



ISSN 1180-4319

**Legislative Assembly
of Ontario**

First Session, 40th Parliament

**Assemblée législative
de l'Ontario**

Première session, 40^e législature

**Official Report
of Debates
(Hansard)**

Wednesday 9 May 2012

**Journal
des débats
(Hansard)**

Mercredi 9 mai 2012

**Standing Committee on
Regulations and Private Bills**

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

Chair: Peter Tabuns
Clerk: Tamara Pomanski

Président : Peter Tabuns
Greffière : Tamara Pomanski

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Room 500, West Wing, Legislative Building
111 Wellesley Street West, Queen's Park
Toronto ON M7A 1A2
Telephone 416-325-7400; fax 416-325-7430
Published by the Legislative Assembly of Ontario



Service du Journal des débats et d'interprétation
Salle 500, aile ouest, Édifice du Parlement
111, rue Wellesley ouest, Queen's Park
Toronto ON M7A 1A2
Téléphone, 416-325-7400; télécopieur, 416-325-7430
Publié par l'Assemblée législative de l'Ontario

LEGISLATIVE ASSEMBLY OF ONTARIO

**STANDING COMMITTEE
ON REGULATIONS
AND PRIVATE BILLS**

Wednesday 9 May 2012

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

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

Mercredi 9 mai 2012

The committee met at 0900 in committee room 1.

SUBCOMMITTEE REPORT

The Chair (Mr. Peter Tabuns): The Standing Committee on Regulations and Private Bills will now come to order.

The first item of business is the subcommittee report dated May 2, 2012, with respect to Bill 52, An Act to amend the Building Code Act, 1992 with respect to the height of wood frame buildings. Could I have a member of the committee read the subcommittee report?

Mr. John Vanthof: Your subcommittee on committee business met on Wednesday, May 2, 2012, to consider the method of proceeding on Bill 52, An Act to amend the Building Code Act, 1992 with respect to the height of wood frame buildings, and recommends the following:

(1) That the committee meet for the purpose of holding public hearings on Wednesday, May 30, 2012, in Toronto at 9 a.m. The start time may be moved to 8 a.m. on Wednesday, May 30, 2012, if necessary.

(2) That the clerk of the committee post information regarding the hearings on the Ontario Parliamentary Channel, Legislative Assembly website and on Canada Newswire.

(3) That the clerk of the committee arrange for the committee meetings to be streamed.

(4) That the clerk of the committee arrange for witnesses to present via Skype or teleconference, if requested.

(5) That interested people who wish to be considered to make an oral presentation on Bill 52 should contact the clerk of the committee by Wednesday, May 23, 2012, at 5 p.m.

(6) That, in the event that all witnesses cannot be scheduled, the clerk of the committee should notify the subcommittee.

(7) That, in the event that we receive requests to appear following the deadline, the clerk of the committee shall accommodate the requests, if possible.

(8) That the length of presentations for witnesses be 10 minutes, and up to five minutes for questions on a rotational basis.

(9) That the deadline for written submissions be Monday, May 28, 2012, at 5 p.m.

(10) That, for administrative purposes, the deadline for filing amendments to the bill with the clerk of the committee be Monday, June 4, 2012, at 5 p.m.

(11) That the clerk of the committee provides copies of the amendments received to committee members by Tuesday, June 5, 2012.

(12) That clause-by-clause consideration of the bill be scheduled for Wednesday, June 6, 2012. If required, there will be 10 minutes allotted for opening statements to be divided equally between all three parties.

(13) That the research officer provides the committee background material on Friday, May 25, 2012. The background material will discuss how other Canadian jurisdictions have handled the issue within their building codes, and whether the issue has been dealt with previously in Ontario.

(14) That the clerk of the committee, in consultation with the Chair, be authorized prior to the adoption of the report of the subcommittee to commence making any preliminary arrangements to facilitate the committee's proceedings.

I move that this report of the subcommittee be adopted.

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

All those in favour, please raise their hands? Opposed? I declare the motion carried.

PUBLIC SAFETY RELATED TO DOGS
STATUTE LAW AMENDMENT ACT, 2012

LOI DE 2012 MODIFIANT DES LOIS
EN CE QUI A TRAIT À LA SÉCURITÉ
PUBLIQUE LIÉE AUX CHIENS

Consideration of the following bill:

Bill 16, An Act to amend the Animals for Research Act and the Dog Owners' Liability Act with respect to pit bulls / Projet de loi 16, Loi modifiant la Loi sur les animaux destinés à la recherche et la Loi sur la responsabilité des propriétaires de chiens en ce qui a trait aux pit-bulls.

The Chair (Mr. Peter Tabuns): We will now move to clause-by-clause consideration of Bill 16, An Act to amend the Animals for Research Act and the Dog Owners' Liability Act with respect to pit bulls. The title is postponed until all other sections have been considered. Also, I've put the question on consecutive sections that have no amendments together. Members may request to vote on each section individually.

Are there any comments or questions before we begin? Mr. Hillier, I understand that you wanted to make a comment.

Mr. Randy Hillier: Yes.

The Chair (Mr. Peter Tabuns): If you would.

Mr. Randy Hillier: I have a brief letter here that I've received from Kerry Vinson, who is an animal behaviour consultant.

The Chair (Mr. Peter Tabuns): Can we have unanimous consent to read this into the record? Granted.

Please proceed.

Mr. Randy Hillier: Thank you very much, Chair.

This is a letter from Kerry Vinson, an animal behaviour consultant. It starts, "To whom it may concern," which of course is this committee.

"As I" was "unable to be present on either of the dates set aside for the presentations to the parliamentary committee reviewing the breed-specific legislation amendments to the DOLA, Mr. Hillier has asked me to put in writing my concerns about this legislation. First and foremost, it's important to recognize that the subject of dangerous dogs and public safety was very thoroughly addressed by a formal provincial inquest (the Trempe inquest) in 1999. After much time, effort (and taxpayer expense) the inquest jury formulated 36 recommendations which were aimed at reducing dog aggression in Ontario. The Chief Coroner at the time (Dr. Barry McLellan) designated me," Kerry Vinson, "as an 'expert witness'" to that inquest "and the jury incorporated many of the principles outlined during my testimony in their final recommendations. It is important to note that not one of these recommendations involved any type of breed ban, or the singling out of dog breed(s) as primarily responsible for the problem of canine aggression and dog bites....

"Unfortunately, the provincial government has since failed to put any of the crucial recommendations of the Trempe inquest into effect, instead choosing to pass the BSL amendments in the middle of the next decade. The rationale behind this legislation is completely unscientific and is not supported by any valid research into dog behaviour; instead it was implemented using sensationalism, scare tactics, and by promoting public hysteria. By ignoring the recommendations of every bona fide expert on dog behaviour who testified in the so-called hearings on BSL, the provincial government pushed through this totally specious legislation. As I became personally aware during my testimony (again as a designated expert) in the subsequent 2006 court challenge to BSL, the Attorney General's office had absolutely no interest in formulating effective legislation based on the facts of canine behaviour. As a result, the number of dog bites in Ontario has remained fairly constant since the implementation of BSL and the people of this province are not any safer in this regard, it's just that the perpetrators of these bites are now other dogs that are not members of the breeds identified....

"With this in mind, I would urge the committee to recommend that BSL be either suitably modified or

completely rescinded, and replaced with an efficacious policy that targets irresponsible dog owners who allow their dogs to engage in aggression. While the injustices that were permitted to occur to responsible owners and their dogs over the last several years (as a result of the government's misguided policies) can never be rectified, this would at least insure that future such incidents will not recur, and that public safety may actually be enhanced."

That was by Kerry Vinson, Animal Behaviour Consultants.

Thank you very much.

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

We'll proceed. Are there any comments, questions or amendments to any section of the bill and, if so, to which section beyond the amendments that have already been submitted? There are no other amendments that are going to be brought forward? Fine.

We will go to section 1, Animals for Research Act. We have no amendments here. Shall section 1 carry? Carried.

Section 2: Ms. DiNovo, you have an amendment?

Ms. Cheri DiNovo: I do. Thank you, Mr. Chair.

I move that section 2 of the bill be amended by adding the following subsection:

"(0.1) The definition of 'pit bull' in subsection 1(1) of the Dog Owners' Liability Act is repealed."

Again, I think this is in keeping with the spirit of the bill. There's no need for breed-specific references in either of the DOLA or ARA, so we've removed references to pit bulls in definitions.

The Chair (Mr. Peter Tabuns): Any commentary, debate? There being none, carried.

Mr. Lorenzo Berardinetti: We will not be supporting that amendment.

The Chair (Mr. Peter Tabuns): Okay, thank you. I'll call for a vote. All those in favour? Opposed? Carried.

Interjections.

Mr. Randy Hillier: Do you get to vote?

The Chair (Mr. Peter Tabuns): Ladies and gentlemen, yes, I do get to vote. Since it's a casting vote and since there is procedure on this, I cannot in fact cast a vote in favour of your amendment, thus the amendment fails.

Mr. Randy Hillier: May I have a comment? I know the vote's already been cast and the same with yours. May I make a comment?

The Chair (Mr. Peter Tabuns): Please.

Mr. Randy Hillier: Just for the committee, it was clearly demonstrated through the committee hearings by all experts that there is no such thing as a pit bull and there is no way to identify a pit bull.

Mr. Mario Sergio: Mr. Chair, with all due respect—

The Chair (Mr. Peter Tabuns): We've had the debate.

0910

Mr. Randy Hillier: Okay.

Mr. Lorenzo Berardinetti: And the vote.

Mr. Michael Coteau: Could I just ask a quick question, Mr. Chair? If there are five voting in favour of it and four—isn't there one vote less? Sorry, I was a bit confused there.

Interjection.

The Chair (Mr. Peter Tabuns): It's four to four, with me being the deciding vote.

Ms. Cheri DiNovo: Point of order, Mr. Chair: Perhaps you can explain, just for those here, why you had to vote the way you do.

The Chair (Mr. Peter Tabuns): I will explain at the end.

Mr. Lorenzo Berardinetti: We voted, with all due respect.

The Chair (Mr. Peter Tabuns): Next amendment, Ms. DiNovo.

Ms. Cheri DiNovo: I move that section 2 of the bill be amended by adding the following subsection:

“(0.2) Clauses 4(1)(b) and (c) of the act are repealed and the following substituted:

“(b) the dog has threatened a person or domestic animal with serious harm or created the reasonable apprehension of such a threat; or

“(c) the owner did not exercise reasonable precautions to prevent the dog from,

“(i) biting or attacking a person or domestic animal, or

“(ii) threatening a person or domestic animal with serious harm or creating the reasonable apprehension of such a threat.”

Again, this just adds to the spirit of the bill. “Menace” in the current legislation is not clearly defined; it's open to interpretation. We have chosen to replace it with a more specific definition of a dog that “has threatened a person or domestic animal with serious harm or created the reasonable apprehension of such a threat.” It also keeps the emphasis with owner responsibility for not exercising reasonable precautions to prevent the dog from biting or threatening a domestic animal. These clauses are based on the Calgary model that we heard about in the hearings, but adapted to the provincial legislation.

The Chair (Mr. Peter Tabuns): Any debate? Mr. Hillier.

Mr. Randy Hillier: We'll be supporting this amendment. I do believe that the language provides greater clarity and is consistent, again, with what we've heard through the committee process, but it does provide greater clarity to both the judiciary and also to people who would be enforcing this legislation, with less subjectivity in place, in a more objective manner.

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

Mr. Lorenzo Berardinetti: We do not support the amendment.

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

Mr. Randy Hillier: I'll have a recorded vote, Chair.

Ayes

DiNovo, Hillier, Nicholls, Walker.

Nays

Berardinetti, Coteau, Dhillon, Sergio.

The Chair (Mr. Peter Tabuns): As I am required by custom and rule to vote against the change as Chair, I have to vote against that amendment, and thus the amendment fails.

Mr. Randy Hillier: Chair, maybe I could ask that we put a motion on the floor that you not be so conventional today.

The Chair (Mr. Peter Tabuns): The motion is out of order. Thanks anyway.

Amendment 3.

Ms. Cheri DiNovo: I move that section 2 of the bill be amended by adding the following subsection:

“(0.3) Subsection 4(3) of the act is repealed and the following substituted:

“Final order

“(3) Subject to subsection (3.1), if, in a proceeding under subsection (1), the court finds that the dog has bitten or attacked a person or domestic animal or that the dog has threatened a person or domestic animal with serious harm or created the reasonable apprehension of such a threat and if the court is satisfied that an order is necessary for the protection of the public, the court may order,

“(a) that the dog be destroyed in the manner specified in the order; or

“(b) that the owner of the dog take the measures specified in the order for the more effective control of the dog or for purposes of public safety.

“Exceptions

“(3.1) A court shall not make an order under subsection (3) if it finds that a dog, in taking the acts described in that subsection, was,

“(a) acting to defend its owner from attack or to prevent trespass or vandalism on its owner's property; or

“(b) being subjected to terrorization”—I'm not sure that's a word, Mr. Chair, but since the Liberals are going to vote against this anyway, I'll let it stand—“and reacted in a reasonable manner to defend itself.”

I would have said “being subjected to abuse.”

The Chair (Mr. Peter Tabuns): Do you have any other comments? Debate?

Mr. Randy Hillier: We will be supporting this amendment. Again, I think it is incumbent on us all that legislation is provided and written in a fashion that gives very significant clarity to those who enforce the legislation, and that it not be subjected—the ability to use a subjective view in the enforcement of the act causes problems. We've seen with the present bill that it's worded in such a fashion that it allows for injustice to happen. Let's throw away the partisan cloaks here. Let's make sure, as this bill advances, that at the end of the day both law enforcement and the judiciary have a clear understanding of what the will of the Legislature is and that the legislation addresses that specifically. We will be supporting this amendment. I do hope and trust that

partisanship doesn't enter into the casting of votes any further on this.

The Chair (Mr. Peter Tabuns): Further debate? Mr. Berardinetti.

Mr. Lorenzo Berardinetti: We will not be supporting the amendment.

The Chair (Mr. Peter Tabuns): Any other debate? There being none—

Mr. Randy Hillier: Recorded vote.

The Chair (Mr. Peter Tabuns): A recorded vote called for.

Ayes

DiNovo, Hillier, Nicholls, Walker.

Nays

Berardinetti, Coteau, Dhillon, Sergio.

The Chair (Mr. Peter Tabuns): As required, I have to vote against the amendment, and thus the amendment fails.

We go to amendment 4. Ms. DiNovo.

Ms. Cheri DiNovo: I move that section 2 of the bill be amended by adding the following subsection:

“(0.4) Subsection 4(4) of the act is amended by adding the following paragraph:

“(2.1) Having a veterinarian licensed as such by the College of Veterinarians of Ontario implant in the dog an electronic identification microchip device recognized by the International Organization for Standardization to monitor the whereabouts of the dog.”

The purpose of this is that for dogs that have been found to fit the description of “vicious,” it allows the court to implant a microchip in the dog that allows for the monitoring of the dog's whereabouts. Currently, every municipality keeps track of its vicious dogs. This amendment would ensure that the microchips that are implanted in dogs are of international standards that can be read by every municipality.

It also opens the possibility of a provincial bite registry. Currently, we would not be able to introduce a bite registry, because it is beyond the scope of the bill and it would also require additional detail to include in the registration. Ideally, though, under a provincial registry we would be able to view when vicious dogs move to different municipalities and search for them in an online database.

The Chair (Mr. Peter Tabuns): Any debate on this? Mr. Hillier.

Mr. Randy Hillier: Once again, we'll be supporting this amendment. I think we've heard again, throughout the public hearings, that additional options—micro-chipping is one more additional tool and option for society to know and have more details on animals they might want to know about. I'll be interested in seeing the rationale and reason why the Liberals will vote against this amendment.

The Chair (Mr. Peter Tabuns): Any other debate? There being no debate—

Mr. Randy Hillier: A recorded vote.

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

Ayes

DiNovo, Hillier, Nicholls, Walker.

Nays

Berardinetti, Coteau, Dhillon, Sergio.

The Chair (Mr. Peter Tabuns): Again, as required by the rules, my ballot is cast against the amendment and the amendment fails.

Next amendment: Ms. DiNovo.

Ms. Cheri DiNovo: I move that subsection 2(2) of the bill be struck out and the following substituted:

“(2) Subsections 4(8), (9) and (10) of the act are repealed and the following substituted:

“Termination of order

“(8) If the court has made an order under this section with respect to a dog, other than an order that the dog be destroyed, the owner of the dog may apply to the court to have the order terminated and the court may terminate the order if,

“(a) no proceeding under subsection (1) has been commenced with respect to the dog since the order was made;

“(b) the order has been complied with; and

“(c) it is satisfied, on a reasonable basis, that the dog is no longer a danger to the safety of persons or domestic animals.”

0920

Amendment 5: The purpose of this, of course, is allowing an owner convicted under DOLA the opportunity to appeal. If the owner is convicted under DOLA of owning a vicious dog, they should have the opportunity to appeal that conviction after a specified time period to be determined by the court. The owner may have taken part in obedience classes, obtained a CGN certificate or achieved other results. The owner would then appear before a panel of experts. It would encourage people to be better owners instead of just being punitive. I believe that makes some sense, both for the protection of humans and animals.

I would just add my voice perhaps to that of the Progressive Conservatives to my literal and figurative right and appeal to the Liberals to vote on their conscience and not along partisan lines. In particular, I would ask the member Lorenzo Berardinetti, who seems to be so concerned about elephants, that perhaps he might be concerned about other animals as well.

The Chair (Mr. Peter Tabuns): Further debate? Mr. Hillier.

Mr. Randy Hillier: Yes. We'll again be supporting this amendment. I think we can clearly see that what's happening today in this committee in this clause-by-

clause hearing is that the Liberals are not serious about this legislation, and they're not serious about making good law in this province. They're more interested—

Interjection.

Mr. Randy Hillier: No, no—more interested in upholding party lines. I guess that's why the member for Glengarry–Prescott–Russell was subbed off this committee earlier, who indeed supported this bill at second reading. Now the party has subbed him out. Let's get with it, fellas. This is legislation that will impact the lives of the people in this province, the people that we represent. We ought to be doing something more than just representing our parties here when we're crafting up legislation.

Interjection.

The Chair (Mr. Peter Tabuns): Would you like to speak to this matter, Mr. Dhillon?

Mr. Vic Dhillon: No.

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

Mr. Rick Nicholls: Thank you very much, Mr. Chair. The apparent attacking of both sides—I just have one question for the party opposite me. I would ask that they would perhaps give us an explanation as to their reasoning as to why they're not in agreement with the amendments that are being made. A no simply doesn't give us any direction. It gives us the opportunity to think that perhaps they're just dead set against. I'd like to give them the opportunity to explain to us what their rationale is for voting no against these, we believe, excellent amendments to this particular bill.

The Chair (Mr. Peter Tabuns): Is there any further debate? Mr. Berardinetti.

Mr. Lorenzo Berardinetti: At the end of this session, I'll explain why. But at this point, we do not support this amendment.

The Chair (Mr. Peter Tabuns): Okay.

Mr. Randy Hillier: Recorded vote.

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

Ayes

DiNovo, Hillier, Nicholls, Walker.

Nays

Berardinetti, Coteau, Dhillon, Sergio.

The Chair (Mr. Peter Tabuns): My casting vote has to be against the amendment; thus, it fails.

We go to amendment 6. Ms. DiNovo.

Ms. Cheri DiNovo: I move that clause 19(a) of the act, as set out in subsection 2(6) of the bill, be struck out.

Again, this removes the term “pit bull” from this section of the bill. We have removed any reference to specific breeds under DOLA. In this section, the act states that, “A document purporting to be signed by a member of the College of Veterinarians of Ontario stating that a dog is a pit bull within the meaning of this

act is receivable in evidence in a prosecution for an offence under this act as proof,” and it goes on. We're striking this clause out completely. I know this is in the spirit of the bill that DOLA should apply to all dogs, not specific breeds.

I would just add by way of explanation as well, along the line of some of the concerns that you've heard, that I would hope that the members opposite are representing their constituents. I hope that they are fully aware of the Facebook sites and other sites of their constituents' signatures on petitions for this bill and for amending DOLA. I hope that they would be ready to speak to those constituents about their actions here today.

The Chair (Mr. Peter Tabuns): Further debate? Mr. Hillier and then Mr. Berardinetti.

Mr. Randy Hillier: Once again, we'll be supporting this amendment, and once again I will say to the members opposite in the Liberal Party that we respect your roles here; we respect your constituents. This absolute toeing of the party line and your refusal to improve, or work to improve, legislation before you does a disservice not just to your constituents; it does a disservice to this institution. Man up and vote your conscience.

The Chair (Mr. Peter Tabuns): Mr. Coteau: point of order.

Mr. Michael Coteau: Come on. We're voting on amendments here.

Mr. Randy Hillier: You're voting along party lines.

Mr. Michael Coteau: Chair, you're allowing the party opposite to talk more about why we should—have him focus on the amendment, not on why we should vote a certain way as individuals on this side, please.

The Chair (Mr. Peter Tabuns): Mr. Coteau, I've been through many of these debates on bills, and in the course of debate in committee, people on either side of the aisle have tried to persuade the other side to vote with them. Many times I have tried to persuade the Liberals to vote with me, and contrariwise, Liberals have tried to persuade me to vote with them. I see it as in order to make an argument to bring people over on a vote, so I rule your point of order out of order.

Any other debate? Mr. Berardinetti.

Mr. Lorenzo Berardinetti: We will not be supporting the amendment.

The Chair (Mr. Peter Tabuns): You won't be supporting the amendment?

Mr. Randy Hillier: Recorded vote.

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

Ayes

DiNovo, Hillier, Nicholls, Walker.

Nays

Berardinetti, Coteau, Dhillon, Sergio.

The Chair (Mr. Peter Tabuns): And by custom, unfortunately, I will be voting against this amendment.

Shall section 2 carry? Carried.

Section 3: There are no amendments. Shall section 3 carry? Carried.

Section 4: There are no amendments. Shall section 4 carry? Carried.

Shall the title of the bill carry? Carried.

Shall Bill 16 carry? Carried.

Shall I report the bill to the House? Carried.

Ms. DiNovo.

Ms. Cheri DiNovo: I just wanted to add a word. Kim Craitor, the member from Niagara Falls, is not present but was a co-signatory of this bill, and I just want to mention his name into the record and thank him for his support.

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

Just before we close out, because there will be people who will have questions about how I make decisions on the casting vote, I need to read the notes from our standing orders.

In general, when a committee cannot by a majority decide a question, the Chair has no obligation to decide on the committee's behalf and should avoid doing so. The Chair should vote in any way that extends debate, maintains the status quo—for example, leaves a bill in its existing form—or offers the opportunity for the committee as a whole to further debate and decide the matter.

For those who are not familiar with the way these committees are structured, I, as the deciding vote, follow tradition and the rules. If this bill had a final vote that

was tied as to whether the bill would go forward, I would have had to vote, and would willingly have voted, for it to continue to go forward to third reading. That's it.

Mr. Randy Hillier: Chair?

The Chair (Mr. Peter Tabuns): Now, we actually have done our business for the day.

Mr. Randy Hillier: There was one element of our business of the day that has not been completed. That was that the member for Scarborough Southwest said that at the end of this, he would provide the rationale for the Liberal members' voting down every amendment.

Mr. Mario Sergio: Not during the committee.

Mr. Randy Hillier: He said he was going to do it.

Interjections.

The Chair (Mr. Peter Tabuns): Do people want to hear from the member?

Interjection: Yes.

The Chair (Mr. Peter Tabuns): Then we will hear from the member.

Mr. Lorenzo Berardinetti: There is a bill, Bill 132, that was put in place. I, as a government member—I can't speak for all of them—support the original bill. This new bill that was created: We did not vote against sending it to the House; we just voted against the amendments.

So, thank you.

Mr. Randy Hillier: That's a thoughtful reflection on those amendments.

The Chair (Mr. Peter Tabuns): Thank you. This committee now stands adjourned.

The committee adjourned at 0930.

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