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**Official Report
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Wednesday 30 November 2005

**Journal
des débats
(Hansard)**

Mercredi 30 novembre 2005

**Standing committee on
regulations and private bills**

**Comité permanent des
règlements et des projets
de loi d'intérêt privé**

Chair: Vacant
Clerk: Tonia Grannum

Président : Vacant
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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

**STANDING COMMITTEE
ON REGULATIONS
AND PRIVATE BILLS**

**COMITÉ PERMANENT DES
RÈGLEMENTS ET DES PROJETS DE LOI
D'INTÉRÊT PRIVÉ**

Wednesday 30 November 2005

Mercredi 30 novembre 2005

The committee met at 1009 in committee room 1.

**TRANSPARENCY IN PUBLIC
MATTERS ACT, 2005**

**LOI DE 2005 SUR LA TRANSPARENCE
DES QUESTIONS D'INTÉRÊT PUBLIC**

Consideration of Bill 123, An Act to require that meetings of provincial and municipal boards, commissions and other public bodies be open to the public / Projet de loi 123, Loi exigeant que les réunions des commissions et conseils provinciaux et municipaux et d'autres organismes publics soient ouvertes au public.

The Vice-Chair (Mr. Tony C. Wong): Ladies and gentlemen, this is the standing committee on regulations and private bills. We have one item on the agenda this morning, and that is Bill 123. I will now invite MPP Caroline Di Cocco to speak.

Ms. Caroline Di Cocco (Sarnia–Lambton): I am pleased to be here today. I guess I need to know the procedure here. I will just move the motions that we're putting forward, or is this—

The Vice-Chair: You also get to speak to your motion.

Ms. Di Cocco: Thank you. Bill 123 is here to go through clause by clause, and before us we have the amendments that I spoke to when we were debating the bill. The very first amendment deals with the public bodies that are prescribed and designated by the regulations made under this act. Those public bodies are listed as in the schedule, part II, and I think it's on 18. The three bodies are going to be the school boards, hospital boards and municipalities basically.

The Vice-Chair: You're just making an opening statement, right?

The Clerk of the Committee (Ms. Tonia Grannum): Once you finish your opening statement, we move to section 1, and if there are any amendments, then we proceed.

Ms. Di Cocco: Thank you. After much discussion, and again feedback from the process that we had, which was through the number of deputants who came before this committee, I arrived at the conclusion, of course, that there were some changes that had to be made.

I believe that the amendments certainly improve the bill. The bill itself, as you know, has received a great deal

of—how do I say it?—public profile, because it is long overdue in the province. It's an attempt to raise the standard of transparency for these public bodies.

I want to thank all of the people who continue to support this bill, and the members around this table as well who supported it many years ago and who have continued to add their voices to the intent of the bill. I'm hoping, again, that by simplifying the schedule, it will certainly begin the process of raising the bar for transparency in how meetings are conducted and how decision-making is arrived at.

The Vice-Chair: Any comments and questions from committee members at this time?

Mr. Bill Murdoch (Bruce–Grey–Owen Sound): As you know, we support the intent of the bill, but I personally think we shouldn't have the bill, because it could be looked after in other—there should have been amendments maybe to other bills, especially in the municipalities. They have an act that looks after them, and that's where it should have been dealt with.

The overall intent is fine, but I think the way we're doing it is just wrong. That's me personally; I'm not speaking for anybody else. I may go along with your amendments, but in the end, I just don't think the bill should be back for third reading, that's all.

The Vice-Chair: I take that as a question to Ms. Di Cocco?

Mr. Murdoch: No, it's not a question. I'm just stating what I think about the bill. I'm just saying I don't think it should come back for third reading.

The Vice-Chair: Do you want to respond, Ms. Di Cocco?

Ms. Di Cocco: I've heard the argument, and I know there has been lots of comment about looking at it in the Municipal Act and the hospital act and the Education Act.

I think the downside to that is that—the reason this bill is stand-alone is because it focuses on the whole notion of transparency. It's much easier to look at this bill in isolation and how it impacts all of the other ministries, but also, as we need to make changes, as we evolve and continue to raise the standard for transparency, it's much easier to add it to a stand-alone bill than to break open other acts.

Mr. Murdoch: I have to disagree on that. I think you could have easily made an amendment to whatever act

you wanted to do it to. I understand in government it's hard to open an act like that, but I just don't think this is a private member's bill that should come forward for third reading. As I say, I think the people who were doing education and health and municipalities have their own acts, and that's where it should have been. That's fine. All of this could have been incorporated into their acts and we could have debated it that way. I just don't think this is the way to go. That's fine—whatever. I just wanted to put that on the record.

The Vice-Chair: Thank you, Mr. Murdoch. Mr. Craitor?

Mr. Kim Craitor (Niagara Falls): First of all, congratulations to my colleague Carolyn. I'm certainly going to support the bill exactly the way it is, but in addition to what's in the bill, I've added some other boards and agencies that I think should be covered. You'll see that further on in my amendments.

I am one of those who believes—I think we all do—in openness and transparency. I've had some situations that have motivated me to really get on to this bill, and I'll share those with the committee. But I think it's a great start. Whatever format the bill comes out in in the end, I think the important thing is that it gets passed and that we open the door to making all these boards and agencies that deal with taxpayers' dollars much more open, much more accountable, and that the public has access to it, including the local member of Parliament, who I found does not have access to some boards. I was denied entry into them because of the way they're structured. I'll deal with that further as we go on.

The Vice-Chair: Thank you. Ms. Martel?

Ms. Shelley Martel (Nickel Belt): I want to make this comment and also ask a question. I supported this bill when it appeared in other forms in other committees in the past and have indicated my support and our support for it at this time. At the time, though, there weren't reviews going on of other bodies under other pieces of legislation. At this point, I don't know how fulsome it is, but we are given to understand that there is a review of the Municipal Act underway. My question, then, to the member is, if that is the case, what discussions have you had with MMAH about that review, and if and when changes come forward, is there going to be an opportunity or potential for what is covered under this bill to actually be incorporated into that legislation so municipalities still operate under one set of legislation? What's your understanding? I'm prepared to pass it now because I don't know how long this review of the Municipal Act is going to take and whether or not it's going to see the light of day. If it might see the light of day, what is the minister's or ministry's intention to deal with whatever might be passed through this bill and incorporated in a single piece of legislation?

Ms. Di Cocco: I have had some initial discussions with the ministry. My understanding is that changes to the Municipal Act will be discussed. You're right about the length of time. I'm not sure what the timeline is. The other concern I have is that I know that the municipi-

palities, when they are looking to add their input, are looking for more leeway—how do I say it?—more flexibility for their in camera discussions. I don't see the intent to go the other way when it comes to representation like AMO and others, because they're saying they need more criteria under which they can go in camera. That's just my concern. I have no issue with that if I'm assured that the intent of the bill, the backbone of the bill, is transported into the Municipal Act. There's also the other issue that the municipalities don't feel that they need any oversight, that they can do their own self-policing on it. I think that kind of takes away the spirit or the principles within the bill.

Ms. Martel: I understand the municipalities' perspective. I've seen that in various resolutions. I guess I'm more interested in the perspective of the ministry in terms of what their intentions would be if this bill passes. If it comes back for third reading, it's only going to pass if the government supports it. So if the government supports it, the government then has, I wouldn't say a dilemma, but an issue to deal with, which is that it has a review of the Municipal Act that is apparently underway and it would have a separate, stand-alone piece of legislation that also has an impact on municipalities.

1020

Is it the intention, then, of the minister and the ministry to take what has been passed and incorporate it in some way, shape or form in their review and then in a revised Municipal Act? Otherwise, we're going to get stuck with two pieces of legislation and the municipalities have some point in terms of saying, "We should really be dealing with one act versus two." What I'm trying to get at is, is there going to be an opportunity or a willingness on the part of the ministry to make sure that municipalities are operating under one set of rules, under one set of legislation, even if it is the rules present here that they may not like?

The Vice-Chair: I'll take that as a comment, because I don't know if Ms. Di Cocco is able to answer that question on behalf of the minister or the ministry.

Ms. Di Cocco: That's what I was going to say. I don't know. What I can say is that I've had discussions, and I'll certainly continue the discussions to see that it gets—if there is a way to streamline it in that context, I'm sure they may find a way, but I can't speak for them and I really don't know what their intentions are.

The Vice-Chair: Any further questions or comments from members? If not, I will proceed with a section-by-section treatment for comments, questions or amendments.

I'll start with section 1: Any comments, questions or amendments on section 1? Seeing none, shall section 1 carry? All in favour? Opposed, if any? That is carried.

Section 2 of the bill: Ms. Di Cocco.

Ms. Di Cocco: Do we do them all in groups, or do we do each—

The Vice-Chair: We'll do it section by section.

Ms. Di Cocco: OK.

Mr. Murdoch: What page are you on?

Ms. Di Cocco: It's the motions that are in front of you; page 1.

I move that paragraphs 1 and 2 of subsection 2(1) of the bill be struck out and the following substituted:

"1. Public bodies that are prescribed as designated by the regulations made under this act.

"2. Public bodies that belong to a type that is designated in schedule 1 to this act or to a type that is prescribed as designated by the regulations made under the act."

The Vice-Chair: Any comments or questions on this amendment?

Mr. Craitor: Just for clarification, what you've eliminated is part II—am I correct?—under the schedule.

Ms. Di Cocco: The schedule—

The Vice-Chair: Subsection 2(1).

Mr. Craitor: If we go to the amendment, it's got 1 and 2, and number 2 says, "Public bodies that belong to a type that is designated in schedule 1." If you go to the back page, you've got schedule 1, but the bill, in its initial stages, referred to parts I and II. We eliminated part II. Is that what we've done? Is that what's proposed?

The Vice-Chair: That is the motion: to do that.

Mr. Craitor: To eliminate the last page, which lists all these—

The Vice-Chair: I'm going to invite our legal counsel to speak to that.

Ms. Catherine Macnaughton: I believe there's a later motion that Ms. Di Cocco will be moving that will sort out the schedules for you at that point.

Ms. Di Cocco: It's on page 17 of our amendments, actually.

Mr. Craitor: I'll look at that first before I proceed on this, then.

The Vice-Chair: I'm going to stand this one down until we deal with the subsequent amendment, because standing alone, it does seem to mean what Mr. Craitor suggested.

The Clerk of the Committee: Maybe we should stand down these motions and deal with the motions to the schedule first, if these all relate, if that makes more sense.

Mr. Craitor: Thank you, Chair. That was my request, because the way we're dealing with it, we're eliminating II. Anyway, you know what I'm asking for.

The Vice-Chair: That's fine. So we will deal with the schedules first, starting with page 15 of the package. Do all members have that, page 15 of the amendment package?

Mr. Craitor: I'm pleased to put forward the following motion:

I move that part I of schedule 1 to the bill be amended by adding the following item:

"4. Niagara Parks Commission; section 3 of the Niagara Public Parks Act."

The Vice-Chair: We will take a five-minute recess.

The committee recessed from 1027 to 1032.

The Vice-Chair: We are back in session and we will continue to deal with Mr. Craitor's motion. Have you finished with your motion?

Mr. Craitor: Yes, I've introduced the motion.

The Vice-Chair: Mrs. Van Bommel.

Mrs. Maria Van Bommel (Lambton-Kent-Middlesex): I'm going to have to say that I'm opposed to this amendment. The very purpose of this bill is to have the opportunity for the public to be involved in decision-making. We had extensive public consultations with the groups that were mentioned in the original act, in the proposed bill. The Niagara Parks Commission was not mentioned originally; therefore they had no opportunity to participate in the public hearings this committee had. We would be going counter to the intent of this bill if we did that. I feel it is the same as having a closed meeting, when you make a decision and the group that is impacted by it hasn't had an opportunity to speak to it. So I will be opposed.

The Vice-Chair: Further comments or questions?

Mr. Craitor: Yes, just to share with the committee that the Niagara Parks Commission is at arm's length from the government. It was created many years ago. It was a great decision by the government of the day to protect the parkland along the Niagara River from Niagara-on-the-Lake right through to Fort Erie. Had they not done so, you would see hotels and every other thing running along the river.

Shortly after I was elected, the parks commission made some decisions about the way in which they were going to maintain the parkway, not cut the grass, go to a different style of appearance for the parkway and a couple of other decisions. There was quite a public uproar over this. My office was inundated with many people who came in to see me, and I made the decision that I would go and make a presentation to the parks commission. I thought they should hear what I heard, as the local provincial member of Parliament, about their concerns. Much to my shock and surprise, I found out that I was not entitled to attend their meetings. They were closed-door meetings, including to a member of provincial Parliament. I still went. I remember it. I showed up, and basically the answer was, "No, you're not entitled to be here." So my response was, "Thank you. I'll go see the media," which I hear quite often from the public. In the end, they consented that I could sit at the meeting only for that one portion and share my views, which I did. That opened a whole tidal wave in the community, because the parks commission and the Niagara parks are considered a special entity to the community, and they felt they had some say in it.

This bill by my colleague Caroline Di Cocco was coming forward, and I made the decision that I would like to see the parks commission included in it. I will share that back in that community it's well known that I put this forward. The parks commission is aware of it and probably aren't happy with me, but that's fine. The public is aware of it. I made a presentation to city council, and they supported the bill, probably the only city council in Ontario, so I congratulate the Niagara Falls city council. They have supported the addition not only of themselves as a municipality but of the parks commission, and you'll see a couple of other boards that

I am putting forward later on in some amendments that I want to see included.

So that's the history of this closed door—a closed door to the member of provincial Parliament, as well. This was my avenue of trying to make that board much more open and accountable to the public.

Ms. Martel: I appreciate the comments by Mrs. Van Bommel, and I'm not here today to side-swipe the committee by any stretch of the imagination. I sat on the original bill in public accounts and have seen some different iterations of it, and I've been supportive all the way through.

My concern, and I'll express it again, as I did at the public hearings, is that I think we should have moved with a broader bill. I don't think it's too much to ask public bodies that get taxpayers' money to hold open public meetings. That's not too much to ask, and I don't care what commission it is. I feel there are sufficient and significant protections in the bill to deal with personnel matters, to deal with issues that really should be behind closed doors, but my goodness, in 2005, if we don't expect that public bodies that get public funds should at least have some open meetings, that there should be adequate public notice of that and that information should be shared, then we are on the wrong track.

I expressed at the public hearings, and I'll do it again today, that I regret that we're not dealing with the original bill, which was much broader in scope and would have captured many more public institutions which in some cases get very significant amounts of public money. There should be some public input as to how that is spent and the decision-making processes around those items. But here we are dealing with a much smaller bill than I would have liked and than I was originally supportive of.

So I'm going to support Mr. Craitor, because from the start, when this bill was first introduced, I thought it should be broad and should encompass all of those public bodies. The story that you relayed to us just convinces me even more why the commission should be part of this. The fact that an MPP can't even attend a meeting is just atrocious as a policy of a board that is essentially funded by the province of Ontario and by the taxpayers of Ontario. So I'll support yours and also be moving an amendment myself that would have been part and parcel of the broader bill had we been dealing with that, but one that I felt should be moved anyway today.

The Acting Chair (Mr. Dave Levac): Any further comments? There being none, I believe we're at a vote on the amendment moved by Mr. Craitor.

Shall the motion carry? All in favour? Opposed?

As is the tradition in a tie vote, I will be voting, against. So it's defeated.

Moving on to the next amendment.

1040

Mr. Craitor: This will be amendment 16, and I am pleased to move that part II of schedule 1 to the bill be amended by adding the following items:

"12. The board of a corporation that is a local distribution company for electricity if one or more municipalities

owns, directly or indirectly, voting securities carrying more than 50% of the voting rights attached to all voting securities of the corporation."

For example, Niagara Falls Hydro. As well:

"13. The board of directors of a community care access corporation as defined in section 2 of the Community Care Access Corporations Act, 2001.

"14. The Ontario Lottery and Gaming Corporation established under section 2 of the Ontario Lottery and Gaming Corporation Act, 1999."

The Acting Chair: Comments?

Mr. Craitor: In the case of the first addition, hydros, for example, in Niagara Falls I was on city council, and I was pleased with the fact that we made the decision to keep our own utility, so we kept Niagara Falls Hydro. It was a good decision.

But what I did find out was that it operates on its own. It's independent, and even as members of council, we had difficulty getting in, getting information, and the public felt the same way. So the amendment is pretty straightforward. It would incorporate them under this bill and would make their meetings open to the public, with three exceptions: personnel matters, property matters and legal matters. The public would have access to attend their board meetings, sit and listen, and so would the media. That's the purpose of this one.

In the case of the community care access corporations, I had a situation as a new member where our local CCAC—I think, Chair, you've been through this—made a decision not to award the contract to a well-known service delivery for home care, called the VON, and chose someone else. As the provincial member, I questioned that and wanted to look at some of the documents and understand how this took place, because of the public outcry; they were extremely upset. Much to my surprise, I found out that I was not entitled to do that—and much to the public's surprise. They had assumed, probably like myself, that that was something a provincial member of Parliament would be able to do. That's the reason I want to include the CCACs.

The final one is the Ontario Lottery and Gaming Corp. Again, to give you some brief history, our community was fortunate enough back in 1996 to be chosen to have a casino, and so in 1996 a temporary casino was opened, called Casino Niagara. The government of the day decided they would go forward with a permanent site, and so they put out RFPs and they chose, out of all the proposals, one group called the Falls Management Group to build the new casino.

As a member of city council, I was there when the government of the day made that decision. I was there when they had the press conference, and there was a list of things that the community were told were going to come with this casino: a 7,200-square-foot convention facility, a 50,000-square-foot family entertainment centre, an eight-plex movie theatre, a family-oriented circus act, the Niagara food and wine experience. Those were all going to be on-site as part of the casino development. Off-site, they were going to build a river ride

as part of the Marineland complex, a year-round amphitheatre to seat 12,000, an indoor and outdoor concert facility and a people mover system.

Those were things that were promised by the government of the day when they chose the Falls Management Group. What happened is they didn't happen, and now I'm the provincial member of Parliament, and the public comes forward and is questioning, saying to go forward with this, find out what happened.

What I have learned is that many of those deals, unfortunately, were signed and they're not public documents. It's hard for the public back there to perceive that they're not, and so they have asked me to come forward and have the Ontario Lottery and Gaming Corp., which is the arm's-length body that deals with casinos and was the body that dealt with choosing this group to build a new permanent casino and all these promised attractions that were going to go with it.

So again, it was a commitment I made that I would go forward and include the OLGC as part of this bill, which would then entitle the public to have the opportunity to hear what's being said, to attend meetings if they want to, that it's an open and transparent process, particularly when you look at our community, because it had such a major impact—well, I guess they didn't, because we didn't get what we were promised.

I have continually read in the House—many of you may have heard me—petitions from a group called Fair Share. I guess we can have props at the committee. This is their pamphlet. It outlines all the promises that were made by the Falls Management Group, chosen by the government of the day. So the petitions I've read in faithfully—the response I got back is a document that's not open to the public. That's the way it was signed through the government of the day.

So I've asked for the Ontario Lottery and Gaming Corp. to be included, as I have with the other three. I'm just pleased to share the rationale with the committee as to why I'm bringing it forward. Again, the city council of Niagara Falls has supported all of these as being included in this bill.

The Acting Chair: Thank you, Mr. Craitor. Ms. Martel?

Ms. Martel: I appreciate the background information that was provided by Mr. Craitor. I would be supporting this amendment as well.

I want to focus just specifically for a minute, if I might, on community care access centres. They remain very closed shops. That was as a consequence of the passage of Bill 130 by the former government, which really took them under essentially government control and did away with much of the public sharing of information, public meetings, public election of members of the board etc. The minister has announced through the LHIN legislation that at some point in time there will be a reversion back to the communities so that, once again, at some time, community care access centre boards will be elected and information will be shared in a much freer manner with the public. That is not in place yet, and it

may be some time before that is, frankly. I wouldn't be surprised if it isn't another one or two years before we actually see that change that should be happening now. So we have a situation where CCACs are not essentially open to the public.

The second problem you have is that CCACs also are not subject to the freedom of information act. So you can't get information regarding some of those RFPs under the competitive bidding process that have been so detrimental to your community, Mr. Craitor, and to mine, where we lost the VON after 80 years in the community after they lost their contract. So that whole operation where there is very significant public money is a very closed shop and needs to be much more open again. It needs to be open with respect to public meetings, elections, but also subject to freedom of information so people can actually get information regarding decisions that are made that have very serious consequences for their community, especially for patients who get care from particular providers.

So I am supportive of this amendment, and I'd just say again, in 2005, no institution that receives overwhelming public funding, taxpayers' dollars, to operate in the province should be surprised that they would be expected to at least have open public meetings and to share information about decisions, particularly decisions with respect to the spending of public money in a public way. So while I appreciate some of these folks were not named before and wouldn't have had the opportunity to come to the committee, I think that we should be well beyond the point where these bodies should be opposed to this. This should be a regular, routine matter for any body that's receiving public funding in the province.

The Acting Chair: Thank you, Ms. Martel. Mrs. Van Bommel?

Mrs. Van Bommel: Again, I'm going to have to speak against the motion. I'm not arguing with Ms. Martel's comment that this bill should have had a broader scope, but the reality is it does deal with those specific groups that are mentioned in the bill. I think that, as a committee, we need to lead the way when we talk about transparency and make sure that everyone has an opportunity. The organizations that are listed in this particular motion did not have an opportunity to participate in the public discussion and in the hearings and state their case to us. Therefore, in terms of leading the way in transparency, I think I have to speak against this motion.

1050

The Acting Chair: I think it would be appropriate at this time to ask legal counsel—we are dealing with some broad legal implications—if there are any comments to be made for clarity, before the vote, on the legal implications these amendments could create.

Ms. Macnaughton: I'm not aware of any.

The Acting Chair: You're not aware of any. Thank you. Just to make sure.

We have room for any other speakers. There being none, we'll call the question on motion 16 from Mr. Craitor. All in favour? Opposed? Seeing a tie, I shall cast my vote against. Defeated, 4 to 3.

Page 17: Ms. Di Cocco.

Ms. Di Cocco: I move that parts I and II of schedule 1 to the bill be struck out and the following substituted:

“The following are types of designated public bodies for the purposes of this act:

“1. The board of directors, governors, trustees, commission or other governing body or authority of a hospital to which the Public Hospitals Act applies, but not an advisory committee that is established by a board under the Public Hospitals Act or its regulations, such as the fiscal advisory committee, medical advisory committee or nursing advisory committee.

“2. A council of a municipality.

“3. A district school board or school authority as defined in section 1 of the Education Act.”

The Acting Chair: We’ll look for debate. Ms. Di Cocco, comments?

Ms. Di Cocco: I’d like to get it to a vote. There are other amendments to go through. I think it kind of speaks for itself. In drafting this, I did it for two reasons. One is to just simplify it so it is the first step and, secondly, because when it comes to advisory committees of hospitals, it seems that they’re not the ones who actually make the decision. It’s the decision-making authority.

The Acting Chair: Any further questions, clarification or comment? There being none, we’ll call the question on 17. All in favour? Opposed? Carried.

Page 17a: Mr. Murdoch.

Mr. Murdoch: I have a motion here, but it was sent to me by Mrs. Witmer’s office, our health critic. I guess it was given to her by the OHA.

I move that the motion by Caroline Di Cocco to amend schedule 1 to the bill be amended by striking out item number 1 of the schedule and substituting the following:

“1. The board of directors, governors, trustees, commission or other governing body or authority of a hospital to which the Public Hospitals Act applies, but not an advisory committee or body that is established by the board.”

It leaves out some of the stuff and, quite honestly, I don’t know why. The OHA asked us to put this amendment, and I put the amendment on the record.

The Acting Chair: For clarification purposes, it does change what Ms. Di Cocco has said, that we’ve just approved. So that you’re aware, it does change the wording by “such as the fiscal advisory committee, medical advisory committee or nursing advisory committee.” I think that’s different.

Mr. Murdoch: That’s all I can see that’s been changed.

The Acting Chair: We’ll just get clarity. And the other difference is “or body.” I’ll seek clarity for us, to make sure that we know what the differences are. Forgive me.

It appears that the words “or body” seem to be the difference. So we’ll allow any debate on the difference.

Mrs. Van Bommel: I’m more concerned that by using the word “body” we give opportunity for someone to

slide something in that we don’t want to have. I think Caroline Di Cocco’s prior motion is more specific and more to the point and certainly gives the boards and the governance levels a very clear indication of what the intent is.

The Acting Chair: Anyone else?

Mr. Murdoch: Where is that body you’re talking about?

The Acting Chair: Your wording says, at the very last sentence, “but not an advisory committee” and then the difference is “or body,” as opposed to the previous one, which does not make mention of the creation of an extra body. There’s an extra body in there somewhere.

Interjections.

The Acting Chair: Jocularly: it’s good for you.

Any other comments about that? OK. We would ask for Mr. Murdoch’s motion 17a. All in favour? Opposed? Defeated.

Mr. Craitor: We lost a body.

The Acting Chair: We’ll see if we can find that body somewhere else in the next amendments. We’re on page 18: Ms. Martel.

Ms. Martel: I move that schedule 1 to the bill be amended by adding the following part:

“Part II

“2. The following types of designated public bodies for the purposes of this act:

“1. A corporation that owns or operates a nursing home licensed under the Nursing Homes Act.

“2. A corporation that owns an approved charitable home for the aged under the Charitable Institutions Act.

“3. A corporation that owns or operates a home under the Homes for the Aged and Rest Homes Act.

The Acting Chair: Speak to it, please.

Ms. Martel: Thank you very much, Chair. I mentioned earlier that there had been other versions of this bill, and this amendment goes back to an earlier version when the schedules were more comprehensive. So that’s why there was a Part III. As the schedule on 13 shows, there would have been parts I and II, and then this would have been a new addition at the time with respect to the previous bills, a Part III.

Again, I wanted to move this because those bodies in the long-term-care sector—charitable homes or nursing homes or municipal homes for the aged—received significant amounts of public dollars. It is true that they do receive fees from their own residents as copayments, but they also receive very significant public dollars and there should at least be open meetings with respect to decision-making about how those public dollars are spent in those homes. So I have put the amendment in again because it did follow from a previous bill when we were looking at a much more comprehensive schedule. I understand from Ms. Di Cocco that this was given to the Ministry of Health and that they were supportive, so I certainly did not want to withdraw it, with that understanding.

I appreciate where the government is going to come from on this, but I just say again, I really do think that these folks were aware of this possibility from before,

because there was much consultation on the bill before and a sharing of the amendments with respect to a previous bill. So I don't think this would have taken many people by surprise, and I really do think it's high time that we have some minimal expectations from public bodies, including open meetings with respect to how public money is spent.

1100

The Acting Chair: Mrs. Van Bommel, I have you on the list.

Mrs. Van Bommel: Again, I absolutely agree with the intent of the motion. But beyond the principle of the fact that we are talking about openness and transparency and the fact that it wasn't in the bill originally, I'm still going to have to speak against this motion simply because I feel that we want to be, as a committee, very open and not be seen to be bringing things in through the back door.

The Acting Chair: Any further discussion?

Mr. Craitor: I think it's an excellent amendment, one that I had overlooked. I can share with you some stories about where I've gone in and asked for information and haven't been successful, so we need to hear it again. I think it's appropriate, so I will support it.

The Acting Chair: We have on page 18 the motion before us by Ms. Martel. All in favour? Opposed? I will vote against the amendment; defeated 4 to 3. Thank you.

We now have to go back to section 2. Ms. Di Cocco has moved a motion, so we can move to discussion.

Ms. Di Cocco: It's just the wording. There's no need for further discussion.

The Acting Chair: Any other discussion? There being none, we'll put the vote. In favour? Opposed? Carried.

I believe we can carry schedule 1, as amended, and then we'll take any comments. We did all the motions and we can now do it by section.

Shall schedule 1, as amended, carry? All in favour? Opposed? Carried.

We're now on page 2.

Ms. Martel: I move that subsection 2(1) of the bill be amended by adding the following paragraph:

"3. Bodies that belong to a type that is designated in part II of schedule 1 to this act, but only with respect to meetings of the board of directors or officers of such bodies at which deliberation or decision-making occurs in relation to the spending of public money."

This is referenced back to the schedule that I moved that was defeated, a schedule that would have made nursing homes, charitable homes and municipal homes come under this particular piece of legislation.

The Acting Chair: Ms. Martel, I'm sorry I have to interrupt. My understanding is, because we did defeat that amendment, that this is out of order. I apologize for raising your hopes a little.

Ms. Martel: I was trying. Thanks, Chair.

The Acting Chair: We're going to need to vote on section 2, as amended. All in favour? Opposed? Carried.

The Acting Chair: Mr. Murdoch.

Mr. Murdoch: Are we doing mine first?

The Acting Chair: Yes, sir. It's page 2a.

Mr. Murdoch: Again, this is one that was sent to me by our critic and is from the ONA and the OHA.

I move that paragraph 1 of subsection 3(1) of the bill be amended by adding "but does not include a meeting of an advisory committee referred to in schedule 1 of the act."

The Acting Chair: Comments, Mr. Murdoch?

Mr. Murdoch: Is it still in order?

The Acting Chair: Yes, it is.

Mr. Murdoch: I wanted to make sure that was OK.

The Acting Chair: Any other comments? Did you have any rationale sent to you, Mr. Murdoch?

Mr. Murdoch: No, I didn't.

The Acting Chair: Unfortunately, he didn't have any rationale from the critic. Any other comment?

Ms. Martel: Legislative counsel, I'm assuming that because the motion that was carried by Ms. Di Cocco specifically mentioned that it did not include meetings of fiscal advisory, medical advisory and nursing advisory, the concerns that Ms. Witmer had would have been addressed by the wording in the schedule. Am I correct?

The Acting Chair: I'm thinking the same thing, and I think that's what Mr. Murdoch was referring to when he said it might indeed still be out of order. Does that not cover it?

Mr. Murdoch: Yes, that's what I was wondering about.

The Acting Chair: It says, "but not an advisory committee that is established by a board under the Public Hospitals Act and its regulations."

We have advice that that's the case, and it would then be out of order. We tried.

Mr. Murdoch: That's what I sort of thought.

The Acting Chair: You thought that right off the bat, Mr. Murdoch?

Mr. Murdoch: I could have withdrawn it, but that's fine.

The Acting Chair: Absolutely; I understand. We're all navigating this together.

Next, page 3: Ms. Di Cocco.

Ms. Di Cocco: I move that paragraph 1 of subsection 3(1) of the bill be struck out and the following substituted:

"1. The meeting is one which the members of the body are entitled to attend, such as a meeting of the entire membership of the body or a meeting of a committee or other division of the body."

It's just the wording, again, that was advised by legal counsel.

The Acting Chair: So legal counsel advises that this is the wording that should be in the bill.

Any further comment or debate? There being none, I'll call the question on page 3, as moved by Ms. Di Cocco. All in favour? Opposed? Carried.

Section 3, as amended: All in favour? Against? Approved.

Shall section 4 carry—that's 4a. It's a new section. That's 4.1.

Mrs. Van Bommel: I just want to interject here, because I see something that concerns me. We say, “posting in a publicly accessible location and by publishing on its Web site.” In some remote communities, Web sites aren’t even available, so we’re putting an onus on bodies that they can’t necessarily comply with. I would like to propose a friendly change of wording to say, “and/or,” so it gives the governance body an opportunity to use whatever is available to them.

The Acting Chair: If we can stand down this section to draft the motion so that it can be a friendly amendment that Ms. Di Cocco could agree with—we’ll have to wait for just a moment to do that. Can we stand down section 4, please?

Mr. Murdoch: On section 4, “A designated public body shall give reasonable notice to the public of every of its meetings....” Is that right? That’s what I have in mine.

The Acting Chair: “Of every of its meetings.”

Mr. Murdoch: “Of every of its meetings.” What does that mean? Is that English?

The Acting Chair: I don’t think so.

Mr. Murdoch: I’m trying to read it, and I thought, this doesn’t make a lot of sense to me. But a lot of bills don’t make a lot of sense.

Ms. Macnaughton: When I draft the motion for Ms. Van Bommel, we’ll fix that one.

The Acting Chair: Thank you for that catch. We’ll get that corrected with the friendly amendment. We’ll call it friendly English.

So we’re standing down section 4 and moving to the new section, 4.1.

1110

Ms. Di Cocco: I move that the bill be amended by adding the following section:

“Prohibition on new agenda items

“4.1(1) Once a designated public body has given notice to the public of a meeting under section 4, it shall not add a new item to the agenda for that meeting unless the item,

“(a) relates to a matter requiring immediate attention, and the body has provided adequate notice to the public of the change to the agenda by posting the amended agenda in a publicly accessible location and publishing the amended agenda on its Web site or in any other print or electronic medium of mass communication; or

“(b) relates to a situation or an impending situation caused by the forces of nature, an accident, an intentional act or otherwise that constitutes a significant danger to life, health, property or the environment.

“Two-thirds majority vote required to amend agenda

“(2) A two-thirds majority of the members of the body shall vote in favour of adding a new item to the agenda under clause (1)(a).

“Majority vote required to amend agenda

“(3) A majority of the members of the body present and entitled to vote shall vote in favour of adding a new item to the agenda under clause (1)(b).”

The Acting Chair: Discussion?

Ms. Di Cocco: There was no section in the bill that would provide, as I said, for some situations whereby a meeting had to be called quickly because of an emergency or other situation. It was just an omission in the bill, and we felt it was prudent to put it in.

Mr. Murdoch: I’m a bit confused. They call a meeting and all of a sudden they have to add something to the agenda. You have to get out there, you have to have a two-thirds vote to add it to the agenda, but you haven’t had the meeting. I don’t know how you do all this. I’m not saying there’s anything wrong, but it says, “A two-thirds majority of the members of the body shall vote in favour of adding a new item to the agenda under clause (1)(a).” You’ve already called this meeting and you want to add something to it. Now you’ve got to have a meeting to add something to it. That’s what it looks like to me. I can see where you need something if an emergency comes up, but I would assume the clerk would just add that, maybe in consultation with the mayor. You’re saying they need two thirds to add it, but you have to have a meeting to get two thirds to add it. How would you do that? You couldn’t have a meeting because you didn’t post it. You have to have a special meeting to add something to it. It’s getting confusing here.

The Acting Chair: I’ll defer to Ms. Di Cocco.

Ms. Di Cocco: Sure. My understanding is that the intent is to try to discourage adding items to the agenda at the last minute, because that’s a way of being able to add things on an agenda when nobody has had a chance to see what was on the agenda. This is a public meeting. I’m sure they do this as well. They could poll. I’m not saying they have to vote in favour of adding it to the agenda. Let’s say they’re sitting down, having a meeting, and something has to be added on to the agenda because of whatever. Well, at that meeting, two thirds have to agree that it has to be added on.

Mr. Murdoch: That would be no problem, but you’ve got it ahead of that, that they would have to give the public adequate notice, but you wouldn’t be able to do that. It’s really confusing.

OK, so we’re having our meeting right here now, and all of a sudden there is a catastrophe or something. We have to add it on and we could say two thirds would vote for it and that’s fine, but this is about adding it to the agenda ahead of time, and you can’t do that. It’s pretty confusing. I think it is.

Ms. Di Cocco: I would say that (a) is about what already has been provided. There’s adequate notice. It’s a normal meeting. So under, let’s say, extenuating circumstances, if something has to be added on to that agenda that’s already in place and the public has been notified about it, then two thirds of that body has to simply vote. That’s the intent.

Mr. Murdoch: That’s a whole different thing than you’re adding here.

Ms. Di Cocco: I guess that’s a different interpretation than what my interpretation is.

Mr. Murdoch: You’re saying—this is saying, not you—“the body has provided adequate notice to the

public of the change to the agenda....” So you can’t do that having a two-thirds vote, because you don’t have a meeting ahead of time.

Ms. Di Cocco: No, but it’s already—

Mr. Murdoch: You’ve had the meeting—that’s all right. I agree. You’ve got a sign up or you’ve posted it that there’s going to be a meeting on whatever.

Ms. Di Cocco: Yes.

Mr. Murdoch: Now there’s a change that’s happened, but it happened before you had the meeting.

Ms. Di Cocco: It doesn’t say that it happened before you had the meeting.

Mr. Murdoch: But you have to post it. It says “adequate notice to the public of the change to the agenda.” Read number (1). It says “to the public of the change to the agenda.” The change hasn’t happened until you’ve already got to the meeting; then you can have two thirds. But unless you do that, you don’t get a two-thirds vote to change it. What you want to do is right, but it’s not—

The Acting Chair: I think we’ve got the point made, and we need to have clarity as to whether or not that’s what we’re hearing. I do have a list, but unless it’s to clarify this, I’m going to defer to legal counsel to see if there’s—Ms. Martel, I think you wanted to comment on that.

Ms. Martel: I think he’s right. The problem I see comes with the wording of “the change to the agenda.” I understand that the public body has duly posted a notice of an agenda with the various mechanisms; we’re fine with that. What follows is that when people come to a meeting, at the start of the meeting, when you normally call for the agenda and all in favour, of necessity there may be at that point a change required and you’re going to have to have a two-thirds vote. But the dilemma with the current wording is that you can’t post that change to the agenda ahead of time. There’s not a way to do that. So I think the wording of “the change to the agenda” has to come out; otherwise, it just can’t be done.

The Acting Chair: Let me see if I can work this. What I’m hearing is the intent versus the wording. The intent is accepted that we would post the agenda, the intent is accepted that once you get to this meeting, if there is an agenda change, it would take two thirds to make that change, but there seems to be a discrepancy between what the wording is saying and what the intent is. Can we then take a look at whether or not there can be words moved, changed or wordsmithed to offer this as a friendly amendment?

Mr. Murdoch: You could leave the first paragraph. Then you can go down to “(2) A two-thirds majority of the members of the body shall vote in favour of adding a new item to the agenda under clause (1)(a).”

The Acting Chair: We’re just going to get that checked, Mr. Murdoch, and I think we’re headed in the right direction here. At this time, I think it would be appropriate for us to take about a five-minute break so that we can get the previous friendly amendment corrected, get this one corrected, and then come back in about five minutes.

Mr. Murdoch: I suggest that you just get rid of this.

The Acting Chair: The whole thing?

Mr. Murdoch: Yes, because you know you’re going to run into all kinds of problems. I know what you tried to do, but you’re into the Municipal Act and everybody has their own bylaws and this kind of stuff. I just think you’re going to get into a real mess. I would get rid of it.

The Acting Chair: Let’s take a five-minute recess, then, and we’ll get right back and see if we can get this thing nailed.

The committee recessed from 1119 to 1124.

The Acting Chair: Thank you for your patience. I appreciate the flexibility you’ve afforded us so that we can get this done. I still have a speaking list, so that everyone is aware, and I will stick to it.

Mr. Murdoch has the floor with the question of clarification, and I think we have that clarification now with a friendly amendment.

Ms. Di Cocco: I’m going to withdraw the motion, but I will read the new motion into the record.

The Acting Chair: That’s fair.

Ms. Di Cocco: I move that the bill be amended by adding the following section:

“Prohibition on new agenda items

“4.1(1) Once a designated public body has given notice to the public of a meeting under section 4, it shall not add a new item to the agenda for that meeting unless the item,

“(a) relates to a matter requiring immediate attention, and the body has provided notice to the public of the change to the agenda by posting the amended agenda in a publicly accessible location or publishing the amended agenda on its Web site or in any other print or electronic medium of mass communication; or

“(b) relates to a situation or an impending situation caused by the forces of nature, an accident, an intentional act or otherwise that constitutes a significant danger to life, health, property or the environment.

“Two-thirds majority vote required to amend the agenda.

“(2) A two-thirds majority of the members of the body have agreed to add a new item to the agenda under clause (1) (a).

“Majority vote required to amend agenda

“(3) A majority of the members of the body present and entitled to vote shall vote in favour of adding a new item to the agenda under clause (1)(b).”

The Acting Chair: What has just transpired is an attempt to remove the requirement of having a two-thirds vote at a meeting. It sounds to me, if I’m hearing this right, that they’re asking that two thirds of the voting committee would be contacted ahead of time to allow the agenda to be changed.

Ms. Di Cocco: I’ve just been notified by legal counsel that instead of just “agreed” it should read, “must agree to add.” Sorry its—

The Acting Chair: Subsection (2). Let’s take a look at it together so that we’re on it.

Ms. Di Cocco: Subsection (2).

The Acting Chair: “A two-thirds majority of the members of the body must agree to add a new item to the agenda under clause (1)(a).”

Ms. Di Cocco: That would mean a phone poll would have to agree to it.

The Acting Chair: That can happen before the meeting, and it can happen during the meeting.

The other change that was made on (3): “A majority of the members present”—wait a minute, did it stay the same. OK. Sorry, I heard something different.

So that’s the change: “shall vote in favour of” was removed, and “must agree to add” was included.

Now, we did hand the floor to Mr. Murdoch, and it shall be that way.

Mr. Murdoch: That sounds better, anyway. I honestly don’t even think we should be getting involved in that, because I think different boards probably have different ways of dealing with this. I know it might clarify it all, but I think we’re really opening up a can of worms that we may wish we hadn’t. I would have thought that maybe you just might have taken the whole section out, but you’ve got it there, and it will work better now, the way you have it. That’s up to Ms. Di Cocco whether she wants to keep it in there or not. My recommendation is to just get rid of it.

The Acting Chair: Ms. Van Bommel.

Mrs. Van Bommel: I just wanted to add the “or” part, and we’ve done that.

The Acting Chair: That was done in the changes.

Mrs. Van Bommel: Yes, exactly, so I don’t need to speak to it any further.

The Acting Chair: Mr. Craiton, I had you on.

Mr. Craiton: I think you’ve dealt with it. That’s fine.

1130

Ms. Martel: I’m not trying to cause a problem here. I was trying to listen very carefully to clause (a), and I still heard “amended agenda” and a requirement to try and post an amended agenda. It would be fine and dandy if you could poll people before, if you had enough time to actually do that. I think logistically we are asking a lot of people. You know that at any of these meetings things come on to the agenda not long before the meeting, and I think we just have to recognize that.

I would be more comfortable with a provision that said, “The meeting starts. There is a change to the agenda at that time. There has to be a two-thirds majority to allow the change.” We have already provided a requirement for an agenda to be posted. I’m hoping the whole agenda is not going to be changed at the start of the meeting, but I’m going to give people the benefit of the doubt that something urgent is going to come on at the start and there’s going to have to be a change.

I just think we are not being realistic to think that a clerk is going to be trying to poll people at 5 o’clock to change an agenda item for a meeting at 7 and trying to find a mechanism to actually post an amended agenda at that time. I think that’s beyond the pale. We should deal with urgent matters at the meeting itself with a two-thirds majority, recognizing that there has been notice of the

meeting already posted. An agenda has been posted, it may change, but it’s going to require two thirds based on an urgent matter.

The Acting Chair: Any further discussion?

Mr. Murdoch: Rather than throwing it out, then. I can go along with that because that’s simple. If that’s what you need, though, just make it as simple as that. We don’t need subsections (1), (2) and (3); we just need clause 4.1(1)(a), whatever it is, and add that a two-thirds majority is needed to change the agenda. That’s as simple as I think you’re going to get.

Shelley’s right: They’re never going to have time to re-post it and all this. If they did, then there are costs, and we’re going to hear about who’s going to pay for the costs. I think if you just had something really simple there, I could support it.

The Acting Chair: Any further debate or comment? There being none, as friendly amended, I think it’s called, with the word changing, I think we all agreed that we could try to change that.

Now we have on the table for us the new section 4.1, as moved by Ms. Di Cocco. All in favour? Opposed? Carried.

Now we are prepared to go back to section 4, as revisited.

Mrs. Van Bommel: I move that section 4 of the bill be amended by striking out the portion before clause (a) and substituting:

“Notice of meetings

“4. A designated public body shall give reasonable notice to the public of each of its meetings by posting in a publicly accessible location or by publishing on its Web site, or both, or by publishing in any print or electronic medium of mass communication.”

Thank you to legal counsel for that.

The Acting Chair: The stood-down section 4 is now this one with this amendment. Are there any comments or questions?

Ms. Van Bommel, you have first shot.

Mrs. Van Bommel: I think I explained my rationale for this.

The Chair: Anyone else? Questions or comments? There being none, we’re voting on Ms. Van Bommel’s motion. All in favour? Opposed? Carried.

Shall section 4, as amended, carry? All in favour? Opposed? Carried.

Ms. Di Cocco: section 5.

Ms. Di Cocco: I move that subsection 5(2) of the bill be amended by adding the following clause:

“(a.1) the acquisition or disposal of property by the designated public body will be discussed;”

The Acting Chair: Comments, Ms. Di Cocco, on your amendment?

Ms. Di Cocco: Only that it was just adding one word. It was “acquisition or disposal of property,” because the disposal of property also provides some problems, if you want to call it that, in the discussion of negotiations, I was told. So again, legally it’s important to put the disposal of it in there as well.

The Acting Chair: OK. Any others?

Mrs. Van Bommel: Just a quick comment: It says “financial, personal or other matters” in clause 5(2)(a). I’m just concerned about the “other matters.” Is that an opportunity for a body to slip something in?

The Acting Chair: Are you seeking clarity?

Mrs. Van Bommel: Yes, I am.

Ms. Di Cocco: It’s in the whole body of the paragraph. It defines and clarifies it: “(a) financial, personal or other matters may be disclosed of such a nature that the desirability of avoiding public disclosure of them in the interest of any person affected or in the public interest outweighs the desirability of adhering to the principle that meetings be open to the public.”

The Acting Chair: Are you seeking clarification to see if that’s inside of this, if this is something different?

Mrs. Van Bommel: Yes. I just want to make sure that the whole issue of “other matters” doesn’t open a door that we don’t intend to open.

Ms. Di Cocco: This certainly was reviewed, as I said, by the legal people. I think I asked the same question, and there was a reason for that. I don’t know if it can be clarified for me again.

The Acting Chair: I’m just going to seek clarity on what you’re asking. In the amendment that we’re dealing with right now, the acquisition or disposal of property, which has been advised by legal counsel to be incorporated to cover off a missing word: That’s this purpose. You’re asking in clause (a) if we’re opening a door that needs to be closed because of circumstances you wouldn’t go public with?

Interjection.

The Acting Chair: OK. There are two different issues, and I’ll have legal counsel speak to (a) instead of (a)(i), which is the specific amendment we’re talking about right now.

Ms. Macnaughton: What the bill says in 5(2)(a) is that:

“a designated public body may exclude the public from any part of a meeting if,

“(a) financial, personal or other matters may be disclosed of such a nature that the desirability of avoiding public disclosure of them in the interest of any person affected or in the public interest outweighs the desirability of adhering to the principle” of having open meetings. That’s what is in the act now.

The amendment that’s been proposed is to add another reason for excluding the public, and that would be, to be more specific, if there’s going to be discussion of the acquisition or disposal of property. Presumably, Ms. Di Cocco was concerned that that would be disclosing confidential negotiation information, perhaps with respect to purchasing and selling property.

The Acting Chair: So this actually closes the door on another piece that could have been opened if we hadn’t said it, because there are going to be people looking to buy pieces of property from the municipality. The municipality, in its discussions about disposing of or acquiring lands for their use, could prejudice the ability of

somebody to either purchase or sell land. That’s the purpose of this particular section, OK? I think I got that right.

We still have the speaking list. Ms. Di Cocco has said that it’s for clarity purposes. I’ll entertain Mrs. Van Bommel. Are you OK with what we just went through?

Mrs. Van Bommel: I’m not quite sure yet. I’m still just a little bit concerned here.

Ms. Martel: My concern would be a hospital board making a decision to sell hospital lands, which I think should be a public matter. I’m not suggesting that when they’re deep in negotiations and there are price tags attached to it, that might be a matter for the public, although if it is public lands, I might even like that too. But for the whole discussion—the possibility that the board is even discussing that—I think that’s an item that should be on an agenda and a discussion take place in the public about why the hospital board would feel that’s necessary and what is the intent, perhaps, of the sale. I say that with respect to the sale of lands. There might be other municipalities or school boards doing the same thing, and I would think you’d want the public to know about that, since the public paid for those assets.

1140

The Acting Chair: We’ll defer to legal counsel.

Ms. Macnaughton: I would just point out for clarification that the lead-in wording on 5(2) says “a designated public body may exclude the public,” so it’s not mandatory. I would just point that out.

The Acting Chair: I understand your logic. The concern I would have, though, in reverse, would be that if you’re going to purchase a property—let’s say the hospital needs more land and they’re going to purchase a property—and that becomes public too soon, how much would the hospital be spending on that property in order to obtain it?

Ms. Martel: That may be the case, Mr. Chair, but surely there should be a public discussion about the decision for the hospital to move in that direction in the first place. When you’re talking about hospitals and school boards, you’re talking about assets that were paid for by taxpayers. So if there’s going to be a disposal of those or a sale of those, you’d think the taxpayers that were party to that should at least be made aware that that decision is something the board is considering. I understand that it says “may.”

The Acting Chair: I wasn’t offering argument; I was offering example. It’s not my place to do that, so I apologize. Let me get myself back on track by staying the course as Chair.

Ms. Martel still has the floor. Do you have any further comment, Ms. Martel?

Ms. Martel: I understand that it says “may,” so it’s not an obligation. I don’t think I want to give people a lot of room to move when they’re talking about the potential disposition of a public asset, that they may go in camera for that and it comes out later, when the deal is already done, and people have had no time to influence that decision or have their say. I don’t think we want to be in that position.

The Acting Chair: Further discussion? I think I saw your hand, Mr. Murdoch, and then I'll go to Ms. Di Cocco.

Mr. Murdoch: You're doing a good job as Chair, so don't feel bad.

I just want to say that this shows that the bill isn't right, because we're dealing with too many different people in it, whereas we might want to deal with hospitals under their act and municipalities under theirs and education under theirs. This is what happens when you try to throw them all into one lump, and then we find that we're in this little bit of a bind. I just had to throw that in again because I did at first. There are a lot of good things here, but I think they should have been dealt with differently.

The Acting Chair: Thank you. Ms. Di Cocco.

Ms. Di Cocco: As I said, I've debated this "acquisition or disposal of property" at length. The original amendment had, "the acquisition of property by the designated public body will be discussed."

It was pointed out to me in no uncertain terms that sometimes the disposal of property provides—there are negotiations that have to go on. Unless legal counsel can assure me that the negotiations aren't going to be jeopardized, I certainly don't have any issue with just putting in "the acquisition" and removing "or disposal" if it's already in the act.

The Acting Chair: I'll have counsel discuss that.

Ms. Macnaughton: The bill currently provides, as we discussed a minute ago, in clause 5(2)(a) that the public may be excluded when there is any discussion about financial matters that could be "disclosed of such a nature that the desirability of avoiding public disclosure" is "in the interest of" the public or a person, and that would outweigh the desirability of public disclosure. Perhaps that would be caught in there.

Your amendment, in adding clause 5(2)(a.1), just expressly states something that might already be included within clause 5(2)(a).

Ms. Di Cocco: I think there's a motion 5. This was the new one. I don't know if you have the two of them in front of you. Can I just withdraw this one?

The Acting Chair: You can withdraw a motion at any time.

Ms. Di Cocco: OK. I will withdraw this motion.

I will put this on the record for section 5. I move that subsection 5(2) of the bill be amended by adding the following clause:

"(a.1) the acquisition of property by the designated public body will be discussed."

The Acting Chair: Let me just point out one thing. That means that page—oh, it's not numbered. Page 4?

Interjection.

The Acting Chair: New 5. The page in front of you that says "new 5" has been withdrawn, and then we're moving on to the next amendment, which is just page 5. She's now moved this other one; we have to withdraw and we move the next one. That's what we've done, and we now open the debate again on the new amendment that's in front of us. I'm just trying to stay kosher here.

Mr. Murdoch: The new old one.

The Acting Chair: The new old one, yes. So now what you have before you is the same amendment except "disposal of property."

Further comments?

Ms. Martel: I'm not sure why you wouldn't just take out both. I think a board has a responsibility to tell the public what they're up to, if they're selling something or if they're using public money to acquire something. When you get into the fine details of the negotiations, I think at least in terms of hospitals it would be covered because their finance committee would probably be dealing with it, and maybe it's a public body that's not included, but I just think if somebody's moving down that road, the public should be aware of that. People in the community have a right to know that. I would not speak to either of them. I would take that right off.

Ms. Di Cocco: As counsel has indicated, you feel that it's probably captured in that broader context?

Ms. Macnaughton: I think it is, to the extent that if you look at clause 5(2)(a), it talks about financial discussions where disclosure would be detrimental.

Ms. Di Cocco: The last thing I want to do is make things more complicated, so I'll withdraw 5.

The Acting Chair: Thank you for that discussion. That's probably the committee at its best.

Page 6: Ms. Di Cocco. Both new 5 and 5 have been withdrawn.

Ms. Di Cocco: I move that subsection 5(2) of the bill be amended by adding the following clause:

"(a.2) matters of public security will be discussed."

The Acting Chair: Any rationale there, Ms. Di Cocco?

Ms. Di Cocco: Considering the new times we're in, it was felt that that wording was appropriate in specifying other issues that probably weren't as front and centre before.

The Acting Chair: Any further discussion about the addition, "matters of public security will be discussed"? All in favour? Opposed? Carried.

Page 7.

Ms. Di Cocco: I move that subsection 5(2) of the bill be amended by adding the following clause:

"(a.3) the security of the members or property of the designated public body will be discussed."

Again, the same rationale as before.

The Acting Chair: Any other discussion? All in favour? Opposed? Carried.

Page 8.

Ms. Di Cocco: I move that subsection 5(2) of the bill be amended by adding the following clause:

"(a.4) personal health information, as defined in section 4 of the Personal Health Information Protection Act, 2004, will be discussed."

That was added because, again, it was in sync with the language under the hospitals act that dealt with professional health information, which we felt we needed to specify here.

The Acting Chair: Any other discussion? Seeing none, all in favour? Opposed? Carried.

Page 9.

Ms. Di Cocco: I move that clause 5(2)(f) of the bill be struck out and the following substituted:

“(f) litigation or contemplated litigation affecting the designated public body will be discussed, or any legal advice provided to the designated public body will be discussed, or any other matter subject to solicitor-client privilege will be discussed.”

1150

The Acting Chair: We have to backtrack. Could you reread the last part of that sentence, please?

Ms. Di Cocco: “Or any other matter subject to solicitor-client privilege will be discussed.”

The Acting Chair: Thank you. The rationale, Ms. Di Cocco?

Ms. Di Cocco: Again, it was just legal advice that this notion of solicitor-client privilege wasn't captured in the bill.

The Acting Chair: Any further discussion? Seeing none, all in favour? Opposed? Carried.

Shall section 5 carry, as amended? All in favour? Opposed? Carried.

Section 6; we've got no amendments. Shall section 6 carry? All in favour? Opposed? Carried.

Section 7: Ms. Di Cocco.

Ms. Di Cocco: I move that subsection 7(3) of the bill be struck out and the following substituted:

“Minutes to be made available

“(3) A designated public body shall, where the minutes of its meetings are adopted, post the minutes in a publicly accessible location or shall publish them on its Web site at the same time as the adopted minutes are made available to the members of the designated public body.”

The Acting Chair: I thank you for that word “or.” It provides us with the opportunity that Ms. Van Bommel will not have to do an amendment.

Any discussion? Seeing none, all in favour? Opposed? Carried.

Shall section 7, as amended, carry? All in favour? Opposed? Carried.

Shall sections 8 through 14 carry? Any concerns or issues? None? All in favour? Opposed? Carried.

We are now on section 15, page 11 of your amendments: Ms. Di Cocco.

Ms. Di Cocco: I will withdraw page 11.

The Acting Chair: Withdraw?

Ms. Di Cocco: Yes.

The Acting Chair: Shall section 17 carry? Sorry, I'm getting ahead of myself. Shall section 15 carry? All in favour? Opposed? Carried.

Section 16, page 12 of your package: Ms. Di Cocco.

Ms. Di Cocco: I move that clause 16 (1) of the bill be amended by adding—

The Acting Chair: You must add “(a).”

Ms. Di Cocco: Sorry. I move that clause 16(1)(a) of the bill be amended by adding “subject to subsection (1.1)” at the beginning.

The Acting Chair: We have to stand down, right? In order to get us (1.1) in your motion, we have to stand this down until we move to the next page. I got that one really quick. Any objections? Thank you for allowing that.

Next, page 13 of your package, section 16: Ms. Di Cocco.

Ms. Di Cocco: I move that section 16 of the bill be amended by adding the following subsection:

“No order under s.16(1)(a) where adverse impact on acquired rights

“(1.1) The commissioner shall not make an order under clause (1)(a) if,

“(a) such an order would adversely affect the rights of any person acquired under or by virtue of a decision, recommendation or action of a designated public body at a meeting; and

“(b) the person acted in good faith and without actual notice of the failure of the body to conform to the requirements of this act.”

The Acting Chair: Rationale?

Ms. Di Cocco: Just that there is the provision that decisions made inappropriately would become null and void if they were found to be made behind closed doors. Nonetheless, the rights of people who have entered into agreements with the public body and have done so in good faith should not be—they should have the rights of any person acquired by “virtue of a decision.” In other words, they won't be adversely affected. If it was to impact them financially in a huge way—they've already been out there and have done what they had to do under an agreement in good faith—there's a provision there to make sure it doesn't adversely affect them.

The Acting Chair: Further debate?

Mrs. Van Bommel: Just a point of clarification. You say “acted in good faith.” Does that provide for a situation where council has made a decision and you have one individual who doesn't particularly like it and just wants to create roadblocks for that, whereas the rest of the community agrees? Is there any way that nuisance-type complaints can be avoided?

Ms. Di Cocco: The nuisance complaints are covered under the bill. The commissioner makes the determination of whether it is a nuisance complaint; he or she would determine that. There is a clause in there.

Mrs. Van Bommel: I just want to be sure that this doesn't open the door to someone creating a block for a community to do a thing that they feel is important and that the majority of the community is in agreement with—everybody's acting in good faith.

Ms. Di Cocco: Yes. From the legal advice I received, there is provision for that.

The Acting Chair: OK. That's helpful.

Any further discussion? There being none, shall the motion carry? All in favour? Opposed? Carried.

We go back to the stood down motion. Now we stand up. I'll use the opposite language. Is that lawyer talk? Ms. Di Cocco.

Ms. Di Cocco: I move that clause 16(1)(a) of the bill be amended by adding “subject to subsection (1.1)” at the beginning.

The Acting Chair: Clarification, if necessary? That's pretty straightforward. Any other comment? There is clarification needed.

Ms. Macnaughton: This is just a technical amendment to refer to the subsection. Clause 16(1)(a) is subject to whether or not it's overruled by (1.1), which was just discussed.

The Acting Chair: Very good. OK? It's as clear as mud.

All in favour? Opposed? Carried. We got two in a row.

We are now moving to 16, as amended. Shall section 16, as amended, carry? All in favour? Opposed? Carried.

We can do 17, 18, 19, 20, 21 and 22. Shall those sections carry? All in favour? Opposed? Carried.

We are now on section 23.

Ms. Di Cocco: I move that section 23 of the bill be amended by adding "except to the Freedom of Information and Protection of Privacy Act and Municipal Freedom of Information and Protection of Privacy Act and" after "prevail over any other act or regulation."

The Acting Chair: Clarification or comment?

Ms. Di Cocco: This was a legal rationale. I don't know if our legal people can go back and explain why this was advised.

The Acting Chair: For clarification purposes, this legal counsel was not aware of that. You've got advice from other legal people, which means what it means—without editorial, right, Bill?

Catherine, any comment on that, to assist for understanding?

Ms. Macnaughton: I can explain what the effect of it is. It means that the section will now read:

"Subject to the regulations made under clause 24(c), in the event of a conflict, this act and its regulations prevail over any other act or regulation, except the Freedom of Information and Protection of Privacy Act and the Municipal Freedom of Information and Protection of Privacy Act."

1200

The Acting Chair: I guess what I'm hearing is that there's a hierarchy of acts and laws that supersede each other, and we've plugged this one in to the ones that it shouldn't be over.

Ms. Di Cocco: The reason, if I recall, and I do now recall why—it is in case there is a dispute about privacy and encroaching on someone's privacy, and then the current laws that are there with respect to protection of privacy come into play. That's with the information and privacy act and also the Freedom of Information and Protection of Privacy Act, under the Municipal Act, so that there's no conflict.

The Acting Chair: Mrs. Van Bommel.

Mrs. Van Bommel: I just need a point of clarification from our legal counsel. Ms. Martel talked about the eventual revision of the Municipal Act. In the event that we have a new Municipal Act, which creates different standards under this, which would prevail at that point? Would the new act have to state that it prevails over this act? I'm not quite sure what would happen if you have a

situation where there's going to be a conflict between this act and any new act. Could legal counsel clarify that for me?

Ms. Macnaughton: I think, in that situation, you would want to look at this act and the Municipal Act revisions and make whatever amendments you wish to make at that point, in accordance with whatever the policy is at that time.

The Acting Chair: Any further clarification or questions? Seeing none, all in favour? Opposed? Carried.

We've dealt with the rest of the package. So shall section 23, as amended, carry? All in favour? Opposed? Carried.

Shall section 24 carry? All in favour? Opposed? Carried.

Shall section 25 carry? All in favour? Opposed? Carried.

Shall section 26, the short title, carry? All in favour? Opposed? Carried.

Shall the title of the bill carry? All in favour? Opposed? Carried.

Shall Bill 123, as amended, carry? All in favour? Opposed? Carried.

Shall I report the bill, as amended, to the House? All in favour?

Mr. Murdoch: Can I just say something here?

The Acting Chair: I will acknowledge you, Mr. Murdoch.

Mr. Murdoch: Thank you. As I've said before, I think a lot of things in here are pretty good, but I think they should have been done differently and the different acts should have been amended. When you come to the finish here, I'd like to see a recorded vote on the motion on the floor right now, if I could, please. I'd just like a recorded vote the last one.

The Acting Chair: Absolutely. Ms. Di Cocco, comment?

Ms. Di Cocco: I think that this discussion we've had over a number of years now, but also this bill, in the way it has been, if you want, simplified—I think it starts and it also puts on notice the bodies that—again, we have to evolve into the standard that should be there in the first place. It kind of puts on notice the areas that we've been talking about here at the beginning of this discussion and other agencies that have a moral authority to be conducting their business in the open. Again, having something that has some teeth and some backbone then begins to change the attitude and the culture and prevents it from sliding in the other direction.

The Acting Chair: Thank you, Ms. Di Cocco. Mr. Craitor?

Mr. Craitor: Obviously, I'm not quite pleased, because a number of the amendments I put forward, and Shelley's amendments as well, didn't pass. I wanted to see them in there. Having said that, I'm going to support the bill because it starts the process. I've said that back in my community as well. I may or may not be able to get the amendments that I want put forward, but I do believe in at least starting the process. It's quite possible, with some of the amendments we put forward that weren't

supported today, that as time goes on they may be able to be added in by regulation.

There is a loud message, and the member is quite right. I should share with you that even with the parks commission, there is suddenly a change in culture down there. They are having more consultation meetings with the public about proposed changes or directions they want to go in. They are talking much more to the media to share their situations, the problems and why they are going in certain directions. So the bill has generated some interest. My local CCAC has come in to see me on a number of occasions, including on Monday, so obviously they are hearing the message as well.

So it's a positive bill. It's not quite the way I would have liked to see it, but it does open the door, and that's something I do support, so I am going to support it.

The Acting Chair: Any further comment?

Seeing none, there has been a request for a recorded vote. We'll do that now, please.

Ayes

Craitor, Di Cocco, Martel, Ramal, Van Bommel.

Nays

Murdoch.

The Acting Chair: Carried. Thank you very much, everyone.

The committee adjourned at 1206.

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