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Official Report of Debates (Hansard)

Wednesday 29 September 2004

Journal des débats (Hansard)

Mercredi 29 septembre 2004

Standing committee on general government

Strong Communities
(Planning Amendment) Act, 2003

Comité permanent des affaires gouvernementales

Loi de 2003 sur le renforcement
des collectivités (modification
de la Loi sur l'aménagement
du territoire)

Chair: Jean-Marc Lalonde
Clerk: Tonia Grannum

Président : Jean-Marc Lalonde
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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON GENERAL GOVERNMENT

Wednesday 29 September 2004

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DES AFFAIRES GOUVERNEMENTALES

Mercredi 29 septembre 2004

The committee met at 0909 in committee room 1.

STRONG COMMUNITIES (PLANNING AMENDMENT) ACT, 2003

LOI DE 2003 SUR LE RENFORCEMENT DES COLLECTIVITÉS (MODIFICATION DE LA LOI SUR L'AMÉNAGEMENT DU TERRITOIRE)

Consideration of Bill 26, An Act to amend the Planning Act / Projet de loi 26, Loi modifiant la Loi sur l'aménagement du territoire.

The Chair (Mr Jean-Marc Lalonde): I would call this meeting to order. Good morning, everyone. I am pleased to say that we will proceed with clause-by-clause consideration of Bill 26, An Act to amend the Planning Act.

This morning we have a total of 28 amendments that we have to either discuss, pass or amend. We will proceed immediately with section 1, but before we proceed, I would like to say that we have two ministry staff members here, Irvin Shachter and Ken Peterson.

Section 1, a government motion, page 1 of your documents.

Mr Lou Rinaldi (Northumberland): Section 1 of the bill, definition of "urban settlement area" in subsection 1(1) of the act:

I move that the definition of "urban settlement area" in section 1 of the bill be struck out and the following substituted:

"'area of settlement' means an area of land designated in an official plan for urban uses including urban areas, urban policy areas, towns, villages, hamlets, rural clusters, rural settlement areas, urban systems, rural service centres or future urban use areas, or as otherwise prescribed by regulation."

The Chair: Any questions or comments?

Ms Marilyn Churley (Toronto-Danforth): Could I just ask a question? I don't quite understand why you are changing the definition from "urban settlement area" to "area of settlement."

Mrs Maria Van Bommel (Lambton-Kent-Middlesex): The government would like to distinguish between the definitions that are contained in the Greenbelt Protection Act and in the Planning Act. Also, from a rural perspective, "urban" implies certain population numbers in the settlement; if we call it a settlement area, then rural clusters in such communities would also be included in that.

Ms Churley: So if I understand what you're saying, you're trying to broaden the definition because—

Mrs Van Bommel: We are trying to reduce the confusion around what is urban. As I say, from a very rural perspective, "urban" means something else. "Settlement area" is a term that is better understood.

Ms Churley: But you're changing it so that—I'm just trying to understand that. As I understand it, it's called "urban settlement area" because it's an area where development is taking place or will be taking place? I'm still not quite clear on why you're changing that. Perhaps it's just me being dense here, but I don't get it.

Mr Rinaldi: I think what we're trying to do is—I mean, the definition is basically the same. People are more attuned to refer to urban as the Torontos and Mississaugas, but yet the terminology really applies to smaller areas that are designated as settlement areas as well. The definition is basically the same; it's just different wording.

Ms Churley: And what did you say about the greenbelt piece? What's it called in the greenbelt?

Mrs Van Bommel: It's called "urban settlement area."

Ms Churley: So if it's "urban settlement area" in the greenbelt, why would you change it here?

Mrs Van Bommel: Just simply because we want to avoid any confusion in the definitions.

Ms Churley: So if I can understand then, in the greenbelt it says "urban" and here it doesn't. I'm concerned, because some of my amendments are trying to get consistency in this act. I'm concerned that you have a different definition in here, different from the definition in the greenbelt definition. I don't know why you would do that.

Mrs Van Bommel: I'm going to refer it to our technical staff. Maybe they can better explain it.

Mr Ken Peterson: Certainly. The proposal isn't to change the actual definition itself; it's just to change the name of the term. What we'd heard during consultation was that there was a little bit of confusion because this term was a little bit different than what was in the Greenbelt Protection Act. So we wanted to reduce that confusion.

The other thing is, as has been stated, there's sort of an implied understanding that if it's an urban settlement, it

means something bigger, and if you go back to one of the intents of this particular bill, we're trying to allow municipalities to be in control of their settlement boundaries, if you will. So in some municipalities, settlements can range in size from being very big to very small. The thought was, if we call it an area of settlement, that really captures all the types of clusters of development you might have in a municipality. It exemplifies the fact that municipalities would be in control of all those settlement areas.

Ms Churley: Just so I'm clear, then, what is the definition in the greenbelt legislation? Is it the same as this, or is it "urban settlement areas"? I'm not sure from what the parliamentary assistant said.

Mr Peterson: The title for theirs is "urban settlement areas." The definitions are virtually the same. There are just very slight differences which I don't think really make that big a difference. They're very similar.

Ms Churley: So in your opinion, having it referred to as the "urban settlement area" in the greenbelt legislation and changing it to "area of settlement" here won't make any difference, in terms that it won't cause any problems later on down the road?

Mr Peterson: That's my opinion.

Ms Churley: OK.

The Chair: Any other questions or comments?

Mrs Julia Munro (York North): I want to come back to the same issue. Because there is so little difference, I guess that's why it's a question.

If I understand correctly, in both of these definitions we're talking about lands that are already designated in an official plan. Wouldn't the municipality already have established its jurisdiction, if you like, over these areas because they fall within their official plan?

Mr Peterson: With respect to that, I think that within municipal official plans—and, of course, because Ontario is so big and there's such a variation between municipalities—municipalities could actually identify their settlement areas very differently. The thought was, let's try to be as broad as possible in terms of describing what those little areas of development might be. I think it really just reflects the fact that across Ontario there are differences in terms of how municipalities describe their areas of settlement.

Mrs Munro: Just going back to Ms Churley's point, in the greenbelt legislation the term "urban settlement area" is used. Is that correct?

Mr Peterson: That is correct. Yes.

Mrs Munro: And in this piece of legislation the proposal is to have the same geographic area now described as an area of settlement. Is that what we're being asked to do?

Mr Peterson: Correct.

The Chair: Any more questions or comments?

There being none, shall the amendment carry? Against? It is carried.

Shall section 1, as amended, carry? Against? It is carried.

Section 1.1, an NDP motion. It's on page 2.

Ms Churley: I move that the bill be amended by adding the following section:

"1.1 Section 2 of the act, as enacted by the Statutes of Ontario, 1994, chapter 23, section 5 and amended by 1996, chapter 4, section 2 and 2001, chapter 32, section 31, is amended by,

"(a) striking out 'shall have regard to' in the portion before clause (a) and substituting 'shall be consistent with'; and

"(b) adding the following clause:

"(e.l) the protection of source water."

May I explain what this is about?

The Chair: Yes, you can go ahead.

Ms Churley: While this section of the existing act is not open in this proposed amending bill, it needs to be amended for the purposes of consistency. Therefore, the motion, as I understand it from talking to the clerk, is not out of order because the motion seeks to amend a section of the act that is not already open in the bill. It's my understanding from what I've been told by legal counsel that an amendment to a part of a bill that is not open is not out of order if the amendment is "necessary to avoid an inconsistency, an error, a conflict in language or to correct a statutory reference in the bill, as amended." That's why I'm doing that: to make sure the "shall be consistent with" comes throughout the bill.

0920

Clause (b), "adding the following clause," I think is pretty self-evident. Again, for the purposes of consistency, there should be—and I raised this in the committee hearings—an explicit reference to source water protection being a matter of provincial interest. Otherwise, a discrepancy will exist between the proposed—and let me point out again that it is still proposed—provincial policy statement and the government's pledge of source water protection. In the current section 2 of the Planning Act, references to protecting water supplies and quality are scattered all over the place, and it does not specifically identify protecting it from the source as a matter of provincial interest. The fact that you, the government, have pledged to introduce specific source water protection says that indeed source water protection constitutes a matter of provincial interest. That's the rationale for both of my amendments here.

The Chair: Comments?

Mrs Van Bommel: I have real concerns about this in terms that I think we're adding to the provincial interests. We already have water mentioned in part I, section 2 of the act. It refers to things such as "the protection of ecological systems." We have the "conservation and management of natural resources ... the supply, efficient use and conservation of energy and water...." It also refers to "the protection of public health and safety." I think that includes the protection of source water. So at this point, I don't think we need to add to the list. I'm not necessarily sure it's even within the scope of this bill to do that.

In terms of "shall have regard to," I don't feel that's necessarily appropriate either. I think that "shall have regard to" is sufficient because it is a broader statement

of provincial interests, and we need to allow some flexibility.

The Chair: Any comments, Ms Churley, regarding Mrs Van Bommel's comments?

Ms Churley: One of the major points when we were discussing this bill was around the necessity—and I supported it strongly, because our government, certainly with the green Planning Act we brought in and which the Tories threw out, made it very clear that all policies had to be "consistent with," and we're glad to see that that's been brought back, as opposed to "have regard to." But I'll just reiterate that in order to have consistency, it's important that this be put in the bill. If you look at the bill—I won't take the time to read it all now, but as I said, there are some inconsistencies in the bill, and this would clarify that.

Again, when you look through the existing policies, there is nothing explicit in reference to source protection. Yes, water is mentioned, but that's a generally new term. It has been around for some time, but it's only over the past few years that we've really defined and clarified what we mean by "source protection" and the incredible scope that involves. In my view, without that wording in here, you don't have strong enough language to support your own government policy.

Having said that, I don't know if you want to add anything else. I think it's really important to make these amendments to strengthen this bill.

Mrs Van Bommel: As a government we're certainly very concerned and, as you have stated, we have proposed legislation on protection of source water. As the minister needs to act on provincial interests, I'm quite satisfied that, within the parameters we already have, the minister will be able to act on source water.

Ms Churley: Perhaps it depends on who the minister is.

Mrs Van Bommel: I have no concerns about my minister.

Ms Churley: Maybe I do and maybe I don't. My point is that ministers come and go, governments come and go, and interpretations, therefore, can be changed at the turn of a dime. So I would ask for your support and I would ask for a recorded vote on this.

The Chair: A recorded vote has been asked for.

Ayes

Churley.

Nays

Dhillon, Munro, Qaadri, Rinaldi, Van Bommel.

The Chair: The amendment is defeated.

We will move on to section 2: subsection 3(5), a PC motion on page 3 of your documents.

Mrs Munro: I move that subsection 3(5) of the act, as set out in section 2 of the bill, be struck out and the following substituted:

"Regard for policy statements

"(5) A decision of the Lieutenant Governor in Council, the council of a municipality, a local board, a planning board, a minister of the crown and a ministry, board, commission or agency of the government, including the municipal board, in respect of the exercise of any authority that affects a planning matter, shall have demonstrated regard for the policy statements issued under subsection (1)."

The Chair: Questions or comments? Can you explain?

Mrs Munro: Yes. The reason that this has been proposed reflects the kind of division within the community that we heard in the public hearings over the question of the wording between "be consistent with" and "shall have regard for." Many of the speakers spoke of the possible and evident inherent contradiction that sometimes exists in provincial policy statements and the need to find a balance when they're making decisions with regard to a number of policy statements that deal with different aspects that may have a fundamental conflict between them. That's the reason why we have proposed this amendment.

The critics of the wording have suggested that there is no method that gives confidence that "have regard for" has really been done in a thorough way. This amendment, then, puts the onus of responsibility on the proponent. They must demonstrate a regard, so if there is a fundamental tension between two policy statements and, in trying to achieve that balance, the proponent has done the homework and found out what the issues are to be balanced, they therefore have provided a "demonstrated regard." It eliminates the situations where both municipalities and others involved in a planning exercise have to deal with what are essentially conflicting issues that need to be balanced.

0930

Ms Churley: I will, not surprisingly, be voting against this amendment. What the Conservatives are trying to do here is bring it back to where the Conservatives changed it after they got in power and changed the green Planning Act.

I'd like to add that not only did they remove the green Planning Act to bring back the previous Planning Act, but actually changed that to make it more regressive. If we were to go back to "have regard for," the policy and the inconsistencies in that—that philosophy has spelled sprawl for Ontario. Although I have some problems with some of the direction and inconsistencies in this bill, which I hope some of my amendments can fix, I certainly don't support going back to "have regard for," where somebody, the OMB or municipality or whatever, can pick it up, look at it, say, "Yep, we looked at it, we had regard for it," and throw it away. Given the problems we have with sprawl these days, we certainly can't go back to that direction.

Mrs Van Bommel: We can't support this motion either. We talk about balance, and during the hearings we heard from proponents who wanted something as strict as "have to conform with." We also heard from the sector that you spoke of, which is asking for "have regard to."

We feel that, in terms of balance, "be consistent with" is that middle ground, that balance point. "Demonstrated regard" is a weaker standard than "be consistent with." We have seen the results of "have regard for," demonstrating that it just requires the decision-makers to illustrate how they had regard. I don't think it fundamentally changes the issue that we have here, which is concern about how municipalities and decision-makers make their decisions in terms of provincial policy statements.

Mr John O'Toole (Durham): I'm pleased to be here this morning, because having served on local and regional councils, I know just how important this Planning Act is. The inconsistencies that I see here are surprising. That's why I've taken the time this morning to come in.

The motion here, moved by the opposition, really is to address an issue that for years, even from the time the Planning Act was amended by the NDP—the debate around "consistent with" and "regard to" has been universal. What it really does is exempt any discretion from the local planning authorities to interpret the uniqueness of their own particular application that's before them in their riding. That's why I think you will find yourself somewhat boxed in because of the overlapping nature of various policy statements, whether it's wetland, use of agricultural land or land for development.

Then when I look at some of the further thrusts or philosophy of the bill, the exemption provisions by the minister's oversight is another obvious inconsistency. So I would encourage you to adapt some flexibility to give local municipalities—with the oversight of the ministry; I completely concur with that—the ability to interpret their own unique applications.

I know Mr Rinaldi, as a former mayor of a small community, would know just how important this debate is. I'd be interested to hear what he thinks about giving more legitimacy to local planning councils.

That's my response. I will certainly be supporting this amendment. Mrs Van Bommel, your impressions, to me, don't reflect the rural nature which you're really supposed to represent first, not just the government-whipped answer to this question. But I think I've made my argument with respect to giving local municipalities some ability to interpret—with diligence, the oversight of the minister at the end of the day and appeals with , of course—their own planning needs for their own community.

Mrs Van Bommel: I would like to add, for the record, that AMO, the Association of Municipalities of Ontario, which includes ROMA, the rural component of AMO, have supported "be consistent with."

Mrs Munro: Perhaps just to give you a little history, they also supported "shall have regard for" when it was brought before this Legislature.

Mrs Van Bommel: Obviously it didn't work.

Mrs Munro: That was after they'd had the experience with the NDP on "shall be consistent with," just as a historical footnote.

Ms Churley: Just to be consistent here, the new green Planning Act barely had time to be implemented, and then, of course, there was a change of government, who threw that out. So actually, they did support the approach we took at that time. As you know, the Tories threw it out, so that wasn't really consistent with what really happened. It's having regard for the NDP changes but, really, it was a short-lived bill and legislation because, of course, the act was changed again shortly after by the Tories.

The Chair: Other comments or questions? If none, all those in favour of the amendment for section 2, subsection 3(5)?

Ms Churley: Recorded vote.

Mr O'Toole: Just for the clerk: I am actually subbed on this committee, but I'm on another committee.

The Clerk of the Committee (Ms Tonia Grannum): I did not receive a sub slip.

Mr O'Toole: OK. So Mr Ouellette is—so I can't vote on this.

The Clerk of the Committee: No, you can't.

Mr O'Toole: Mr Ouellette is subbed in, I think?

The Clerk of the Committee: No, it's Julia subbed in for Jerry Ouellette, and John Yakabuski is the other voting member.

Mr O'Toole: I was supposed to be subbed for Yakabuski.

The Clerk of the Committee: Julia Munro is subbed for—oh, sorry, you're supposed to be subbed in? I did not receive a sub slip. If you can get me a sub slip in three minutes, it's valid.

The Chair: OK, we'll proceed with the vote immediately, then. Sorry.

The Clerk of the Committee: Three minutes.

The Chair: We could give them three minutes?

The Clerk of the Committee: No, no.

The Chair: Sorry.

Mr O'Toole: Just a clarification: Mr Ouellette's sub slip is in?

The Clerk of the Committee: Yes, Julia Munro is substituted for Jerry Ouellette.

The Chair: So we'll proceed with the vote immediately. It's a recorded vote in favour of the—

Mr O'Toole: I need to clarify this, because I'm going to leave. But I want to make sure, if I go to our whip's office, that we actually have Julia subbing for Jerry Ouellette. If Jerry Ouellette was to come in, then—he's supposed to be here at 10 o'clock, is the point.

The Clerk of the Committee: If Jerry Ouellette comes in at 9:39, he will be a member present, not of the committee, because within the first half-hour, he can—

Mr O'Toole: He won't be here till 10.

The Chair: We'll proceed with the vote immediately, then.

Ayes

Munro.

Nays

Churley, Dhillon, Qaadri, Rinaldi, Van Bommel.

The Chair: The amendment is defeated.

We'll move on to section 2, subsections 3(5), (6), (6.1) and (6.2). It's an NDP motion.

Ms Churley: I move that subsections 3(5) and (6) of the Act, as set out in section 2 of the bill, be struck out and the following substituted:

"Consistency with policy statements

"(5) A decision of the council of a municipality, a local board, a planning board, a minister of the crown and a ministry, board, commission or agency of the government, including the Municipal Board, in respect of the exercise of any authority that affects a planning matter, shall be consistent with policy statements issued under subsection (1) and with the following acts:

"1. Greenbelt Protection Act, 2004 and any successor to it.

"2. Any act that deals with the protection of source water.

"3. Any act that deals with urban growth.

"4. Endangered Species Act.

"5. Niagara Escarpment Planning and Development Act.

"6. Oak Ridges Moraine Conservation Act, 2001.

"Advice

"(6) Comments, submissions or advice that affect a planning matter that are provided by the council of a municipality, a local board, a planning board, a minister or ministry, board, commission or agency of the government shall be consistent with policy statements issued under subsection (1) and with the acts listed in subsection (5).

"Provincial interest

"(6.1) For the purpose of this act, a matter is of provincial interest if it is set out in the schedule and the minister may make regulations,

"(a) adding matters to the schedule; and

"(b) prescribing restrictions and rules relating to matters set out in the schedule.

"Criteria

"(6.2) In order for a matter to be a matter of provincial interest, one or more of the criteria set out in section 2 must be relevant to the matter."

0940

The Chair: And the rationale for this amendment?

Ms Churley: Sure. I'll try my best here. I know it's a bit complicated. The revised Planning Act, in the current form, in my view, doesn't go all the way in terms of adding, at least as far as it could, good planning, because it does not spell out what policies in related legislation official plans are to follow or show consistency with. As a result, there's a real risk of inconsistency throughout this bill, and I'm trying to fix that once again. I think we need to be as clear as possible. There's no schedule here of with what provincial policies official plans must be consistent—as you know, some of our deputants pointed that out and expressed real concern about that—other than reference to the provincial policy statement in the explanatory note.

How about the greenbelt legislation, the growth management plan? I'm concerned about this because maybe its omission is deliberate, considering that the government's position on aggregates right now does not match what the government is saying in the provincial policy statement or the greenbelt legislation in its current form. So we're already seeing inconsistencies with the position of the aggregates.

Without a doubt, the source water protection legislation must be included. I've said that before, and it will come up in other amendments. It's got to be included in the provincial policies referred to by subsection 3(5). Source water protection absolutely has to be central in land use planning and not added on an ad hoc basis. It's just so critical, given what we know today about the impacts of contaminating our water.

I want to comment as well regarding subsections 3(6.1) and (6.2). Section 2 of the existing act provides the criteria for what can constitute a matter of provincial interest, and that's good. That's a first step. A mechanism that tables specific areas that are deemed matters of provincial interest is needed once again in the interests of transparency and the government accepting responsibility and accountability for its promise to protect critical ecologically sensitive areas, prime agricultural land and our natural heritage. So by explicitly tabling areas that represent a matter of provincial interest makes the government accountable to live up to these stated commitments.

You'll notice that under section 10.1 of the bill, which we'll be getting to, I get very specific about what should be in that schedule. We'll be getting to that a little later. I've stated the list for you for areas that fit the bill—and there's no pun intended here; it does fit the bill in more ways than one—as matters of provincial interest. Those would be the greenbelt hot spots. By declaring those areas as matters of provincial interest, the government, the minister, can act to protect them via a government change to the Planning Act. They are saying now that they can't protect those hot spots, and anybody who is following the greenbelt legislation will be very aware of what those hot spots are. Many of them are before the OMB right now. The minister can act to protect them via a government change to the Planning Act that allows for ministerial intervention in matters deemed to be of provincial interest. Obviously, I have a motive here. We're trying to save those greenbelt hot spots, and if they're listed here in the schedule, then the minister can actually step in and save them.

Development applications involving these areas are either before the OMB right now or they're pending or can be expected at some point. As I said, I've put in an amendment to section 10 of this bill that would make the act applicable to those hearings already in the hopper, thus creating the opportunity for the government to rectify poor actions or the lack of action it has taken regarding some of these hot spots.

I want to give an example, and I've been raising this one in the Legislature on many occasions and before committee here: the failure to stop the Castle Glen development on the Niagara Escarpment from the outset

or to include Simcoe county in greenbelt legislation. That's all about the leapfrog development that's happening.

Subsection 6(2) is a measure to make what constitutes a matter of provincial interest explicit and transparent. It's also a safeguard that the minister intervenes in matters of provincial interest.

So that's what this is all about. It's trying to be very explicit and clear about what should be included in here.

Mrs Van Bommel: This is quite an extensive motion. I'm looking at the first part, where we talk about consistency with provincial statements. The provincial policy statement at this time is still under review and going through a consultation process.

You've listed many acts that actually exist already, and these acts have processes already in place for their implementation. You also talk about the Greenbelt Protection Act and any successor. Again, that is legislation that is still being developed at this point.

All of these things, especially when we talk about things in the act that deal with the protection of source water or any act that deals with urban growth, create uncertainty for municipalities and for individuals who would make application under the Planning Act. It also, in a roundabout way, ties the hands of the Legislature in the future, and I have your concerns about doing that.

I don't think there's really a need at this point to list the bills. We have provincial interests already recognized under section 2 of the Planning Act. I think that sometimes when we create lists, we cause further confusion.

One of the things that I noticed too—and you mentioned Castle Glen in particular—decisions have already been made, so we're talking about going back. I'm not sure it's within the scope of this bill to do that. It's certainly extraordinary to be targeting specific development issues and interests. I think, from the list that I'm looking at, that's essentially what's happening.

The Chair: Any other questions or comments?

Ms Churley: Just to clarify why I listed those in particular: As you know, the greenbelt legislation came before a committee. Were you sitting on that?

Interjection.

Ms Churley: Yes, I thought so. These hot spots were identified as very environmentally sensitive lands, which, as I said, are before the OMB or are going to the OMB or whatever. I understand what you've said about retroactively going back, but of course, that's what declaring a provincial interest can be all about. I'm including them in here because we already know that development shouldn't happen on these lands. That was pointed out very clearly during the greenbelt hearings. It seems to me that we have an opportunity here, if we include them in the schedule, to protect them. Otherwise, I don't think we're going to have that opportunity, and this is a good opportunity for the government to include them and make sure that those environmentally sensitive lands are protected. That's why I'm putting them in here. I don't see any other way, in the existing processes right now, to put a stop to these lands being developed, and they really shouldn't be.

Could I have a recorded vote on this?

The Chair: Definitely. Any more questions or comments? If none, those in favour of the NDP amendment to section 2, subsections 3(5), (6), (6.1) and (6.2)?

Ayes

Churley.

Nays

Dhillon, Munro, Qaadri, Rinaldi, Van Bommel.

The Chair: The motion is defeated.

We'll move on to page 5, which is a PC motion on section 2, subsection 3(6).

0950

Mrs Munro: This is consistent with an earlier motion that I presented. So I will withdraw it.

The Chair: Thank you. Shall section 2 carry? Against? Two against. It is defeated. Sorry; section 2 is carried because there's no amendment.

Shall section 2 carry? All those in favour of section 2, as it appears in Bill 26?

Mrs Van Bommel: There is confusion here.

The Chair: We're voting on section 2. The amendments have been defeated.

Mrs Van Bommel: Section 2 as it now stands? OK. Yes.

The Chair: In favour of section 2? Against? Section 2 is carried.

Section 3, page 6, which is a government motion. Mr Qaadri.

Mr Shafiq Qaadri (Etobicoke North): Subsection 3(2) of the bill, amending subsection 17(51) of the act:

I move that subsection 17(51) of the act, as set out in subsection 3(2) of the bill, be struck out and the following substituted:

"Matters of provincial interest

"(51) Where an appeal is made to the municipal board under this section, the minister, if he or she is of the opinion that a matter of provincial interest is, or is likely to be, adversely affected by the plan or the parts of the plan in respect of which the appeal is made, may so advise the board in writing not later than 30 days before the day fixed by the board for the hearing of the appeal and the minister shall identify,

"(a) the provisions of the plan by which the provincial interest is, or is likely to be, adversely affected; and

"(b) the general basis for the opinion that a matter of provincial interest is, or is likely to be, adversely affected."

The Chair: The reason behind this amendment?

Mrs Van Bommel: This amendment, of course, establishes the authority of the minister to declare a provincial interest. It also addresses concerns that we heard during the hearing that the applicants and the public wanted to know what kinds of provincial interests the minister was

addressing and have some indication of why. So this will give the minister the opportunity, or requires the minister to identify the general basis for the declarations.

Ms Churley: First, just a question about procedure here. The next amendment is mine, and it refers to the same section. If this amendment were to pass, would it rule mine out of order?

The Chair: Yours would be redundant, yes.

Ms Churley: OK. Well, then let me take this opportunity to talk about why I think this amendment before us doesn't go far enough, and where mine, which I presume in a few minutes is going to be ruled out of order because they, the Liberals, have the majority and, I expect, will be supporting theirs—but I would urge you to vote this one down.

If you look ahead to the next amendment, which is going to be ruled out of order if you vote this one in, you will see that the wording is the same until you get to the (a), (b), and (c) of (51). What is different is this: The measure the NDP has put in is stronger because it requires the minister to spell out how it is a matter of provincial interest, and he has to declare the reason as to why the matter is of provincial interest in accordance with section 2 of the act. That is the difference. It's simply taking it a step further.

Section (b) of the government amendment just says, "the general basis for the opinion that a matter of provincial interest is, or is likely to be, adversely affected." You may think that this is semantics, but it isn't. Again, for the purposes of transparency, clarity and going as far as possible in terms of protecting our sensitive lands, I think it's important that the minister be very, very clear and declare, not just generally, the reason as to why the matter is of provincial interest, and include details for the public, for anybody whose interest could be adversely affected. It's also making it transparent in that it's not just done behind closed doors with just general information being given to the public, but with very clear and precise reasons.

I don't think it's a whole lot different. It's just that mine is much more clear and is stronger. I would urge you to vote the Liberal amendment down. I would urge the Liberals to do that and vote for mine, which is coming up next.

Mrs Munro: I would just like to comment in the same vein as Ms Churley has, in that it was certainly something we heard in the hearings, the concern over the lack of transparency in the process as outlined in this section. While I see that the government has made some suggestions to provide a little greater transparency—at least a rationale—clearly the other motion has more detail and I think does give a greater assurance to anyone in terms of the minister's decision-making.

I think it's particularly significant to note, in this government amendment that we're looking at, that the wording from the original bill has been maintained with regard to the opinion of the minister: "if he or she is of the opinion." There were many people who felt this left open a lot of opportunity that really didn't speak to those issues of transparency.

Mrs Van Bommel: I would like to address that whole issue of transparency. Again, we're talking about the declaration of provincial interest. I know there were concerns expressed about that. We feel that by saying the minister would indicate the general basis of his opinion, that would help to alleviate that concern.

I know there's certainly a concern that the minister would arbitrarily use his powers under the declaration of provincial interest, but historically there's no evidence of that. The ability to declare a provincial interest was first instituted by the Davis government. We have seen many governments of all political stripes since that time. Historically, we have exactly four incidents or events where the minister declared a situation of provincial interest. So I have no concerns as to the ministers using this arbitrarily. There is no evidence and I don't anticipate that anyone would be able to show that there was abuse of this ability.

Mrs Munro: I appreciate the comments made, but I would remind you of a comment the minister himself made last week in the hearings, in response to a concern that I raised. He said that he wouldn't abuse the power. While that is certainly appropriate and what we would expect, the point is that there is the suggestion that there's the opportunity for abuse. For him to suggest that he wouldn't use it is a declaration that there is still an opportunity. I think that the comments made by both the opposition parties is a way to provide the minister with some legislative tools by which he could not be accused of doing that.

1000

The Chair: Any other comments or questions? Seeing none, those in favour of the government motion on subsection 3(2) of the bill, subsection 17(51) of the act? Against? It is carried.

The next one is an NDP motion: subsection 3(2) of the bill, subsection 17(51) of the act. It is ruled out of order.

We'll move on to the next one.

Ms Churley: Just for the record, Mr Chair, I'd just like to say how disappointed I am that we didn't get to my stronger amendment.

The Chair: Thank you. The next one is a PC motion: subsection 3(2) of the bill, subsection 17(51.1) of the act.

Mrs Munro: I will be withdrawing this, as this is merely to remain consistent with a motion I presented, and it was defeated.

The Chair: So it is withdrawn?

Mrs Munro: Yes.

The Chair: The next one is a PC motion: subsection 3(2) of the bill, subsection 17(52) of the act, page 8.

Mrs Munro: I move that subsection 17(52) of the act, as set out in subsection 3(2) of the bill, be struck out and the following substituted:

"Notice

"(52) The minister shall give public notice to any municipal council, planning board, local board, and any board, commission or agency of the government, including the municipal board, that is affected by any declaration by the minister of a matter of provincial interest, before taking any action under subsection (51).

"Hearing

"(52.1) The minister may hold a hearing before taking any action under subsection (51)."

The Chair: The rationale behind this amendment?

Mrs Munro: Again, this is in the spirit of providing the minister with some specific tools that would help to make it clear to everyone involved in the decision-making process with regard to his accountability and transparency. You will notice that this suggests in (52.1) that he "may hold a hearing." We are recommending that a greater public accountability in this process would lead to further confidence in the process and would provide everyone, then, with an understanding of what, in his or her opinion, had been a provincial interest.

I would suggest to the government members that this is not a particularly binding kind of process. If you look at the government amendment that was just proposed and accepted, it essentially suggests a mechanism for doing what you have agreed to in subsection (51). So I would ask for your consideration to simply provide the minister with an optional tool if you accept this amendment.

The Chair: Questions or comments? Seeing none, those in favour of the PC motion on page 8? Against? It is defeated.

Page 9: a PC amendment to subsection 3(2)of the bill, subsection 17(54) of the act.

Mrs Munro: I move that subsection 17(54) of the act, as set out in subsection 3(2) of the bill, be amended by striking out "vary."

I think it's really important to stop and take a moment to look at the fact the bill has suggested "confirm, rescind or vary" the outcome of the process. I think this has extraordinary implications. It's one thing for a minister, and obviously the cabinet, to say yes or no. I believe when the parliamentary assistant referred to other historic occasions when cabinet used its power, it was in a yes/no kind of situation. What you're suggesting by including "vary" in this piece of legislation is not simply support or denial of the process; you're now going to put yourself in the position of micromanaging a particular situation.

I really wonder whether or not people have considered the implications of "vary." You're saying to the people who have been involved in a process that could represent literally years of work and millions of dollars that at the end of the day a group of people who can act in private, who may or may not have looked at all the evidence, who may or may not have the kind of expertise that is represented by all the planners and people who have been involved in the process as well as the expertise and legal guidance the OMB have, can suddenly come out and vary what the OMB has said.

I think this will create an enormous amount of instability within the field because of the fact that it's not the historic power of approval or disapproval; it is actually getting into the details of a particular proposal and then rewriting it. I think this is something that, quite frankly, I'm surprised the government wants to get involved in, because of the complexity of varying an outcome that has gone through a very public, expensive process and then you're going to get in there and micromanage. That's why we're putting this forward: to leave it at the yes/no power, as opposed to getting involved in the details.

The Chair: Is the government ready to explain or give information on this concern?

Mrs Van Bommel: We can't support this particular motion. This is really, as you have said, Mrs Munro, an all-or-nothing approach. You mentioned yourself that there is a lot of time that could be spent on an issue, a lot of dollars that could be spent on an issue, and we then have a situation where the proponent could lose all of that simply over one modification to the decision. We want to be able to allow that to happen and not everything is suddenly lost by a proponent.

The provision has historically been in the act, and then in 1996 your government took it out. We're just restoring what was there originally.

1010

Ms Churley: I understand what Mrs Munro is saying here, but I don't support this particular amendment. Having sat in cabinet, I certainly understand what you're saying. Occasionally, appeals come before cabinet where we have to make decisions based on far less information than perhaps the original decision-making body. It's rarely used, but I think it's important to have it in there. At the end of the day, it's elected politicians who are accountable. You do, and can, have situations from time to time where a small thing can be altered—declaring a provincial interest, for instance—without throwing the whole thing out and starting all over again. It's important that the cabinet have an opportunity to fix something that is fixable.

That has to be in there. I can't remember if we used that or not, but I do believe it needs to be brought back in. Again, I come back to our needing transparency and openness in all decisions that cabinet makes. But at the end of the day they are accountable, and I believe they need to have the power to vary decisions from time to time, if necessary. Believe me, cabinet tries to stay away as much as possible from varying decisions. Why get involved in that hornet's nest, which it often is when it comes down to that?

If my memory serves me correctly, what sometimes happens is if there is a big fight and the OMB makes a decision and one side is unhappy about a particular piece of it, sometimes both sides can agree that perhaps a slight variation can be made to try to deal with a situation that may have been resolved at the OMB but continues to create conflicts in the community. If my memory is correct, that is why that used to be in the Planning Act.

The Chair: Any other comments or questions? If none, those in favour of the PC amendment? Against? It is defeated.

The next one is on page 10, a PC amendment to subsection 3(2) of the bill, subsection 17(55) of the act.

Mrs Munro: Mr Chair, this is the same as the earlier ones, so I will withdraw it.

The Chair: It is withdrawn.

We'll now vote on section 3. Those in favour of section 3, as amended? Against? It is carried.

We'll move on to section 4, an NDP motion, page 11.

Ms Churley: I move that subsection 4(3) of the bill be struck out and the following substituted:

"(3) Subsection 22(6) of the act is repealed and the following substituted:

"Refusal and timing

"(6) Until a council or planning board has received any fee under section 69 and the prescribed information and material required under subsection (4), the information or material that the council or planning board considers it may need under subsection (5), the information and material required under the official plan or a bylaw of the municipality and any information that the municipality or planning board considers necessary to meet the requirements of the policy statements issued under section 3,

"(a) the council or planning board may refuse to accept or further consider the request for an amendment to its official plan; and

"(b) the time periods referred to in clauses (7)(c) to (d) do not begin."

The Chair: Can you give an explanation of this amendment?

Ms Churley: Sure. This issue was actually brought up by some of the deputants; I refer in particular to the Pembina Institute deputation. It talked about Bill 26 being amended to provide a definition of "complete application." They spelled out what they believed a complete application should be defined to include. For municipalities to comprehensively assess if applications made before them meet official plans and, by extension, provincial policies and regulations, they need a complete set of information. I know that municipalities have expressed concern that, under the current definition of "complete application," what's happening is that developers don't have to include many relevant pieces of information that are key for the municipalities to properly evaluate the applications against the PPS and related legislation; for instance, things like traffic-impact studies, the implication for infrastructure and natural heritage and other environmental concerns. What this amended clause is intending to do is ensure that the clock on the review period does not start until all of the necessary information is given to the municipal council to evaluate the application. Once that's provided, the clock should start ticking. That has been a problem that has been articulated time and time again.

This, I think, is a sensible, reasonable amendment that would give the municipalities the tools that they need to assess the applications before them with all of the information that the developers have before them. Right now, it's not a level playing field in that way.

Mrs Van Bommel: I'm afraid we're not going to be able to support this motion. Basically, we understand the issue of the complete application, but what concerns us is the part of the motion that says, "Any information that the municipality or planning board considers necessary..." There is an open-ended process. It could vary at any point. It would say that there's uncertainty for the applicants, in that they don't know what is required of them, because the municipality can make a decision that it requires additional information that the applicant may not anticipate. There's the potential that there would be no limit to what would be required of an applicant. It does really concern us that applicants should at least know in advance what is going to be required of them. There is a need for certainty here. We understand, as I said, the issue around the definition of a complete application, but it is that particular part of the amendment that concerns us the most.

Ms Churley: So would you consider amending the amendment to strengthen that particular piece of it? I understand, from what you were saying, you agree with the general thrust to allow the municipalities to be provided with more information, but you're concerned with the open-endedness of this. We could stand it down and try to work out an amendment that would perhaps strengthen that one concern you have, or clarify that concern.

The Chair: We're getting clarification there.

Mrs Van Bommel: Yes, I'm getting clarification. We are already looking at that issue—and I'm just reminded of that—through the planning reforms that we have in place. So the issue of the complete application is being addressed in that respect. As I said, we understand that concern, but we don't feel that it needs to be addressed through this particular bill.

Ms Churley: We may need more explanation from staff here, because I'd like to understand. If it's not included in this act—because this is the act to amend the Planning Act; it seems to me the proper place to put it—under what processes would you be working on this, and what would it be included in?

Mr Peterson: As you know, the government has undertaken a planning reform initiative that involves a number of components: OMB reform, the provincial policy statement review and also a look at what other changes need to be made to the Planning Act, including planning tools. So it's within the broader context of that planning reform initiative in terms of what additional changes may be required to the Planning Act that that's being looked at comprehensively.

1020

Ms Churley: Perhaps this is more of a political question, and if it is, I would go back to the Liberal politicians. Because this is just such a clear matter, perhaps the wording of my amendment could be changed. Why would it not be included in this? Do you feel, for instance, that more consultation is needed around it, or what? Is that a political question? It could be included in this, right?

Mrs Van Bommel: I think, very rightly, there is consultation, and we are going through that. We've done consultation on this and we are going through all that information, so I think we need to wait for that review to finish.

Ms Churley: I gave you a little bit of an out there by suggesting it might get consultation, which you picked up on right away. I understand you're not going to support this, but I just want to say for the record that we've heard of this complaint time and time again, and it is really vital to fix.

I see no reason to not attempt to be very clear in these amendments that we're listening and change what I think we all would agree is a flaw in the system right now. It is making it very difficult for municipalities. So I still contend that it fits nicely within these amendments to the Planning Act, and this is a good opportunity for us to get it right.

Mrs Van Bommel: As a government, we are addressing that particular issue.

The Chair: Any more questions or comments?

Ms Churley: Could I have a recorded vote?

The Chair: We'll proceed with the recorded vote.

Ayes

Churley.

Nays

Dhillon, Munro, Qaadri, Rinaldi, Van Bommel.

The Chair: The motion is defeated.

We'll move on to page 12, a government motion.

Mr Rinaldi: I move that subsections 22(7.1) and (7.2) of the act, as set out in subsection 4(7) of the bill, be struck out and the following substituted:

"Restriction re: appeal

"(7.1) Despite subsection (7), a person or public body may not appeal to the municipal board in respect of all or any part of a requested amendment if the amendment or part of the amendment proposes to alter all or any part of the boundary of an area of settlement in a municipality or to establish a new area of settlement in a municipality.

"Same

"(7.2) Despite subsection 17(36), a person or public body may not appeal to the municipal board in respect of the refusal of the approval authority to approve any part of a plan that proposes to alter all or any part of the boundary of an area of settlement in a municipality or to establish a new area of settlement in a municipality if the part of the plan formed all or part of an amendment requested under subsection (1) or (2).

"Same

"(7.3) Despite subsection 17(40), a person or public body may not appeal to the municipal board in respect of any part of a plan that proposes to alter all or any part of the boundary of an area of settlement in a municipality or to establish a new area of settlement in a municipality if the part of the plan formed all or part of an amendment requested under subsection (1) or (2).

"Exception

"(7.4) Despite subsections (7.1), (7.2) and (7.3), a person or public body may appeal to the municipal board in respect of any part of a plan that proposes to alter all or any part of the boundary of an area of settlement in a lower-tier municipality or to establish a new area of settlement in a lower-tier municipality if that part of the plan conforms with the official plan of the upper-tier municipality."

The Chair: Could you explain the rationale behind this motion?

Mrs Van Bommel: I'm just going to go through it a section at a time as we proceed under subsection (7.1). Essentially, this is to provide consistency with section 1, where we talk about areas of settlement.

Subsection (7.2) addresses the issue of the right to appeal an approval authority's decision. Again, because we want to tighten up the act and create consistency, we have said that a proponent who appeals the boundaries adjustment on settlement areas to a municipality can appeal that. We also wanted to include in that the approval authority's decision. So this is basically a technical tightening up, and if there are any questions, I'm sure our technical staff would be happy to deal with those.

Again, under subsection (7.3), we're talking about the issue of areas of settlement. The exception, of course, is that this maintains the right of appeal of a lower municipality's decision versus that of an upper tier's decision. This is in keeping with the direction of our provincial policy statement and also our proposed growth management strategy and plan.

The Chair: Questions and comments?

Ms Churley: Yes, it was subsection (7.3) and subsection (7.4). The parliamentary assistant explained it to some extent. I just want to be sure I understand the implications of this, particularly the exception in (7.4). You said that this is to make it consistent with what, sorry? With your new provincial policy statement or—

Mrs Van Bommel: This is the direction the provincial policy statement—

Ms Churley: OK.

Mrs Van Bommel: So an upper-tier government, an upper-tier municipality, under the official planning, would have jurisdiction over the lower tiers in terms of their official plans, so if—

Ms Churley: See, that's what—sorry, were you finished?

Mrs Van Bommel: No. I was going to say, so that if there is a situation where the lower tier is inconsistent with the upper tier, then this would still maintain the applicant's right to appeal a decision of the lower tier so that it is in conformity with that of the upper tier.

Ms Churley: Just to anybody who might be watching this, sometimes these things are not written in the plainest language possible. I wasn't sure if I understood the exception, because it sounds to me—let me use a specific example so I'll be clear. King City pipe, the big pipe: That would be an example of a lower tier making a decision against the big pipe and the upper tier coming in and overturning that and going ahead with the big pipe. So would this mean that if this is passed—it's not the same?

Mrs Van Bommel: I'm going to refer this to the technical staff, because they're having a conversation over here.

Ms Churley: That's what I want to know: Would it take away the right of a lower-tier municipality to make decisions, in that the upper tier could come in and override them and the lower tier would have no right to appeal?

The Chair: Mr Peterson, could you give clarification on this?

Mr Peterson: Certainly. The intent of (7.4) was, in the event that the lower tier did turn down a proposal and the proposal was in line with an upper-tier official plan—and the upper tier has responsibilities to set broad growth strategies and that sort of thing—this provision would allow an appeal to be possible.

Ms Churley: So, in fact, I've got it backwards, just so I'm clear. Because it's really hard if you read through (7.4). It's really difficult. I had to read it about 10 times to figure out which way it meant. So what you're saying is, the lower tier would have the opportunity to appeal?

Mr Peterson: No. Basically what it means is that in the event the lower tier turned down, for instance, a private application for an official plan amendment or that sort of thing, if the actual proposed amendment was in line with what the upper-tier official plan had, in terms of an approved designation or what have you for that area, there would still be the opportunity for the applicant to launch an appeal before the Ontario Municipal Board.

1030

Ms Churley: OK. So would my example of what happened with the big pipe fit into this amendment in any way?

Mr Peterson: To be honest, I'm not familiar with all aspects of the big pipe.

Ms Churley: OK.

The Chair: I don't think this would have anything to do with planning. It would be within the municipality.

Ms Churley: Perhaps you're right; Mr Chair has now entered the debate.

The Chair: Sorry. This is outside the Planning Act.

Any other comments or questions? Seeing none, those in favour of the government motion? Against? It is carried.

Next is a government motion: section 4(9) of the bill, subsection 22(11.1) of the act, on page 13.

Mr Qaadri: I move that subsection 22(11.1) of the act, as set out in subsection 4(9) of the bill, be struck out and the following substituted:

"Matters of provincial interest

"(11.1) Where an appeal is made to the municipal board under this section, the minister, if he or she is of the opinion that a matter of provincial interest is, or is likely to be, adversely affected by the amendment or any part of the amendment in respect of which the appeal is made, may so advise the board in writing not later than 30 days before the day fixed by the board for the hearing of the appeal and the minister shall identify,

"(a) the provisions of the amendment or any part of the amendment by which the provincial interest is, or is likely to be, adversely affected; and

"(b) the general basis for the opinion that a matter of provincial interest is, or is likely to be, adversely affected."

The Chair: Can we get an explanation or the purpose of this amendment?

Mrs Van Bommel: This relates to official plan amendments. I think we discussed this earlier. It addresses concerns that were brought up at the hearings and addresses creating a more open and transparent process for the declaration of provincial interest.

The Chair: Questions or comments?

Ms Churley: Just briefly, Mr Chair, this is the same as a previous amendment. It deals with the same area, and I am in the same position where I have an amendment which I assume will be ruled out of order should this pass. Is that correct?

The Chair: That is right.

Ms Churley: OK. I will just say, as the last amendment is the same as this one, that for the same reasons I would ask that this be voted down and mine be supported. Although those amendments are similar, what the government amendment does is require the minister to explain in general how the matter is of provincial interest. My amendment is stronger in that it calls for specific details. Again, for the reasons I outlined earlier, the more information the public has and the more transparent the process is, the better.

Mrs Munro: I would just like to add that the only difference between this and the earlier amendment is that this one deals with amendments, and while this amendment does represent some response to the hearings, I don't believe it goes far enough in providing assurance to people on transparency, given the wording of "the general basis" and the idea that this may or may not happen. I will not be supporting this amendment.

The Chair: Any other questions or comments? Seeing none—

Ms Churley: A recorded vote, please.

Ayes

Dhillon, Qaadri, Rinaldi, Van Bommel.

Nays

Churley, Munro.

The Chair: The motion is carried.

Page 13a, the NDP motion, is out of order.

We will proceed with the vote on section 4. Shall section 4, as amended, carry? Against? It is carried.

Section 5: Seeing that we haven't received any amendments, shall section 5 carry? Against? It is carried unanimously.

Section 6: page 14. It's an NDP motion, section 6(0.1), subsection 34(10.3).

Ms Churley: I move that section 6 of the bill be amended by adding the following subsection:

"(0.1) Subsection 34(10.3) of the act is repealed and the following substituted:

"Refusal and timing

"(10.3) Until the council has received any fee under section 69 and the prescribed information and material required under subsection (10.1), the information or material that the council considers it may need under subsection (10.2), the information and material required under the official plan or a bylaw of the municipality and any information that the municipality considers necessary to meet the requirements of the policy statements issued under section 3,

"(a) the council may refuse to accept or further consider the application for an amendment to the bylaw; and

"(b) the time period referred to in subsection (11) does not begin."

The Chair: Can you explain?

Ms Churley: Yes. Again, this is the same as the earlier amendment—the same rationale applies. For municipalities to comprehensively assess applications, they need all of the information available. They have expressed concern that the current definition of "complete application" does not give them enough information to proceed in the best interests of their communities.

The Chair: Any other questions or comments?

Mrs Van Bommel: We won't be able to support this particular motion. As we said earlier, it is in some ways a repeat of another; this one relates to zoning bylaws. Again, there's uncertainty in what is required of applicants. There's no limit to what might be required. This does not allow for public scrutiny of what the municipality may decide is required, so that means it could vary from applicant to applicant.

Ms Churley: I would say, on the contrary, that the more information the municipality has, the more information the public has. I don't quite understand that argument at all. I don't want to continue on this debate—we had it earlier—but that didn't make any sense. The complaint we have is that developers often have information that they are not sharing with the municipality or the public, so it seems to me that the reverse would be true: that if that information were required, then the public and the municipality, which represents the public, would be able to make better judgments as to how to proceed.

Mrs Van Bommel: I just want to address that particular issue of public scrutiny. I think that municipalities should be able to identify in advance for the public what requirements they have of applicants. I think there needs to be some surety and some certainty around what is required, and the public needs to be able to know that in advance of a decision made by a municipality, as to what could be required of any one particular applicant.

Ms Churley: If I may, what you're saying is that you want to have spelled out specifically what kind of information a municipality should or could ask the developers to provide, as opposed to open-ended. What concerns me about that, of course, is that cookie-cutter, one-size-fits-all. There may be circumstances where a municipality would have to vary, depending on the nature of the application. I think leaving it open-ended—actually, that's why we addressed it the way we did. Obviously, the amendment that I have is very clear, in terms of identifying the part or parts of the bylaw which a provincial interest—wait a minute. Am I looking at the right one here?

1040

The Chair: Page 14.

Ms Churley: At any rate, I don't need to go back over it again. But the way the amendment is stated, the municipality would have to stay within the bounds of the policy statements and all of the legitimate legislation and regulations under which they're working.

Mrs Van Bommel: That's not exactly what we're saying here, but I'm going to leave it to technical staff to address that one.

The Chair: Mr Peterson, can you give further explanation, or Mr Shachter?

Mr Irvin Shachter: Perhaps I can assist Mr Peterson. As Mr Peterson indicated before, all of the issues that have been raised here today are matters that are going to be addressed as part of the review that staff are undertaking as part of planning reform.

Ms Churley: OK.

The Chair: Any other questions? Seeing none, all those in favour of the amendment?

Ms Churley: Recorded, please.

Ayes

Churley.

Nays

Munro, Dhillon, Qaadri, Rinaldi, Van Bommel.

The Chair: It is defeated.

The next one is on page 15. It's a government motion, subsection 6(1.1).

Mr Vic Dhillon (Brampton West-Mississauga): I move that section 6 of the bill be amended by adding the following subsection:

"(1.1) Section 34 of the act, as amended by the Statutes of Ontario, 1993, chapter 26, section 53, 1994, chapter 23, section 21, 1996, chapter 4, section 20, 1999, chapter 12, schedule M, section 25, 2000, chapter 26, schedule K, section 5 and 2002, chapter 17, schedule B, section 10, is amended by adding the following subsection:

"Restriction

"(11.0.1) Despite subsection (11), a person or public body may not appeal to the municipal board in respect of all or any part of a requested amendment to a bylaw if the amendment or part of the amendment proposes to implement an alteration to all or any part of the boundary

of an area of settlement in a municipality or to implement a new area of settlement in a municipality."

The Chair: Can we have some explanation of this?

Mrs Van Bommel: This is a technical change, and it's needed for clarity. This deals with the retroactive right of an applicant-driven zoning bylaw amendment for boundary expansion. I would refer to our technical staff to further explain that change.

Mr Peterson: The motion does two things. One, it separates this provision from the balance of the subsection. This supports a technical change, which will come later in the motions, to allow for a provision dealing with elimination of appeal rights regarding urban boundary expansions to apply retroactively. The second component of this changes the term that we were talking about—the term for urban settlement areas—to the term that was accepted.

Ms Churley: Can I just ask what amendment you're referring to? You said it's coming later? Did you say it's referring to—

Mr Peterson: It's really the amendment that's going to deal with the retroactivity of the provision that deals with application.

Ms Churley: Oh, I see. OK.

The Chair: Any other questions or comments? Seeing none, those in favour of the government motion on subsection 6(1.1)? Against? It is carried.

The next one is page 16, a government motion, subsection 6(2), subsection 34(11.0.1) of the act.

Mr Rinaldi: I move that subsection 34(11.0.1) of the act, as set out in subsection 6(2) of the bill, be struck out.

The Chair: And the rationale for that one?

Mrs Van Bommel: This is a housekeeping amendment.

The Chair: A housekeeping amendment only. Questions or comments?

Ms Churley: Well, if I could have clarification of that. I understand that this refers to zoning bylaws, does it not?

Mrs Van Bommel: I'll refer it to the technical staff.

Mr Peterson: That's correct. Basically, what this deals with—it's a complicated sort of thing. The previous motion actually put in the section again. This one takes it out. It's basically designed to separate what was a very long subsection into two parts. The previous motion kind of replicated the part that was in there, to insert it into the bill, and this takes the old section out. This just takes out the old section that needed to be removed.

Ms Churley: OK, I understand what you're saying. It wasn't quite clear to me.

The Chair: Thank you, Mr Peterson, for this clarification. Ms Churley?

Ms Churley: No, I think that's fine, thank you.

The Chair: Any other questions or comments? Seeing none, those in favour of the government motion, subsection 6(2), subsection 34(11.0.1) of the act? Against? It is carried.

The next one is page 17, a government motion, subsection 6(2), subsection 34(27) of the act.

Mr Qaadri: I move that subsection 34(27) of the act, as set out in subsection 6(2) of the bill, be struck out and the following substituted:

"Matters of provincial interest

"(27) Where an appeal is made to the Municipal Board under subsection (11) or (19), the minister, if he or she is of the opinion that a matter of provincial interest is, or is likely to be, adversely affected by the bylaw, may so advise the board in writing not later than 30 days before the day fixed by the board for the hearing of the appeal and the minister shall identify,

"(a) the part or parts of the bylaw by which the provincial interest is, or is likely to be, adversely affected; and

"(b) the general basis for the opinion that a matter of provincial interest is, or is likely to be, adversely affected."

The Chair: Can we get clarification on this one?

Mrs Van Bommel: This is very similar to earlier motions. This one relates to appeals of zoning amendments and again establishes the authority to declare a provincial interest. Again, we are addressing concerns that were expressed at our hearings.

Ms Churley: I have a similar amendment. I take it that if this amendment is passed, mine will be ruled out of order.

The Chair: Yes.

Ms Churley: I would again say that although the government amendment goes some distance in terms of addressing the matter, it doesn't go far enough, and I hope this amendment will be voted down and my amendment not ruled out of order and actually passed, for the same reasons as previously mentioned.

1050

The Chair: Any other questions or comments? Seeing none, those in favour of the government motion? Against? It is carried.

The next one, page 17a, an NDP motion, is redundant. It's out of order, really, because the other one just passed.

Shall section 6, as amended, carry? Against? It is carried.

We'll now move on to a government motion: subsection 7(2) of the bill, subsection 36(3.1) of the act.

Mr Dhillon: I move that subsection 36(3.1) of the act, as set out in subsection 7(2) of the bill, be struck out and the following substituted:

"Matters of provincial interest

"(3.1) Where an appeal is made to the municipal board under subsection (3), the minister, if he or she is of the opinion that a matter of provincial interest is, or is likely to be, adversely affected by the bylaw, may so advise the board in writing not later than 30 days before the day fixed by the board for the hearing of the appeal and the minister shall identify,

"(a) the part or parts of the bylaw by which the provincial interest is, or is likely to be, adversely affected; and

"(b) the general basis for the opinion that a matter of provincial interest is, or is likely to be, adversely affected."

The Chair: Some clarification, Mrs Van Bommel?

Mrs Van Bommel: Again, this is similar to the previous motion. In this case, it establishes the authority for the minister to declare a provincial interest on matters of zoning bylaw amendments for holding symbols. Again, we are addressing concerns about transparency that were expressed to us during the hearings.

Mrs Munro: Perhaps I could ask the technical staff, in terms of this part of the act where we're talking about a holding bylaw, is that something where someone who has owned land for any length of time—would that be the kind of circumstance where this holding bylaw would be in place? Is that who it covers?

Mr Peterson: More generally speaking, I think it would apply to cases where a municipality has identified that at some time in the future a land use would be appropriate for the area but there may not be services available or that sort of thing. Most of the time it's an indication that, yes, this is what we want to do in the future, but there are a number of issues and other matters that need to be overcome before the municipality would actually lift the "H" symbol, which would allow the proponent to do whatever the land may be designated for underneath the "H."

Mrs Munro: So by this, we're suggesting that the minister could decide that this represented a provincial interest? Is that what we're doing by this inclusion?

Mr Peterson: If there is a matter that's before the Ontario Municipal Board—I think you know there's a 30-day window and all the rest of that—the minister could declare a matter of provincial interest. That might relate to some issue related to servicing. Maybe there is a really big servicing issue associated with it or something to that effect.

Ms Churley: I just want to point out for the record that I have an amendment similar to this, but the wording is stronger. Should the government amendment pass, I assume that my amendment would be ruled out of order.

The Chair: That's right.

Ms Churley: OK. Thank you.

The Chair: Any other comments or questions? Seeing none, those in favour of the government amendment? Against? It is carried.

As I just mentioned, the next one, the NDP amendment on page 19, is out of order.

Shall section 7, as amended, carry? Against? It's carried.

We'll move on to page 20, an NDP amendment: section 8 of the bill, subsection 51(19) of the act.

Ms Churley: I move that section 8 of the bill be renumbered as subsection 8(2) and the following subsection added to it:

"8(1) Subsection 51(19) of the act is repealed and the following substituted:

"Refusal and timing

"(19) Until an approval authority has received any fee under section 69 or 69.1 and the information and material referred to in subsection (17), such other information and material that the approval authority considers it may need under section (18), as many copies of the draft plan of the proposed subdivision as are required by the approval authority, the information and material required under the official plan or a bylaw of the municipality and any information that the approval authority considers necessary to meet the requirements of the policy statements issued under section 3,

"(a) the approval authority may refuse to accept or further consider an application; and

"(b) the time period referred to in subsection (34) does not begin."

The Chair: Can you explain the purpose of this amendment?

Ms Churley: Yes, I've explained the purpose. It's the same amendment that I made under other sections, which has been voted down. The government says they're dealing with this important matter under another process; therefore, I don't expect it to pass. I think that it should, that it would be good to deal with this very important matter during the course of these amendments, and I would urge the members here to do so.

The Chair: Questions or comments? Seeing none, those in favour of the NDP motion? Against? It is defeated.

Shall section 8 carry? Against? It is carried.

An NDP motion: section 9 of the bill, subsection 53(4) of the act, on page 21.

Ms Churley: I move that section 9 of the bill be renumbered as subsection (2) and the following subsection added to it:

"9(1) Subsection 53(4) of the act is repealed and the following substituted:

"Refusal and timing

"(19) Until the council or the minister has received any fee under section 69 or 69.1 and the information and material referred to in subsection (2), such other information and material that the council or minister considers it may need under subsection (3), the information and material required under the official plan or a bylaw of the municipality and any information that the council or minister considers necessary to meet the requirements of the policy statements issued under section 3,

"(a) the council or the minister may refuse to accept or further consider an application for a consent; and

"(b) the time period referred to in subsection (14) does not begin."

The Chair: Again, the rationale for this?

Ms Churley: It is the same rationale as the previous amendments.

The Chair: Questions or comments? Seeing none, those in favour of the NDP amendment? Against? It is defeated.

Shall section 9 carry? Against? It is carried.

An NDP motion: section 10 of the bill, clause 70.4(1)(a), page 21a.

1100

Ms Churley: I move that clause 70.4(1)(a) of the act, as set out in section 10 of the bill, be amended by adding "if the matters or proceedings are matters of provincial

interest or proceedings related to matters of provincial interest" at the end.

The Chair: Can you explain again?

Ms Churley: Yes. This relates back to my earlier motion involving section 2 of this bill to create a table that lists specific areas identified as matters of provincial interest, and how this schedule refers back to the greenbelt hot spots, several developments I mentioned involving some areas that are before the OMB right now. So again, I would argue that by passing this amendment, the government creates an opportunity to intervene and protect those areas to fulfil the stated aim of the government to curb urban sprawl and protect natural heritage systems and water at the source. This is something that should have been done before. These hot spots that have been identified should not be proceeding, but they are, and they are in the hopper right now. What this clause does is sees to it that the amendment to the Planning Act allows for the minister to intervene, and that ministerial intervention can apply to these hearings involving some of the hot spots underway right now, like Castle Glen, Simcoe county and some of the others that I mentioned.

Mrs Van Bommel: This particular motion would mean that there would be no transition provisions for anything other than things that are related to or that have an expressed provincial interest. I think in the process of providing planning through this bill, we need to be able to provide transition for all processes or all applications that are in process. By accepting this particular motion, we create a great deal of uncertainty for applicants who have applications in process at this time. We need to be able to establish transition regulations, and that would not be possible under this motion unless they were of provincial interest.

Ms Churley: Just simply, I believe that all of those hot spots should be of provincial interest, and development should be stopped on those areas for the reasons I identified. This is an opportunity—perhaps the only opportunity—to stop the development on these lands.

Mrs Munro: I have a question. If I understand this amendment, would it mean that you were taking this as having more weight than the earlier parts of the bill, which talk about the minister having to declare a provincial interest 30 days before the OMB process? It's a technical question. I was just curious, when I read this amendment, if that would create a problem.

Mr Shachter: I don't think it's a matter of weight as much as causing uncertainty. As you recollect, section 2 of the act already contains a list of matters of provincial interest. What's proposed also is to include specific locations, if I can put it like that, and there will be some uncertainty with respect to which are the matters that are supposed to apply in any given circumstance. As well, I think it should be noted that, as motion 4 had not carried—and this relates back to motion 4—there may be a little bit of inconsistency caused, because the interests that are sought to be included are tied into that earlier motion and it may not fit in with the system of the act as it's presently contemplated.

The Chair: Any more questions or comments? Seeing none—

Ms Churley: A recorded vote, please.

Ayes

Churley.

Nays.

Dhillon, Munro, Qaadri, Rinaldi, Van Bommel.

The Chair: It is defeated.

The next one is page 22. It's a government motion, section 10, clause 70.4(1)(a).

Mr Rinaldi: I move that clause 70.4(1)(a) of the act, as set out in section 10 of the bill, be amended by striking out "before" and substituting "before or after."

The Chair: The rationale for this amendment?

Mrs Van Bommel: This allows the minister to deal with transitional regulations regarding things that occur before and after the bill comes into force. The occasion of its coming into force will be addressed in a further amendment. This again may have implications on approvals that are in process as well.

Ms Churley: Just for further clarification, maybe an example, I don't know, of a transitional matter—because we'll not have all the regulations in place by the time this act goes into effect. Are we referring here to legislation and policies still to be introduced, like the PPS or source water protection? I'm just not clear on what you mean by this.

Mrs Van Bommel: It is our intention to have the PPS also in place when royal assent comes for this bill.

Ms Churley: Why is the "after" in? You have "before or after." What are the implications?

Mrs Van Bommel: I'll have to go to the technical staff for this one.

The Chair: Can you clarify that, Mr Shachter?

Mr Shachter: Perhaps we can clarify. There are two things that adding the "or after" does. It deals with matters that are ongoing. One example that might come to mind is when there's been a subdivision application that has commenced before the act comes into force and draft plan approval has been received. One of the conditions of draft plan approval could be that a zoning bylaw amendment application would be required, and it might be conceivable that such an application would be commenced after. Without any transition regulation to address that, you would have a situation where the subdivision matter, which had received draft plan approval, would be dealt with under one Planning Act and the zoning application amendment would be dealt with under another. It was to ensure there was consistency in that type of a situation. That would be the example for that.

The other reason for the "or after" would be to also cover off issues relating to settlement area boundary expansion matters that are deemed to have come into force on, as you recollect, December 15, 2003, and to

deal with applications made after that particular date. It addresses those two areas.

The Chair: Any other questions or comments? Seeing none, all those in favour of the government motion on section 10, clause 70.4(1)(a)? Against? Seeing none, it is carried.

The next one is a government motion, page 23, on section 10, clause 70.4(1)(b).

Mr Qaadri: I move that clause 70.4(1)(b) of the act, as set out in section 10 of the bill, be amended by striking out "urban settlement area" and substituting "area of settlement."

The Chair: Again, an explanation?

Mrs Van Bommel: This is again a housekeeping matter. We are trying to establish conformity with what we've already agreed to in the amendment in section 1.

1110

The Chair: Questions or comments? Seeing none, all those in favour of the government motion on section 10, clause 70.4(1)(b)? Against? It is carried.

The next one is page 24, an NDP motion on section 10, subsection 70.4(2). It is out of order because the schedule is not part of the bill. The amendment on page 4 was defeated. We just want to clarify this. Yes, 4 and 4a. If you look at page 4a, you refer to parts (a) and (b), and that was defeated. So we're declaring this one out of order. Sorry, Ms Churley.

The next one is page 24a, an NDP motion on section 10, subsection 70.4(2.1).

Ms Churley: This one is in order, I take it.

The Chair: There is no schedule in there.

Ms Churley: I move that section 70.4 of the act, as set out in section 10 of the bill, be amended by adding the following subsection:

"Notice

"(2.1) The minister shall, within 30 days after the day the Strong Communities (Planning Amendment) Act, 2003 receives royal assent, publish notice in the Ontario Gazette of the matters and proceedings that will be dealt with or affected by a regulation made under this section."

The Chair: And the purpose of this amendment?

Ms Churley: It's all about transparency and fairness. It sets out timelines so all parties involved know as soon as possible. You will recall that this is an issue that was raised during the hearings. What it means is the minister may make regulations on transitional matters, including which applications already in progress will be dealt with under the old rules and which will be subject to the new rules. The minister should put these provisions in the act. Doing otherwise leads to uncertainty and perceptions of unfairness. At the very least, the regulation should be made public soon so developers, municipalities and communities know where they stand. This provision, like the section of the bill giving cabinet the final say on planning matters, appears to give cabinet more power than is appropriate.

I addressed this at the hearings as well, as did some of the deputants. There is real concern about the regulations and the need to include this in the bill, even if it's just for perception, during the transitional period.

Mrs Van Bommel: I'm afraid we're not going to be able to support this motion. We feel that regulations are already required to be published in the Ontario Gazette. That is under the Planning Act now, and that would be occurring. For any proposed transition, regulations would also be posted on the Environmental Bill of Rights registry. That would be for a minimum of 30 days, so there is opportunity for the public to see them there and comment on them through that environment.

Requiring the minister to make transitional regulations within 30 days puts a very tight timeline on this. As a government, we intend to move very quickly to ensure that there is certainty for all, so we don't feel that putting a 30-day timeline on it is necessary.

The Chair: Any other comments or questions? Seeing none—

Ms Churley: Could I have a recorded vote?

Ayes

Churley, Munro.

Nays

Dhillon, Qaadri, Rinaldi, Van Bommel.

The Chair: The amendment is defeated. The next one is a government motion on page 25: section 10, subsection 70.4(3).

Mr Qaadri: I move that subsection 70.4(3) of the act be struck out and the following substituted:

"Retroactive

"(3) A regulation under this section may be retroactive to December 15, 2003."

The Chair: The rationale behind this amendment, Mrs Van Bommel?

Mrs Van Bommel: This would establish the date of April 15 for the regulation under this section that may be retroactive. Commencement of the date of the act is changed to the date of royal assent, with some exceptions. But otherwise, we want to ensure that regulations will apply to specific matters.

Ms Churley: As I understand it, this is something I can support, although, again, I think our measure is stronger—the urgency of some of the things I wanted to lay out in the schedule. But if this is made retroactive, then, does that mean that some of the issues that I've listed under the schedule, that I'd like to add to the schedule, could be dealt with under this amendment, like, say, Castle Glen?

Mrs Van Bommel: I'm going to refer to technical staff for that.

Mr Shachter: Without wishing to comment on specific matters, there may be other reasons why Castle Glen could not be addressed. The purpose behind this specific motion is to change the words "came into force" so that regulation actually is tied to a specific date. You

will see in an upcoming motion that there are a number of different time periods from which portions of the act will become effective. It's to clarify that the urban settlement boundary matters and the transition regulations generally will be able to speak back to the date of first reading of this bill.

Mrs Munro: I just want to clarify, because I think when you read the motion into the record, you said "April."

Mr Qaadri: You're correct.

Mrs Munro: OK, that's what I just wanted to clarify, because I was reading "December," and I thought—that's OK.

The Chair: Do you want to correct that?

Mrs Van Bommel: I certainly do want to correct that. Thank you, Chair, and thank you, Mrs Munro, for pointing that out.

Ms Churley: Could I ask a question, just because I'm unclear, about the next amendment on the schedule? Is that going to be in order? It's going to be ruled out of order, isn't it?

The Chair: Well, when we get to that one—

Ms Churley: Yes, it's next.

The Chair: We'll finish this one, then, first.

Ms Churley: Well, yes, but I'd like to know, because in some ways it applies to this one.

The Chair: For clarification, yes, it's going to be redundant, because the motion on page 4 was defeated.

Ms Churley: Just speaking to the amendment before us, then, the measures that I tried to put into place laid out the matters, the really urgent situations that I wanted to have in the schedule, which has now been ruled out of order—the following amendment. But it's one that I spoke of earlier, and I want to say how important it is. The reason I asked the question about this particular amendment—and it's unclear what kind of impact it will have, but one of the things I want it to do would be to include in the schedule, so it can be dealt with retroactively: Castle Glen, Pickering Duffins Rouge agricultural preserve; Simcoe county; Dufferin Aggregates; Rockford quarry; King City; North Leslie, Richmond Hill; areas of significant scientific and natural interest, including Oakville Trafalgar moraine and Boyd Park-Pine Valley; Seaton; and then such other matters as may be prescribed.

1120

I'm hoping the amendment that's before us—it doesn't sound likely—might be a way to go back retroactively and look at some of those.

For instance, I brought up Castle Glen Development. As people here are aware, it's a corporation proposing to locate a year-round community on the escarpment, and that would be the largest development on the escarpment since 1975. I think that is quite significant and needs to be dealt with retroactively.

The Pickering-Duffins Rouge agricultural preserve: The Pickering town council is about to add to its official plan a growth management plan that calls for the Duffins Rouge agricultural preserve to be opened to urban development.

Simcoe county: a leapfrog development. We've been told time and time again that, because of the areas of the greenbelt, it's going to take place because of what's happening in Simcoe county. What the developers are doing is leaping right over and building there, which will create more urban sprawl, more highways and problems that go along with that.

Dufferin Aggregates: That's a hole in the UNESCO biosphere. The site contains many provincially significant wetlands, the headwaters of Sixteen Mile Creek as well as the nationally threatened Jefferson salamander.

The Rockford quarry—I mentioned all of those; North Leslie, Richmond Hill: A massive new subdivision is proposed on the headwaters feeding the main branch of the Rouge River. This is one of the most environmentally sensitive and threatened areas in southern Ontario. Developers are proposing 6,000 residential units as well as industrial and commercial buildings like big-box stores to be built on, and adjacent to, provincially significant wetlands and headwaters. And the site is located a stone's throw from the controversial plan to build 5,700 new houses on the Oak Ridges moraine.

Areas of significant scientific and natural interest, including Oakville Trafalgar moraine and Boyd Park-Pine Valley: There's an approval for a plan to put 55,000 new residents and 35,000 employees on the moraine. That's heading to the OMB likely this fall. At 7,600 acres, this environmentally sensitive area is the last undeveloped rural land in Oakville. The Trafalgar moraine contains many significant provincial wetlands and is an important habitat for birds and other species. It's in a watershed area, the source of Oakville's six major creeks, and it contains several candidate sites for designation as an area of natural scientific interest. The area is already a regional area of natural scientific interest.

I want to point out, and I'm still hoping, as we speak to the Liberal amendment before us, that since my amendment is going to be ruled out of order because it's been voted down before, perhaps somehow this amendment could be made to deal with these very significant environmentally sensitive lands. That's why I wanted to put them in the schedule. The evidence and the proof are there. For instance, the Liberals' very own Mike Colle, when in opposition, presented a private member's bill in May 2002 to protect the Oakville Trafalgar moraine from these very same development pressures. When Mr Colle presented the bill, he commented then, about the previous government, that "the province needed to call a time-out to make sure any development is compatible with Justice O'Connor's Walkerton report, which"—as you will remember—"calls for provincial protection of watershed areas like the Trafalgar moraine, and is also compatible with the province's own self-proclaimed anti-sprawl smart growth policies." That's what Mr Colle said then, in opposition.

Another thing that Mr Colle said in opposition was, "'If the province is serious about its new smart growth

principles, let them prove it in Oakville.... The fate of this moraine is too important to be decided at the OMB,' said Colle. 'The province must step in.'"

Then there's Seaton.

I'm mentioning all of those now because I want to be very clear about why I included them in the schedule and why they were voted down. If there is any way within the existing amendment—and I understand from staff that it's complicated and it would involve looking at all of the rules around those applications. But if you look at it—and some of you sat on the greenbelt committee—you will know that all the evidence is there—and the Liberals, in opposition, knew the evidence was there—to stop many of those developments. We have a situation now where they're mostly going before the OMB. A lot of these developments are probably going to proceed, and it goes against the grain of what the Liberal government is saying in terms of wanting to stop urban sprawl and protect our groundwater source protection and all of those things.

I just thought it was really important to get on the record why indeed I put those specific 10 hot spots in here and tried to get them on the schedule. I will be looking to see if there's anything within this amendment—which we're about to pass, I assume—that can in any way go back and deal with at least some of those hot spots before us so they won't end up being developed.

Mr Jerry J. Ouellette (Oshawa): This relates to this amendment: I'm wondering if we have any number of those that will be affected by retroactivity, predominantly as relates to amendment 12 whereby the upper-tier municipalities will gain greater control over the lower-tier municipalities. The second part is, is there any notification going out to those that will be affected by the retroactivity of this?

Mr Peterson: I don't have any information before me right now identifying how many files might be caught by one particular provision or another. In terms of notification of the retroactivity provisions, I think the issue is that it's an open process through the legislative process. I think that would likely be the way there would be notification. As well, you have to remember that any regulation we have needs to be posted on the Environmental Bill of Rights as well. So that would be the type of notification.

The Chair: Any other questions or comments? Seeing none, all those in favour of the government motion, section 10, subsection 70.4(3) of the act? Against? It is carried.

Shall section 10, as amended, carry? Against? It is carried.

Section 11, page 27: It's a PC motion.

Mrs Munro: I move that section 11 of the bill be struck out and the following substituted:

"Commencement

"11. This act comes into force on a day to be named by proclamation of the Lieutenant Governor."

This is simply to follow what is normal procedure. We certainly heard from people in the hearings of the uncertainty that retroactivity brings with it, and I think this is to provide the community, the decision-makers, some certainty.

Ms Churley: As I understand this, what this amendment would do would be to eliminate the retroactivity of this bill, so it would only come into effect on the day of proclamation. So all of the retroactivity within this bill would be wiped out and nothing would be deemed to come into effect until it's proclaimed.

The Chair: Is that the rationale for this motion, Ms Munro?

Mrs Munro: It does say, "This act."

1130

Mrs Van Bommel: We're not going to be supporting this motion because we do need some retroactivity as part of our bill. It's certainly not going to apply to everything, but it is important that there be retroactivity possibilities within the bill so the minister can establish transition regulations. It is not the intent of this government to have the retroactivity apply to certain processes and applications that have been in the queue or have been in process since—I'll avoid the word "April"—December 15. So not all those would be captured, but we do need some retroactivity within this bill.

Ms Churley: I'm not supporting this amendment either, although I do want to say that although I think retroactivity is important in this bill, I am concerned that some of my amendments that would strengthen the public participation and transparency have been voted down, and I think there is real, valid concern, as there always is with any situation where there's retroactivity. So the more transparent and open the process is, in terms of how the regulations are going to be done, is really important.

The intent of a previous amendment of mine that dealt with that was voted down, and I believe the parliamentary assistant said at the time that 30 days was too short a time to come up with the amendments. But that was, in fact, not the purpose of the amendment; the purpose of the 30 days was to outline just how the government was going to go about the processes and things, and that was voted down.

So although I can't support this amendment, I do want to say that I'm concerned about the process and how this is going to happen. I understand why there is concern in the community about retroactivity without some of those safeguards being put in place.

The Chair: Any other comments? Seeing none, all those in favour of the PC motion on section 11? Against? It is defeated.

Page 28, a government motion on section 11: Mr Dhillon.

Mr Dhillon: Section 11 of the bill: I move that section 11 of the bill be struck out and the following substituted:

"Commencement

"11(1) Subject to subsections (2) and (3), this act comes into force on the day it receives royal assent.

"Same

"(2) Section 2 comes into force on a day to be named by proclamation of the Lieutenant Governor.

"Same

"(3) Section 1, subsections 4(1), (2), (3), (4), (7), (8) and (10), subsection 6(1.1) and section 10 shall be deemed to have come into force on December 15, 2003."

The Chair: Can we have further explanation on the purpose of this amendment?

Mrs Van Bommel: It certainly does get complicated when you start looking at all the sections and subsections that are listed here.

The intent here is to set a date or a time for the establishment of the bill and its processes. The first part has implications on the new decision timelines that we are establishing within the bill. They would not be impacted by the retroactivity, with the exception of those for public meetings on official plan amendments. The second part of this pertains to the PPS. Again, the "shall be consistent with" would not be retroactive; it would come together with the establishment of the PPS. The third part of this applies to settlement area expansion and timelines for the holding of public meetings, and would certainly be part of the retroactivity.

The Chair: Any questions or comments? Seeing none, all those in favour of the government motion on section 11? Against? It is carried.

Now, shall section 11, as amended, carry? In favour? Against? It is carried.

Moving on to section 12, shall section 12 carry? Against? It is carried.

Shall the title of the bill carry? In favour? Against? It is carried.

Shall Bill 26, as amended, carry? In favour? Against? It is carried.

Shall I report the bill, as amended, to the House? In favour? Against? It is carried.

I have to say thank you very much for your participation, your co-operation. This afternoon's meeting has been cancelled, and the committee stands—

Interjection.

The Chair: Ms Churley?

Ms Churley: I don't think I've ever moved through a committee clause-by-clause so quickly. I don't know if it's deliberate, but it's freezing in here. So I kept my comments particularly short because my teeth are practically chattering.

The Chair: I fully agree with you on this. It's very cold.

Ms Churley: So you got off easy this time, but I hope this doesn't become government policy to keep the committee rooms really cold to get us out of here in a hurry.

The Chair: The committee stands adjourned until the call of the Chair.

The committee adjourned at 1136.

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Ms Deborah Matthews (London North Centre / London-Centre-Nord L)
Mr Jerry J. Ouellette (Oshawa PC)
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