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## **Official Report of Debates (Hansard)**

**Tuesday 11 April 2017**

## **Journal des débats (Hansard)**

**Mardi 11 avril 2017**

**Standing Committee on  
Government Agencies**

Intended appointments

**Comité permanent des  
organismes gouvernementaux**

Nominations prévues

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## LEGISLATIVE ASSEMBLY OF ONTARIO

**STANDING COMMITTEE ON  
GOVERNMENT AGENCIES**

Tuesday 11 April 2017

## ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

**COMITÉ PERMANENT DES  
ORGANISMES GOUVERNEMENTAUX**

Mardi 11 avril 2017

*The committee met at 0903 in committee room 2.*

**The Clerk of the Committee (Ms. Sylwia Przezdziecki):** Good morning, honourable members. Owing to the absence of both the Chair and the Vice-Chair of the committee, it is my duty to call upon you to elect an Acting Chair.

Are there any nominations? Mr. Qaadri.

**Mr. Shafiq Qaadri:** Thank you, honourable Clerk Przezdziecki. It is my privilege to nominate Lou Rinaldi, MPP for Northumberland–Quinte West, as our Acting Chair, if it so be the will of the committee.

**The Clerk of the Committee (Ms. Sylwia Przezdziecki):** Mr. Rinaldi, do you accept the nomination?

**Mr. Lou Rinaldi:** Absolutely.

**The Clerk of the Committee (Ms. Sylwia Przezdziecki):** Are there any further nominations? No? There being none, I declare nominations closed and Mr. Rinaldi duly elected Acting Chair of the committee.

Will you please come up and take the chair, sir?

**Mr. Lou Rinaldi:** Thank you for having confidence in me, folks.

*Interjections.*

## SUBCOMMITTEE REPORT

**The Acting Chair (Mr. Lou Rinaldi):** All right. Good morning. Before we begin our intended appointments review, our first order of business is to consider a subcommittee report. Mr. Pettapiece?

**Mr. Randy Pettapiece:** I move adoption of the subcommittee report on intended appointments dated Thursday, April 6, 2017.

**The Acting Chair (Mr. Lou Rinaldi):** Any discussion? All those in favour? Carried. Thank you.

## INTENDED APPOINTMENTS

## MR. KEVIN GORDON CLEGHORN

Review of intended appointment, selected by third party: Kevin Gordon Cleghorn, intended appointee as member, Criminal Injuries Compensation Board (Social Justice Tribunals Ontario).

**The Acting Chair (Mr. Lou Rinaldi):** We will now move to the appointment review. We have Mr. Kevin Gordon Cleghorn, nominated as member, Criminal Injuries Compensation Board.

Would you please come to the table? Welcome.

**Mr. Kevin Gordon Cleghorn:** Thank you. Good morning.

**The Acting Chair (Mr. Lou Rinaldi):** Thank you very much for being here. You may begin with a brief statement if you wish. Members of each party will have up to 10 minutes to ask you questions. Any time used for your statement will be deducted from the government time for questions. Go ahead.

**Mr. Kevin Gordon Cleghorn:** Thank you very much, and thank you for considering my appointment today.

I've been a practising lawyer, in Thunder Bay, primarily, since 1984—a very proud northerner. When I was walking over today in the humidity, I was reminded of why I like the north so much. This is not my preferred humidity or temperature.

In any event, I have been practising there, as I said, primarily doing family law, since 1984. I was employed by Legal Aid Ontario, from 1999 to 2011, as the director of the family law office for Legal Aid. At that point in time, I thought that it might be time to scale back and consider semi-retirement. That did not work out very well. That lasted about one month.

I had the opportunity to seek appointment to the Human Rights Tribunal of Ontario, and it was at that point that I discovered the world of the Social Justice Tribunals, and I discovered something that I never thought possible, which was that there was something else other than family law that a lawyer could do. I really have enjoyed very much the opportunity to serve the citizens of Ontario, primarily throughout the northern region.

I discovered the magic of mediation in that context, to assist people with resolving their human rights complaints. In addition, I've stepped up my sitting as a deputy judge in the Small Claims Court. I sit in Thunder Bay, Red Lake, Kenora and Fort Frances.

As well, I took on work as a counsel for the Children's Aid Society of the District of Thunder Bay and Dilico Anishinabek child and family services. I do exclusively trials on behalf of the agencies.

As well, I also have increased my course load at Lakehead University. As an adjunct professor in political science, I teach two undergraduate courses as well as, now, two courses at the faculty of law.

**Mr. Randy Pettapiece:** Excuse me, sir. I was wondering if you could move the microphone in front of you a little bit. There's too much noise; I can't hear.

**Mr. Kevin Gordon Cleghorn:** Sorry about that. Is that better?

**Mr. Randy Pettapiece:** Yes, that's good. Thanks.

**Mr. Kevin Gordon Cleghorn:** In any event, I am now busier than ever operating an office from my home. The only challenge with that is my wife is my book-keeper and also occupies the home at the same time as me, and takes the liberty of suggesting that I do work when I'm in the midst of a workday. She thinks that because I am there and I'm dressed casually, it means that I am not working. But I am working most of the time.

April is a challenging month. I have three sets of exams to mark. And so I am pleased to be here, but anxious to get back to ensure that I get my marks turned in on a timely basis.

I welcome the opportunity to serve Ontario and all of its citizens as a member of the Criminal Injuries Compensation Board. I am very excited about the prospect of beginning the journey with that particular board, and assisting victims of crime with determining appropriate compensation, if it's warranted, bearing in mind, of course, that Ontario has resource issues that we need to be always mindful of—so that we have to strike the appropriate balance in terms of the fairness of an award in all circumstances.

I thank you for having me. I look forward to answering any questions that you may have about my experience or background.

**The Acting Chair (Mr. Lou Rinaldi):** Thank you very much. We'll begin the rounds of questions with the third party. Mr. Miller.

**Mr. Paul Miller:** Good morning, Mr. Cleghorn. How are you today?

**Mr. Kevin Gordon Cleghorn:** Pretty good, sir. Thank you.

**Mr. Paul Miller:** I've got some questions. Certainly, after your presentation, I'm not quite sure if you have time to cut the lawn by the sound of it.

Have you been given any indication of the time commitment required for this appointment, and do you feel that you will be able to fulfill that time commitment?

**Mr. Kevin Gordon Cleghorn:** I do. Much of my time is based upon the needs of the various bodies that I work for. At this point in time, there are no trials scheduled for the children's aid society for the remainder of 2017, and I am in a position to be able to indicate yea or nay to any request of me.

**0910**

One of the reasons that I had to take on the role at the children's aid society was because counsel was experiencing medical issues, which is no longer the case. It's much more of a sharing of the responsibility now.

Every body or organization that I work with allows me to set my schedule and offer as little or as much time as I want, so I have a lot of flexibility.

**Mr. Paul Miller:** It's my understanding that there have been some issues in the past regarding timely hearings and payment with the Criminal Injuries Compensa-

tion Board. In the witness's opinion, how can the board best meet its strategic goals of providing timely hearings and payments of compensation awards?

**Mr. Kevin Gordon Cleghorn:** I'll have a much better answer after I've been working with the board for a few months, but I do have a couple of thoughts in terms of my most recent experience in shadowing hearings.

I have noticed that there have been two members on panels who consider issues of compensation. That is, of course, not what I am accustomed to. I always sit alone as a deputy judge in Small Claims Court, or as an adjudicator on human rights issues. I would be quite prepared, once I am familiar with the set-up, to do that.

Having only one person sit as a panel, in effect, would allow for many more hearings to be conducted. I understand that the board has been taking active steps to ensure more timely access to the board and to hearings, and that there has been some success, as I understand, in terms of reviewing the statistics, that it's being accomplished. But certainly one of the objectives I would have would be to suggest—I mean, I'd be quite willing to sit alone.

**Mr. Paul Miller:** I'm glad to hear you are a Small Claims Court judge, because you've dealt with every aspect of our society, and I'm certain you've seen quite a bit. That's a good thing.

What does the witness believe are the major challenges to be faced by the board in the foreseeable future?

**Mr. Kevin Gordon Cleghorn:** One of the big challenges that the board could face would be the uncertainty of knowing the direction that our society is going to take, in terms of crime and crime rates. Obviously, the more violent crime that there is, the more applications there may be, which may put a strain on resources. That, I think, is one of the uncertainties associated with what may occur in the future.

I certainly see that there are probably going to be efforts made to consider how resources can be used more effectively and more efficiently. I think that it's going to be incumbent on all of us, particularly once I am familiar with the nature of the board and how it operates, to be very proactive in making suggestions about that.

I can tell you that I thought it necessary, when I became the director of the family law office for Legal Aid, to really try to ensure that we were spending dollars wisely. For example, last night, even though I got in very late, I took the UP train downtown instead of taking a cab. I know it's a small thing, but I think that it's incumbent on all of us to be respectful of the fact that we are getting paid out of government coffers, and that we should do what we can—particularly since the UP train is a beautiful experience and a nice ride—to try to minimize the costs and try to do that whenever possible, however we can, because I think we can make a contribution individually.

**Mr. Paul Miller:** Obviously, with your extensive background and the amount of commitment you've made to your community, you certainly are community-minded. If you find that, at any given time, your schedule

conflicts or you can't fulfill your requirements, how would you react to that? Would you step down? What would you do?

**Mr. Kevin Gordon Cleghorn:** I think that I would adjust my schedule to ensure that I can meet the time commitments. My community activity has been curtailed somewhat by virtue of being a member of the Ontario public service and being subject to the ethical guidelines for deputy judges. I've had to, in effect, remove myself from any activity that involves fundraising, either directly or indirectly.

**Mr. Paul Miller:** We know all about that—fundraising.

**Mr. Kevin Gordon Cleghorn:** It's a challenging exercise, because you want to continue to contribute. It's something that I've done for my entire career, and I would like to continue to do so.

Sir, I can assure you that the two boards that I am involved with would be my priority.

**Mr. Paul Miller:** Okay. Thank you, Mr. Chairman.

**The Acting Chair (Mr. Lou Rinaldi):** Thank you. Now we'll turn to the government side. We have about six and a half minutes. Mr. Qaadri.

**Mr. Shafiq Qaadri:** Welcome to you, Mr. Cleghorn. First of all, I would like to salute your community involvement, whether it's from the legal side, community activities; whether it's the United Way or the many sports teams that you've been involved with; and of course building the community up for many different sectors—as I'm perusing your resumé here. We're very pleased to have you. I think you'd make an ideal individual for this particular tribunal.

I believe you spent 12 years, which is quite a dedicated length of time, serving Legal Aid Ontario in Thunder Bay. I was wondering if you might share with us some ideas on how that experience might inform your future experience—given your success on this tribunal.

**Mr. Kevin Gordon Cleghorn:** It's a very interesting and difficult question to answer. I can indicate that I still work for Legal Aid Ontario as a mediator for family law disputes. I did two yesterday, for example.

One of the things I discovered was that we all have a responsibility to ensure that members of the public receive service in areas that we consider to be important and valued—legal representation is one; timely access to justice is another—so what I tried to do was make myself as available as I could to ensure that that happened. When I was the director of the family law office, I was very mindful of the fact that we were the last stop for most people. It was incumbent on me to take on as much as I possibly could under the circumstances, and I did; and I probably took on more than I should have, which resulted in me having to say at the end of 12 years that that probably was enough for me. Most people tend to stay with Legal Aid for about five or six years.

One of the things that is important is that you remain connected with your head office, so to speak, so that they are aware of what you are doing; so that, in effect, you can provide feedback about what's happening on the

ground; so that you are in a position to be able to advise on ways and means by which we can provide more effective and efficient service—essentially, to make every effort that we can to be cost-effective; to try to think of and consider different models by which we can provide access to whatever it is that we may be providing, such as, for Legal Aid, legal services.

For criminal injuries compensation, I think the biggest thing that we can do for people—and this sort of echoed in my mind from the tenets of the Carswell seminar for deputy judges last Friday: People want decisions. They want outcomes. They don't want to be lingering in a system for too long a period of time and having to deal with the fallout of having a continuing thing hanging over their head, awaiting the finality associated with it. So moving things along as quickly as possible, getting to an outcome for people; having them, in effect, be satisfied that it's an appropriate outcome and letting them get on with their lives—that's a very critical thing.

**Mr. Shafiq Qaadri:** I appreciate what you've said. It's interesting; I think the first complaint that I saw in print about the law's delay was from about 800 years ago. So we hope that you'll be able to expedite that.

It's also very incredible and impressive that you still maintain your teaching affiliation at—is it Lakehead?

**Mr. Kevin Gordon Cleghorn:** Yes, sir.

**Mr. Shafiq Qaadri:** That's good. Tell us a little bit about that. How does that keep you youthful and engaged and current?

**Mr. Kevin Gordon Cleghorn:** Youthful, I'm not sure; engaged, extremely. I started teaching 23 years ago and discovered to my surprise that there's not a lot of training that goes into having people step into a university lecturer position. It was all on the job for me. I sat down with many teachers from different walks of life, different levels, including former MPP Jim Foulds at Port Arthur, who left Queen's Park to go back into the teaching profession until he retired. Mr. Foulds said to me words that ring true to this day, for someone who's not as technologically advanced as perhaps I should be. He said, "There's nothing wrong with a piece of chalk and a blackboard." I've used that advice and put it in the right context, because students, of course, are very tech-savvy. I did my first online course last year, so I learned about the preparation of an online course and all the technology associated with it.

0920

I taught professional responsibility to law students this past term, so it keeps me abreast of ethical issues which, sometimes, we may forget about. And to my shock, you discover that you've got many stories that you can tell about mistakes that you have made over the years.

The students are marvellous. They are very respectful; they are intellectually interested. And nothing gets me more excited than students who care about what is being talked about and are interested in it. It's been a marvellous experience.

People always ask me, "When do you plan to retire?" I say I can't contemplate the idea of retirement when I'm

enjoying myself so much in terms of what I am doing, and the students appear to be enjoying themselves as well.

**Mr. Shafiq Qadri:** That's great. Welcome to Parliament, Mr. Cleghorn. From all accounts, it seems you'd be an ideal candidate for Social Justice Tribunals Ontario. Thank you.

**Mr. Kevin Gordon Cleghorn:** Thank you.

**The Acting Chair (Mr. Lou Rinaldi):** Now we'll turn to the official opposition. Mr. Pettapiece.

**Mr. Randy Pettapiece:** That was certainly a refreshing remark, about "a piece of chalk and a blackboard." How refreshing that was to me, because I'm probably the least technically advanced person here at Queen's Park.

**Interjection:** Well, we're pretty close.

**Mr. Randy Pettapiece:** You're pretty close, are you?

I sometimes think things get way too complicated, where just to sit down once in a while and talk frankly, and in common language and whatever else, is certainly something that we need to do maybe a little bit more often.

This says that you're a current resource person for a domestic violence court committee. What does that entail?

**Mr. Kevin Gordon Cleghorn:** It's a bit of a misnomer. A few years ago, probably over a decade now, there was talk about a domestic violence court, and so the committee was called the domestic violence court implementation committee. It became clear, after about two or three years, that the court was never going to happen. So this is more or less a means by which there's a liaison between the crown attorneys and victim assistance advocates.

I've been the family law resource person because I've been involved, in my work through Legal Aid, with many abused spouses over the years, and partners. The thought was that I might be able to offer some thoughts or information about things from the family law perspective.

More often than not, it's basically the opportunity for the advocates to talk about issues that have cropped up—a victim who, perhaps, has not been treated well in the system—or to review statistics, to essentially just be a sounding board and an opportunity for there to be input from all different sectors of society who are interested in criminal justice and victim assistance, to communicate with each other and to hopefully make things better.

**Mr. Randy Pettapiece:** I see. It also says here that you're the current family law representative for the Thunder Bay Law Association on the County and District Law Presidents' Association. Is that correct?

**Mr. Kevin Gordon Cleghorn:** Yes, that's correct.

**Mr. Randy Pettapiece:** What does that entail?

**Mr. Kevin Gordon Cleghorn:** Not very much, to be honest with you. Essentially, I'm the go-to person in the event that they want someone to gather input about an issue. For example, with respect to the increased involvement of paralegals providing family law services, they would ask me, in effect, to talk with colleagues and get information, and then provide feedback for it.

We also have liaison committees of the Thunder Bay Law Association that are more actively involved in doing that kind of work. I'm just the person that they can go to if they need something.

**Mr. Randy Pettapiece:** I see. The reason I'm asking these questions—there was the question that Mr. Miller asked about the time required to do what you're applying for. I look at your resumé, and there's a whole bunch of stuff here that says you're still active in doing in your community. You've answered that there's not a lot of time involved with some of these things.

**Mr. Kevin Gordon Cleghorn:** No, there really isn't.

**Mr. Randy Pettapiece:** I think that when we appoint people to these types of things, we want to just make sure that the time commitment is there, if need be.

**Mr. Kevin Gordon Cleghorn:** I appreciate that and I understand the concern. Although I do the things that have been listed on my CV, I can tell you that some of them are very, very minimal in terms of the time commitments. Sometimes there won't be anything for a couple of years, for example, with respect to that role of the family law liaison for CDLPA. I wouldn't be offering myself up if I couldn't provide the commitment for you. I can also assure you of one thing, and this is a product, I suppose, of working from home: There's really no division for me anymore about home and pastime.

This is going to sound geeky, but Thursday night is my favourite night of the week; it's when my files for the Human Rights Tribunal come in. As soon as they come in, I'm on the computer and I'm looking at the files for the next week, because they're just interesting to read. They are all fascinating stories, and I have to read them twice. It's essentially a time management thing as well. As long as I am alone on an airplane, I'm opening up my laptop to review files. As long as I'm satisfied that there is security and secrecy associated with my review, I spend—like last night, my flight was delayed two and a half hours. I take full advantage in the airport lounges of reviewing files or materials. I have marking to do. That will get done while I'm in the airplanes as well. You just find the time. When you're doing work that is enjoyable, as this has been, it really doesn't seem like it's onerous, to be honest with you.

**Mr. Randy Pettapiece:** All right. Thanks, Chair.

**The Acting Chair (Mr. Lou Rinaldi):** Thank you, Mr. Cleghorn. That concludes the interview portion. We will be dealing with concurrence after the next interview.

**Mr. Kevin Gordon Cleghorn:** Thank you very much. Have a good day.

#### MS. CAROL LAYTON

Review of intended appointment, selected by official opposition party: Carol Layton, intended appointee as member, Ontario Infrastructure and Lands Corp. (Infrastructure Ontario).

**The Acting Chair (Mr. Lou Rinaldi):** Our next intended appointee is Ms. Carol Layton. Please come forward and take a seat at the table. Welcome. Thank you very much for being here. You may begin with a brief

statement if you wish. Members of each party will have 10 minutes to ask you questions. Any time used for your statement will be deducted from the government's side. So begin.

**Ms. Carol Layton:** All right. Thank you, Chair, and committee members. It's really a pleasure to be here. As you know, I'm being considered for Infrastructure Ontario, so I am going to take a few minutes just to work my way through. I know you have some material in front of you.

I retired about 14 months ago from the Ontario government after almost 36 years. In that time, I also had the opportunity to work on many files and many disciplines. I was a deputy minister for 13 years, literally to the day when I retired. I enjoyed a leadership role in several ministries, and during those years I worked with many agencies of the government. I do know that you have reference material before you, but in the few minutes that I'll take I would like to explain my qualifications by noting three different areas.

First, the experience that I have in agency governance and accountability in the public sector: It's one thing to read business plans and reports in third-party documents; it's another to interact on a regular and really daily basis with agency executives on their mandates, on their issues and risks; understand their accounting and how it impacts the financial statements of the government; ensure that you have the processes and structures in place to monitor performance; and appreciate and adhere to respective roles and responsibilities, which has always been an interesting dynamic with agency governance.

Over the course of my time as a deputy minister in those 13 years, my role was that of oversight in support of the accountable minister of the day with several agencies: the Liquor Control Board of Ontario, the Ontario Lottery and Gaming Corp., the former Ontario Realty Corp., Infrastructure Ontario itself, Waterfront Toronto, Metrolinx, and the Ontario Highway Transport Board—all of that, in that order. I've been involved in the review and drafting of relevant memorandums of understanding, which is a critical instrument that we have for agency governance.

Earlier in my career as an assistant deputy minister in the then Management Board Secretariat, I oversaw the team that drafted the initial agency establishment and accountability directive, presenting it to Management Board of Cabinet for approval, chaired then by David Tsubouchi. In the case of Infrastructure Ontario, I was the deputy minister supporting the minister of the day, David Caplan, that oversaw the creation of that agency, and I sat as its first ex officio board member. Over the past dozen years I've observed the evolution of IO, first from its alternative finance and procurement mandate to infrastructure financing and the very robust program that the loans program has—its real estate services program as well as the support that it provides in commercial transactions for the government.

**0930**

My second area is understanding HC governance and accountability for the LHINs more broadly. In addition to

being a former Ontario public servant, I do understand it more broadly. I sat for several years as a national board director for the Institute of Public Administration of Canada, a national non-profit organization, and served as its president in 2006-07.

A real source of pride for me is that I'm among a small group of parent-founders who created a non-profit agency that is now in its sixth year of operation. It provides day programming for adults with intellectual disabilities. I serve on that board as its secretary.

I'm also a national director with the Canadian Association of Management Consultants. I was purposely recruited onto that as a non-consultant to bring the perspective of the client to the table.

I don't think it's in the materials that you have in front of you, but more recently, two other areas where I've been approved—one with the federal Treasury Board of Canada Secretariat to serve as an external member on what's called the Government of Canada Audit Committee, so it's a fairly broad committee with a fairly large mandate. I'm also serving a similar role with the province's own corporate audit committee.

My third category that I'd like to talk about is the areas of public sector finance, fiscal planning, infrastructure policy planning and procurement, and understanding the broader context of how investments contribute to the economic, environmental and social well-being of the province. I've been deeply involved in my many, many years in the Ontario government in all aspects of that. I've worked at central agencies and in line ministries. Specific to my experience with IO, I've been both an overseer in the initial days of the agency and a policy-maker, and also their client, certainly with the last five years in my career with the Ministry of Transportation, where I was deputy minister.

Several years ago, I also worked as director of fiscal strategies at the Ministry of Health and Long-Term Care, where the mandate of the branch involved health capital procurement. Before then, I had the opportunity to work as a court manager for the courts in Metro North, where I was also exposed to capital planning in the justice sector. So I guess it's fair to say that I've been around the capital file in a number of different contexts for many years.

In my time in government, I've observed the evolution from capital spending to what I think is more properly referred to as infrastructure investments, from the whole path of cash to accrual accounting, from results measured by dollars spent to results measured by the achievement of economic goals, social goals and environmental goals.

Now, in my retirement—I'm 14 months in—I'm really enjoying the exposure to files in the federal arena and certainly in the non-profit sector. I've always maintained an interest, though, in the Ontario public sector and in the broader issues of policy and planning and delivery and financing. I would certainly serve IO with keen interest and as an accountable and active board member.

Those are my remarks, Chair and committee members. Thank you for allowing me to start off my session, and I look forward to addressing any questions that you have.

**The Acting Chair (Mr. Lou Rinaldi):** Thank you. Now we'll go to the government side. You have about four minutes and 20 seconds. Mrs. Mangat.

**Mrs. Amrit Mangat:** Thank you, Ms. Layton, for your presentation. You're quite an accomplished woman, and you have a very impressive resumé.

**Ms. Carol Layton:** Thank you.

**Mrs. Amrit Mangat:** In your presentation, you spoke about the P3 model. There are different perspectives about this. Can you shine light on that? Some people are saying it's a good model; some are saying it's not. What is your opinion on it?

**Ms. Carol Layton:** It's interesting. I learned right from day one that—when I was in health capital, what really motivated me to really want to understand the AFP model and really embrace it, certainly when I became the deputy minister to David Caplan at the time, back in around 2005, was the fact that when it comes to huge infrastructure investments—and I was involved in hospital capital as well as justice capital before I was involved in the broader context—you want to make sure that when you are negotiating contracts—first of all, you want to have as good a team, if not a better team, on your side of the table as you do on the side of the table that is the private sector. That was certainly a big motivation behind the P3, the alternative financing and procurement model.

I certainly have a great appreciation for all models of infrastructure delivery, and there's a role for all of them, but when it comes to the big, large, complex projects, having private sector finance in first and having them bring their skills and expertise to the table, and also having them serve as the integrator for those very large, complex models all, I think, serve a purpose. I appreciate that there has been lots of discussion around things like value for money. I know that Infrastructure Ontario has refreshed its method, and I certainly, if I'm successful in being a board member, will want to understand that a whole lot better because it's important to pay attention to all—to the critics, as well as those who are advocates for the model, and make sure that you've got the best possible model because at the end of the day we're serving one person, and that's the taxpayer.

**Mrs. Amrit Mangat:** Thank you. Is Infrastructure Ontario facing any challenges currently, or do you think there can be in the future? Can you elaborate on that?

**Ms. Carol Layton:** I'd say there are about four different areas, really. First of all, it does do large AFP procurements. Those are complex, and with the complexity of AFP procurements comes risk. When I was at the Ministry of Transportation, the Windsor-Essex parkway really showed us—and I lived and breathed that one every day for a sustained period in 2013 when we had some issues there with the consortium. That, alone, pinpoints risk when something can go wrong—in this case because of construction. Complex projects mean risk.

Infrastructure Ontario also has a huge loan of receivables. I think based on one of the documents I looked at, it's over \$5 billion, and managing receivables is always

an important thing. You're dealing with many different sectors, the non-profit sector, the MUSH sector, municipalities certainly and colleges and universities. So there's always risk when you have a large investment portfolio.

It also has the real estate side of things. We're about to do a phenomenal retrofit to the Macdonald Block. I guess the point I'd make there is that there's value to create when you're dealing with real estate. There are brown-fields to clean up, and a really, really good example of that is the West Don Lands and what became then the Pan Am park for the Pan Am/Parapan Am Games. That was a critical thing, spurred on by the games, and also the desire that we've cleaned up a major part of the city and built an incredible berm that provides flood protection. So there's that also to acknowledge in terms of the area of risk.

I think the last one I would talk about is just fiscal capacity. The government's soon enough going to be releasing its budget and not only balancing but keeping that balance, so sustaining it and being really careful to watch the 30-year obligations, the long-term obligations of our AFP projects on the next generation—

**The Acting Chair (Mr. Lou Rinaldi):** Ms. Layton, I hate to interrupt, but the time has expired.

**Ms. Carol Layton:** Okay.

**The Acting Chair (Mr. Lou Rinaldi):** We'll go to the official opposition. Mr. Cho.

**Mr. Raymond Sung Joon Cho:** First of all, thank you so much for applying for this position. I don't know whether this question is really related to your position, but Toronto city council—I was a former councillor.

**Ms. Carol Layton:** Yes.

**Mr. Raymond Sung Joon Cho:** They decided again to build the subway between Eglinton and Kennedy to Scarborough Town Centre, but all the media, especially the Toronto Star, insist that this is a waste of time, money, everything, and we should build the LRT. Do you have any opinion on that since you worked for transportation as a deputy minister?

**Ms. Carol Layton:** I was with the transportation ministry. I think there's a lot of factors that go into those sorts of decisions, and I can't defend one versus the other—all to say that in my time as a deputy minister my role was always to bring the best advice you can in the context of the deputy minister. I'm non-political. I never have been political.

It's all about, in my case, what's the best evidence-based rationale for the best use of taxpayers' dollars, but there's always a lot more that comes to any table, and it's beyond my prerogative to even comment any further on something like the LRT versus the subway extension.

**Mr. Raymond Sung Joon Cho:** Okay. So when you get this position, in your opinion what kind of challenges, if any, does Infrastructure Ontario face in exercising its responsibility?

**Ms. Carol Layton:** It's got a huge mandate. The government has a continued ambitious infrastructure plan, I think \$160 billion over 12 years. Infrastructure Ontario is going to be a big player in that, as will all the other

ministries as well. There are some very complex projects out there.

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First of all, as a board member, one thing for me is, the deputy hat is long gone. It's 14 months ago it was hung up. Now I have to put to a board hat on. I'm now accountable to the minister but through the chair. In my 13 years as a deputy, I was accountable to ministers directly and oversaw the agency.

I'm going to put on a different hat now, and make sure that, as a board member, when it comes to oversight, good governance and adherence to good strategy and performance, that those different areas, those four business lines of IO—the alternative finance and procurement business line, the real estate business line, the commercial transactions business line, as well that loans program that it does—our job is to make sure there is exposure in all of those.

As I said, exposure, when you've got \$5.3 billion in loans receivables—if I'm correct in quoting a document—for many organizations that are otherwise non-profit, making sure that that's a well-monitored portfolio, and that you really understand the risks that are there; always making sure that the real estate transactions that we do also are ones that you paid attention to carefully. It's all over the province. There is a deferred capital, in a sense, or a deficit in terms of capital all around the province and in many different initiatives. Capital, once you cut the ribbon and you build something, you don't stop it. There are huge maintenance requirements as well.

That's the beauty of an alternative finance or procurement model that builds in that 30-year structure, as opposed to more of the traditional capital. It will be the challenges I spoke about around making sure that there's just really good oversight to the many different portfolios of the agency—is what I see as the role that I'll play and the role of the agency.

**The Chair (Mrs. Cristina Martins):** Thank you, Mr. Cho. Mr. Pettapiece.

**Mr. Randy Pettapiece:** Thank you, Chair. Good morning.

**Ms. Carol Layton:** Good morning.

**Mr. Randy Pettapiece:** I've got some records here I want to ask you about, and that has to do with the salaries of deputy ministers. You received raises of up about 18% over three years in your salary as a deputy minister. You went from \$252,000 to \$292,000 in those three years. Decisions on raising salaries for deputy ministers, is that based on merit? Is it based on an automatic salary increase because you've been there so long?

**Ms. Carol Layton:** That increase, \$292,000 was an adjustment that was made. When I retired, I was at \$245,000. I was on, in a full-disclosure salary continuance, for a year pretty well, almost a year, because of unused vacation credits. I had a lot of unused vacation credits.

That adjustment was made then. The adjustment to the deputies was not an individual thing. There was an adjustment that was made to deputies' base salaries. That's

the reason that, when I did do my retirement and there was that final payment made of unused credits—that's why you see, in the sunshine list, me at around \$292,000.

**Mr. Randy Pettapiece:** These credits were for what, again?

**Ms. Carol Layton:** Vacation.

**Mr. Randy Pettapiece:** Vacation credits?

**Ms. Carol Layton:** Unused vacation. You can carry vacation, unused vacation.

**Mr. Randy Pettapiece:** So you had accumulated vacation time?

**Ms. Carol Layton:** Yes. I had over a year's worth of it.

**Mr. Randy Pettapiece:** I'm sorry?

**Ms. Carol Layton:** I had over a year of vacation credits. Because I have a daughter with a disability, I never took—ever—my annual vacation. I always time-banked it, which we're allowed to do in the government. At the end of the day, when you do finally retire, it becomes, in a sense, a final payment made.

**Mr. Randy Pettapiece:** I see. So the figure I have of \$292,000 included that.

**Ms. Carol Layton:** That includes that, absolutely.

**Mr. Randy Pettapiece:** So, where would that figure be without that in there?

**Ms. Carol Layton:** Without that adjustment? Without what?

**Mr. Randy Pettapiece:** As I understand it, you're saying the \$292,000, as of 2016, is not the salary. It's not the base salary.

**Ms. Carol Layton:** When I retired on January 22, 2016, I retired at a \$245,000 salary. Then there were those final payments as I continued to work through credits and all that.

**Mr. Randy Pettapiece:** Okay. What's your thinking in terms of a public versus an alternative financing procurement model? What's your thinking, for instance?

**Ms. Carol Layton:** I think the five years that I had the wonderful opportunity to serve with the Ministry of Transportation—it's one thing to think about the policy of AFP and understand VFM, value for money, and understand all of the different methods there around that, or the principles around that. But when you're in transportation and you have a large division, what we call provincial highways management, of a good number of engineers that oversee construction, using other methods as well—as well as the AFP—you appreciate that there's a role for every one of them.

When it's a small repair to a bridge, or whether it's a highway extension, like Highway 69, that we continue to do, as compared to the huge, \$1.4-billion Windsor highway, the Rt. Hon. Herb Gray Parkway, which was a very complex project with many bridge structures and land structures—or even the 407 east extension—billion-dollar highway projects, done traditionally at the Ministry of Transportation, would have taken a whole lot longer to do if we did not have Infrastructure Ontario.

I feel that you assess each of the projects—you look at the threshold, you look at the cost, you look at the

complexity, you look at the degree to which there has been engineering already done—you assess each one of them, case by case, in making that determination.

But we also know that now, for projects at \$100 million and above, you always put the test of the AFP on the table as well.

I think there are merits, certainly, for both of them, or for all the methods, I guess. It's the spectrum of methods. At the end of the day, it's all about which one gives the best value for the dollars that we're going to be spending.

**Mr. Randy Pettapiece:** Infrastructure Ontario has favoured the use of alternative financing procurement for many projects. The Auditor General raised some concerns, with the value-for-money audits that were done, noting that the tangible costs of AFP contracts were higher than estimated. There's a belief that publicly delivered projects are automatically better, in some circles.

Infrastructure Ontario argues that the extra tangible costs of AFP projects are often outweighed by the financial risk of having the government do infrastructure projects directly. What are your thoughts on that?

**The Chair (Mrs. Cristina Martins):** You have about a minute left.

**Ms. Carol Layton:** Thank you. I've read the AG report. As a board member coming in neutral to all of this, in a sense—as compared to the deputy of infrastructure, for example—you read all of this material, and it's really, really critical.

I can't sit there and unpack the \$8-billion reference that was in that AG report, but I would say that I think you look at everything in fullest context. You don't just look at those tangible costs, and you do appreciate that there is a cost to the private sector putting their money in the project.

That means also that there's an opportunity cost to the province. There's a value to the province that it's not their money in that project until substantial completion.

Also, there's a value to projects being done on budget as well as done on a timely basis—a huge value. When it comes to a highway extension, when it comes to anything like that, there's a productivity gain to that, a true value to the province—

**The Chair (Mrs. Cristina Martins):** Thank you very much, Ms. Layton.

**Ms. Carol Layton:** Thank you.

**The Chair (Mrs. Cristina Martins):** We're going to turn it over to Mr. Miller.

**Mr. Paul Miller:** Good morning, Ms. Layton.

**Ms. Carol Layton:** Good morning.

**Mr. Paul Miller:** I've got a couple of questions here. Obviously, you're a former employee of the Ministry of Transportation. Part of my question was if you were retired or not, if were you still working. Obviously, you answered that.

As a possible member of the IO board, do you feel your past close relationship with the ministry could negatively impact your decision-making in an objective manner?

**Ms. Carol Layton:** I feel, as a current member of the board, and also because of my past—because I have been around the justice capital files, the health capital files and a lot of the transit and transportation files—that that experience is one of the values that I can bring to the table. I feel that I can separate out the role I played as a deputy, supporting a minister and overseeing an agency, from the new role that I have, which is reporting to a chair who reports to the minister. So I feel that, if anything, all of those different factors will make me a valuable member on the board.

I did sit as an ex officio member on that board almost a dozen years ago, when the agency was first created, where I was non-voting but I certainly had an appreciation for what goes before that.

Also, if I could really quickly say this, I sat for seven years on the Ontario Financing Authority board. I was there alongside the merit-based people from the private sector, and I certainly felt that I was equally contributing.

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**Mr. Paul Miller:** As a member of the IO—in your past job, you obviously set policy, and helped set policy, for the ministry. Do you feel that, in your new role, that would have any impact on your decision-making, in reference to like-mindedness with the ministry and the governing party? Do you feel that that would inhibit your ability to make a decision that would be beneficial to the people of Ontario?

**Ms. Carol Layton:** I don't think so. I've spent enough time on other types of boards where I know that I'm there in a different context. I very much understand that. The original rules that were written around agency establishment and what a board member is versus a deputy and all of that—I was actually behind that. I really feel that I could easily separate that out. I've had a 14-month separation from all of government as well. So I'm quite comfortable with the role that I can play on the board and the fact that I can be an objective board member and understand my role—and that is, reporting to a chair, and through the chair, we report to the minister. But the minister is a shareholder, and I understand that, too.

**Mr. Paul Miller:** It's clear from your background material provided that you have extensive experience in the public sector, including work with the MTO. Could the witness comment on what Minister Del Duca meant when he called it, with the industry, a collaborative relationship between the ministry and the construction industry? What did he mean by that?

**Ms. Carol Layton:** Are you referring to the last Auditor General's report when you say that?

**Mr. Paul Miller:** Yes.

**Ms. Carol Layton:** I'm not exactly sure. It was a fairly good-sized report. Certainly, my experience when I was at the Ministry of Transportation, when we dealt with the Ontario Road Builders Association, otherwise known as ORBA; when we dealt with Professional Engineers Ontario; when we dealt with the many different associations, was that we did work in a collaborative way with them. They hold us to account, and we hold them to account.

**Mr. Paul Miller:** Well, that's interesting. You say it's a collaborative relationship. MTO allowed its contractors to be in charge of verifying the quality of their asphalt, which is certainly very collaborative, in my opinion. The Auditor General found that some of these contractors were tampering with the asphalt samples, which allowed them to use substandard asphalt on our highways and even get paid bonuses for doing so.

At what point does collaboration with contractors cross the line, and what would you do on the board to stop these kinds of activities?

**Ms. Carol Layton:** The point I'd make, first of all: As soon as I heard about the asphalt, as deputy, because I was the deputy of the day—and I heard about it much later than things were occurring—I was the one that had the chief engineer of the day in the ministry chair a committee to work on the solutions.

It's a tough file. You can have tough times with stakeholders, and you can have good times with stakeholders. You work in a way to ensure that you're understanding their perspective, and they're working in a way to ensure that they're understanding our perspective as well.

**Mr. Paul Miller:** When you tender for projects—when we ran council in the city, we always took the low bidder. It wasn't necessarily the best workmanship, and there were certainly some questionable manoeuvres. Sometimes we made errors, as a council, by taking the lowest bidder, because that's what the law more or less directed us to do. How would you feel with some of the substandard work that may be done on our infrastructure—that maybe middle-of-the-road would be better, or even higher, if the quality and the lasting concept would be beneficial in the long run? How do you feel about that?

**Ms. Carol Layton:** Even when the asphalt work was happening—and I can't comment on it too much because it's a file that is three years away from me now. You look at the organization. You look at their financial capabilities. You look at their qualifications. You look at their performance on past projects. Infrastructure Ontario has a very vigorous process in that regard as well. I think that all of those projects that you're speaking about—the asphalt ones—were not under Infrastructure Ontario.

**Mr. Paul Miller:** There have been other problems, too, with tendering and some of the things that the ministry has agreed to do—

**Ms. Carol Layton:** And every one of those projects—a great example was the Nipigon River Bridge. Nobody was more surprised than I. That happened 12 days before I retired. That alone just shows you what complexity brings to the file. Very credible firms, the best in the country around bridge design—Buckland and Taylor and McCormick Rankin—

**Mr. Paul Miller:** Well, they screwed that one up.

**Ms. Carol Layton:** Things went wrong. Again, I'm not the minister to comment on it, but I can tell you right now that when that bridge is done—I equate it to the water in Walkerton. The best water in this province is there, and this is going to be the best bridge design, and the first cable-stayed bridge in the province. All of the subsequent ones will be that way.

**Mr. Paul Miller:** Well, when you build it three times, it should be pretty good. Anyway, thanks. I'm done.

**The Chair (Mrs. Cristina Martins):** Thank you very much, Mr. Miller, and thank you very much, Ms. Layton. This concludes the time for this interview. You may step down.

We will now move to concurrences. We will now consider the concurrence for Mr. Kevin Gordon Cleghorn, nominated as member, Criminal Injuries Compensation Board (Social Justice Tribunals Ontario). Would someone please move the concurrence? Mr. Qaadri, please.

**Mr. Shafiq Qaadri:** I'd also like to welcome back Ms. Przezdziecki, our honourable Clerk.

I move concurrence in the intended appointment of Kevin Gordon Cleghorn, nominated as member, Criminal Injuries Compensation Board (Social Justice Tribunals Ontario).

**The Chair (Mrs. Cristina Martins):** Any discussion? All in favour? Opposed? The motion is carried. Congratulations, Mr. Cleghorn.

We will now consider the concurrence for Ms. Carol Layton, nominated as member, Ontario Infrastructure and Lands Corp. (Infrastructure Ontario). Would someone please move the concurrence? Mr. Qaadri, please.

**Mr. Shafiq Qaadri:** I move concurrence in the intended appointment of Carol Layton, nominated as member, Ontario Infrastructure and Lands Corp. (Infrastructure Ontario).

**The Chair (Mrs. Cristina Martins):** Any discussion? All in favour? Opposed? The motion is carried. Congratulations, Ms. Layton.

We do have one deadline extension to vote on. Do we have unanimous agreement to extend the deadline to consider the intended appointment of Pareshkumar Jariwala, nominated as member, grant review team—Essex, Kent and Lambton—Ontario Trillium Foundation? The certificate expires April 22, 2017. We're seeking unanimous consent to extend the certificate to May 22, 2017. Is there unanimous agreement? Yes? Perfect. Thank you very much.

With that being all the business for today, this committee is adjourned.

*The committee adjourned at 0957.*





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