encourage everybody to pay attention to the proposals you've put forward, because you were certainly right in the past about the messes created with tax assessments and so forth with municipalities. The things you've mentioned are quite significant and I hope we can urge the government to accept some of these concrete suggestions.

One of the things goes to the tax statement, the tax bill. You are the people on the front lines who have to put together the tax notice, the tax bills. You get all the phone calls. What do you think about the clause in this bill which overrules anything you do in what you can put in the municipal bill? The Minister of Finance can tell you what to put in and what to exclude. Do you have problems with that? Would you like to see that removed?

Mr Calder: I'll defer that question to Mr Cousineau, who has input from a variety of our members.

Mr Ken Cousineau: We have taken exception to that clause in past presentations both to the Minister of Finance and to the Minister of Municipal Affairs with respect to Bill 140 and previous pieces of legislation and regulation, in fact in a presentation we made to the government prior to Bill 140 being introduced. In all those cases, we took exception to that clause. We do today. But those concerns and our suggestions are outlined in a number of previous briefs and we didn't feel the need to reiterate that today.

The Chair: Thank you very much for coming before us here this morning. We appreciate your comments.

CITY OF TORONTO

The Chair: Our next presentation will be from the city of Toronto. Good morning. Welcome to the committee.

Mr David Miller: Thank you very much, Mr Chair and members of the committee. The city of Toronto appreciates the opportunity to give our position today. My name is David Miller. I'm the city councillor for High Park and I'm a member of the council reference group dealing with city charter issues. I'm here today on behalf of the mayor. My duty is to present to you Toronto city council's response to Bill 111. I'm accompanied by Jim Anderson, who is our director of municipal law.

I'd like to preface my remarks by reminding members of the committee of a few facts about the city of Toronto. These are important to state, though, so you understand why our context in dealing with the proposed changes to the Municipal Act may be somewhat different than other municipalities.

First of all, the city is the heart of an urban region that has almost five million people. That region is growing. Some estimates suggest the GTA, over the next 20 years, will grow to seven million people. The city of Toronto itself has half of the population of the GTA, about two and a half million people. It is the fifth-largest municipality in North America by governed population, after Mexico City, New York City, Los Angeles and Chicago.

In Canada, only the federal government, yourselves, the province of Quebec, the province of British Columbia and the province of Alberta govern more people than the city of Toronto.

Our spending responsibilities, at approximately \$6 billion, are 20% more than the combined budgets of Vancouver, Calgary, Regina, Winnipeg, Halifax and the recently amalgamated city of Ottawa. Add them all up

and ours is 20% more. Of course we know that cities, particularly in the current global economic system, are tremendously important. In Canada, that is equally true. In Toronto, about 44% of Ontario's GDP is found in the Toronto census metropolitan area, Vancouver about 53% of British Columbia's, Montreal about half of Quebec's, Winnipeg's about two thirds of Manitoba's, and Calgary and Edmonton together about 64% of Alberta's.

From Toronto's perspective, Canada's cities are the wealth of the nation. Cities have to play a significant role, and I think provinces have recognized that in the past few years by increasing the responsibilities that cities have to undertake. In our case, these responsibilities have included a greater share in the funding and delivery of social assistance, full responsibility for social housing programs and, until the recent partial restoration of provincial funding, full funding responsibility for transportation and transit.

Cities are critical to Canada and Toronto is critical to Ontario. That is where most people live, work and play; 80% of Canada's population is in cities. Unfortunately, cities lack the tools and authority to deal properly with the critical issues that face us, issues like poverty, housing, air quality, traffic congestion and crime. We face 21st-century challenges but we're still governed by a 19th-century model that makes cities almost completely dependent on provinces.

That's why in July of last year, Toronto city council adopted the position that the province could prepare Toronto to compete successfully in the 21st century by enacting a custom-built charter to meet the city's unique responsibilities and needs. Council agreed that a charter for Toronto is achievable within the existing constitutional framework and would do the following: it would give Toronto powers and responsibilities that match our needs; it would spell out clearly the city's spheres of power with respect to local matters and give the city the ability to act independently within these spheres; it would recognize that the city needs a new tool kit to ensure that financial resources match our responsibilities; it would provide the authority to conduct and attract business in innovative and more efficient ways; it would recognize Toronto as an order of government that should be consulted whenever provincial financing and policy changes are being developed that impact the city; and it would enable the city to communicate directly with the federal government on matters of mutual interest, such as urban infrastructure, housing construction incentives, immigrant settlement and the development of a national agenda on urban issues.

As you know, Toronto is not alone in making these points. Cities across the country are speaking out through the C-5 initiative, through the campaign to unleash the potential of Canada's cities, and through the Federation of Canadian Municipalities' big cities mayors' caucus. For us, that is the background in which we must analyze the proposed amendments to the Municipal Act.

There is some language in the Municipal Act that shows some signs of promise. The new act indicates that

the Ontario government is responsive to the language and concepts of municipal empowerment that have been in use in other provinces and territories for a number of years. This language includes the recognition of municipal government as a responsible and accountable order of government, natural person powers, broad spheres of municipal jurisdiction, and a willingness to consult with municipal government. That's the good news.

Unfortunately, from our perspective the act falls far short of what is needed for a modern city. What remains at issue is the extent to which the Municipal Act gives effect to the principles or objectives associated with these concepts, such as natural person powers. The legislation does not go far enough in addressing limitations on municipal power and inadequacy of resources to fulfill our responsibilities, limitations on municipal authority to raise funds locally, and the problem of too much political involvement in telling municipalities what they can and cannot do and second-guessing our decisions.

1110

We have looked forward to the new Municipal Act because we'd all been waiting for a major overhaul of the Municipal Act for decades. We were told by you that the legislation would be more flexible, less prescriptive, more comprehensive and understandable. Unfortunately, from our perspective the legislation falls short of that mark. It trades one set of prescriptive requirements for another. While providing natural person powers and spheres of jurisdiction, the legislation limits the extent of such powers and entrenches a significant level of regulatory power over municipal government—including our city, which has twice the population of Manitoba.

There's a real question mark over how much assistance the new powers will offer when combined with the legislative limits, including any regulations. The legislation defines spheres of jurisdiction but leaves out basic municipal responsibilities like land use planning, community and social services, and even housing, which has so recently been devolved. Affordable housing is in critically short supply in Toronto. The legislation does absolutely nothing to empower us to protect the affordable rental housing that we have now.

Really, the heart of the problem is that the bill takes a "one size fits all" approach. It appears to have been drafted for the smallest, least sophisticated municipalities in the province. It relies on regulations to define and limit municipal powers rather than enshrining municipal powers in the legislation. For example, section 17 specifically prohibits a municipality from incorporating a corporation, while section 203 allows the minister to make regulations allowing municipalities to create prescribed corporations, putting the control completely with the province. It also continues to prescribe such minutiae as the contents of a procurement bylaw. Surely that kind of micromanagement is not necessary with a city like Toronto, whose population exceeds that of all the Atlantic provinces put together.

The bill does not distinguish between the different needs, challenges and capacity of a small rural com-

munity and those of a city of two and a half million people at the heart of an urban region of five million people.

We've been told that we must rely on as yet unseen regulations to add flexibility to municipal debt and investment instruments. Bill 111 itself does not deal with cities' need for access to appropriate and sustainable sources of revenue.

Toronto needs a legislative framework that can facilitate a new relationship between the city and the provincial and the federal governments. We need a relationship that is more appropriate to the role and responsibilities of cities in the 21st century. Toronto city council continues to believe that an appropriate legislative framework for city government in Toronto can be provided through the enactment of a concise, modern charter for Toronto. Similarly, charters can be enacted to empower other Ontario cities to meet their unique needs and growing responsibilities—for example, Ottawa, which has recently been amalgamated. At the very least, a more generic alternative to unique city charters would be the enactment of an Ontario Cities Act which addresses the needs and capacity of Ontario's cities. Unique city charters or a Cities Act would remove Ontario's cities from the more general Municipal Act, which continues to be geared toward the needs and capabilities of Ontario's smallest municipalities.

Cities like Toronto need broad authority to cope with the results of social, economic, environmental and political forces, results which happen in cities, results which are concentrated and highly visible in cities. Cities like Toronto need broad authority and a modern legislative and financial tool kit to compete successfully in the 21st century.

Bill 111 is a beginning, but it is still wide of the mark. However, at the city of Toronto we believe that the change we're requesting is inevitable. The mayor and city council intend to continue to pursue a city charter solution through dialogue with the provincial government.

I look forward to your questions.

The Chair: Thank you very much. That affords us about nine minutes, so three minutes per caucus. This time we'll start with the government.

Mr Kells: I might say, Mr Miller, I really appreciate this presentation. It's obvious that we've got the Toronto picture. You're delivering it, and it's well received in many ways.

I just have a couple of thoughts. As you know, we will be dealing with AMO in some detail on the regs. I'm wondering, do you not feel, as powerful as the city of Toronto obviously is, which you've described very well in your presentation, that you have enough clout to deal with AMO and make your opinions felt at that level at the time we're negotiating or dealing with AMO about the regs?

Mr Miller: AMO needs to represent the interests of all the municipalities of Ontario, and on issues like this there is quite a divergence between the needs of Toronto

and Ottawa and perhaps Hamilton than there would be in many other municipalities. Of course, we are very involved in AMO; Councillor Moscoe is vice-president, I think—something. There are some detailed issues in which our position would be consistent with that of AMO. But it's a very strongly held belief of the city of Toronto, and I think we were unanimous on the vote on this at council, that the large cities need to be dealt with differently. The particular problem with this act is that what it purports to give on one hand, by talking about spheres of jurisdiction and natural person powers, which is language we like, it really takes away in other provisions of the act. If the government feels it is unable to change that because it feels the smaller municipalities need the oversight of the province, we're inviting you to work with us to find a way to accommodate the needs of the larger cities.

Mr Kells: You've touched a nerve with me, obviously, because I'm a Toronto member. One of my comments, and I don't mean to get provocative in any way, is that we have 100 Liberal MPs in this province and all the MPs in Toronto are Liberal. I had hoped that our city might have done better with the federal government in funding programs or any kind of initiatives. I don't have to tell you that in the United States the cities blossom under the direct grants they get from the federal government on an almost yearly basis, particularly in the appropriations bill.

Yes, we would like to work with the city. I felt again, as a city member, that we've had a major problem, and I think we have to take a big share of that's being a problem. But I can speak for the minister in the sense that he is more than willing to deal with the city on a basis that would probably help solve the problem, whether it be assessment, which we currently have Marcel Beaubien working on, and I can tell you that the Toronto problem, if I may use that term, is a major part of those deliberations.

Yes, we would like to deal with you in a more daily, intimate way. I could talk about the charter somewhat, but your thoughts about a unique city approach are probably a very meritorious suggestion. I'd like, perhaps later on, to see that in more detail, fleshed out a bit. But it's a good idea, and I don't think I've seen it before. Have you, outside of seeing it in here?

Mr Miller: The city of Toronto had the City of Toronto Act in the past, so there are past precedents to build upon. And there is some interesting work being done in British Columbia at the moment with municipalities in general.

Thank you for your remarks. They give us some slight cause for optimism. One of our problems in dealing with the federal government, of course, is that we're a creature of the province. I chair our immigration and refugee working group. Toronto is the biggest single receptor of immigrants in the country, yet we can't speak to the federal government directly. I think, from anyone's perspective, that's silly. We want the province to help us by giving us the legislative tools so we can actually

phone them up and say, "What are you doing? Please fix it."

Mr Kells: We can speak directly and it doesn't do much good, quite often. Anyway, I appreciate your thoughts.

The Chair: In the absence of the Liberals, I'm allowing a splitting of the time, so you've got about four and a half minutes.

Mr Prue: Charter status of course is not new to me, because I was one of the people who voted for it.

The question I have is that AMO is asking for very quick passage of this bill. The New Democratic Party position is that we are not interested in quick passage until such time as a memorandum of understanding has been signed off on by AMO on behalf of all the municipalities. Does Toronto agree with the signing of the memorandum of understanding, seeing that it does not go anywhere near treating Toronto any differently than—and I'll just pick a town—Bancroft, population 800?

1120

Mr Miller: Toronto's position is that cities have to be treated differently than the Bancrofts of Ontario and the legislation has to recognize that. We do think it is important that the Municipal Act changes are coming forward, and we're glad that the concept of natural person powers in spheres of jurisdiction has entered into the legislation. But left the way it is, Toronto would see no need for quick passage because it doesn't resolve our problems. We would hope that perhaps, based on the comments of Mr Kells, there may be some attention given to dealing with the cities separately in the legislation in some way that supports the points we've set out.

Mr Prue: This causes a bit of a dilemma. What do we do? Do we leave the old act, or do we go with the new act, which is obviously not to the liking of the 2.5 million citizens of the city of Toronto? If we do pass the act, do we do it contingent upon there being a Cities Act? What's your position?

Mr Miller: Toronto would like to see some meaningful commitment, perhaps the tabling of draft legislation or something that shows that our concerns are going to be addressed. As you know, being a former mayor, Mr Prue, the most arcane things can be directed by Queen's Park. It becomes a bit of mockery, in the current context, when you spend months working on something only to have it changed by an obscure regulation change at Queen's Park that nobody knew about. Our desire is to ensure that Toronto and the other cities in a similar position—Ottawa for sure—are dealt with separately now. We're worried that if the legislation gets pushed through quickly, there will be no more impetus for change and we will have lost the opportunity to achieve the tools we need.

Mr Prue: There is one glaring, huge example where Toronto is being treated differently in this act than any of the other 446 municipalities. Toronto is the only municipality under this act that does not have the right to choose its own internal ward structure. Everybody else does. Toronto is being treated differently, but in a way

that you possibly never could have imagined. What's the city of Toronto's position on that?

Mr Miller: No position came to council, but I can tell you two things. I was on the ward boundary committee, as you know, Mayor Prue—

Mr Prue: Mayor? See, I still get called that every day. Go ahead.

Mr Miller: It is an example, though, that shows it is quite possible for Toronto to be treated differently. There's an implicit recognition in that section that Toronto is a very different place from any other municipality in Ontario. We all know it is. Really what we are saying is, set us free. In the US they don't call it charter status; they call it home rule. I think that's very good language because it's non-partisan language. All parties can buy into home rule. The recognition of Toronto, in that one section, as being different shows it is possible to do it in a more meaningful, positive and substantive way.

The Chair: Thank you for your presentation before us this morning.

JACK LAYTON

The Chair: Our next presenter will be Mr Jack Layton. Good morning. Welcome to the committee.

Mr Jack Layton: Good morning. Thank you for the opportunity, committee members. I may help you catch up with your time slot, because you've heard from a great many very well qualified speakers already this morning, and much of what I might have had to add as an individual member of council and somebody studying and teaching urban government for 30 years—that's why I signed up to come, just because I am very interested in these topics. In particular I wanted to share just a few thoughts about the context we're operating in and the changing relationships between municipal governments and other orders of government around the world, in particular in the United States and across Canada.

I'm delighted to see a new Municipal Act coming forward. There are lots of things in it that could be better, but it's terrific to see an initiative to try to address the anachronism of a 150-year-old piece of legislation. Certainly across the country there's been a lot of encouragement for provinces and municipalities to learn from the best practices taking place in different provinces, and there's actually a lot of change going on right now, as I'm sure you know. Right across the country there's a kind of awareness that maybe we really are now an urban society rather than the rural society we were so many years ago, and we need to provide our local democracies with the tool kit, referred to earlier, to allow them to compete and succeed.

I'm going to leave you with a copy of a study which is on the Web, so I've just got the one paper copy to leave with the committee, but feel free to check it out. It is a document produced by the Federation of Canadian Municipalities, and it asks a very interesting question, which is, can Canadian cities compete? I'm not, by the way, representing FCM here today, although I hold a position

there. FCM leaves enthusiastically the position on these matters to its sister organization, AMO, but we have produced a document that you might find interesting.

We're trying to compete with the major cities of the US. If you ask a major business location firm in the US today about the cities that businesses should be considering, most of them don't even have a Canadian city on the list any more. They used to, prior to free trade, because it made sense to have a Canadian head office in those days. Now that argument is gone, and most of the major business locators in the US no longer have a Canadian city on their list for consideration. Why? Well, we discovered that it's because the cities in the United States have a toolbox of activities and freedom to work with, whether it be businesses or social issues or quality of life or community investment, which is quite phenomenal.

One thing they have that we don't, and I think we'd pretty much have unanimity around the table on this one, is that they've got a federal government, a national government, that invests in cities. That's something the Federation of Canadian Municipalities is working very hard to change. In fact, the difference is so remarkable that you might want to remember this number. In the US, the federal government puts \$54.55 per capita per year into municipal budgets. The Canadian equivalent is US\$10.22, less than a fifth. Now, it's true that states put less money in, relative to what provinces have traditionally done. I won't go to where we are on that issue these days. But the point is that we're still very much out of balance.

Do you know that municipal budgets for the same package of services, measured apples to apples as best we're able, are two and a half times higher per capita than municipal budgets in Canada? That is a transformation that's happened over the last 25 years, because the American urban crisis of the 1960s and 1970s provoked a complete rethink of the way in which cities were to be handled. The realization was, first, "We have to give them some resources because they only have the property tax and they've got to have some of these growth taxes that we have," because when economic activity increases in a community, their costs go up but their revenues don't. In fact, the state and federal governments were picking up the revenue. They've recalibrated that.

Do you know that in the United States now 30% of the municipal budgets come from federal and state sources and that number is rising? In Canada, it's 18% and falling. In the US, cities rely on property tax for only 21% of their revenue. In Canada, it's 55%. Four years ago, it was 49%. Increasingly, we're relying on this very limited, anachronistic tool of the property taxes, and we're supposed to have our cities be competitive. Well, it's not going to work. It's a little like not feeding your athlete and hoping they'll be able to compete with the athlete who's getting a good diet from their coach.

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These relationships have to change on the financial front, but they also have to change on the empowerment

front. This is very interesting. There's one little chart here that shows some of the tools municipalities have in the US that we don't have in Canada. For example, they can introduce tax-exempt municipal bonds, a very important capital financing tool for initiatives in municipalities. We should be looking at these kinds of things. They have the ability to give tax incentives of a wide variety of kinds, subject to fiduciary responsibility and due diligence, but we're now dealing with sophisticated governments able to analyze those risks; it's not like the old days. They're able to make grants. They're able to introduce growth taxes, in other words, taxes that only produce revenue when there's economic growth, like, for example, hotel taxes or tolls. These kinds of strategies are very, very common now. Taxes are never popular, so giving municipalities or municipal governments the power to raise these kinds of funds is awfully easy to object to, but if we continue to do that while our competitors allow their cities to have access to these sorts of resources, we're going to be the ones paying the price at the end of the day.

Where I'm going with this is to suggest that across the country, different provinces are trying step by step—and it's a difficult process—to give up, as it were, control and responsibility, but they're trying to do this in a reasonable fashion. I very much want to support the recommendation here that this act be reviewed in five years. In fact, if I could go a little further, I'd suggest we start the review almost immediately. Actually, this is what they're doing in Alberta, where they've adopted an act which has been in place for a relatively short period of time and they've begun to make some amendments to it. Just yesterday—last week, I should say; I met the minister yesterday—they are creating a council to review and update the whole package almost on an ongoing basis.

This is very similar to what has been done in BC, where quite a departure from history is underway: the concept of the community charter. The Premier came here to a conference we had, you may have noticed, about a month ago—three or four weeks ago I guess it was—to speak about it because he's very enthusiastic about this notion of really starting to treat municipal governments as partners, as collaborators with the other orders of government in solving the problems faced by our people. He said, "We've forgotten about the notion that municipalities are creatures of the province. We don't look at it that way any more." It doesn't make sense to look at it that way any more. What makes sense is to minimize the number of times that somebody has to look over the shoulder of a democratically elected decision-maker and decide whether or not what they're doing is right. Let's free up our various orders of government to do what they can do best.

My message is really just at that sort of general level, that in the US we're seeing great advancements in the creation of home rule and freedom for municipalities and it's really paying off. Their cities are taking off in many ways, and we're struggling. Secondly, across the country we've got some best practices beginning to emerge.

Third, it's good that we have a new Municipal Act coming in Ontario. Fourth, I hope you'll begin to review it almost the very day it's adopted. That wouldn't be some kind of admission of failure or inadequacy; it would be recognizing a process of continuous improvement. We are going to need that continuous improvement to recognize some of the issues raised by my colleague from Toronto, although what I have begun to learn is that these same problems that we thought may have been only in Toronto—I'm not contradicting my friend David Miller, but it's remarkable how commonly these same challenges are emerging in cities of all sizes across the country. They're all in a similar straitjacket and experiencing similar frustrations.

So good luck with your venture. If you can accelerate the process of review and create a great process of review through the MOU and beyond, then I think we're headed for a much better future.

The Chair: Thank you very much, Councillor. Your timing was perfect. We appreciate your coming before us and making your presentation this morning.

CANADIAN UNION OF PUBLIC EMPLOYEES, LOCAL 79

The Chair: Our next presentation will be from the Canadian Union of Public Employees, Local 79. Good morning, and welcome to the committee.

Ms Anne Dubas: Thank you, sir. On my left is Rob Harris. He's one of the researcher-consultants associated with Local 79. You have before you our brief, and I want to thank you all very much for having us here this morning.

CUPE Local 79 represents the city of Toronto inside workers, including occupations such as building inspectors, public health nurses, legal, prosecutors, cleaners, child care workers, and we also have a contingent over at Riverdale Hospital that fortunately is not being impacted by this legislation—not yet, anyhow. Local 79 has represented these workers since 1942. That's almost 60 years. Our members have a proud tradition of providing quality, dependable services for the people of Toronto.

There have been many dramatic changes in Ontario since the original Municipal Act was first written. Local 79 had hoped that this proposed revision would reflect these changes and provide Ontario's communities with the tools and economic resources they need to flourish and to continue providing quality services. We had hoped that it would enhance the input of stakeholders and provide greater democracy. Unfortunately, this has not been the case.

There are serious shortcomings in the new proposed act. For example, while Bill 111 provides for consultations between the province and municipalities, these consultations are not binding. There is nothing in the bill that prevents the provincial government from unilaterally, once again, imposing amalgamation or downloading on municipalities. As well, it does nothing to improve

their revenue-enhancing opportunities. And while the bill defines the powers of local governments within their spheres of jurisdiction, it does not grant them any real autonomy, such as charter status for the city of Toronto.

Local 79's submission will focus on only a few issues. First, service delivery standards: the new act empowers the provincial government to set service delivery standards for municipalities and compels them to report on their performance in achieving those standards—micro-management, in other words, from the province to the local government. This provision creates a number of problems.

Ontario's municipalities are incredibly diverse in size, in the demographics of their populations, in the requirements of their stakeholders and in the level and types of services they provide. A one-size-fits-all standard that uses the same criteria to evaluate a community such as Bracebridge or your community in Peterborough, sir, as it does the city of Toronto does not take into account the very different circumstances that each community must face. The results from such an approach fail to respond to the very different needs the taxpayers have in each of the different communities.

If this measure is meant to impose accountability, it is redundant and unnecessary. Public services delivered by public workers are already accountable; they must answer to the elected officials, who then must answer to the people they represent. Rather than forcing municipalities to create new levels of bureaucracy dedicated to writing reports, this provision should be withdrawn.

Our next point is municipal service boards. The new act will allow the creation of municipal service boards. Transferring public services to arm's-length boards isolates them from public input, scrutiny and accountability. Local 79 is fundamentally opposed to the loss of accountability to the taxpayer these boards invoke.

There is an assumption that substantial savings can be achieved by contracting out services. Governments have simply assumed this to be true, and they have been encouraged by arguments based more on ideology and the desire to cut costs than on proven facts. The real evidence shows that public sector employees provide these services more economically and with greater care than the private sector, where savings are achieved by cutting corners, lowering wages or reducing quality services. In the long run, costs often go up once private companies incur new expenses and they maximize their profits.

Accountability is one of the strengths of our public services. We have excellent services because those who provide them are directly answerable to elected officials and to the public. This is one of the safeguards of our system. It ensures that the needs and interests of the people are recognized. In this current time of crisis, people recognize the value of having public services in public hands, and are demanding that functions such as airport security and local government response teams should be the responsibility of government employees.

Ultimately, the creation of these arm's-length boards leads to this loss of accountability. It creates another

buffer between people and service providers. People know that they can contact their councillor when they have questions or concerns about services, or that they can contact the service directly. This responsibility is lost once services are no longer directly provided by public employees and it becomes unclear exactly who is answerable when the problem occurs.

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No new sources of revenue: the biggest flaw within Bill 111 is the failure to address the financial difficulties now facing Ontario's municipalities. Our local governments provide services well beyond what was expected of them in the past. Our larger cities, especially our employer, the city of Toronto, have become the economic engines of Ontario. Bill 111 does not provide our cities with the resources or the fiscal tools they need to meet these demands.

The provincial government's downloading of larger financial responsibilities, such as housing, transit and social services, has greatly increased the financial obligations of municipalities. These are substantial burdens. Local governments across Ontario must rely on the property tax base as a major source of revenue. It is increasingly obvious that this tax base is woefully inadequate to support the vast range of services now made available by municipalities.

The city of Toronto faces additional burdens. Many people from communities outside the Toronto structure, outside the 416, commute to Toronto for business, recreation, our ethnic areas, our restaurants and our theatres. They use Toronto's public infrastructure, its roads, fresh water and public parks; they do not pay taxes in 416. This is a serious problem. It needs to be addressed; it's not being addressed. If our cities are to continue to provide these quality services and to drive our economy, they need greater access to economic tools and resources. Again, Bill 111 does not provide them.

There are many examples in Canada and the United States where local governments have been provided with additional sources of revenue to supplement their property tax base: Montreal, Vancouver, Winnipeg and New York City. Our councillors from the city have spoken to that.

Conclusions: Bill 111 creates several new problems and fails to address existing ones. There are major differences between municipalities and between the challenges they face in delivering certain services. The proposed delivery evaluation does not reflect this. Once again, one-size-fits-all standards fail to take into consideration the differences between communities and lead to inaccurate, meaningless findings. Also, the new power to create municipal service boards may lead to the loss of quality and accountability in our public services.

The greatest flaw is where it is silent. Bill 111 provides for consultation between the province and local governments; it does not make those consultations binding and meaningful. As well, there is nothing in this bill that prevents the provincial government from imposing or again downloading on to unwilling communities. Our

modern municipalities are called to provide a broad range of services and to act as our economic engine in Ontario. The bill fails to recognize these realities and does nothing to provide them with the resources and the tools they need.

The new Municipal Act will come into effect January 1, 2003. The government still has plenty of time to consider these and other issues and revise the legislation. Real consultations are needed, and they can only be achieved if the government holds a series of hearings across the full province. We urge the government to take the time so that the people of Ontario are provided with a Municipal Act that meets the needs of our modern and individualistic communities.

The Chair: Thank you very much. That affords us about three minutes per caucus for questioning. This time we'll have to move one step beyond the normal rotation: Mr Prue.

Mr Prue: Thank you for what is a very good brief. It has mentioned many of the things that concern me about this bill—the sources of revenue not being included.

My questions are around the municipal service boards. Many municipalities have municipal service boards, and I'd like it if maybe you could describe Toronto's circumstance, that you know best. A service board would exist like the Toronto Transit Commission, which is sort of separate and apart from the municipality. How does having a board such as that impact on citizens being able to deal with their local councillor in a way that is different from not having the board at all?

Ms Dubas: Can I change that from the TTC board to the police services board, where we've had even greater problems getting access to those people who sit on the police services board, to raise directly with the police services board the concerns of the people? That's versus the system that exists presently, where the committee hears deputations for what sometimes feels like days at a time and the councillors have that direct control, that direct ability to listen to the taxpayer, to the deputants, and make the necessary changes. With the police services board, even the councillors don't have that kind of input. The councillors themselves have to go to the police services board to beg, plead and grovel for changes their constituents need.

Mr Prue: Having been a councillor until quite recently, I had a huge problem dealing with Hydro after it stopped being part of the local municipality. When it was part of East York, you could pick up the phone and deal with the Hydro people; now you can't find anybody. Has that impacted your members at all, or the community?

Ms Dubas: I think it has impacted the people we serve within the community. As our building inspectors go out, there's a hydro problem; as public health nurses when we have other problems, a lack of heat. Even we can't go. We have to go through the councillor, who then has to go to the next level. It's an additional level of bureaucracy in an era when, for most people, workloads are such that they can't cope. It denies access by the public to the very

services they're paying for with their taxes, or, in the case of hydro, with their hydro bills.

Mr Dunlop: It's great to have you here this morning. I just want to make a few comments about some of the things you brought up, and you may respond to them as well. First of all, I don't know if you're aware of this, but there has been a very comprehensive consultation process in developing the Municipal Act as it stands here today. We've seen a number of people here this morning who have been very supportive of that consultation process. The minister has actually said there will be a lot more consultation in the future as we develop regulations etc. I wanted to make that clear, because from your presentation it sounded as though you felt there was no consultation on this.

Secondly, to do with what you call downloading, we call local services realignment. I don't know if you're aware of this. I've spent a lot of time on municipal councils, and for a couple of decades we talked about the duplication that was in the system. I remember Bob Rae's government, between 1990 and 1995, was going to do a lot. They started a series of talks with AMO and these organizations. They called it disentanglement at that time. We carried on. We made a commitment. We had the Who Does What committee, and many of the people who sat on that committee took part in the process that developed the Municipal Act as well.

We feel that's been a fairly good shift of money in the system and, as a result of that, many municipalities today receive a community reinvestment fund. They get a yearly cheque to offset some of their expenses. I just wanted to put that on the record, because I've been very supportive of the moves that have been made in the last seven or eight years as a result of the duplication of services that existed in the system before. I don't know if you have any comments on that, but I wanted to put that on the record.

Ms Dubas: Absolutely. Local 79 has been here with the Bob Rae government and with the present government. We believe in fiscal accountability; we do not believe in the duplication of delivery of services. But what we do not accept is when you pass down to the local taxpayers or our employer, the city of Toronto, the requirement to provide those services but fail to provide the funding necessary to deliver them, so the taxpayer is now paying twice. Not only did their taxes pay for the service, but they now have user fees in addition. What you've done is transferred the responsibility, but you kept the money at your level of government and passed the cost on to the taxpayer.

This is unfair. They should not be paying twice. This is the same speech we gave Bob Rae's government. If you are going to disentangle the services, if you are going to download the program or the services, then you download the full cost of delivering those services. You don't keep the money up here.

Mr Dunlop: I would just suggest to you that you check with municipalities across the province and see what their tax increases have been in the last six years.

Ms Dubas: I also pay taxes in Grey-Bruce, on Bill Murdoch's turf. I have seen my taxes, in Kemble township, go up three times, with a reduction in services, because of this particular government. But as a representative of Local 79, I'm not allowed to make that comment.

Mr Dunlop: I would like to see copies of those tax bills. You say they've tripled in five years?

Ms Dubas: I will take you down to one of our good ethnic areas and buy you a cup of chai and show you my tax bills from two sections of Grey-Bruce.

Mr Dunlop: I'd be happy with just a photocopy of the bills in the last six years.

Ms Dubas: Fine, sir. I'll have Mr Prue send me your address and we will provide that, where we've been screwed by this government. Sorry.

The Chair: Thank you very much. I appreciate your comments here this morning. Thanks for coming before us.

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CITY OF VAUGHAN

The Chair: Our next presentation will be from the city of Vaughan. Good morning. Welcome to the committee.

Ms Carolyn Stobo: Good morning. Thank you for giving us an opportunity to make some brief submissions on the bill. I was surprised to see that you were within the time. I did appear and in fact worked with the Legislative Assembly back at the time of Bill 163, and certainly a lot of the presenters were much over time. I'm very impressed that everything is being done on a timely basis today.

My name is Carolyn Stobo. I'm a solicitor, special services, with the city of Vaughan. I formerly was with the city of Mississauga. First of all, I'd like to point out to the committee members that we have done a written submission, which I believe you have before you at this time, so I'm not going to reiterate what is in that submission. I would prefer to draw your attention to an issue at the forefront for the city of Vaughan, and that relates to its representation on the regional municipality of York council. The reason I'm bringing that issue to your attention today is that we have in the past, through one of the regional councillors in Vaughan, brought numerous requests before the region to change Vaughan's representation on York council. As matters stand right now, the city of Vaughan is extraordinarily underrepresented, both in terms of population and in terms of the regional levy it is responsible for contributing to.

Vaughan has a population second to Markham's at this stage, but it has representation equal to Richmond Hill's. Markham has five members, including the mayor, on the region of York council; Vaughan has three members, including the mayor, as does Richmond Hill. The amount of the regional levy that Vaughan pays exceeds all the other area municipalities in York. We have the highest percentage contribution to the regional levy.

Recently, in August or September of this year, this issue was again brought to the attention of the council of the region of York. We submitted a report to the region through regional councillor Michael Di Biase. That was a very detailed report setting out all the discrepancies in Vaughan's representation. I refer the members of the committee to pages 7 and 8 of the city of Vaughan's submission, which deal with the difficulties we're having in trying to get a reasonable adjustment made. To put it simply, the city of Vaughan has asked for an increase in its representation on regional council from the existing three members to four or five members. That would bring us into a position of greater equity with Markham.

Recommendation 6, set out on page 8, points to the problems we may encounter as a result of the introduction of the present legislation. We'll be placed in a position where, right now, section 218 would preclude any change to regional council composition unless a regulation is passed. The region of York would have to request that regulation. We're asking to expedite this process, so that by the time of the next election in 2003, the regional municipality of York be exempted outright and be included as one of the municipalities governed by this section. In the alternative, we would ask that the current act be either amended or a regulation brought forward immediately to allow the regional municipality of York to readjust representation on regional council.

There are a number of options available which would follow through with the government's efforts to ensure that additional costs, through the addition of further councillors, are not breached. Under the new act, of course, councillors may be given more than one vote, and that would solve the problem. The city of Vaughan could also readjust the number of councillors elected on a ward basis, to reduce it from the current five to four. There are certainly various options, which I'm not going to deal with at any length, which would preserve the government's momentum to ensure that additional costs aren't racked up over the course of time.

We haven't really had an opportunity to thoroughly review Bill 111. We've done our best, in the time we had available, to highlight some of the issues that may pose a problem. If you would turn to the summary of recommendations, that's on page 12 of the report.

Recommendation 3 requests that the "Purposes" section be amended so that additional words are included in the last line of the preamble of section 2. It would read "for purposes which include, but are not necessarily limited to..." We realize that an additional purpose has been included, one over and above what was requested by a number of municipalities at the time of the 1998 legislation. There may or may not be merit to the inclusion of that fourth purpose, but our thinking is that the way it's worded at present may preclude consideration of other purposes and it would be better, since it is a general section and a general statement, to at least make it clear that other purposes should be the subject of consideration from time to time. It won't lock the parties into what's set out at present in section 2.

Recommendation 4 of our report: it's our view that it would be much more appropriate to include the consultation process that will come about in the form of a regulation, as opposed to leaving it to the development of a memorandum of understanding. I'm sure a number of deputants have addressed that issue already. Unfortunately, I wasn't present for those, but I'm sure you've heard about the potential pitfalls of a memorandum of understanding. It's our recommendation, bluntly, that that be changed to a regulation so it's clear for everyone and it's something that everyone will have an ability to enforce.

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We're concerned about section 11, in the failure to include additional rules of interpretation. It seems to us that there may be some confusion. If a matter is similar to one of the matters that's governed by a specific power in either part III or in parts IV through XV of the proposed legislation, and if it also is arguable whether it would or would not fit within one of the general spheres available to lower-tier or, alternatively, upper-tier municipalities, there may be a situation where a municipality is unable to act because it's simply not clear enough.

We certainly didn't have the time to develop any specific rules of interpretation that might be added, but we're asking the ministry to reconsider section 11, to add a subsection 11(3), which may set out some additional rules to deal with situations of lack of clarity so we don't end up back where we started, which would be requesting that the government amend the statute to include a specific reference to another power. That type of requirement would defeat the purpose of this bill.

I've already referred to recommendation 6, so I won't go over that again, but that's very important to the city of Vaughan. Because we're in a transition period, it's pretty clear that the region would not have an opportunity to adjust this discrepancy in representation if this bill moves forward to third reading and we're caught in a transition period, so in the year 2003 we will not be ready and able to ensure that the city of Vaughan is adequately represented.

The government has long upheld the principle of representation by population. We have that problem here, plus myriad other problems, given the extraordinary contribution to the levy that the city of Vaughan makes at present and has made for a number of years, which has exceeded all the contributions of all the other area municipalities. The city of Vaughan is growing at an unprecedented pace. The population is now in excess of 200,000. It's clear that this problem has to be addressed, and we don't want to be caught because this legislation has come forward at a time when the issue can't be addressed.

I'd like to commend the Minister of Municipal Affairs, the Honourable Mr Hodgson, and particularly the staff at the ministry, who obviously have spent enormous amounts of time attempting to come to grips with the need to provide a new Municipal Act. We think there probably are many shortcomings. In fact, we don't think

municipalities have the powers they were seeking fully or completely, even a majority of them, but it is a good first step. Thank you for the opportunity to make this presentation.

The Chair: Thank you very much for your comments. That affords us about two minutes per caucus for questions.

Mr Kells: I appreciate your presentation. You've obviously given it great consideration. I know it's a big act and it takes a little time.

I wonder maybe if Vaughan has a communications problem with the region. I'm not quite sure, but under the current act and under the new act all regional councils can request the minister to adjust the representation. I've just talked with staff, and to their knowledge and to my knowledge, we've never received that request. I wonder if some debate between Vaughan and the current representatives or the mayor directly with the chair would not rectify this problem. We're prepared to entertain that request and pass a reg, whether it's under the old act or the new act, to change your representation. I was just wondering where that stands. Have you had a long-standing problem with the region about your concern?

Ms Stobo: I haven't been there for a lengthy period of time. I've just been at Vaughan for about a year and a half at this stage. I can tell you that one of the recommendations in the report Councillor Di Biase forwarded to the region of York late in the summer was, quite bluntly, that copies of this be forwarded to the Minister of Municipal Affairs and that a request be made to the Minister of Municipal Affairs.

Mr Kells: Somewhere between him and us, obviously, lies the problem. If it's lodged somewhere in our ministry, then we will respond back to you. If it's stuck somewhere in the region's offices, then you should give them a shake. One way or the other, that request doesn't seem to be before us.

Ms Stobo: I brought an additional copy of the report from the office, and I would like to leave that with you to make sure that—

Mr Kells: But you'd still need that request. I don't mean to point, but you need that request from the region.

Ms Stobo: That's fine. I understand that.

Mr Colle: So the city of Vaughan has 200,000 population and it contributes more of the levies than all the other municipalities combined? I didn't hear you say the word "combined."

Ms Stobo: No, not combined. The percentage share that Vaughan has of the regional levy is greater than the percentage share of each of the other area municipalities.

Mr Colle: Which would be the next in line in terms of levy given to the region after Vaughan?

Ms Stobo: It would be Markham. That's in the report at the bottom of page 7 and at the top of page 8.

Mr Colle: Markham has what population?

Ms Stobo: I didn't have the recent estimate for Markham. They come out at the end of each month or quarterly.

Mr Colle: But what is it approximately?

Ms Stobo: In April it was—sorry. I'm having trouble reading my own report, but that's not unusual. In April, it was 217,000.

Mr Colle: How many representatives do they have at York region?

Ms Stobo: Five, including the mayor.

Mr Colle: The mayor is one of the five and it's approximately the same population. You have three in Vaughan?

Ms Stobo: That's correct, including the mayor.

Mr Colle: OK. I think that's an excellent point for making some changes. I suggest that there be a direct memorandum or motion from council directly to the minister notifying the minister that you've made this request of York region in the past, as Mr Di Biase has done, so that at least there's some kind of communication between the ministry and the region asking the region why they haven't responded to what seems a very legitimate request from the city of Vaughan.

Ms Stobo: Yes, we'll certainly do that again. I believe it has been done in the past. I'm not absolutely certain, but I believe it has. But we'll certainly do it again.

Mr Colle: I suggest you also send a copy of that to your local MPP, Greg Sorbara, so he can at least follow it up. Sometimes, as Mr Kells said, these things perhaps get stuck in the region somewhere or whatever and it's not brought to the attention of the appropriate people in the ministry. At least they can maybe help get the region to pay attention to this disparity. I'm sure they'd be more than willing to look at it, because I don't see the government being opposed to having some equity there, considering the amount of taxes being paid by the residents of Vaughan.

Ms Stobo: I might indicate that because it would still be subject to the triple majority rule, it may well be a situation where it would be worth considering making that change to the composition of this particular regional council through the course of the introduction of this legislation.

Mr Colle: That's interesting. Thank you very much. That's very informative.

Mr Prue: Thank you. I've been trying to read sections 217, 218 and 219 while you were speaking, but quite frankly—maybe we'll have to talk after—I don't see how any of those sections impede Vaughan getting an additional councillor. I don't see how they do.

My real question, and I've only got time for one, is the question about your recommendation 4 on page 12, of not having a memorandum of understanding. You are about the 15th deputant we've heard and this is the first time we've heard this. Everyone else agrees that a memorandum of understanding is the way to go, and we are anticipating that it will be done shortly before this bill comes for third and final reading. Why do you think that having a regulation is superior to the memorandum of understanding?

Ms Stobo: First, a memorandum of understanding is not enforceable. It is not an outright agreement. If it was an outright agreement, the parties would be able to

enforce it, but because you're dealing with governmental authorities, it's our view that it would be more appropriate to use the regulation process. That, as well, obviously would be enforceable, but it would clearly set out what numbers have to be consulted. To use a memorandum of understanding may or may not, in the long run, work well. It may well be that whoever is consulted won't necessarily represent the views of various types of municipalities. Certainly the Association of Municipalities of Ontario has long kept the interests of municipalities at the forefront regardless of size, but when you get down to some very complicated financial or other issues it just may not be suitable to use that process.

I don't know how you go about reflecting the views of all types of municipalities, whether they be single-tier, upper- and lower-tier, small, large etc. We think that at least there should be some clear guidelines made available as to what will constitute that consultation process, guidelines as to what might be implemented into either a memorandum of understanding or an agreement or regulation, so that municipalities are clear. Right now, to have it written this way, we haven't seen what they're proposing, what the guidelines will be, so it's very difficult to comment.

The Chair: Thank you very much for coming before us here this morning. We appreciate your comments.

With that, committee, we are recessed until 3:30. Just a reminder that when we come back it will be in room 151, so please take any materials you need with you. The committee stands recessed.

The committee recessed from 1212 to 1538.

CITY OF BRAMPTON

The Acting Chair (Ms Marilyn Mushinski): I call the meeting to order. The first deputant is Clay Connor, from the city of Brampton. You have 20 minutes.

Mr Clay Connor: Thank you, Madam Chair. First of all, I'd like to thank the committee for the opportunity to speak here today on Bill 111. For those of us who have been involved with reviewing the 1998 draft and before, we wondered if this day might ever arrive. We're glad that it has. We find it rewarding that so many of our suggestions on the 1998 draft have been incorporated into this bill.

The city of Brampton council has endorsed going ahead with this bill. They agree the time has come to get on with the job. But they sent me here to talk about a few areas that we think could improve the bill.

The first has to do with the issue of consultation with the municipal sector. It's ironic that I would say that after saying how wonderful the consultation process was that got us to this point, but there you have it. Section 3 says that the province endorses the principle of ongoing consultation with municipalities, but the act does not address how this is to be done. I understand that the ministry is in negotiations on a memorandum of understanding with AMO to address this, but being a lawyer, we like to see things in legislation. It gives us a little more comfort than

just a memorandum of understanding to which our client may not be a party. We recognize the need for the provincial government to be able to govern quickly and effectively and we understand the concern about confidentiality of cabinet deliberations. You can't always stop and negotiate with the municipal sector; we understand that.

What we're recommending is a provision similar to the Manitoba act with respect to regulations to be made by the minister only—not the Lieutenant Governor in Council, just ministers' regulations. We're recommending that the act provide for the creation of a municipal advisory committee and that the minister be required to consult with and seek advice from the committee in the formulation or review of ministerial regulations, except in cases of emergency, as determined by the minister. We think that would give some substance to the principle that's enunciated in section 3.

The second area I'd like to talk about has to do with the spheres of jurisdiction and what I call the regional paramountcy provision, which is section 13. Subsection 13(1) provides that if there's a conflict between a bylaw passed by a lower-tier municipality under section 11 and a bylaw passed by its upper-tier municipality, the bylaw of the upper-tier municipality prevails to the extent of the conflict. This is a carry-over from the 1998 draft, and when it was in the 1998 draft our concern was that a broadly worded upper-tier bylaw could virtually oust the jurisdiction of the lower tier in an area and in effect be an indirect service migration without using the service migration provisions found elsewhere in the act. We're glad to see that the ministry took this concern to heart, and section 16 is intended to address this.

I don't know if you have the bill with you, but if you don't, I'm going to read 16(1) to you, because I think it could be clarified a little bit: "Under each sphere of jurisdiction, a lower-tier or upper-tier municipality does not, except as otherwise provided, have the power to pass a bylaw with respect to systems of the type authorized by that sphere of its upper-tier or lower-tier municipality, as the case may be." I read that three or four times and had trouble grappling with what it meant. I had a meeting with ministry staff and they said, "The intent is to basically preserve the status quo." If that's the intent, I think you could amend that section to make it a lot clearer. My suggested amendment would be that it would read, "Under each sphere of jurisdiction, a lower-tier or upper-tier municipality does not, except as otherwise provided, have the power to pass a bylaw with respect to systems of the other tier." I think it's a lot clearer in terms of expressing the intent, and I would hope you'd consider that amendment.

The third area I'd like to talk about is economic development services and section 11, the table dividing up the spheres of jurisdiction. We understand that the table in section 11 is intended to reflect the present legislative division of responsibility, and it does that. As such, the power to pass bylaws relating to the acquisition, development and disposal of sites for industrial, com-

mercial and institutional uses was assigned to the region of Peel exclusively, because that's in the regional legislation. However, in Peel the focus for economic development activity occurs at the lower-tier level. In Brampton, our economic development office is the first point of contact for new businesses looking to locate in Brampton and for existing businesses looking to expand. We feel that the power to pass bylaws relating to acquisition, development and disposal of industrial and commercial sites would be a useful tool to assist us in promoting economic development in Brampton. Our recommendation would be that the power to pass bylaws in this area be assigned to the region of Peel on a non-exclusive basis rather than an exclusive basis. It's not taking any power away from the region, but it would enable us to get involved in this area as well.

The fourth topic I want to talk about relates to something that isn't in the bill as opposed to something that is. It has to do with our desire to create a downtown development authority or development corporation within the city of Brampton. Mr Gill will be aware of this initiative. For over a year, the city of Brampton, in conjunction with its business improvement area and the Brampton Board of Trade, has been exploring the creation of a downtown development authority. It's intended to be one entity that would carry out the purposes of both a business improvement area and a community development corporation as they're allowed under the existing Municipal Act. The corporation would be funded by a combination of core funding provided by the city and the use of the existing BIA levy. We think it would eliminate duplication that could occur from having two entities involved in promotion of various sorts of commercial activity. It would be able to promote the downtown for residential as well as commercial purposes. The business community involved in this project are looking to have the power, if there is a rundown business or rundown property in Brampton that's up for sale and the market is not picking it up, to be able to go in, buy the property, fix it up and either lease it, sell it or do whatever.

We met with municipal affairs staff on more than one occasion over the past year outlining this concept and talking about pursuing private legislation. The response we got was, "You should wait and see what is in the new Municipal Act." Well, we've now seen the new Municipal Act and looked closely at the BIA provisions and the community development corporation provisions, and our conclusion is that nothing has changed sufficiently from what's in the present act to allow us to proceed in the way we'd like.

We note, however, that under section 203 of Bill 111, this gives the minister the power to make regulations authorizing the incorporation of prescribed corporations, the purposes for which corporations may carry on business and rules governing them. It is our hope that the development corporation of the type I've described is one on which perhaps the minister might consider making a regulation to allow us to get on with the show and

incorporate this entity. We'd welcome the opportunity to discuss this further with ministry staff and see if it is an avenue worth pursuing.

The fifth area is municipal performance standards and reporting obligations, section 285 to section 305 in Bill 111. The provisions relating to municipal performance standards and reporting obligations largely reflect what was in the 1998 draft, and we generally find these acceptable or something we can live with. But since the 1998 draft, the government has introduced Bill 46, the Public Sector Accountability Act, 2001. If Bill 46 becomes law, it would impose a new set of reporting requirements on municipalities and it could require municipalities to collect and report the same information in different ways to different ministries. That seems like a duplication of effort and increased costs for no really good reason. Our recommendation in this area would be that the provincial government assure Ontario municipalities that compliance with the reporting standards set out in Bill 111 will be deemed to be compliance with any reporting standards under Bill 46, should it become law.

Since I haven't exhausted my time, I'm going to raise one point that it isn't in my brief. The municipal users group for electronic registration asked me to raise this, because they knew I was coming here today. Peel has just recently gone to the electronic registration system. All the documents have to be registered electronically. It's a situation where the law hasn't caught up with the technology. The issue revolves around certification of municipal records. For example, if you've got a municipal road closing bylaw, it's not effective until a certified copy of it gets registered in the land registry office. The provisions in the Municipal Act dealing with certification of records states that basically you can certify a paper record under the municipal seal and the signature of the clerk. The land registry office can't take that. They can only accept documents electronically. We are sort of caught in a catch-22. There needs to be some way to allow for electronic certification of records to allow us to meet the land registry requirements without contravening the Municipal Act at the same time.

1550

What that solution is, I'm not sure. The technical people would need to work that out. But I would suggest that a way this committee could address it and allow this to happen would be to add a subsection in section 253 which deals with inspection of records. Subsection 253(2) is the one which deals with certified copies of records. If you added a provision that would give the minister the ability to make regulations to provide for alternative methods of certification of municipal records, it would allow the staffs of the two ministries to work out a solution that would work for everybody. We are supported by both Teranet and the land registrar in Peel on making this point. It is a technical thing, but if we are doing a new Municipal Act, it is something that I think should be cleaned up.

That is the end of my formal remarks. If anybody has any questions, I'd be pleased to address them.

The Chair: Thank you very much. That affords us about two minutes per caucus. We'll commence with the official opposition.

Mr Colle: The city of Brampton has in its plans to create a downtown development corporation?

Mr Connor: Yes.

Mr Colle: What amendment would allow you to undertake that in a timely and efficient fashion? What isn't in here and what change would be required to make that happen?

Mr Connor: We would want a provision that would allow us to incorporate a part III corporation under the Corporations Act, with the objects of both a business improvement area and a community development corporation. We would need a provision that would specifically allow for the use of the BIA levy for this expanded list of objects, instead of the restricted one in the present section of the act. That's what we would need, in a nutshell.

Mr Colle: In other words, not just the traditional BIA allotting levies to the existing property owners, but you go beyond that for source of levies?

Mr Connor: No, the levies would be the same. The purposes for which you would use the levies would be expanded.

Mr Colle: Beyond just the streets paved and—

Mr Connor: Just for downtown promotions, street-scape and that type of thing.

Mr Prue: My question relates to your first recommendation, that is, that the minister only has the regulations and that there not be a memorandum of understanding. This is the second time today we've heard this. Every other deputant wants a memorandum of understanding. I have to tell you, I'm a little nervous of letting the minister do anything all by himself or herself. They could just amalgamate the city of Brampton. How would you feel about that?

Mr Kells: Who would you amalgamate with?

Mr Prue: With Mississauga.

Mr Connor: We haven't taken a formal position on that one.

Mr Prue: But you did.

Mr Connor: I'm not saying don't have a memorandum of understanding; I'm saying that in addition to the memorandum of understanding there be something put in that would require the minister to consult with the municipal committee before making regulations.

I can give you an example where I think that sort of consultation would help. This was a regulation that was passed under the Planning Act, but it'll serve the purpose. You will recall that back in 1998 there were changes to the Assessment Act so that the tenants no longer showed on the assessment rolls; it was just the property owners. This had a spillover effect in terms of notice provisions for certain applications under the Planning Act, like committee of adjustment, consent applications—to remove the option of giving notice of applications to “assessed persons,” because the tenants wouldn't get the notice then; they were no longer showing on the roll. The

required regulations were filed September 14, 1998. Under the Regulations Act, they're effective the day they were filed unless there's something in the regulations to the contrary, and there was nothing.

The ministry sent letters to municipal clerks and planning directors on September 24, 1998, and the regulations were gazetted on October 3. Basically, the rules had changed at least 10 days before anybody got notice of it. There were meetings that were going on. We had to adjourn a number of applications and recirculate using a different notice provision.

Had there been a formal method of consultation with the municipal sector before this regulation came in, we could have avoided this problem. We'd have had at least a heads-up that something was coming down or we could have requested that an effective date be put in the regulation so it would take effect a week after it was gazetted or something, so we'd at least have an opportunity to gear up instead of being put in a hole where there was this gap. I think that's the sort of consultation that would be helpful to the municipal sector and also to the public.

Mr Raminder Gill (Bramalea-Gore-Malton-Springdale): My colleague the parliamentary assistant has some questions, but I want to compliment you in the sense that this is a very thorough analysis you've done and some of the recommendations you've brought make a lot of sense. Perhaps when the ministry is looking at these things, it will try to incorporate them.

One of the things we recently did, as I'm sure you're aware—the chair, Emil Kolb, was there too—was on the GO funding. I know we didn't discuss that. The absent party is the federal government on many of these issues. I think that's something we should always bring up and talk to them about it. But I want to thank you for a great submission.

Mr Kells: Very briefly on your recommendation 3, you say the section “does not express the policy intent of the section.” I just want to tell you that our intent is the status quo, and I suspect you know that. If our wording isn't sufficient, we will take a look at it, but the intent is to keep the status quo.

Mr Connor: And I think that's the intent of my suggested change as well. I hope there's a middle ground we can work to to achieve that.

Mr Kells: OK. We're on the same wavelength.

The Chair: Thank you very much for coming before us here this afternoon. We appreciate your comments.

ONTARIO TRUCKING ASSOCIATION

The Chair: Our next presentation will be from the Ontario Trucking Association. Good afternoon. Welcome to the committee.

Mr Doug Switzer: Thank you very much for giving me an opportunity. I see you're running a little behind time, so I'll try and keep my remarks short.

I'm here to speak today to part IV, the licensing and registration aspects of the act, which is of concern to our

industry. Some may know the history that in the late 1990s certain municipalities sought to impose licensing regimes on trucking companies in order to generate revenue for themselves. At that time, the minister of the day put through a regulation that exempted the trucking industry from that part of the act, and our primary concern is to maintain that exemption.

I would like to thank the ministry for involving us in the discussions around this particular part of the act. We did have an opportunity to meet with the ministry and a number of other people concerned about licensing and registration. Two things that came out of that discussion were that there was a consensus that licensing should not be used to generate additional revenues for municipalities and that licensing regimes should not be put in place that duplicate other government licensing regimes, such as provincial or federal regulations.

On the revenue side, we're very pleased to see that subsections 150(2) and 150(9) fairly effectively deal with the issue of revenue generation. Subsection 150(2) states that licences can only be brought in where they are to protect the health and safety of citizens, for nuisance control or for consumer protection, and subsection 150(9) goes on further to explicitly state that the fees charged for licences can only be used to cover the cost of administration enforcement. We're fairly pleased that those sections, we think, address our concerns on revenue generation.

On duplication, clearly the trucking industry is subject to a great deal of regulation by the provincial government. We feel very strongly that any sort of municipal licensing scheme would only duplicate what the province already does.

We do have one concern about it, and that is that we have been assured by the minister that as per section 160, which gives him the power to pass regulations exempting businesses or classes of business, that exemption will continue. We would have preferred to see that exemption in the act. Subsection 150(7) does explicitly exempt a number of industries. Manufacturing, industrial, wholesale, and natural resources exploitation are all explicitly exempt under the act, and I think we would have been more comfortable with it being included in the act rather than leaving it to regulation. As I said, we do have the minister's assurance that that would continue, but that is something we would like you to consider.

1600

The Chair: Thank you very much for your comments. That leaves us lots of time for questions, in fact just over five minutes per caucus for questions. This time the rotation will start with Mr Prue.

Mr Prue: I don't know if I can ask five minutes worth of questions. I think your key point—

The Chair: It's not an obligation.

Mr Prue: No, no, I know that, and you know that I do not always take my time. I'm unique around here.

It seems the only thing you're worried about is the exemption. You want it enshrined, and that's your whole position. Is there any occasion where the trucking in-

dustry would fall completely under a municipal jurisdiction? I'm thinking about some large place like Toronto, where you may have inner-city trucking that really doesn't get too far out of the 416, where it should be regulated by the city; or maybe someplace in northern Ontario, and I'm thinking of Howard Hampton's riding, where it's not likely that the truck would go too far afield in an area the size of France. I'm just trying to think of those things. But I do agree; I mean, I understand you can't license them all along the whole 401 going to Windsor.

Mr Switzer: I can't think of any companies off the top of my head, to be honest, that only operate in one municipality. In fact, most companies operate even outside of our province, but I think your example—a northern Ontario log-hauling company may operate solely within one municipality. They tend to be unique, though, and a lot of the roads they're using are logging roads that they themselves put in. It's a more unique relationship there.

I should point out that when we're talking about licensing, we're talking about an operating licence for trucks. This would not impact on the special permits that municipalities require for oversize or overweight vehicles. That would not be affected by this and certainly we are not seeking that kind of exemption. Municipalities would still have the right to impose permit conditions for unusual configurations.

Mr Kells: You got your position on one piece of paper, and I'm pleased about that. Again, as with the previous delegation, we have no argument with your position. I speak with the minister, I don't necessarily speak for him, but as he's given you the assurance that it would be in the reg, I feel comfortable anyway that that will be forthcoming. Whether we go about amending our act to cover it—I'm not sure that's necessary. It might be a little easier when you're mailing stuff out to your members to say it's going to be in the act. The reg, as you know, tells you how to implement the act, so we're talking about an implementation problem, if there is a problem, as opposed to legislation. With all due respect, I think you're covered very well, but I can understand why you'd come down here and put it on the record. It's now on the record that the minister assured you and it's my understanding from the ministry that he did too. So there, it's on the record, and I think you're pretty safe.

Mr Switzer: We do feel comfortable with the minister's assurance. I have no reason to doubt his goodwill in this matter. I think it's only because there are other industries that are already covered under the act. If there were no other industries already under subsection 150(7), then we would feel that everyone was under the regulations, but since manufacturing and industrial activities are already covered, we were hoping to be included in that same area. But we appreciate you—

Mr Kells: If I may, Mr Chair, that's a good point and I'm glad you brought it up. We'll take that one under advisement. Maybe it's easier to just add one more industry to the act.

The Chair: Mr McMeekin.

Mr Ted McMeekin (Ancaster-Dundas-Flamborough-Aldershot): Mr Chairman, it's written in the good book that the 11th beatitude is, "Blessed is the man who, having nothing to say, refrains from giving worthy evidence of the fact," so I'll just say keep on trucking.

The Chair: Thank you very much for coming before us with your comments today.

ONTARIO HOME BUILDERS' ASSOCIATION

The Chair: The next presentation will be from the Ontario Home Builders' Association. Good afternoon. Welcome to the committee.

Mr Murray Koebel: Good afternoon, Mr Chair. Good afternoon, committee. My name is Murray Koebel, and I'm here today on behalf of the Ontario Home Builders' Association. I'm here, actually, on behalf of Mr Albert Shepers, who's our current president, who was unable to make it today. But I also sit on the board of directors of the warranty program, I'm a past president of the association, I'm the chair of its economic review committee, and I'm a past president of the Greater Toronto Home Builders' Association. I also—this is my day, I guess—sit on the board of directors of the Ontario New Home Warranty Program. Through all of the above experience and my 25 years of home building experience in many municipalities across Ontario, I have acquired extensive first-hand experience regarding many issues affecting the housing industry and with this act.

Having said all of this, I would now like to state for the record that the Ontario Home Builders' Association supports the intent of Bill 111 and is hopeful that this important piece of legislation can move forward.

The OHBA represents approximately 3,500 member companies and is the voice of the residential construction industry in Ontario. Our members live in and have helped build homes in most, if not all, of the municipalities in Ontario. The residential construction industry poses a unique situation for builders, as they will typically conduct their business in numerous municipalities over the course of a year and in many instances at the same time. Therefore we are keenly interested in the potential impact that a new Municipal Act will have on building companies.

The OHBA was involved in the very lengthy consultation process leading up to this legislation, and we're very encouraged to see that we've been able to progress to this point. We feel the ministry has done a commendable job of balancing the many issues facing a wide range of stakeholders into what we feel is a very fair and reasonable piece of legislation.

The introduction of this act is very timely in that it coincides with many of the other principles the provincial government had set out for the Building and Regulatory Reform Advisory Group, otherwise known as BRRAG, and also the provincial Smart Growth initiative. Those stated goals were to reduce red tape, streamline govern-

ment processes and ensure that any fees and charges are necessary and reflect the cost of delivering the service. The home building industry is one of the most highly regulated and taxed industries within Ontario, and as such we encourage the government to continue to work with industry to find ways of eliminating unnecessary regulatory burdens and punitive taxes from the backs of builders and ultimately from consumers.

While many of the details will have to be worked out through the regulations, which I think I just heard Mr Kells referring to, I would like to take this opportunity to highlight a few areas that must be addressed within the regulations to ensure that the intent of this bill is met.

We understand the purpose of municipal licensing as being to protect the public with respect to health and safety, consumer protection and in some cases nuisance control. Under the current system, municipalities are not in a position to enforce these requirements on a lot of builders, but a separate body has been given the responsibility and authority to do just that. The Ontario New Home Warranty Program requires that every builder working in the province of Ontario must, by law, register with the program and enrol each new home built. This governmentally regulated body has, for the past 25 years, been responsible for protecting consumer interests and guaranteeing that builders meet prescribed standards. The ONHWP has been successful in fulfilling its mandate and is a model of success for other provinces and countries to follow.

1610

The draft act states that self-regulating industries can be exempted from municipal licensing, and the ONHWP fits every criteria for this regulating body. Allowing municipalities to license builders is nothing more than an added tax to an already heavily taxed industry and would provide no real service to consumers. Affordability of housing is a significant issue facing the province and we must look at every possible angle for savings and streamlining possibilities to reduce costs, and the elimination of municipal licensing would be a step in this direction for sure.

That's all we really have in terms of comment on this legislation. We probably had a bit more time, so we're going to end up way ahead of schedule, I guess. We'd like to thank you for this opportunity to speak before you this afternoon and would welcome any questions you may have.

The Chair: Thank you very much. You have in fact afforded us lots of time for questions. Again, we have about four minutes per caucus. We'll start the rotation with the government members.

Ms Marilyn Mushinski (Scarborough Centre): Thank you for your presentation, Mr Koebel. It was very well articulated. I just have one question. The Ontario New Home Warranty Program: unfortunately, I don't have the written handout, so I'm not sure which section it would apply to in the act, but are you saying you would like government-regulated bodies to be enshrined in the act or by regulation?

Mr Koebel: The MCBS—corporate and business services—already oversees that act, which is the Ontario New Home Warranties Plan Act. That act in itself legislates that all builders of new homes must be registered there and enrolled there annually.

Ms Mushinski: Right. So those bodies that are regulated under that act you don't want to be regulated under this act. Is that what you're saying?

Mr Koebel: That's correct. There's no point in duplication, and it has been in place for approximately 25 years.

Ms Mushinski: Yes, I know it very well. I was on a municipal council for 12 years. Thank you.

Mr Kells: Just as a follow-up, we will be consulting with you on the regs as to whether that needs to be in a reg or doesn't need to be in a reg, so you'll have plenty of opportunity to touch on us.

Mr Koebel: That's great. I appreciate that.

Mr McMeekin: As one who hasn't been part of your consultation and hasn't seen your brief—I haven't seen any of the briefs, by the way. We just note for the record, Mr Chairman, that it would be handy to see any copies of material that has been produced through the consultation. But just moving forward with that, are there things you recommended in your consultation with the government that were not incorporated in this act? As the second part of that, are there things you don't see in the act that you'd like to see?

Mr Koebel: We really came here today to support the act as it has been tabled presently. We can get you copies of the discourse pieces that have been back and forth. I don't know if my colleagues have any here today, but we can certainly get them to you.

I think we're satisfied with the bulk of what else we see in there. The only item that I heard a little bit of talk about last Friday was that there was something I'm not quite sure made it into the act; I think it was for municipalities to be able to deal with property tax issues in the case of defaults and relative also to brownfields. I know municipalities have often been very reluctant to take over. Some properties might in fact have a negative value, and of course there's the tax bill sitting out there unpaid and the municipality has to decide what to do about it. I think forgiveness of the tax was one of the issues. I was at a conference put on by the Ministry of Housing last Friday for a few moments. I heard Minister Chris Hodgson speak there and he was alluding to this thing. My understanding is that it's not presently in this version, and I don't know whether it will come as an amendment or not.

That would be our only thing. We were in favour generally of allowing municipalities whatever assistance necessary to deal with seriously delinquent properties. I'm not talking about someone who goes into arrears by a month, but when something's gone the full term of three years and the proponent or the owner is not in communication with the municipality and has no intention of paying the taxes, then we think it's fair and reasonable that municipalities should be able to forgive their own

tax, which I think the law, if I'm not mistaken, presently prohibits them from doing. For the most part, I think this occurrence happens on probably fairly seriously disadvantaged properties, because I can't imagine why anyone else would walk away from a property if there was still some value there. They could sell them, or there's a variety of things to do. So these would generally be problematic properties, and to help municipalities to deal with those would be a great advantage for municipalities.

Mr McMeekin: You may or may not be aware, sir, that there's some separate legislation, brownfields legislation, to try to cover off some of those points.

This is a very important industry and one that I personally have all kinds of time for, so I appreciate your coming out. I'm in regular contact with the Hamilton Halton Home Builders Association and I'm very supportive of their work. I expect you'll be back to talk about the proposed building code when we get to hearings on that as well, and I'll look forward to seeing you again then.

Mr Koebel: Great. Thank you very much.

Mr Prue: Again, we were not party to—I think there were 300-some position papers that were forwarded to the government, one of which came from your industry. I'm a little curious and maybe you can tell me whether this was your position.

There is a section in the act which says that municipalities can have only 10 spheres of influence. In the old act there were 13 spheres. The three that have been removed all seem to me to fit very neatly into construction. I'm just wondering whether you wanted them removed, and if you did, why? The three that have been removed are the health, safety, protection and well-being of people and the protection of property, which I guess is adjacent property to construction; the natural environment, and I'm thinking here in terms of the Oak Ridges moraine and other places about which there's some controversy with the construction industry; and the last and probably most important that's been removed is the ability of municipalities to regulate and license and make bylaws for nuisance noise, odour, vibration, illumination and dust, all of which result as a result of construction. Has this been removed because of your position?

Mr Koebel: I can make some comment on the first two. The last one about noise, nuisance and dust, I'm really not quite sure. There are lots of people besides our industry that help produce those things, but I can address the other two.

The health and safety elements: I'm trying to remember what exactly we had in our submission, but health and safety with respect to construction is one of the main tenets of the building code, which is covered by other legislation. I'm not quite sure whether its not being in this act would be part of just disentangling things or whether it was felt by us—and we may have been silent on some of these things too. But in terms of our industry, health and safety is in the preamble to the building code and is stated as one of the principal objectives of that code, so that's covered by that legislation.

The natural environment: once again, I suspect we were relatively silent on that, but I think we would take the view that the natural environment, which is of course of great importance to all of us, is covered by other legislation and is covered by the Ministry of the Environment in their legislation and in fact is a large feature of what every development has to go through in terms of getting environmental clearances, the potential for environmental impact statements on sites that would affect the environment and that sort of thing.

I suspect the first two, the health and safety issues you mentioned and the natural environment issues, are probably covered by other legislation and I'm not sure they belong in the Municipal Act per se relative to new home industry. I think the more you start to target the new home industry within the Municipal Act—there are so many other pieces of legislation that apply and we have so much overlapping legislation that affects our industry and our business.

That's the only thing I could volunteer as to why those would be there. The nuisance things, I really don't know. I think municipalities should be allowed to deal with some of those things, but perhaps there's other legislation. I would be far less familiar with those two.

1620

Mr Prue: I just want to be clear, because we have not seen what you submitted to the government. I just want to know, to the best of your knowledge, were these included in your earlier submissions to the government? If they weren't, then we have to assume it came from one of the other 300-plus deputants.

Mr Koebel: I don't believe we made any specific comments on those, but those would be our industry's positions and my comments on those three items.

The Chair: Thank you very much for coming before us here today. We appreciate your comments.

Mr Koebel: Thank you very much for having us here.

ONTARIO COMMUNITY NEWSPAPERS ASSOCIATION

The Chair: Our next presentation will be from the Ontario Community Newspapers Association. Good afternoon. Welcome to the committee.

Mr Don Lamont: Thank you for the opportunity to participate in the hearings today. The Ontario Community Newspaper Association supports the government's commitment to update the Municipal Act and we offer recommendations to make the legislation better, both for the public and for newspapers.

Ontario Community Newspaper Association comprises 262 community papers. With a circulation of 3.6 million and approximately 67% of the adult community reading their newspapers, that translates to 5 million readers weekly. Ontarians rely on their community newspaper as their primary source of local news and information. We see local government in action on a regular basis perhaps more than any other group. Our knowledge is forged from experience.

In theory, the new Municipal Act enables the one-time child of the province to mature and to become an adult, and municipalities are then given the flexibility and latitude in certain areas to conduct their affairs as they see fit without the province, perhaps, serving as a baby-sitter.

The proposed act sets up some new dynamics between the public and the municipality, particularly with respect to notice and advertising. To attain open and accessible government, the new act leaves it to local citizens to hold their government accountable for its actions at the ballot box or through the courts. For the new model to work in practice, we feel that the powers of the municipality and the powers of the public must be evenly balanced. In essence, it's like the scales of justice. We need an equal balance in this relationship.

As we go through the act, I'd like you to keep score and to see how the new act tips the balance in one way or other in favour of the municipality or the citizen toward achieving accountable and open government.

Our experience shows us that to ensure accountability, both the public and the media will need to have the Municipal Act strengthened in three areas, and that would afford the public tools to carry out their responsibility to hold government accountable. Those areas are in camera meetings, public notice, and advertising.

We are pleased that the government didn't liberalize the provisions for the in camera meetings, as proposed in the 1998 consultation, and stayed with essentially the same provisions in section 239 of the new act. But now community newspapers already see too much abuse of in camera meetings with no consequence. The new act gives municipal councils insufficient direction about what to communicate to the public about the nature of the topic to be covered in camera, and that is a disadvantage to the public. In the absence of direction from the government, the courts would have to set precedents about how to clearly specify topics to be discussed. The balance here is tipped toward the municipality. Score one for the municipalities.

Through the new municipal act itself or by promoting best practices, the provincial government should clearly mandate municipal councils to specify as much as possible about the topic to be discussed in camera. For example, when discussing the acquisition of land, we propose that you go to the next level and say, "We're discussing the acquisition of land for a new municipal building." This approach, we believe, should be followed in three areas: with the notice of meeting, minutes of meeting, and statements made in the open portion of the meeting. This extra information will enable the public to satisfy itself about the appropriateness of council's decision to hold an in camera meeting behind closed doors.

We believe the onus must shift to greater specificity about what's to be discussed in camera; otherwise, citizens are hamstrung because while councils must vote in public, they can do so without ever specifying what the matter is about. The public also might eventually find out

about the matter that was discussed in camera, but someone must perhaps file a freedom of information request to obtain that information.

The new act adds the disposition of land to the list of topics that can be covered in camera. We believe this provision will work to keep the names of potential purchasers, including land developers, behind closed doors and out of public view, and that's wrong. While the price of land should be kept confidential when negotiations are underway, we believe the Municipal Act should enable the public to know who the bidders are. Otherwise, score two for the municipality.

Our experience shows that there will continue to be violations of the in camera provisions of the act. There needs to be ways to hold governments accountable between elections. We recommend that a mechanism be established to hear complaints from citizens concerned about in camera meetings, perhaps by broadening the powers of the office of the privacy commission or establishing some other body.

This recommendation would give citizens recourse without having to incur the expense of going to court. The act of sanctioning a council would serve as a deterrent by publicly affirming the transgression, that something indeed had taken place that wasn't appropriate, and would clearly send a message.

We recommend that the decision of any council to hold meetings in camera should be subject to review by a court under the statutory power of decision provisions of the Judicial Review Procedure Act. And we further recommend that all out-of-pocket expenses resulting from a successful action become the responsibility of the municipality.

This recommendation clearly carries greater impact and places the onus on council with respect to this balance to think twice before conducting business in private. This recommendation would codify the process of seeking recourse into decisions made; plus, all business done as a result of council's decision would be considered null and void.

These provisions—our recommendations—speak to the heart of open government and democracy. We believe that it is so important that citizens must have prescribed recourse.

Bill 111 references two ways to communicate with the public, namely, through public notice about pending decisions and advertising about government activities. In regard to notice, the new act sets no standards or ground rules about how to inform the public about decisions that will affect their lives. Unless specified otherwise under section 251, they can do so in a form and in a manner and at a time that the council itself considers adequate to give reasonable notice under that provision. Score three for the municipality.

With respect to advertising, the current act gives local governments direction about informing the public about the municipality's general activities. Except in certain instances, Bill 111 does not define how to publish general information about municipal government to keep citizens informed. In Section 299, the minister decides

when and how municipalities inform constituents of their day-to-day activities. In this balance, score four for the municipality.

The new act should specify that municipalities themselves should not be the exclusive carriers of news and information about municipal activities. Municipal governments could set up their own media, compete with others and begin to filter messages to the public. Requiring municipalities to utilize independent, community-based delivery vehicles would reduce any opportunities for abuse.

We recommend that the provisions for notice and advertising in the current act be carried forward to the new act.

The current act prescribes how notice and information must be given simply because without such standards—witness in camera provisions—the authors understood when they wrote the old act that municipalities would not always provide adequate notice. The new act assumes that the public will hold secretive or uncommunicative councils accountable during an election, but that may be too late to satisfy citizens who were wronged in the first place by inadequate notice or lack of information.

1630

Again, the new act assumes that municipal governments will be held accountable by informed and engaged citizens, but gives the media, and hence the public, little assurance or few tools to ensure that vital information is indeed available to enable it to do its job. Adequate and reasonable notice is left up to council itself to decide—not citizens, not the province—and there are no standards and no expectations about what is adequate or reasonable notice.

Instead, the onus is placed on citizens to secure the expertise and to go out of their way to gain necessary information, and this seriously handicaps that delicate balance. I think it's too much to expect. That's it: set, game, match to the municipality.

With the provincial government removed from the equation now and without the changes we propose to the new act, accessible, open, accountable and responsible municipal government may be even more elusive than ever.

The Chair: Thank you very much. That gives us exactly three minutes per caucus. We'll start this time with the official opposition.

Mr McMeekin: Wow. Mr Lamont, thanks very much for coming out and sharing those. I would just say by way of overview that as one who has been in the chair as mayor of a great municipality—one you know quite well—I've seen it cut both ways, where confidentiality provisions weren't covered off well enough. I've seen the price of land for major acquisitions triple because of information that shouldn't have been out there. I've also seen situations where I frankly think councils have gone in camera when they quite properly, on reflection, should not have.

I am particularly appreciative of your references to clarifying the standards. I don't know that you made any

specific reference to the lack of penalties with respect to abridgement of whatever standards are in place, but let me begin with that. Is that a concern your association has?

Mr Lamont: No, basically our concern with some recourse applies to the in camera provisions. That's essentially where our concern lies.

Mr McMeekin: I think the difficulty we have, Mr Chairman, notwithstanding my gut concurrence with much of what Mr Lamont has said about the importance of openness, transparency and what have you, is that the act is fundamentally predicated, as I understand it, on the assumption that we want to give some life and some real meaning to the idea of trust and respect for municipalities and do not want to be overly prescriptive. So that's something we're going to have to struggle with.

Don, we'll have to take your comments to heart, particularly those around standards, and give some more than passing reflection on those to see how we can toughen up those provisions.

Mr Prue: Just one question, which relates to the newspaper's right to know what is going on. As a municipal councillor in East York, I have to tell you, I don't ever remember the newspaper getting hold of documents, but in Toronto I could guarantee you to read the entire document the next day in the newspaper every day, whatever was confidential. It seems to me that the newspapers are very adept at getting this information, apart from what you're saying. It may not be true in a small municipality, but in a large place like Toronto, it seems they can get it with ease. I'm curious as to why, in a place like that, you think it needs to be toughened even more, when it is so readily leakable.

Mr Lamont: What we're saying basically is that it helps the public to make its decisions about the appropriateness of in camera meetings if there is a little more prescription, a little more information given about what the topic is, but not revealing any of the components that need to be confidential.

I think when it's clear what the topic is being discussed, at some point or another it may be possible for a newspaper to secure information about what that pertains to. So what we're saying here is that in order to keep the flow of information open, providing more detail about what the subject matter is enables us to do our job. That's basically the point we're making. I realize that in certain instances the information isn't given to a municipality, but I think here we're talking about the in camera provisions that are written into the legislation.

Mr Prue: So all you're basically asking for is that it remain more or less the way it is now but that the head of council, or whoever is sitting in the chair, has to articulate clearly that this involves a land sale for municipal purpose, or that this involves a personnel matter, without naming who it is, or this involves something which is litigious and is in a court of law, as opposed to "This is just a private matter." That's all you're looking for?

Mr Lamont: I think the act specifies the topics under which—

Mr Prue: Yes, it specifies that now. That's what I'm trying to find out, what—

Ms Mushinski: That's what he needs.

Mr Prue: Yes, I know. That's why I'm trying to find out what more he needs.

Mr Lamont: What more we need would be to say, if we're talking about a matter of acquisition of land, for example, specify that it may be a matter relating to a new municipal building. It's going another step to provide information. It doesn't prejudice what the price would be or who the bidders would be. It's talking a little bit more about what the subject matter is. Our suggestion here is that that could be done by way of wording in the act or best practice that the ministry itself would work with municipalities in terms of helping them to articulate that. If it does go the best practice route, there has to be some commitment that indeed that course is being followed and it's formal.

Mr Kells: Mr Lamont, this morning we had a number of municipalities before us. One of the things that came through loudly and clearly was that they didn't want this act to become too prescriptive. They felt that good municipal government is obvious, that they've done a good job and they really—Mayor McCallion in particular said, "We really have done a good job and we really don't need the senior level of government telling us how to operate." So with all due respect to your presentation, you certainly are suggesting here that there be more micro-management on how they do business, particularly, as you say, in the in camera area. I know you're going to answer in a few minutes, so just let me go down the list.

On the disposition of land, there are obvious reasons for us adding the sale of real estate. It's not necessary for the public to know who the bidders are, but I think it's pretty important that the public knows who the bidders were, because obviously the price and those things become public knowledge after the fact.

To get to the violations and the in camera provisions, actually, the job of the fourth estate is well known. It's what you do and it's why people read the newspapers, because if you do your job well and deliver the information, then the public gets the information. It would seem to me that in most instances the good reporters—and, as you know, there are good and bad, but by and large there's more good than bad by quite a large percentage—are protecting the public as we expect them to do, and they do it very well, particularly at municipalities. Without good weeklies, or good dailies, for that matter, the public wouldn't know what's going on.

Finally, to use your example of your own newspaper council, what interests me there is that by the time it has already been in the paper, the damage gets done before it's rectified. I'm not suggesting that in camera positions do that all the time, but here you are suggesting that this is a worry and that the public has to suffer through mistakes made that you people rectify with your press council, but always after the fact.

Finally, we have a very, we think, detailed part of the act on meetings and we think it covers it fairly well; it's section 239. Your worry us about the need for notice to be carried in the paper. It's our understanding that in most cases municipalities do do that. I'm wondering if you've found in your investigations over a period of time that that's not the case.

1640

Finally, we do have your previous presentation, where you brought this concern to our attention, and we thought we'd listened to you. The existing rules permit municipalities to discuss in private the acquisition of real estate. All we're really adding is allowing them to discuss the sale of real estate in private as well. We've listened. We're not sure exactly what your concerns are, even though I've read them.

Mr Lamont: Let me proceed to answer. There are a few questions in there. When you heard from municipalities, you understood how they see this all working out, and that's from their perspective. What we were talking about is there needs to be a dynamic balance between the way media or the public see things and the way municipalities see things, because there may be a different perspective that each brings to the equation.

What we're saying from our view is that to make the system work, that is, that the public is now going to hold councils responsible, not by referencing some act or some other standard, you have to empower the public to enable them to hold councils accountable by giving them information. If you put too much onus on how the public has to go about getting that information, it won't allow that dynamic tension to take place and to have the proper balance to hold councils accountable. That's the system that the new act prescribes. We're saying, give us the tools. We'll play that role of helping keep council accountable through the public, but we need the tools.

The second point would be that the press council, as a tool, in terms of an entity that would make a ruling or serve as an arbiter—that does happen after the fact. That's why we offer the second provision. It's possible to seek recourse through the courts now, but by making a provision for council to be subject to review by statutory power of decision, that means it becomes possible to unravel the decision that might have been improperly made in camera. Retroactively, it gives the opportunity for recourse to unravel that decision that took place.

The third point would be—

The Chair: I'm going to have to ask you to make this your final point because we're over time.

Mr Lamont: Just to one of the questions that was raised, Mr Chair, the current act does prescribe how councils are to give notice. It says how it's to happen. That methodology used there may have something to do with the fact that notice oftentimes is adequate and how it is given is adequate. If you take away the prescription about how, it leaves it too much open as to what course council might take to inform citizens about what's going on, and that methodology may not be satisfactory.

Thank you, Mr Chair.

The Chair: Thank you very much for your comments. We appreciate it.

TOWN OF CALEDON

The Chair: Our next presentation will be from the town of Caledon. Good afternoon. Welcome to the committee.

Ms Carol Seglins: Good afternoon, everyone. I'm Carol Seglins, the mayor of the town of Caledon. I have provided some documentation for my report. I'll actually keep it very succinct, so I don't think you'll have to worry about deadlines.

First of all, I want to open by saying that I agree with the AMO position and much of what you've heard already earlier today. I'm speaking to another aspect of the Municipal Act. I'll go over it quickly.

Despite the undoubted progress made by the new Municipal Act, the council of the town of Caledon is disappointed that the proposed act fails to give a broad sphere of jurisdiction to municipalities in the fields of public health, natural environment, and public nuisance. All of these are of significant interest to the people of the town of Caledon, and we are well recognized as the municipality that has had considerable interest in environmental protection. So I don't think this is anything new to anyone.

As far as the points: insofar as municipal council is the level of government closest to the public, the public expects municipal councils to be able to legislate broadly in the fields of public concern and to set community standards.

In growing areas in or near the greater Toronto area, the public is concerned about the protection of the natural environment and the preservation of landscape features, and about the effective control of various forms of public nuisance, in order to preserve the quality of community life. I think the Oak Ridges moraine legislation that's just come forward and Caledon's participation in that certainly supports that point.

In such areas, provincial standards of environmental protection and public health may be inadequate to respond to community concerns. I think we've seen that in the smoking bylaw. We're pleased to at least see smoking able to be controlled by municipalities in the new act.

Also, however, Caledon has adopted a woodlands policy bylaw, which applies to woodlands in excess of a half hectare. This standard reflects the public concern about the disappearance of woodlands and the importance of forested parcels in our headwaters area. The new Municipal Act would authorize the town to apply woodland protection only to areas in excess of one hectare, rather than the half hectare, which is important to Caledon. We would like to have the stronger protection.

In response to public concern, Caledon council has been considering regulations and management of the cosmetic use of pesticides. By specifying that council's authority in these three spheres is to be interpreted

narrowly, the new act would cast doubt on Caledon's jurisdiction to respond to this concern.

It's interesting to note that in the Oak Ridges Moraine Protection Act, it is expected that municipalities in the Oak Ridges Moraine Protection Act will be expected to control pesticide use in that area, and yet in the Municipal Act we're not given the jurisdiction. I think it has been recognized in the recent environmental policies of the Oak Ridges Moraine Protection Act, and I would ask that you would address it again.

The 1998 draft of the legislation proposed to give municipalities a broad sphere of jurisdiction in the areas of natural environment, public health, and public nuisance. This would have given municipalities clear authority to enact legislation which augments any provincial regulations.

We regret that the proposed legislation, despite the advantages of the new act, fails to live up to the promise of the 1998 legislation in these three areas.

Those are the general points I wanted to make. I've included other documentation that has been directed both to Minister Hodgson and Minister Witmer. We expect that when we have stakeholder consultation and develop stronger legislation, we would ask for the ability to legislate in that manner. I've also included for you the report that's come from our council, and it reiterates these points.

I would hope, when we have seen what has happened with smoking, that we won't be looking at another 50-year period before we can address new health and emerging problems that may impact both our public health and our environment. We look at air emissions and watershed protection. We would like the ability to manage those, not trying to not have regard for provincial and federal legislation but in fact to be able to work with provincial and federal legislation.

Although the act does indicate that there will be areas where we can be more restrictive, it's not clear that we would be able to do it in these areas. It would then lead to costly either court challenges or OMB challenges, and I don't think that's useful for either the municipality or the people who are impacted.

Those are my points. I'm happy to answer any of your questions.

The Chair: Thank you very much. That leaves us just over three minutes per caucus for questions. This time the rotation will start with Mr Prue.

Mr Prue: This was a matter that I've asked a couple of deputants about: the removal from this particular section of health and safety protection, natural environment, and nuisance with noise, odour, vibration, illumination and dust. You have spoken briefly about the effect this would have on the use of pesticides. It's my understanding—perhaps the members opposite could tell me if I'm wrong—that the Supreme Court case in Hudson would not have been possible with the legislation we have here before us today. Ministry staff has indicated that section 130 has been drafted to take that sort of right away from municipalities.

Ms Seglins: That's my understanding as well.

1650

Mr Prue: My question to you would be, is it your proposal that we put back into the act what was in the 1998 draft, which included the sphere called health/safety protection and well-being of people and the protection of property? It was written in a way which would have allowed decisions like Hudson.

Ms Seglins: That's our request specifically.

Mr Prue: That's it specifically? OK, because I didn't see that. The way you wrote it, it's not down there in that same way, but that's precisely what you're looking for?

Ms Seglins: That is correct.

Mr Prue: The woodlot I think is pretty straightforward. A half-hectare, just for old guys like me, is more than an acre, is it not?

Ms Seglins: Just over.

Mr Prue: Just over an acre. That's what yours already protects, and this would be a lot of at least two or two and a half acres in size that the act—

Ms Seglins: That's correct.

Mr Prue: That seems reasonable as well. Thank you.

Mr Kells: Let me talk, if I may, about your concern that's right up in front in your summary, particularly in the area of public nuisances. We had this question too down in Hamilton. I don't know whether maybe it's missed in the act—you know, it's a long act and it jumps around.

Ms Seglins: All of us find it that way.

Mr Kells: OK. Under public nuisances in section 128, it says, "A local municipality may prohibit and regulate with respect to public nuisances, including matters that, in the opinion of council, are or could become or cause public nuisances." This is the second clause: "The opinion of council under this section, if arrived at in good faith, is not subject to review by any court." Then under section 129, "Noise, odour, dust, etc." "A local municipality may prohibit and regulate with respect to noise, vibration, odour, dust and outdoor illumination, including indoor lighting that can be seen outdoors." We think that's fairly prescriptive.

Ms Seglins: It's very prescriptive. The concern is that there are some issues—for instance, in some gravel applications we usually have a stakeholder group of all the residents, as well as the producer, the municipality and the conservation authorities, working together. They will work through an agreement about what's reasonable and they all go to the Ontario Municipal Board with that agreement of all parties. The Ontario Municipal Board will say, "But the legislation says," and would only take out the absolute prescribed issues, not the issues that the entire group had come to conclude were important. That's why we're concerned that it's so prescriptive in these particular areas of jurisdiction.

Mr Kells: The question that would come to me from my own question is "not subject to review by any court." I guess the OMB falls somewhere—I'd have to inquire about that with our legal staff. I would have thought that you had it covered; between good faith and what you

describe as what you feel is a public nuisance, that would certainly cover the issue. They can't lug you off to court as long as you do it in good faith. The question which I'll try and get back to you on and back to myself on, of course, is whether the OMB falls under that description of "any court." It well might.

In the pesticides concern, we thought we'd try to come to grips with that by adding "or by any other provincial statute," which means this is a change from the current act. The current act didn't say "any other statute" and therefore the clause is strengthened by its addition in combination with the Pesticides Act, which, as you know, the province already has. We thought the thing is covered under what we already have in there. With what's in the Municipal Act and with what's in the Pesticides Act, it should it cover it off.

Ms Seglins: There are many things in the provincial act where it's difficult to expect the level of enforcement that's required. In fact, let's just take the education package that needs to go out with the selling of these products. It's fine to have it all in very small print on the box about how people are supposed to use it, but when the untrained use the product, they don't necessarily follow the fine print on the box. We would like to have more authority to have education programs in the places where products are sold. We would like to be able to host seminars on people being able to train properly, because the province and the federal government do regulate the agricultural community for safe use of the products and they also educate the landscaping companies, but they don't legislate how the public uses the product. They don't have regulations in that area. We think that in a municipality that has this concern we should be able to do so. We're working from that perspective.

Mr McMeekin: Your Worship, I really appreciate your comments. I happen to have family who live in your municipality and they tell me you're a straight-up, no-nonsense mayor who serves the people well. Based on what I've heard today, I think that opinion is one based on my family's good judgment. So thank you for being here.

I share your concern specifically about pesticides. There's ample and rapidly growing evidence that the regulatory procedures are not adequate. In fact, Mr Chairman, I would suggest respectfully that this is one area where your government might legitimately challenge the feds saying they're not toeing the line here. I share that concern.

Let me ask directly this question, because I know it's been an issue in Hamilton. Mr Kells was just chatting about it. Were a municipality like the wonderful town of Caledon to take the decision to ban pesticides with respect to cosmetic use, would this act allow that to happen? I think that's your question, isn't it?

Ms Seglins: We actually aren't asking for a ban. We're asking for the ability to manage its use within the—

Mr McMeekin: To regulate, then, and manage the use. Let me push it a little further. Let's assume a worst-

case scenario. I'm not normally a worst-case scenario person, but having young kids who crawl around lawns and in a neighbourhood where there are lots of cats and dogs who walk through this stuff, assuming your municipality had some good reason to believe that an agent being applied to a lawn was cancer-causing and you wanted to move to regulate against that—

Ms Seglins: Or if the risk was enhanced.

Mr McMeekin: Right. You would like the authority to be able to regulate that.

Ms Seglins: We would like to be able to regulate it, yes. Like proper notice to the neighbours next door, things like that. I don't think that really infringes on anyone's privacy—

Mr McMeekin: Your Worship, let me then ask on your behalf, would this act allow Her Worship to put in place the protection she would want and desire for her community? I notice the parliamentary assistant has walked out. Could we undertake to have the staff review that?

Ms Mushinski: He walked out for a very good reason.

Mr McMeekin: I'm sure he did. I apologize for that. I'm sure he walked out for a very good reason. I'm particularly apologetic because he raised the concern very much in support of Her Worship's comments.

The Chair: It would be fair if you'd like to put on the record—

Mr McMeekin: It was a frustration that he may be the only one who can answer that.

The Chair: If you'd like to put on the record a request that the ministry report back to you and/or Her Worship and all the committee members, I think that's quite proper.

Mr McMeekin: I'm sure every committee member here shares this concern.

Ms Seglins: I would just say that we haven't banned tobacco products off the shelves, but we certainly do regulate where it can be publicly used.

Mr McMeekin: Absolutely.

The Chair: The clerk advises me that the next presenter is not here. Ms Mushinski was valiantly trying to get my attention, so if she has a question?

Ms Mushinski: Yes. It's just a question regarding the woodlot protection or the woodlands protection. It's my understanding that the reason it is one hectare-plus is because that's defined within the Forestry Act. Do you not feel that the municipality's ability to pass a tree bylaw would protect any woodland or woodlot under one hectare by the lower-tier municipality, if that was so required?

Ms Seglins: We do have that kind of bylaw already, and now it won't be enforceable because we won't have that jurisdiction. That's why we're concerned.

Ms Mushinski: That's your reading of the act?

Ms Seglins: Yes, that's our reading of the act. We can't be more prescriptive than what is allowed. Frankly, we've had this go through all of our public process and have not had any objections. When that is the case, it's a

concern to a municipality that they can't provide the level of protection that the people of the community support.

1700

Ms Mushinski: Are you part of a regional government?

Ms Seglins: We're a lower-tier municipality within the region of Peel.

Ms Mushinski: And you are a representative of the regional government as mayor?

Ms Seglins: I'm the mayor of the town of Caledon and I also sit on the region of Peel.

Ms Mushinski: You're saying that the woodland protection act that you presently have—

Ms Seglins: The bylaw we have.

Ms Mushinski:—the bylaw you presently have is for woodlands over half a hectare and that the upper-tier municipality would not be willing to adopt that?

Ms Seglins: My understanding, under the Municipal Act, is that the prescriptive authority of that part of the act would not allow us to have a more prescriptive bylaw.

Ms Mushinski: I'll check that with the minister.

The Chair: Thank you. If there are no further questions, we appear to have reached an impasse.

Mr McMeekin: With the indulgence, let me ask one quick rejoinder. The Oak Ridges moraine act has a provision that any municipality can pass any bylaw that would make it more restrictive environmentally than is currently the case. Would that be an option for Her Worship to exercise there, given a significant part of—

Ms Mushinski: I thought there was some flexibility.

Mr Kells: I don't know if the Oak Ridges moraine act would apply. I'm just picking up from what she said. You're not totally on the moraine anyway, are you?

Ms Seglins: About 40% of our municipality is on the moraine.

Mr Kells: Yes, that's what I meant. I don't know. I'd have to check that. I have my doubts.

Mr McMeekin: The clause is in there, though, Mr Kells, is it not?

Mr Kells: Yes, but it's specifically related to the Oak Ridges moraine act. It might be stretching the meaning of the act, I think.

Ms Seglins: With all the co-operation we've had between the municipalities and the province recently, it would be really nice to have clear legislation so we're not walking into court challenges and OMB challenges over these types of issues. I think we've really moved to environmental and health protection, and we would like to have some clarity and some control.

Mr Kells: We have good staff here, so I'm sure they've recorded that.

The Chair: Well, committee—

Interjection.

The Chair: The only concern I have is that there is a vote expected, I believe, at 5:50.

Interjection.

The Chair: My concern, Mr Prue, is that if it was at all possible to have a group end by 5:50 and then we

could return—oh, speak of the devil. We ragged the puck long enough.

ONTARIO RESTAURANT, HOTEL AND MOTEL ASSOCIATION

The Chair: We will ask Mr Mundell to immediately approach the witness table. Due to the efficient way in which Queen's Park operates here in a non-partisan committee setting, we're ready for your presentation already and we welcome you to the committee.

Mr Terry Mundell: Thank you very much, Mr Chairman, members of the committee. It's always efficient here at Queen's Park, as I've known for some time now.

My name is Terry Mundell and I'm the president and CEO of the Ontario Restaurant, Hotel and Motel Association. With me today is my colleague, Marc Sharrett, a government relations adviser with the association. I want to thank you and the committee for the opportunity to be here today and to participate in these important committee hearings on Bill 111, the new Municipal Act.

The ORHMA is Canada's largest provincial hospitality industry association, representing restaurants, hotels, motels, caterers, golf courses and resorts, simply to name a few.

Allow me to first take a moment to put into context the importance of the hospitality industry to the provincial economy. Ontario's hospitality industry is one of the most dynamic and important sectors of the economy, generating \$18.32 billion in annual sales and 4.3% of Ontario's GDP. With over 22,000 foodservice establishments and almost 3,000 accommodation properties across the province, the hospitality industry directly employs over 411,000 people, representing 7% of total provincial employment. The contribution made by this sector is felt in all geographic areas of the province and affects the livelihood of many residents.

The ORHMA is pleased that the government is acting to modernize the current Municipal Act and we have welcomed the opportunity to participate in a number of consultation sessions in the lead up to the introduction of this legislation.

It's important to note that the hospitality industry is one of the most regulated industries in Ontario. For example, our members are required to comply with the building code, the fire code, Alcohol and Gaming Commission legislation, public health regulations, the Innkeepers Act, zoning bylaws and environmental regulations, to simply name a few. As such, we are interested in this legislation before you today, as it has the potential to lead to a proliferation of unnecessary red tape for the business community.

The act, as it is presently proposed, has clearly defined 10 spheres of municipal interest. Giving municipalities clear authority to deal with these 10 specific areas of jurisdiction should allow local governments to respond more effectively to the challenges that emerge. However, the association recommends that the government must

recognize in Bill 111 that when there is a defined provincial interest, a defined interest established by provincial statute, municipalities must be precluded from passing licensing bylaws that interfere with the provincial interest or are outside the 10 specific municipal spheres of jurisdiction.

Allow me to use two examples to illustrate how this impacts the hospitality industry.

Public health requirements for food premises are set out in the Health Protection and Promotion Act and the accompanying food premises regulation. These public health standards are to be consistently applied toward all food premises. This consistency is important, as it is essential to maintain public health and consumer confidence across the province. The ORHMA supports these regulations and recommends that municipalities not be able to establish new standards by applying conditions to licences that deviate from the clearly stated provincial interest in public health as defined by provincial statute.

This concern regarding a conflict between a stated provincial interest and municipal licensing can be further illustrated by the fact that accommodation properties, presently regulated by provincial legislation, the Innkeepers Act, should not be subject to municipal licensing bylaws.

The ORHMA therefore recommends including a provision in Bill 111 that precludes municipalities from adopting licensing bylaws that interfere with an already recognized provincial interest, established by statute. That is particularly important for businesses that operate in multiple jurisdictions, as it allows them to put proper procedures in place and train employees effectively to comply with important provincial requirements.

Further, the ORHMA does not support allowing municipalities to pass licensing bylaws that stray outside the 10 specific spheres of municipal jurisdiction. There is a danger in the proposed legislation that the three conditions under which a municipality can license, being nuisance control, health and safety and consumer protection, could be used by municipalities to justify licences or place conditions on licences well beyond their stated authority. Therefore, it is essential that a clear delineation be made in Bill 111 between municipal and provincial responsibilities; otherwise, there is an opportunity that municipalities could pass licensing bylaws that, using the three aforementioned categories, interfere with provincial interests. As a result, the association recommends clearly limiting the scope of the three licensing categories to the 10 spheres of municipal jurisdiction in order to ensure accountability, clarity and transparency for taxpayers, consumers and the business community.

The ORHMA is also concerned about the question of user fees. The association has consistently expressed the concern of its members about the application of user fees for municipal services, especially as the commercial sector continues to pay a disproportionately higher share of property taxes.

The ORHMA holds that any cross-subsidization between property tax classes through user fees is unaccept-

able for business taxpayers that already pay a much higher share of municipal property taxes. In fact, if the problem is left unresolved, it could lead to double-dipping on the part of municipalities, which is totally unacceptable to members of our association. These matters need to be dealt with in this legislation in order to ensure transparency and accountability for all taxpayers.

On the issue of municipal corporations, the ORHMA believes that giving municipalities the opportunity to create corporations is a good opportunity to effectively outsource and partner with the private sector. But it is important that these municipal corporations are not be given any preferential treatment and should be required to follow the same rules and regulations as any private sector corporation.

Finally, with regard to municipal financing, it is clear that innovative and flexible financing arrangements need to be allowed so that municipalities can deliver the many essential services required today in Ontario. Nonetheless, it is important that guidelines be put in place surrounding financial arrangements so that debt levels stay within reasonable bounds.

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In conclusion, ensuring there is a clear separation of roles and responsibilities between municipalities and the province will be key to ensuring a positive business environment in the future. We believe the 10 spheres of municipal influence, if they are adhered to without infringing on provincial interests, will go a long way to providing our industry with the climate it needs to ensure growth and job creation throughout the province.

Thank you for your time today. I'd be happy to answer any questions you may have in regard to our submission.

The Chair: Thank you very much. That affords us just over three minutes per caucus. The rotation this time will start with the government.

Mr Kells: I've been chatting with staff, Mr Mundell, and I need a little clarification from you, if we could. It's in relation to the Innkeepers Act and your concern that—I just wonder how this works. If you're covered under the Innkeepers Act, you should not be subject to municipal licensing bylaws? I've got the act here and I'm not quite sure. Could you amplify what you mean there?

Mr Mundell: It's my understanding, Mr Kells, that right now the accommodation industry is regulated by the Innkeepers Act and under that Innkeepers Act, which is provincial legislation, hotels or accommodation properties aren't subject to municipal licensing bylaws. We're looking for that to continue in that same format.

Mr Kells: That's what I thought it said. Leave us to take another go-through of the Innkeepers Act and we'll be happy to respond to you later on. As they say in showbiz, we'll take it under advisement.

Mr Mundell: Thank you very much, Mr Kells.

Mr McMeekin: Mr Mundell, in my municipality, the new city of Hamilton, there's a real concern from the restaurateurs and others in associated businesses around the municipalities regulating in the area of second-hand smoke. That's one area where there appears to be some

very specific empowerment of municipalities to regulate, yet the thrust of your presentation was very much, let's not mix municipal regulatory authority with what's more properly in the provincial purview. I had a number of restaurateurs suggest to me that they would be quite willing to see severe restrictions placed on second-hand smoke as long as the rules were the same for everybody, no setting up a competitive situation where they're, say, more lax in Burlington than they are in Hamilton or more restrictive in Grimsby than they are in Brantford. Would you have any comment on that? Would that be an area where you'd like to see a level playing field on a province-wide basis, the issue of second-hand smoke and its impact on public health?

Mr Mundell: Thank you very much for the question. I don't think there is any doubt that the issue of second-hand smoke and smoking control bylaws across Ontario have caused some difficulties for the hospitality industry. There is no doubt from your question, Mr McMeekin, that there is a competitive advantage or disadvantage, if you can, as varying municipalities across the province put forward differing types of bylaws, and that has caused significant concern. I don't think there's any doubt that our industry would be quite interested in looking at, if there is a set of provincial rules, a provincial standard for second-hand smoke and what that is. We would be very interested to entertain and be involved in those discussions. For sure, it is a concern for the industry.

Mr McMeekin: I appreciate that. Mr Chairman, you may recall I made a statement in the House with respect not so much to the health issue, although that's very serious, but with respect to this issue from a business perspective, the need for a level playing field. I thank you for your answer. I think we should take that under advisement and see what action, if any, your government might want to take with respect to levelling that playing field across the province.

Mr Prue: I've got a couple of questions, but I have one obvious question, with our limited time. AMO, when they were here, were very clear that they—and I'll read you what they've written. "First, that the three categories for licensing powers in subsection 150(2) of the bill be clarified to cover all of those situations for which municipalities presently and legitimately license. For example, many municipalities license transient traders, which may benefit the consumer, but are not fair to local businesses that pay taxes and participate in the life of a community." I think particularly of transient food traders, hotdog stands, ice cream trucks, fish and chip things, in front of restaurants you represent. You are asking that it not be expanded beyond the three. Are you clear that you understand that restaurateurs would not be protected from these groups under this legislation?

Mr Mundell: No, sir. In fact, it was my understanding that under the 10 spheres of jurisdiction, municipalities would have the ability to regulate those particular groups, and we would continue to support that.

Mr Prue: But this is not included under the licensing provision.

Mr Mundell: We would support that those groups still be able to be licensed by the municipal sector, yes indeed.

Mr Prue: That runs contrary to what you came here to say today, then.

Mr Mundell: In terms of the 10 spheres of jurisdiction, we're supportive of them. My understanding was that those issues were already within the parameters of those 10 spheres. We are saying, though, that we want to ensure that there is clarity between what is clearly a provincial responsibility and what is a municipal responsibility. The business community would then know in fact to whom we can go, whom we hold accountable and what the rules of the game are.

It would be very difficult for us to operate food premises with 37 different types of food handler training, for example, across the province. That's the issue we see as more difficult. Quite frankly, food handler training is a good idea province-wide, something we support, but we'd rather have one system for it versus 37 from 37 different public health units, for example.

Mr Prue: I just want to be clear so the members opposite can hear this, that you are in favour of licensing transient traders in foodstuffs.

Mr Mundell: Yes.

Mr Kells: I was just going to say to the honourable member that under the Municipal Act, municipalities have the ability to control and impose conditions on occupying or locating on a public highway, including sidewalks.

Mr Prue: But not to license.

Mr Kells: Are you sure?

Mr Prue: If you look at the licensing, you tell me. You read it. I've read it a hundred times.

Mr Kells: If it's a hole, we'll plug it up.

Mr Prue: OK.

The Chair: Have you any further comments, Mr Kells?

Mr Kells: No, I've taken that one under consideration.

The Chair: Thank you, Mr Mundell. We appreciate your coming before us here today.

GREATER TORONTO HOTEL ASSOCIATION

The Chair: That would lead us to our next presentation, the Greater Toronto Hotel Association. Good afternoon. Welcome to the committee.

Mr Rod Seiling: Thank you. It's good to be here. My name's Rod Seiling. I'm president of the Greater Toronto Hotel Association. I want to thank you and your committee for the opportunity to appear before you today on Bill 111, An Act to revise the Municipal Act.

The Greater Toronto Hotel Association is the voice of Toronto's hotel industry, representing approximately 135 hotels with over 33,000 guest rooms and more than 30,000 employees. I won't bore you with the rest of that paragraph.

We are very aware of the long and involved process that has led to the introduction of this legislation. The GTHA participated in some of those previous consultations, so we know of the difficulties that preceded the debut of Bill 111.

Our concerns are very specific. We are generally supportive of Bill 111. Our concerns relate to clarifications, and I might add some general comments. Some of them are to be dealt with by way of regulation, but they are of sufficient concern that we strongly suggest some need to be addressed in the act so there's no question after the fact as to what was meant or understood.

Municipal business licensing: this was one of the areas that was of most concern to the private sector. The issue is a concern, a valid one, based on past statements attributed to some municipal representatives, that municipalities would use the licensing proviso as a de facto income tax, that is, as a means to raise new revenues. We are pleased to see that the cost of a licence is to be limited to associated administration and enforcements costs of the licence.

With respect to what a municipality can license, we agree there needs to be a clearer focus on what a municipality can license, reducing duplication of licensing between multiple municipalities and the province, ensuring transparency in the decision-making process and providing opportunity for public participation. Therefore, we support the requirement that a municipality must notify the public in advance when it wants to establish a bylaw, change fees or the classes of businesses to be licensed.

The current proposals include exemptions for certain businesses that are to be continued. Hotels, for example, currently enjoy such an exemption, as they are already licensed by the province under the Innkeepers Act. We suggest that changes be made to clearly detail these exemptions. We do not require, from a cost standpoint or a red tape standpoint, another licence to operate. The issue, as we have clearly had it demonstrated, is not one of added protection for the consumer but one of control.

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We would also suggest, in a similar vein, that clarification is required that where there is a provincial interest already in existence, a municipality cannot similarly regulate. If the matter, such as the province's Health Protection and Promotion Act, is of such importance, then it should apply province-wide. For businesses that operate in multi-municipal jurisdictions, this makes doing business more difficult.

We would also like to express our concern over the three areas that the act specifically allows municipalities to license: health and safety, consumer protection, and nuisance control. We recognize that they are better defined than in the old act but suggest that clarification on the scope of those powers be defined in advance.

User fees: the new act is somewhat mute on this very important issue. We recognize the difficulty inherent in the whole issue but remain very concerned over the expressed intent of some municipal politicians to use this

tool to raise more money. Bill 26, the omnibus legislation, scoped out the parameters to some extent as they relate to user fees. Our objection to user fees is not to the concept, as we support them in principle. The problem has been and continues to be the attempt to circumvent the intent of imposing a fair charge for a required service. Transparency and public participation are well-meaning. However, when it comes to a municipal council deciding whether to try and extract more from the business sector, as opposed to collecting its fair share from residents, we have witnessed too many times the outcome.

We recognize the difficulty in adding more control and fairness within the framework of the legislation. We do suggest that more thought is required leading up to the regulations phase.

Appeal process: we remain concerned that the legislation does not contain an appeal process. Neither businesses nor individuals should have to advance directly to court if a dispute arises over the equity or fairness of a fee or charge. We do believe the Ontario Municipal Board could be charged to hear disputes in these specific areas.

Municipal financing: we recognize that for large urban centres especially, the ability for creative financing is important. What we think is a logical question is the identification of what level of debt a municipality can incur. We do not believe it is the intent of this legislation to allow municipalities to overextend themselves. We are not suggesting what the limits should be, but there should, we suggest, be some guidelines as to what type of financing is prudent and the level of debt versus the reasonable ability to repay.

Municipal corporations: we support the concept of allowing municipalities the right to form corporations. We see this as an opening for municipalities to operate more effectively and efficiently by way of outsourcing and partnering with the private sector. It is difficult to comment more, as the conditions and purposes for which corporations will be permitted are to be set out in the regulations. We are concerned that these corporations not be provided an unfair competitive advantage. For example, they should be taxable if they are competing with the private sector and have to comply with the same regulatory structure. In the spirit of transparency, these corporations should be audited and the results become public information. It is clear that there is more work required in these last two areas.

We commend the minister and the government for moving forward. It is in the detail that we will see the results of much of the work to date. It is for this reason that we urge you to clarify in advance the issues we have raised here today. We believe it will facilitate a better end product for all the stakeholders emanating from the regulatory process. Thank you.

The Chair: Thank you very much. That affords us approximately four minutes per caucus for questions. This time, the rotation will start with Mr Prue.

Mr Prue: I actually don't have any questions. Thank you.

Mr Kells: We're back to the one we had from the previous presenter. Mr Seiling, you mentioned the old Innkeepers Act and the fact that you're licensed under the act. We're still trying to find that in that act. I'm sure we will before the week is out.

Mr Seiling: We're controlled and have to operate under the auspices of the Innkeepers Act. There is already legislation in existence under which we have to operate as a business.

Mr Kells: We have it with us. We're having a little trouble. Maybe on the way out the door, you might drop into this little office we have here to the right and show us where that is under that Innkeepers Act.

Mr Seiling: I don't have it with me, but I can get it to you tomorrow.

Mr Kells: We have the act, but if you could—tomorrow is fine.

Mr Seiling: OK. I can get you a copy of the act; it's not a problem.

Mr Kells: We don't really, again from the government's point of view, have any questions. I was busy trying to understand the innkeepers part of it.

Mr Seiling: I can tell you, it is an old piece of legislation. It refers to where you have to tie your horses. It predates most of us.

Mr Kells: You probably have the 149-year-old version. Actually, Mr Prue, when we chatted about the licensing of hotdog vendors etc, we believe that where we give the municipalities the authority to control the sidewalks and highways, one way they control a sidewalk is under licensing. If they refuse to give the licence, then they can't do that.

Mr Prue: My reading of that issue of control is that you say, "You cannot sell hotdogs on this location," or, "You can sell," in which case you'll have hotdog carts running in there that don't require a licence.

Mr Kells: Then you impose your control over the sidewalk, so if they're not licensed, they shouldn't be on there. Doesn't that cover it? I'm not a lawyer, but it would seem to me that if you aren't licensed, then you're not licensed.

Ms Mushinski: We have the right to enforce it.

Mr Kells: We trust you municipalities. We have great faith.

Mr Prue: I know, but if you're not willing to license them, then there's no way to control them.

Ms Mushinski: Sure there is.

Mr Kells: You can control them by not licensing them. They don't exist if they're not licensed. That would be the way I'd read it. That's the best I can do right now, anyway. Those are my questions.

Mr McMeekin: You trust municipalities except when it comes to amalgamation.

The Chair: You can blame me for that.

Mr McMeekin: Yes, I can and I have, but I'm trying to be very friendly here.

You're not the only one here, Mr Seiling, who's adroit at stickhandling. I'm a big fan, by the way.

Mr Seiling: Thank you.

Mr McMeekin: I appreciate the points you made. Frankly, I'm fundamentally in concurrence with virtually most of what you've said. But because you're here and because second-hand smoke has been such an issue in my community, and because we just heard—you may or may not have caught it. The Ontario Restaurant Hotel and Motel Association were here just ahead. When I referenced the numerous complaints I'm getting from restaurant and hotel people that they don't much care what the bylaw is, as long as it's applicable across the board—that there's a level playing field and they don't want to be penalized. Would you comment on that for me? Would you like to see a level ice surface here that would treat everybody in the province equally and fairly with respect to the—

Mr Seiling: I'd like to see a level playing field, not just within the province. I think we have to be cognizant, from a tourism perspective, of where our business comes from and what those customers expect when they come here. Over 62% of our customers in the greater Toronto area come from outside this country. What they can't do in those countries and what they expect to do when they get here aren't necessarily one and the same.

I certainly respect the health side of the argument. I don't want to get into the whys and the wherefores argument today of whether it's initial smoke, second-hand smoke; that's an argument for another day. Certainly something that's province-wide has some merits, but I'm more concerned that our legislation here be cognizant of what we have to do to compete for business across the breadth of the globe.

Mr McMeekin: We have some Canadians who feel that way, and they choose to go to California, which is restrictive.

Mr Seiling: They also have a patio they can use year-round as well. I don't think that today is exactly—

Mr McMeekin: Maybe that's the cause of the hydro shortage there. I don't know. Listen, I appreciate your—

Mr Seiling: I understand your comment.

Mr McMeekin: I think you raise a good point about the sensitivity to visitors. That's something that is so obvious that sometimes we miss it. Thank you for that.

The Chair: Thank you for coming before us and making your presentation.

Mr Seiling: Thanks for the opportunity to be here.

The Chair: With that, committee, apparently the next presenter, who will be reaching us via video conference, has not as yet arrived in Ottawa. So in the interest of the productivity of the members, the committee stands recessed until 6:05 or immediately after the vote, whichever comes sooner.

I call the committee back to order for one second, just to dispose of one outstanding issue while we have a representative of each party here. The question has arisen of when we should allow the amendments, the deadline for the amendments to this bill. As you may recall, the deadline for the receipt of any written submissions is Monday afternoon. I'm going to suggest that perhaps noon on Tuesday might be appropriate.

Mr Kells: We have a little problem. The minister has been indisposed with an operation, so we need just a little time to get to him. That's why the Tuesday at noon would be better for us.

Ms Mushinski: When is clause-by-clause?

The Chair: Wednesday.

Mr Kells: I believe we're talking about amendments too, are we not?

The Chair: Yes, that's what I'm saying, the receipt of amendments.

Mr McMeekin: You need to get the amendments before you do clause-by-clause.

Mr Kells: We realize it's tight, but we have a problem.

Mr Prue: I have to start getting used to how things go at lightning speed here, but that seems to be really unbelievable.

The Chair: I would remind you, Mr Prue, though, that we are operating under an order of the House that tells us we have to do the clause-by-clause on Wednesday. I'm working backwards from that and suggesting that rather than 5 pm, which would be the normal protocol, we'll give your caucus another five hours to be able to digest any amendments that might be received from the other two parties, and offer a similar opportunity to the Liberals and the government members as well.

Mr Prue: So Wednesday at 9 o'clock, we're going to meet for clause-by-clause?

The Chair: Actually, 10 o'clock. We will start debate at 10, then we will resume at 3:30, and all questions are deemed to be put at 4 o'clock.

Mr Kells: I don't see any reason why we couldn't give you what we have. We're just asking for an extension for the cut-off. If you want, check it out with your House leader.

Ms Mushinski: It would be done in response to all of your concerns, of course.

Mr Kells: Michael, talk to your whip or whoever you want to talk with and tell us later on.

The Chair: There seems to be a consensus. Is it the wish of the committee that any amendments—

Mr Kells: I believe they're taking it under advisement for a short period of time.

Mr Prue: Until 6:15. After we finish and I have consulted, I'll come back.

The Chair: Fair enough. We will resolve that matter after we return from the vote. The committee stands recessed again.

The committee recessed from 1733 to 1807.

CAA NORTH AND EAST ONTARIO

The Acting Chair (Ms Marilyn Mushinski): We'll call the meeting to order. This is a continuation of the standing committee on general government to consider Bill 111, An Act to revise the Municipal Act and to amend or repeal other acts in relation to municipalities. We are joined by a videoconference from Ottawa by Mr Doug Mayhew, manager of public relations for CAA

North and East Ontario. Good evening, Mr Mayhew. Can you hear me?

Mr Doug Mayhew: Very clearly, thank you.

The Acting Chair: Mr Mayhew, you have up to 20 minutes to make your presentation.

Mr Mayhew: It will be less than half of that, Madam Chair. It is the supper hour and I'm sure we have other things we could be doing. I'd like to thank you for the opportunity, particularly to thank the staff of the committee for the efforts and the communication they put into my being here tonight. It was quite commendable.

CAA North and East Ontario is one of five independent CAA affiliates in our province and it's one of 11 in Canada. We are not-for-profit auto clubs which share the CAA banner and logo.

The club I represent, from eastern and northern Ontario, starts geographically just south of Ottawa and goes all the way to Manitoba, which is a huge geographic part of our province. If Mr Miller's in the room—I don't see him, but you're very blurry—it goes as far as the northern part of his riding.

We have 210,000 members at CAA North and East Ontario. You're probably aware, from earlier this week, that there are nearly 1.8 million members in Ontario itself. That translates into one out of every four drivers having a CAA card in their wallet or purse. We know a great deal about the attitudes of these members. It is their attitudes and their expectations that have brought me here tonight. Specifically, we know that the majority of them really don't like the idea or the reality of toll roads. For more than 90 years, CAA has been bringing the concerns and thoughts of its members to various elected bodies in the country, in provinces and even in municipalities.

When your legislative predecessors designed the original Bill 149 years ago, they could never possibly have fathomed the automobile, let alone this measure of consultation. Regardless of that, however, they wrote an act that lived long, prospered and, arguably, met the needs of the province until very recently. They somehow brought their ideas into a context and defined their thoughts in a very close-to-timeless manner. Their intents were clear. Madam Chair, I wish you and your colleagues the same.

Obviously, there's something in this bill that I don't like, or, as I said, we'd be having dinner. Of the 323 pages that I have very quickly perused—I haven't read them all—there's one section that I think needs exploration and hopefully some address. It is section 40. That's the section that gives municipalities the right to place tolls on roadways. It's indeed a small part of this bill, but for our members and for CAA North and East Ontario, it's an important part. We see roads as benefiting all of us. We see roads as being open to all of us and accessible by all of us.

We do accept, however, that roads cost money, and therein lies the rub. However, our members believe they've already paid for them. They pay taxes on vehicle purchases, leases and repairs, they pay permits and licensing fees, and then they pay gas taxes. I don't think

who owns and manages a roadway with respect to taxation matters to a motorist. Oh, and by the way, they pay municipal taxes too.

The current and somewhat time-locked issue of the moment—downloading—can not be accepted as a clear-cut reason to give municipalities the right to toll a road. In the current flavour of the decade—and it's a very powerful one—public-private partnerships, are a reflection of this moment in our time. The bill you're working on at the moment is going to outlast these issues. What will the next flavour of the moment be? I don't know, but this piece of legislation has got to live beyond that.

I can't look at the issues of today without acknowledging that none of us know where we're going tomorrow. Giving municipalities the right to toll roadways subject only to regulatory supervision is a whole world of potential problems written in a calendar of time, I believe.

We need greater security written into the bill itself. True, regulations are great. They're certainly not constraint and they sometimes, through time, can be license. They're easily changed. I don't think just leaving this in the hands of a regulatory process is enough. Those whom we elect who represent us may or may not be part of ongoing regulation. We're being asked to trust that the regulators of the future will be reasonable, workable and clearly out to meet the needs of the provinces and municipalities. We're being asked to believe that the future regulations will indeed reflect the intent of this committee and probably this House.

My crystal ball isn't clouded by cynicism, lack of trust or good faith. I'm fairly clear on what I believe this bill is intended to achieve. It is clouded, however, with the knowledge that those who follow you may use the regulatory process to achieve goals at the expense of the motorist, and you must weigh that risk. The whims, tides and influences that can affect the process of making regulations are real and important. You well know them; you see them every day. The sensitivities allow regulations to move forward. Actually, they often allow it to move forward in ways that acts would not have even permitted. This is sometimes a good thing.

However, this is a regulation concerning tax. Road toll is a tax and I think it needs the strength of being written clearly into the bill itself. Leaving the actual management of a tolling situation open to the regulatory process is leaving the whole matter of municipal toll roads open to abuse, probably abuse that was never intended. Those with the will and the skills can remedy this by adding strength to the bill. This act will protect our citizens.

The people who put this remarkable effort of design together deserve more than this. Their efforts deserve your review and consultation to place clear language. If toll roads in our municipalities are a necessity because of fiscal need—that is a huge issue and it's not an issue for tonight—and the issue of user-pay moving into society again is one of those moments in time, or a decade at the most, I hope, municipalities could easily use tolls as simply a huge revenue stream, because they're hurting. I know they are and you hear that they are as well.

I have a great fear that municipalities could use tolls as restrictive devices to limit the freedom of choices of their citizens. That's simply repugnant and violates principles that we currently hold dear.

Tolls for new construction may indeed be viewed as a necessity, however. I'm enough of a realist to know that with sufficient constraint there could be opportunities for that. If you accept that roads are not highways of economic development, and if you believe that roads do not fuel growth, then tolls probably make a lot of sense to you. Will municipalities view it this way? I can't say.

It doesn't take a lot of imagination to see a bit into the future. Tolls, just another tax, need very public review. Your committee can guarantee that any planned toll activity is 100% open to public scrutiny, and the provision of the word "may" in the opening line of the regulations is not enough. This bill must clearly state that the municipality must be publicly open in any potential tolling situation, and since this right is really provincial in nature to start with, each and every toll situation has to be reviewed by a provincial Parliament. If that seems onerous, it's only because all decent guarantees are onerous. If a municipality is right and justified in tolling a roadway, then a public consultation process should be easy. If the Legislature is sound in allowing this right to be given to municipalities, then reviews in the House would be simple.

Don't leave this to regulation. Make it hands-on in the act: clear, concise and reflecting what I honestly believe is the intent of the Legislature. Every member of your committee knows full well how accountable you each are. Celebrate that accountability and make certain that those who follow you into the Legislature are just as open and just as accountable.

David Leonhardt of CAA Ontario had the privilege of addressing you earlier this week in Hamilton and perhaps today in Toronto, I'm not certain. But I do echo his early suggestion that if you must allow municipalities to toll roads, then this right can only extend to new lane construction. I've already spoken, as Mr Leonhardt did, on the legislated necessity for public process review.

I wish you and your committee well, Madam Chair. By weight alone, this is a major document, and by the history of its predecessor, you might be making history that's going to last six or so generations yourself. On behalf of my members, thank you.

The Acting Chair: Thank you very much, Mr Mayhew. We have about six minutes for questions. By the way, would it be possible for you to fax your presentation to our clerk? It would help Hansard if you could do that.

Mr Mayhew: I certainly would be pleased to. I was not able to this afternoon. I'll do it tomorrow morning.

Mr Kells: I appreciate the presentation. It was well written and well presented and certainly on topic, being the topic of tolls.

These are not necessarily questions, but a little clarification is in order because of your concerns. The whole tolling issue surrounding the Municipal Act is very

much a work in progress. In other words, even though the act is moving on, the position on tolls is something we're still working on. Let me just run through these points if I may.

It is being proposed that the regulation contain provisions that require that tolls be applied only after they have met a prescribed set of conditions and only where new or conspicuously expanded highway capacity has been created. Municipalities will not be able to designate, operate or maintain a toll road until this regulation is made. The conditions and requirements would also be consistent with the impending report undertaken by the Ministry of Transportation and SuperBuild on provincial tolling policy. So the regulation can't evolve until the policy, in a bigger framework, is brought down by this government. The government would also retain the authority, by regulation, to prohibit municipal tolling of roads where deemed necessary.

I understand your concerns about regulation, that regulations can be changed, but that's always been the case with governments, and acts can also be amended or changed. The final arbitrator in all of this is the public. Any government—and we just happen to be the government of the day today—is always subject to the voters' wrath. That applies to municipal council. It also applies to the government that has the power under regulation either to let them proceed with the rules we're about to set up, or we have the power, if we deem it necessary, to prohibit them from proceeding. So the province is not ducking the issue, but it is going to allow the municipalities, under a set of conditions which will be part of the provincial government policy, to look at tolling.

I don't know if that begs any questions from you, sir, but those are the points I'd like to make.

Mr Mayhew: Thank you very much. I'd just like to let Mr Kells know that I was unaware of the first items you read me. They're not in my copy, and I thank you for bringing them to my attention.

The Acting Chair: Any further questions from government members? If not, we'll turn to Mr Prue.

Mr Prue: I think my question is very simple. I thank you for your presentation. It was very similar to one by the CAA that we heard in Hamilton a couple of days ago, and it's right on point.

If someone were to move an amendment that said the only roads that could be considered would be either new roads or newly acquired roads, would that assuage some

of your fears? The reason I'm saying "newly acquired" is because some municipalities, if they're downloaded roads in poor condition, may want to find the necessary funds to fix them up in the short term and then open them up again. Would that assuage it?

Mr Mayhew: Yes, it would move well in the direction, particularly the first part, new construction. I think I could go with that to some extent. Major reconstruction perhaps, but new construction—I can see some movement in that direction with the right kind of constraints.

Mr Prue: That would be my only question.

The Acting Chair: Thank you very much, Mr Mayhew, for joining us this evening.

Mr Mayhew: Good night, Madam Chair, and thank you.

The Acting Chair: Good night.

Committee members, before you go, I think there was the outstanding matter of the deadline for receiving amendments. Mr Prue, you were going to take that to your House leader.

Mr Prue: Yes, I have talked to the House leader. The House leader has come up with I think a perfectly reasonable suggestion that we agree that any amendments should be received by 12 o'clock.

The Acting Chair: Should, shall or may?

Mr Prue: Should. We will endeavour to do our very best to ensure that they're there by 12, but you're literally giving a very small caucus three working hours to put together the amendments after the closure of the time for documents to come in. We still have to research them. We'd only have a morning, between 9 o'clock and 12, to put all the amendments together. We will do our very best, but I don't want the committee to say that you're not going to take them if it takes us until 2 or 3 in the afternoon to actually accomplish it. So we agree to—

Mr Kells: You're accommodating us, so we'll accommodate you.

Mr Prue: We're using the word "should," and we shall endeavour our best to get them in by noon.

The Acting Chair: That's fine. Ultimately, because this is under time allocation anyway, it will be the ruling of the Chair, I believe, in determining the deadline. But we'll certainly take your input, Mr Prue, and try to stick to 12 o'clock as closely as possible.

Mr Prue: We'll do our best.

The Acting Chair: Fine. Thank you, Mr Prue. So we adjourn.

The committee adjourned at 1823.

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