

Legislative
Assembly
of Ontario



Assemblée
législative
de l'Ontario

**Official Report
of Debates
(Hansard)**

SP-27

**Journal
des débats
(Hansard)**

SP-27

**Standing Committee on
Social Policy**

Building Better Communities
and Conserving Watersheds
Act, 2017

2nd Session
41st Parliament

Monday 23 October 2017

**Comité permanent de
la politique sociale**

Loi de 2017 visant à bâtir
de meilleures collectivités
et à protéger les bassins
hydrographiques

2^e session
41^e législature

Lundi 23 octobre 2017

Chair: Peter Tabuns
Clerk: Jocelyn McCauley

Président : Peter Tabuns
Greffière : Jocelyn McCauley

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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



ISSN 1710-9477

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

CONTENTS

Monday 23 October 2017

Election of Vice-Chair.....	SP-567
Subcommittee membership	SP-567
Building Better Communities and Conserving Watersheds Act, 2017, Bill 139, Mr. Mauro / Loi de 2017 visant à bâtir de meilleures collectivités et à protéger les bassins hydrographiques, projet de loi 139, M. Mauro.....	SP-567

LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
SOCIAL POLICYCOMITÉ PERMANENT DE
LA POLITIQUE SOCIALE

Monday 23 October 2017

Lundi 23 octobre 2017

The committee met at 1400 in committee room 1.

ELECTION OF VICE-CHAIR

The Chair (Mr. Peter Tabuns): Good afternoon, honourable members. It's my duty to entertain a motion for Vice-Chair before we go on to other business. Are there any motions? Ms. Hoggarth?

Ms. Ann Hoggarth: I nominate MPP Monique Taylor as Vice-Chair of the Standing Committee on Social Policy.

The Chair (Mr. Peter Tabuns): A motion has been moved by Ms. Hoggarth. Is there any debate? Are members ready to vote? Fine. Shall the motion carry? The motion is accordingly carried.

SUBCOMMITTEE MEMBERSHIP

The Chair (Mr. Peter Tabuns): I'd like to inform members that today's change in committee membership has created a vacancy on our subcommittee on committee business. We need a motion to replace Mr. Singh as the NDP representative on the subcommittee. Are there any motions? Ms. Hoggarth?

Ms. Ann Hoggarth: I move that MPP Monique Taylor replace Mr. Jagmeet Singh on the subcommittee on committee business.

The Chair (Mr. Peter Tabuns): A motion has been moved by Ms. Hoggarth. Is there any debate? There being none, are members ready to vote? Shall the motion carry? The motion is carried. On to the main event.

BUILDING BETTER COMMUNITIES
AND CONSERVING WATERSHEDS
ACT, 2017LOI DE 2017 VISANT À BÂTIR
DE MEILLEURES COLLECTIVITÉS
ET À PROTÉGER LES BASSINS
HYDROGRAPHIQUES

Consideration of the following bill:

Bill 139, An Act to enact the Local Planning Appeal Tribunal Act, 2017 and the Local Planning Appeal Support Centre Act, 2017 and to amend the Planning Act, the Conservation Authorities Act and various other Acts /
Projet de loi 139, Loi édictant la Loi de 2017 sur le Tribunal d'appel de l'aménagement local et la Loi de

2017 sur le Centre d'assistance pour les appels en matière d'aménagement local et modifiant la Loi sur l'aménagement du territoire, la Loi sur les offices de protection de la nature et diverses autres lois.

The Chair (Mr. Peter Tabuns): Good afternoon. I'm calling this meeting to order for clause-by-clause consideration of Bill 139, An Act to enact the Local Planning Appeal Tribunal Act, 2017 and the Local Planning Appeal Support Centre Act, 2017 and to amend the Planning Act, the Conservation Authorities Act and various other Acts.

Catherine Oh from legislative counsel is here to assist us with our work. Thank you, Catherine.

A copy of the numbered amendments received on Thursday, October 19 is on your desk. The amendments have been numbered in the order in which they appear in the bill.

Are there any questions from committee members before we start? Mr. Hardeman?

Mr. Ernie Hardeman: Just a comment, Mr. Chair: I notice we have a lot of paper, and it gets rather confusing. I just hope for your indulgence sometimes when we're moving along quite quickly, that we ask to hold it for a minute because I get lost quickly.

The Chair (Mr. Peter Tabuns): I'll be very indulgent, Mr. Hardeman.

Mr. Ernie Hardeman: Thank you very much.

The Chair (Mr. Peter Tabuns): There being no other questions: As you probably noticed, Bill 139 is comprised of three sections which enact five schedules. In order to deal with the bill in an orderly fashion, I suggest we postpone the three sections at the very beginning in order to dispose of the five schedules first. Is that agreed? Agreed. Good.

We go first to schedule 1 on section 1 and PC motion 1.

Mr. Ernie Hardeman: I move that the definition of "tribunal" in section 1 of the Local Planning Appeal Tribunal Act, 2017, as set out in schedule 1 to the bill, be amended by striking out "Local Planning Appeal Tribunal" and substituting "Ontario Planning Appeal Tribunal".

The Chair (Mr. Peter Tabuns): Discussion? Mr. Hardeman?

Mr. Ernie Hardeman: Mr. Chair, I spoke to this a number of times as we had second reading debate and in presentation. There seems to be a lot of confusion in the

general public about the naming of the tribunal. The word “local” in it implies to a lot of people, particularly at the local level, that the tribunal is the planning authority at the local level appointed by the local people. In fact, the tribunal is not local; it is a body appointed province-wide by the minister, similar to the OMB. We think it’s very important.

I just want to point out that I have here in my notes that a registered professional planner wrote in his blog recently, “The Ontario government has announced the creation of local planning appeals tribunals, which will replace the OMB with a locally appointed body that has limited power.” If an industry expert doesn’t understand, from the name, that this is one provincial body rather than locally appointed appeal boards, how do we expect our community volunteers, who have never been involved in land use planning, to be clear on the role of this organization?

We’ve had the preservation-of-agriculture society saying similar things. The city budget documents already mistakenly referred to the local appeals board as the local appeals tribunal, as do some of the documents from the city clerks. Toronto presently is the only municipality that has that local appeals body, and the confusion is there that that’s the same as the tribunal. That’s why we believe that, instead of calling it a local planning tribunal, we should call it an Ontario planning appeals tribunal.

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

Mr. Lou Rinaldi: Chair, I recommend opposing this motion. An amendment to change the name of the proposed Local Planning Appeals Tribunal to the Ontario planning appeals tribunal will require consequential amendments to schedules 2, 3 and 5 to the bill, and frankly, motions to make these amendments have not been made, Chair.

The Chair (Mr. Peter Tabuns): Further discussion? There being none, you’re ready for the vote?

Mr. Ernie Hardeman: Recorded vote.

Ayes

Hardeman, Norm Miller.

Nays

Delaney, Hoggarth, Malhi, McMeekin, Rinaldi.

The Chair (Mr. Peter Tabuns): The motion is lost.

We now go to the vote on schedule 1, section 1. All those in favour of schedule 1, section 1, please indicate. Carried.

We now have schedule 1, section 2, and an amendment by the PCs. Mr. Hardeman?

Mr. Ernie Hardeman: Mr. Chair, I will withdraw that because the other motion failed.

The Chair (Mr. Peter Tabuns): It is withdrawn.

Members of the committee, from here to section 12 we have no other amendments. I propose to bundle them as a group. Is there any objection? There is none?

Mr. Ernie Hardeman: If we could just go to the end of section 2—I have a question on section 3.

The Chair (Mr. Peter Tabuns): You have a question on 2?

Mr. Ernie Hardeman: No, on 3.

The Chair (Mr. Peter Tabuns): On 3? We’ll just vote on 2 and then we’ll go to 3.

Mr. Ernie Hardeman: Yes.

The Chair (Mr. Peter Tabuns): Shall schedule 1, section 2, carry? Carried.

We are now at schedule 1, section 3. Mr. Hardeman, you have a question.

Mr. Ernie Hardeman: Yes. On section 3, I noticed that the composition of the board and everything is similar to the OMB. I want to ask the committee if they can clarify the difference between the pensions for the old board and the pensions for the new board. Obviously, for all the people who were involved presently in the Ontario Municipal Board, the pension, whether it travels over with it or whether it’s a totally separate entity and members of the board and so forth start over again. I think that would be rather important.

The Chair (Mr. Peter Tabuns): Mr. Rinaldi?

Mr. Lou Rinaldi: I don’t have the answer. Maybe some expert sitting in the back could tell us about the pensions carrying over from one to the other.

Mr. Hardeman, I wonder: While they look it up, do you want to carry on and we’ll get that answer for you, if that works for you?

The Chair (Mr. Peter Tabuns): With the agreement of the committee, we’ll hold down schedule 1, section 3. We’ll come back to it. Done. Held.

Members of the committee, if there are no other questions, we can bundle sections 4 to 12 in section 1. Are you agreeable? Agreed. Shall schedule 1, sections 4 to 12, inclusive, carry? Carried. Done.

1410

Mr. Lou Rinaldi: Chair, point of order.

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

Mr. Lou Rinaldi: I think we have your answer to section 3.

The Chair (Mr. Peter Tabuns): Fine. That’s great. We can go back to section 3 before we proceed. Do you have someone who’s going to come forward?

Mr. Lou Rinaldi: Yes.

The Chair (Mr. Peter Tabuns): Please identify yourself for Hansard.

Ms. Sara Khajavi: My name is Sara Khajavi. I’m policy counsel with the Ministry of the Attorney General.

The Chair (Mr. Peter Tabuns): Thank you. Mr. Hardeman.

Mr. Ernie Hardeman: Sorry. I was reading section 3. Yes?

Ms. Sara Khajavi: If I’m not correct, please correct me. Are you referring to, in the old act, subsection 5(6), where it says, “The Public Service Pension Act applies and shall be deemed always to have applied to members of the board”—and why that was not continued?

Mr. Ernie Hardeman: Yes. My question about the pension: Does it stay the same for the new one?

Ms. Sara Khajavi: It does. It's not reflected in the current act because it's not needed. There are modern pension provisions that would make it apply, regardless of whether it's stated in the proposed act.

Mr. Ernie Hardeman: The reason I asked the question is that there was a question that was asked of the ministry and we had not yet received a reply from them. So thank you very much for the comment.

The Chair (Mr. Peter Tabuns): Thank you. We appreciate your help.

Are you ready to go back to a vote on schedule 1, section 3?

Interjection.

The Chair (Mr. Peter Tabuns): You have no further questions. Good.

Mr. Ernie Hardeman: Recorded.

Ayes

Delaney, Hardeman, Hatfield, Hogarth, Malhi, McMeekin, Norm Miller, Rinaldi.

The Chair (Mr. Peter Tabuns): It is carried.

Now we go on to schedule 1, section 13, and PC motion 3. Mr. Hardeman, did you want to move that?

Mr. Ernie Hardeman: I move that subsection 13(1) of the Local Planning Appeal Tribunal Act, 2017, as set out in schedule 1 to the bill, be amended by striking out "without warrant" and substituting "with a warrant or with permission of the owner".

The Chair (Mr. Peter Tabuns): Did you want to speak to that?

Mr. Ernie Hardeman: Yes. Thank you very much, Mr. Chair. The land use appeals heard by the Local Planning Appeal Tribunal are not likely to be urgent matters. I think this is the whole thing—the issue of not requiring a warrant is when there is an emergency and we need to go in. The legislation needs to address the fact that you might have to do that without a warrant. It's hard to believe that there would be many cases where an issue related to the tribunal hearing a planning application—that somehow, that would require the board to go on the property to look in such a rush, without actually getting a warrant to go and do it. We've had a lot of concerns expressed, particularly from farms, construction sites and other properties, which have unique hazards and safety concerns that would compromise, if entered without the proper safety equipment, training and supervision.

From the federation of agriculture, there are concerns about biosecurity for their farms. There may be an application concerning a development adjacent to the farm or something, and if someone could automatically walk in without a warrant, without any authority other than this piece of legislation, we really have concerns that it's overkill. There's no reason why you shouldn't be able to get a warrant under circumstances like that.

That's why we put that one forward.

The Chair (Mr. Peter Tabuns): I have Mr. Hatfield, then Mr. Miller, then Mr. Rinaldi.

Mr. Percy Hatfield: Thank you, Chair. Through you, perhaps, to the mover of the motion: I remember, years ago, just outside of Windsor, there was a beautiful stand of black walnut trees. Somebody went in with a bulldozer and was smashing them down. In a case like this, if I understand the motion correctly, the owner or the conservation authority or neighbour, somebody, would have to find out what was going on and then try to find a judge to issue a warrant. Meanwhile, the bulldozer is still there clearing the stand of black walnut trees on property that he or she may or may not own. It seems to me there must be circumstances where somebody from the conservation authority could act immediately, as opposed to where, depending on the time or the hour of the day, that lot could be demolished overnight by the time it took to get to a court to get a warrant to go onto the property.

I wonder if the mover of the motion would like to address that scenario—through the Chair.

The Chair (Mr. Peter Tabuns): I will put him on the list, because I've got two others to speak and then I'm sure Mr. Hardeman can clear that up.

I have Mr. Miller.

Mr. Norm Miller: I'd just like to note that the Ontario Federation of Agriculture, in their submission, said, "A warrantless unannounced visit to enter and inspect is excessive and unnecessary. Many farm operations utilize biosecurity provisions to minimize the risk of disease, pathogen or pest transfers to livestock, poultry and crops carried on vehicle tires or footwear. Simply put, restricting access to farms minimizes the risks of disease transfers. Warrantless entry fails to acknowledge that unannounced entry into areas frequented by livestock or crops can pose a risk not only to those animals or crops, but also to the entrant themselves, as they are unaware of potential risks inherent on the farm." That's a quote.

I think we have to be very careful when we're infringing on the rights of property owners and use warrants where possible, where there's time allowed. That's why I would support this amendment.

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

Mr. Lou Rinaldi: I'm going to recommend that we oppose this. I think we have to look at some rationale and how it complies with other issues similar to this. This is not a willy-nilly "just show up and enter a property." There are some conditions attached.

Maybe I'll refer to my notes here. The municipal board currently has the power to enter and inspect a place without a warrant. They have that already. Subsection 13(1) of the proposed Local Planning Appeal Tribunal Act, 2017, will similarly empower the Local Planning Appeal Tribunal to enter and inspect a place without a warrant, provided that certain conditions are met, including that the place is not a dwelling; the power is exercised at a reasonable time; the power is exercised only where the tribunal has a reasonable belief that there may be evidence relevant to a proceeding before it; the

entry and inspection power set out in subsection 13(1) is consistent with the power of other tribunals to enter and inspect a place.

So this is nothing extraordinary, and I think it answers some of the questions that Mr. Hatfield had put forward because of those limitations.

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

Mr. Ernie Hardeman: In response to the parliamentary assistant's comments, I think I was likely involved in most of the bills where it's presently included, and I injected into them too, but this one is the most egregious because of the fact that it's so unlikely that expediency is that important. Recognizing that this process, this application, has been in the works for 100 and some days already, all these things would be evident. Mr. Hatfield mentioned the trees, something like that. That may be what the council would be looking at in their application, but this doesn't deal with the council. This is the tribunal, and chances that, when they get the information, they would need to go and do it that quickly without a warrant seems unlikely.

Earlier this year, warrantless entry was the subject of a case before the Supreme Court which found that Canadians had a right to privacy. One of the justices stated, "'Exigent circumstances' denotes not merely convenience, propitiousness or economy, but rather urgency." According to the Supreme Court, urgency is the one that is important in this warrantless entry. If you have a reasonableness of time to do that, we should not infringe on people's privacy when we do that.

The other one that Mr. Hatfield mentioned—if we support this amendment, the next one deals with your concern of expediency. There will be cases—and I think we would accept that even though it's not likely to happen, it's possible to happen—where they needed to make immediate access. The next motion would actually give that authority for emergency cases where they had to do it.

1420

With that, I hope that everyone can support to remove it. Where the Supreme Court says that it's not sufficient just to want to do it, it should be required for urgency.

The Chair (Mr. Peter Tabuns): I see no further debate. We're ready—

Mr. Norm Miller: Recorded vote.

Ayes

Hardeman, Hatfield, Norm Miller.

Nays

Delaney, Hoggarth, Malhi, Rinaldi.

The Chair (Mr. Peter Tabuns): The motion is lost.

We go to PC motion 4. Mr. Hardeman.

Mr. Ernie Hardeman: I move that section 13 of the Local Planning Appeal Tribunal Act, 2017, as set out in

schedule 1 to the bill, be amended by adding the following subsection:

"Search without warrant

"(1.1) If a member or employee of the tribunal has reasonable grounds to believe that there is something located at a place, other than a dwelling, that will afford evidence relevant to a proceeding before the tribunal but that the time required to obtain a warrant would lead to the loss, removal or destruction of the evidence, the member or employee may, without a warrant, enter and search the place."

The Chair (Mr. Peter Tabuns): Is there any discussion? There being none, you're ready for the vote?

Mr. Ernie Hardeman: Recorded.

Ayes

Hardeman, Hatfield, Norm Miller.

Nays

Delaney, Hoggarth, Malhi, Rinaldi.

The Chair (Mr. Peter Tabuns): The motion is lost.

We then go to number 5. Mr. Hardeman.

Mr. Ernie Hardeman: I withdraw this one.

The Chair (Mr. Peter Tabuns): Motion number 5 is withdrawn.

Then we go to PC motion 6. Mr. Hardeman.

Mr. Ernie Hardeman: I move that subsection 13(2) of the Local Planning Appeal Tribunal Act, 2017, as set out in schedule 1 to the bill, be struck out and the following substituted:

"Identification

(2) A person who exercises the power conferred under subsection (1) shall identify himself or herself to the owner or occupier of the place and shall explain the purpose of the entry and inspection."

The Chair (Mr. Peter Tabuns): Mr. Hardeman, this motion is dependent on a previous motion which was lost. Therefore, I'm afraid I have to rule it out of order—

Mr. Lou Rinaldi: Chair?

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

Mr. Lou Rinaldi: I wonder if I could suggest for unanimous consent. We certainly would support this.

The Chair (Mr. Peter Tabuns): I'm sorry, sir?

Mr. Lou Rinaldi: We're prepared to support this, if we get unanimous consent to make it applicable.

The Chair (Mr. Peter Tabuns): And that's motion 6?

Mr. Lou Rinaldi: That's motion 6.

The Chair (Mr. Peter Tabuns): Just one second, then. Do we have unanimous consent for this motion to go forward?

Mr. Percy Hatfield: I have a question, first. I suppose it's a technicality: If you've ruled something out of order and you're not going to allow it and then they say, "We want to support it," is it still out of order or not out of order?

The Chair (Mr. Peter Tabuns): It is an excellent question, Mr. Hatfield, which is why I consulted with the Clerk immediately after Mr. Rinaldi spoke. Apparently, with unanimous consent, nonetheless, it can be introduced for a vote. Mr. Hardeman.

Mr. Ernie Hardeman: Before we go to unanimous consent, I would like to know how that relates to the out-of-order motion.

The Chair (Mr. Peter Tabuns): Apparently, it can overrule—

Mr. Ernie Hardeman: No, I understand that, but I wonder how it relates—in the bill. My understanding is that this is relating to a motion that was just defeated. Passing this now would be somewhat of a challenge.

The Chair (Mr. Peter Tabuns): That’s a reasonable question, Mr. Hardeman. If I could ask legislative counsel just to provide opinion.

Ms. Catherine Oh: Sure. I think there was some confusion between the two motions. Motion 5 would have been out of order because it contained a cross-reference to a subsection that was voted down. Motion 6 is in order. I think they were just a bit confused with each other. Motion 6 is fine and it’s in order.

Mr. Ernie Hardeman: It’s in order.

Ms. Catherine Oh: Yes.

The Chair (Mr. Peter Tabuns): Legislative counsel has corrected my earlier ruling, which was in error, sir.

Mr. Ernie Hardeman: We should try that more often, Mr. Chair.

Laughter.

The Chair (Mr. Peter Tabuns): Calm down. Calm down. Strange things happen in committee.

I gather it is in order. We don’t need, then, the unanimous consent. No further debate? The votes are looking good to you. Okay.

A recorded vote has been requested on PC motion number 6.

Ayes

Delaney, Hatfield, Hoggarth, Malhi, McMeekin, Rinaldi.

Mr. Lou Rinaldi: You guys not supporting it?

The Chair (Mr. Peter Tabuns): You didn’t vote in favour of it?

Mr. Norm Miller: No, we voted in favour.

The Chair (Mr. Peter Tabuns): You brought your hands down before you were counted.

It carries.

All right. With that, we get to vote on schedule 1, section 13 as a whole. You’re ready for the vote? Shall schedule 1, section 13, as amended—

Mr. Ernie Hardeman: Recorded.

Ayes

Delaney, Hatfield, Hoggarth, Malhi, McMeekin, Rinaldi.

Nays

Hardeman, Norm Miller.

The Chair (Mr. Peter Tabuns): It is carried.

We go on to section 14, and we have PC motion number 7. Mr. Hardeman, if you wanted to read that out.

Mr. Ernie Hardeman: I move that subsection 14(4) of the Local Planning Appeal Tribunal Act, 2017, as set out in schedule 1 to the bill, be struck out and the following substituted:

“Where fees may be waived

“(4) The tribunal may as it deems appropriate waive all or any portion of fees for,

“(a) individuals who are determined, in accordance with the rules, to be low-income individuals; and

“(b) non-profit organizations.”

The Chair (Mr. Peter Tabuns): Thank you. Did you want to speak to that, Mr. Hardeman?

Mr. Ernie Hardeman: Yes. Many communities, environmental groups and local organizations are funded by donations from members or concerned citizens. The cost of tribunal fees in addition to the cost of lawyers, presentation materials or research can be significant and may deter them from going in to the tribunal. The cost of going to the tribunal can be significant for those groups, and under the old OMB rules, they could be exempt from the fees charged by the board as the board saw fit.

We are creating a support centre to make it easier for groups to go to the tribunal and understand the process. We should give the tribunal powers to make it more affordable for groups who might not otherwise be able to present a case.

The Greater Beach Neighbourhood Association written submission said, “In GBNA’s view, Bill 139 does not address financial barriers to meaningful participation by resident associations and community members” in the tribunal appeals.

This is to make sure that instead of just the individuals being eligible if they’re low-income, this includes non-profit organizations if the tribunal deems fit that not-for-profit organizations could also have the fees waived.

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

Mr. Lou Rinaldi: I recommend opposing this motion for the reason that the power to waive fees under subsection 14(4) of the proposed Local Planning Appeal Tribunal Act, 2017, for low-income individuals is consistent with other fee-waiving powers and the fee-waiving powers of other tribunals.

The Chair (Mr. Peter Tabuns): Thank you, Mr. Rinaldi. Any further discussion? Mr. Hatfield.

Mr. Percy Hatfield: I’m somewhat surprised that the Liberal majority would turn their backs on non-profit organizations at the appeal process. Non-profits have work to do. They are formed for a particular reason: for the betterment of their community. I could be proven wrong, but it’s my belief that not a lot of non-profits have gone to the OMB or would be going to the land appeal

tribunal in the sense that they've got other work to do. Their money is better spent on looking after the purpose that the organization was established for.

1430

But on the off chance that one of them has to go, I'd like to believe that non-profits—they don't have a lot of money in the bank for such activity. They should be put in the same category as low-income individuals, and the government should see fit that their fees for the appeal be paid.

I don't think it would be abused. I have better faith in non-profits than that. As I say, I'm surprised and disappointed that the majority Liberal government won't see fit to support the motion.

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

Mr. Ernie Hardeman: I think it's important to recognize that this motion doesn't automatically give non-profit organizations the right to their money back. This is a motion that the tribunal can give the money back if they deem it appropriate. It's based on request to the tribunal. It presently is for individuals, but if you're an organization of individuals, you can't get it.

Theoretically, I suppose, we could make a case that if the non-profit organization filed their appeal based on all the individuals in the organization, and half of them were qualified or even all of them were qualified, based on low income, they could get the money. The tribunal could give them the money. Presently, they can't do that.

We just think it makes it fairer for everyone that non-profit organizations—we know they don't come to the table with dollars, because they're not allowed to create money that they haven't got a purpose for in each year. I think it's very appropriate that the tribunal could look at it on a case-by-case basis and award them costs if they deem it appropriate.

The Chair (Mr. Peter Tabuns): I see no further discussion. I'm going to call—

Mr. Norm Miller: Recorded vote, please.

The Chair (Mr. Peter Tabuns): A recorded vote has been requested. All those in favour of PC motion 7, please indicate.

Ayes

Hardeman, Hatfield, Norm Miller.

Nays

Delaney, Hoggarth, Malhi, McMeekin, Rinaldi.

The Chair (Mr. Peter Tabuns): The motion is lost.

We go to a vote on section 14 as a whole.

Mr. Ernie Hardeman: Recorded.
Shall schedule 1, section 14 carry?

Ayes

Delaney, Hoggarth, Malhi, McMeekin, Rinaldi.

Nays

Hardeman, Norm Miller.

The Chair (Mr. Peter Tabuns): It is carried.

Colleagues, we have no amendments now until we get to beyond section 30. I'd like to group together sections 15 to 30. Is there any objection?

Mr. Norm Miller: Just let us have a second, please.

The Chair (Mr. Peter Tabuns): I'm happy to wait a second.

Mr. Lou Rinaldi: No problem.

The Chair (Mr. Peter Tabuns): No problem from your end? Okay.

Mr. Norm Miller: Not yet.

The Chair (Mr. Peter Tabuns): Yes, I understand.

Mr. Norm Miller: You said 30?

The Chair (Mr. Peter Tabuns): To 30, yes. I have no amendments that have been put forward by anyone for those sections.

All are okay? You're ready to vote?

Mr. Lou Rinaldi: We're ready.

The Chair (Mr. Peter Tabuns): Shall schedule 1, sections 15 to 30, inclusive, carry? Carried. None opposed.

We go on to PC motion 8: Mr. Hardeman.

Mr. Ernie Hardeman: I move that subsection 31(1) of the Local Planning Appeal Tribunal Act, 2017, as set out in schedule 1 to the bill, be struck out and the following substituted:

“Disposition of proceedings

“31(1) The tribunal shall dispose of proceedings before it in accordance with any practices and procedures that are required under,

“(a) the Statutory Powers Procedure Act;

“(b) this act or a regulation made under this act unless this act or a regulation made under this act conflicts with the Statutory Powers Procedure Act; or

“(c) any other general or special act.”

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

Mr. Ernie Hardeman: First of all, as currently written, the Local Planning Appeal Tribunal Act takes precedence over the Statutory Powers Procedure Act. The Statutory Powers Procedure Act sets out the rules for fair hearings and procedures for other types of legal proceedings and should be respected under the new tribunal.

From Advocates for Effective OMB Reform: “Bill 139 explicitly prevails over the Statutory Powers Procedure Act..., the cornerstone legislation ensuring procedural fairness for administrative tribunals in the province of Ontario. The proposed procedure is not fair, just and will not lead to the expeditious resolution of the merits of an appeal...”

“The tribunal owes a duty of fairness to all persons involved in a proceeding. As the proposed regulations and rules have not been introduced, the act cannot be evaluated to determine its impact on procedural fairness.” That's the quote from the Advocates for Effective OMB Reform.

Last week, a number of groups, including the Ontario Home Builders' Association, the Canadian Environmental Law Association, Advocates for Effective OMB

Reform, Preservation of Agricultural Lands Society, Environment North, and the Building Industry and Land Development Association sent a joint letter to the Premier asking for reconsideration of the act. In the letter, they said:

“Possibly the biggest unintended consequence is the fact that Bill 139 reduces or eliminates important procedural rights enjoyed by Ontarians under the existing framework. Simply stated, Bill 139 takes due process out of the system. Procedural fairness and natural justice—core tenets of our legal system for centuries—are effectively curtailed. Under Bill 139, all groups—whether developers, residents or other interested parties—will be very limited in their ability to engage in the process and to hold decision-makers to account.”

The Canadian Environmental Law Association said that they’re concerned that the as-yet-unwritten Local Planning Appeal Tribunal rules of practice would prevail over the Statutory Powers Procedure Act where there is a conflict between the LPAT rules and the potential safeguards entrenched in the statutory act.

David Bronskill of BILD said, “Right now, the tribunal’s rules would have priority over the Statutory Powers Procedure Act. This, to me, is an extraordinary and potentially unlawful remedy. A simple change to the legislation would ensure that the rules must comply with the SPPA, which codifies centuries of common law jurisprudence regarding fairness. It’s a simple change and we propose it.”

I think this really points it out: With intentionally taking that out and saying this act has more power than the framework for the fair acts that Ontarians have all been entitled to, it seems hard to believe that there isn’t something afoot here that we’re not going to have fair acts. If we’re going to have the fair acts being held, then I would think you wouldn’t need to be exempted from the act that guarantees fair acts.

I think it’s very important that this is put in—that we eliminate that part of the bill where this act has powers over the Statutory Powers Procedure Act.

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

Mr. Lou Rinaldi: We recommend opposing. The rationale behind it is that motion 8 proposed by the member opposite will require the Local Planning Appeal Tribunal to dispose of proceedings in accordance with the Statutory Powers Procedure Act, even where it conflicts with a provision to the proposed Local Planning Appeal Tribunal Act, 2017 or a regulation made under the proposed act. This will limit the government’s ability to provide for alternative practices and procedures to those set out in the Statutory Powers Procedure Act that would provide for the best opportunity for a fair, just and expeditious resolution of proceedings before the tribunal.

The Chair (Mr. Peter Tabuns): Further comment? Mr. Hardeman.

Mr. Ernie Hardeman: Mr. Chair, from that explanation, I can’t believe that anyone would suggest that giving the powers of a fair, open hearing would somehow question the quality of the hearing this organization

would be able to hold. It just doesn’t make any sense. If those are the rules for every hearing that the courts say we should have, everyone is governed by that, except this act, because it shouldn’t have to follow the rules; it should be able to hold it any way they see fit. That doesn’t make any sense to me.

It’s bad enough that we didn’t include it at all and then they later on said, “Well, they don’t have to follow the rules.” But this is actually saying, “You don’t have to follow the rules,” to have a Statutory Powers Procedure Act, which says that’s how all hearings need to do to be fair, transparent, open and deal with the situation in everybody’s best interest. We say no, this tribunal shouldn’t have to do that.

1440

All this amendment does is say that they follow the same rule as any other hearing in the province. If it’s fair for everyone, I expect it’s likely fair for this too.

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

Mr. Percy Hatfield: I’ll be very brief. I’ve listened to the arguments put forth on both sides, and I agree with the member from Oxford.

Mr. Ernie Hardeman: Thank you, sir.

The Chair (Mr. Peter Tabuns): No further discussion? We’re ready for the vote.

Mr. Ernie Hardeman: Recorded vote.

Ayes

Hardeman, Hatfield, Norm Miller.

Nays

Delaney, Hoggarth, Malhi, Rinaldi.

The Chair (Mr. Peter Tabuns): The motion is lost.

We go to vote on the section as a whole. Shall schedule 1, section 31, carry? Carried.

Mr. Ernie Hardeman: Recorded—

Interjection.

The Chair (Mr. Peter Tabuns): I called—

Mr. Norm Miller: You’re too fast.

Mr. Ernie Hardeman: What are we voting on?

Interjection.

The Chair (Mr. Peter Tabuns): Gentlemen—

Mr. Norm Miller: Take your time. We need to at least be able to see what we’re doing, please, Chair.

The Chair (Mr. Peter Tabuns): Mr. Miller, I said that we’re now going on to this, calling the vote. I actually try to go slow so that people—I’d actually called the vote at that point. People had their hands in the air. You can vote against.

Mr. Ernie Hardeman: Against?

The Chair (Mr. Peter Tabuns): Yes.

Mr. Ernie Hardeman: Was it recorded, Mr. Chair?

The Chair (Mr. Peter Tabuns): Well, I just called “Carried.”

Mr. Ernie Hardeman: Okay.

The Chair (Mr. Peter Tabuns): We go on to schedule 1, section 32. We have PC motion 9. Mr. Hardeman.

Mr. Ernie Hardeman: I move that clause 32(3)(c) of the Local Planning Appeal Tribunal Act, 2017, as set out in schedule 1 to the bill, be struck out and the following substituted:

“(c) authorize the tribunal to hold hearings or other proceedings in writing or by any electronic or automated means, provided that the hearing or other proceeding is made public;”

The Chair (Mr. Peter Tabuns): Discussion? Mr. Hardeman?

Mr. Ernie Hardeman: Mr. Chair, this amendment allows the tribunal to hold hearings via writing or by electronic means as long as the proceedings are available publicly. It’s important that the tribunal conduct these hearings openly and publicly for those who are interested in following the appeals process. To ensure the integrity of the tribunal is upheld, transparency and accountability for these types of hearings is critical. It also ensures that people and neighbourhood organizations will have the opportunity to get the information they want about decisions that impact the future of their community.

We heard from a number of experienced lawyers that the tribunal should have the ability to control its own procedures, including the ability to hear oral evidence and allow cross-examination. Those lawyers acknowledged that the hearing process could be made more efficient but that prohibiting oral evidence and cross-examination was too blunt an approach and a denial of natural justice.

This amendment would strike a more appropriate balance by making hearings more efficient without limiting the ability of the tribunal to control its own procedures.

The Chair (Mr. Peter Tabuns): Is there further discussion?

Mr. Lou Rinaldi: Again, I recommend voting against this motion. The motion is inconsistent with the Statutory Powers Procedure Act, which provides that hearings of tribunals are presumptively open to the public. The SPPA gives tribunals the power to close a hearing to the public where matters involving public security may be disclosed or intimate financial or personal matters or other matters might be disclosed at the hearing that are of such a nature that the public interest or the interest of an affected person will be better served by avoiding disclosure, despite the desirability of adhering to the principle that documents filed in a proceeding be available to the public.

Chair, this particular motion will require the Local Planning Appeal Tribunal to hold written or electronic hearings in public even when matters involving public security or sensitive personal or financial information may be disclosed.

The Chair (Mr. Peter Tabuns): I have Mr. Hatfield and then I’ll have Mr. Hardeman.

Mr. Percy Hatfield: I guess I’m a bit confused. When we were doing the municipal bill, there was debate back

and forth about whether members of city council could call into a meeting, then another part of that was whether they could vote at that meeting and another part of that was whether they could call into an in-camera meeting, and as I recall, even though school board trustees across the province can call into in-camera meetings and vote, municipal councillors can’t call into closed meetings—in-camera meetings—but they can, if their municipality agrees, call into public meetings. That’s all publicly documented.

Here, as I understand the motion by the member from Oxford, it’s as long as the proceeding is made public. I hear from the other side that they don’t want necessarily all of that information that’s heard at a hearing to be made public unless you’re there. What’s the difference between a city council meeting and a tribunal hearing? I don’t get it.

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

Mr. Ernie Hardeman: I agree with Mr. Hatfield that it seems rather strange that when we had the discussion about the electronic participation in our council meetings and how important it was that people who weren’t always available for the meeting but still had an opportunity to be there, there was, as he mentioned, great concern about what might happen in the confidentiality of that—the in-camera meetings—but the truth is, this meeting that we’re talking about here is a public meeting, with the tribunal.

Now all the meetings that were held to get to the tribunal can be held electronically because they would fall under that other bill that Mr. Hatfield referred to, they can do it via a conference call or any other means of communication. The final appeal for this is for somehow—and it’s totally public because the legislation says so, but they shouldn’t be able to do it via other means electronically because they have to do it in person. If it’s part of the municipal sphere and the planning process, you would think that if 90% of the applications are not going to go to the tribunal, that means 90% of them could all be held via conference call or whatever electronic means, but the other 10% who have had three or four public meetings or whatever, they cannot hold an electronic meeting, have electronic witnesses or whatever. They can’t do that because the bill doesn’t allow it.

I would just point out that this motion “authorizes the tribunal to hold hearings or other proceedings in writing or by any electronic or automated means, provided that the hearing or other proceeding is made public.” In other words, they can’t do that just to avoid being in public, but they can do it, and they can, at their choice, do it any other way as long as it stays public. It would seem to me the government would be wanting to provide them with the opportunity to make that decision of how best to hold this hearing and get the information to make a decision. I’m really surprised that the government would not support this motion.

The Chair (Mr. Peter Tabuns): Any other discussion? People are ready for the vote?

Mr. Ernie Hardeman: Recorded vote.

Ayes

Hardeman, Hatfield, Norm Miller.

Nays

Delaney, Hoggarth, Malhi, Rinaldi.

The Chair (Mr. Peter Tabuns): The motion is lost. We go to PC motion number 10. Mr. Hardeman.

Mr. Ernie Hardeman: I withdraw motion number 10.

The Chair (Mr. Peter Tabuns): It is withdrawn.

We then go to PC motion 10.1. Mr. Hardeman.

Mr. Ernie Hardeman: I move that clause 32(3)(e) of the Local Planning Appeal Tribunal Act, 2017, as set out in schedule 1 to the bill, be struck out and the following substituted:

“(e) authorize the tribunal to appoint a person from among a class of parties to a proceeding to represent the class if,

“(i) in the opinion of the tribunal, the parties have a common interest, and

“(ii) the parties consent;”

1450

The Chair (Mr. Peter Tabuns): Discussion?

Mr. Ernie Hardeman: This amendment is necessary to ensure that neighbourhood associations and environmental groups can participate fully in the tribunal, especially if there are multiple groups that have overlapping interests but different information or expertise. It is important that the tribunal hear all the evidence in a case in order to make the best possible decision on a planning matter.

Grouping together parties may make hearings more efficient, but without the consent of the parties, it takes away their right to present at the tribunal and share their concerns about the development that will have an impact on them. By requiring all parties to consent, it ensures that they have a fair chance of getting heard and will be satisfied with the outcome of their presentation.

This goes to the concern raised by Environmental Defence that Bill 139 would limit public participation. In their written submission, Environmental Defence said:

“If citizens want to participate in a hearing under the LPAT they will need to submit a request to the tribunal to appear as a party. The tribunal can deny the request. Outside of urban areas most appeals are from third parties who are often raising environmental or health-related planning matters. In these cases, the existing OMB is seen as the last hope to have issues heard and addressed when they have been inadequately addressed in the municipal political arena.

“There is no doubt the changes proposed under Bill 139 will result in fewer hearings, but the reform also may restrict the public’s right to participate and this outcome may not serve the public interest.”

In their written submission, Downtown Toronto Residents Associations’ Alliance said: “Legislation must ensure that relevant residents groups are authorized. No

objective criteria are currently given as to who might achieve standing on an appeal.”

The Canadian Environmental Law Association, in an October 20 joint release: “The current system in Ontario offers Ontarians important rights and protections. The changes included in Bill 139 would make it exceedingly difficult for our client community—or any other group—to play a meaningful role in the land use decision-making process. We’d all effectively be shut out and decision-makers wouldn’t be held accountable.”

I think those are rather scathing comments, and this motion is somewhat trying to address them. The intent of the motion is to make sure that if 20 different people want to be heard by the tribunal, the tribunal can’t just say, “Let’s put them all together, because they all live in the same community. We’ll let one person make a presentation of 10 minutes.” Then, making the assumption that everybody has been heard is far-reaching. I just don’t think that would be possible. So this is just to make sure that the tribunal appoints them based on their interest and with the extent of the people that, “Yes, they can speak for all of us.”

The Chair (Mr. Peter Tabuns): I have Mr. Hatfield, and I have Mr. Rinaldi.

Mr. Percy Hatfield: I know in the United States there are areas where three or four states all come together at this intersection, and I know with ward boundaries you can have, depending on the size of the municipality, conflicting—you’re on this side of the boundary, that side, that side, or this side. If somebody is going to build a big high-rise at one of these junctions, for example, the people living on one side may be in shadow for most of the day or may not get enough sunlight or may have problems with birds hitting the lights on the towers or the windows. So if four neighbourhood groups appeal to go to a hearing on this one project, that doesn’t mean they’re all coming in with exactly the same objection or the same support for the project. Just because you are listed as a neighbourhood association, and the tribunal says, “Oh, you’re all neighbourhood associations; I’ll listen to one of you”—that isn’t fair, because you do not know who’s in favour or who’s opposed. Some people may be in favour of 90% but not the other 10%, and you should listen to them all. So I’ll be supporting the motion.

The Chair (Mr. Peter Tabuns): Mr. Rinaldi?

Mr. Lou Rinaldi: Again, I recommend opposing this motion. Motion 10 will limit the Local Planning Appeal Tribunal’s ability to take a more active role in a proceeding before it and determine whether it will be appropriate for a person from among a class of parties to represent that particular class.

The Chair (Mr. Peter Tabuns): Thank you, Mr. Rinaldi. Further discussion?

Mr. Hardeman.

Mr. Ernie Hardeman: Again to the comments that the parliamentary assistant stated, I think there’s real concern from community people as individuals that in fact, first of all, they have to apply to be heard and

there's no guarantee they will get the right to be heard at all.

Secondly—and I'm not suggesting that necessarily they would have to do it—if 25 people apply to be heard and the board decides, “While they all likely have similar concerns, why don't we just get one of them to come and speak on behalf of everyone and then the whole community has been heard?”, that could be a long ways from the facts. I think the whole planning process is to serve the people, and then to say that the people can't be heard—this is not when they're making the decision on the application. This is when it goes to the tribunal so that they may very well have been at the meeting at council where this was decided and it's now at the hearing process and all of a sudden they can't be heard. They can't be any part of it because the board decides, “No, we'll just listen to the developer who wants to build” and get it over with. I'm not suggesting that they would, but the optics of it are there that people are going to be shut out.

This doesn't change that the tribunal can do it. This just changes the fact that the tribunal must have the discussion with the people who want to be heard and see if they can group them together to make one presentation that serves them all, knowing that the tribunal is not going to want to sit there for three days to hear people coming in, one after the other, saying the same things that will not have a material impact on the outcome of the decision, but if they all have a different comment to make that could have a material difference to the decision-making, I think it should be allowed to do that. That's why this motion is before us.

The Chair (Mr. Peter Tabuns): Thank you. I see no other debate. People—

Mr. Ernie Hardeman: Recorded vote, please.

Ayes

Hardeman, Hatfield, Norm Miller.

Nays

Delaney, Hoggarth, Malhi, McMeekin, Rinaldi.

The Chair (Mr. Peter Tabuns): The motion is lost.

We go to PC motion number 11. Mr. Hardeman.

Mr. Ernie Hardeman: After great deliberation and thinking, I think I'll withdraw number 11.

The Chair (Mr. Peter Tabuns): PC motion 11 is withdrawn.

We then go to PC motion 11.0.1. Mr. Hardeman.

Mr. Ernie Hardeman: I move that subsection 32(3) of the Local Planning Appeal Tribunal Act, 2017, as set out in schedule I to the bill, be amended by adding the following clause:

“(g) provide for when and how the tribunal may hear evidence at a hearing, including how it will be served and filed in advance of the hearing.”

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

Mr. Ernie Hardeman: It's important that there is consistency about how things are done at the tribunal so it's fair for everyone. I think that's the number one issue that we've been discussing here today: fairness in the process.

We heard from a number of experienced lawyers that the tribunal should have the ability to control its own procedures, including the ability to hear oral evidence and allow cross-examination. Those lawyers acknowledge that the hearing process could be made more efficient but that prohibiting oral evidence and cross-examination was too blunt an approach and a denial of natural justice. These amendments would strike a more appropriate balance by making hearings more efficient without limiting the ability of the tribunal to control its own procedures.

Again, I just want to point out, this doesn't direct the tribunal to do anything. It allows the tribunal to do what they deem is appropriate to give the best possible outcome with the most efficient and effective and helpful information.

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

Further discussion? Mr. Rinaldi.

1500

Mr. Lou Rinaldi: I recommend opposing this motion. We feel it's not necessary.

Subsection 32(1) of the proposed Local Planning Appeal Tribunal Act, 2017, which is of general application, gives the Local Planning Appeal Tribunal the power to make the rules providing for when and how it may hear evidence at a hearing, including how it will be served and filed in advance of the hearing.

The Chair (Mr. Peter Tabuns): Further discussion? There being none—

Mr. Norm Miller: Recorded vote.

Ayes

Hardeman, Norm Miller.

Nays

Delaney, Malhi, McMeekin, Rinaldi.

The Chair (Mr. Peter Tabuns): The motion is lost.

We then go to NDP motion 11.1: Mr. Hatfield.

Mr. Percy Hatfield: Finally we get to an NDP motion. No, I'm kidding, of course.

I move that schedule 1 to the bill, section 32.1, section 32.1 of the Local Planning Appeal Tribunal Act, 2017—

The Chair (Mr. Peter Tabuns): Mr. Hatfield?

Mr. Percy Hatfield: I don't have to read that?

The Chair (Mr. Peter Tabuns): I apologize. I've made an error here. I need to have a vote on section 32, because your motion creates a new section. So I apologize. I'd ask you to just put a hold on that, and we'll come back to it.

We need to vote on schedule 1, section 32.

Mr. Ernie Hardeman: Recorded.

The Chair (Mr. Peter Tabuns): That's fine. You didn't want any discussion on it? You're fine with it?

Mr. Ernie Hardeman: Yes.

The Chair (Mr. Peter Tabuns): Everyone's ready to vote on it? Okay. Shall section 1, schedule 32, carry?

Ayes

Delaney, Hatfield, Malhi, McMeekin, Rinaldi.

Nays

Hardeman, Norm Miller.

The Chair (Mr. Peter Tabuns): It is carried.

Mr. Hatfield, my apologies. NDP motion 11.1: Please proceed.

Mr. Percy Hatfield: Thank you. Do I just pick up at "I move"?

The Chair (Mr. Peter Tabuns): Yes, please.

Mr. Percy Hatfield: I move that the Local Planning Appeal Tribunal Act, 2017, as set out in schedule 1 to the bill, be amended by adding the following section:

"Recordings

"32.1 The use of cameras and other recording devices shall be permitted at a public proceeding of the tribunal subject to any reasonable restrictions set out in the rules of the tribunal or prescribed by regulation."

The Chair (Mr. Peter Tabuns): Any commentary? Mr. Hatfield.

Mr. Percy Hatfield: Just very briefly: As a reporter, I've been allowed into OMB hearings. I've been kicked out of OMB hearings with a camera. But I also know that in the past, when people have tried to get a transcript of an OMB hearing, the cost has been prohibitive.

I think that cameras or recording devices—for that matter, it could be live-streamed. Anything that would make it more available to the public, to save the public money instead of having to pay enormous prices for lengthy hearings of the tribunal—especially lengthy hearings—would be minimized by acceptance of this.

The Chair (Mr. Peter Tabuns): Mr. Miller, then Mr. Rinaldi.

Mr. Norm Miller: I note that Environmental Defence, in their written submission, said, "To improve transparency and improve accountability we recommend that all hearings be video-recorded and podcast on the tribunal's website and citizens should be allowed to record the hearings. The Supreme Court of Canada now allows cameras to record and broadcast proceedings as a general rule; the new tribunal should follow a similar protocol. One significant benefit of such a change would be to eliminate the need for citizens to pay for prohibitively expensive transcripts."

I note that the motion does allow for reasonable restrictions set out in the rules of the tribunal or prescribed by regulation as well.

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

Mr. Lou Rinaldi: I believe the motion is not necessary. Clause 43(1)(a) of the proposed Local Planning Appeal Tribunal Act, 2017, gives the minister responsible for the proposed act the power to make regulations governing the practices and procedures of the Local Planning Appeal Tribunal. This will include the power to make regulations prescribing the use of cameras and other recording devices to record public proceedings of the tribunal.

The Chair (Mr. Peter Tabuns): Further discussion on this matter? There being none, people are ready for the vote?

Mr. Ernie Hardeman: Recorded vote.

The Chair (Mr. Peter Tabuns): It has been requested to be recorded.

Ayes

Hardeman, Hatfield, Norm Miller.

Nays

Delaney, Hoggarth, Malhi, McMeekin, Rinaldi.

The Chair (Mr. Peter Tabuns): The motion is lost.

We then go to schedule 1, section 33, PC motion number 12. Mr. Hardeman.

Mr. Ernie Hardeman: I move that subsection 33(3) of the Local Planning Appeal Tribunal Act, 2017, as set out in schedule 1 to the bill, be struck out and the following substituted:

"Power to make confidentiality orders

"(3) The tribunal may order that any document filed in a proceeding before it be treated as confidential and not be disclosed to the public, where the tribunal is of the opinion that any prescribed condition is satisfied and that,

"(a) matters involving public security may be disclosed; or

"(b) the document contains information regarding intimate financial or personal matters or other matters that are of such a nature that the public interest or the interest of a person affected would be better served by avoiding disclosure, despite the desirability of adhering to the principle that documents filed in a proceeding be available to the public."

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

Mr. Ernie Hardeman: While transparency and accountability are important principles for the tribunal, confidentiality may be required if matters of public security may be disclosed or if there are intimate personal or financial matters disclosed in the documents.

We respect the privacy of individuals and groups who are presenting before the tribunal and the need to avoid disclosure of certain types of information which may be presented at the tribunal; however, we all need to respect the need for transparency and the right of the public to have full access to the information on the decisions that shape the future of their communities. This would give

the minister the ability to take action if there isn't sufficient transparency in the process.

The Chair (Mr. Peter Tabuns): I have Mr. Hatfield and I have Mr. Rinaldi.

Mr. Percy Hatfield: I'm a little under the weather today so I may not be thinking all that clearly, but, through you, I wonder if the member from Oxford could explain the difference between what is in the bill and what this amendment is. I'm not picking up on the difference.

The Chair (Mr. Peter Tabuns): I'm going to go to Mr. Rinaldi and I'll come back to Mr. Hardeman.

Mr. Lou Rinaldi: We are recommending opposing this motion. The Ontario Municipal Board currently has the power to make documents confidential. Subsection 33(3) of the proposed Local Planning Appeal Tribunal Act, 2017, will similarly empower the Local Planning Appeal Tribunal to make documents confidential in certain circumstances. Those circumstances are similar to the circumstances set out in the Statutory Powers Procedure Act for when a tribunal may close a hearing to the public.

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

Mr. Ernie Hardeman: First of all, Bill 139 allows the tribunal to order documents that are filed in a proceeding to be treated as confidential. This would allow the ministry to add regulations to provide clarity, if needed, on what documents must be made confidential and which are permissible to keep confidential.

This is to make sure that the amount of documentation that is being kept private has some oversight to make sure that all of a sudden we can't decide that a whole raft of documents that are being presented, because they all deal with a big issue, should somehow remain confidential and are in the best interests of the people before the tribunal and they don't get released to the public.

We believe that the minister should set regulations that more clearly define the principle of confidentiality in this case. Presently, I don't believe that there is anything in the act that deals with keeping it confidential. I think it's appropriate that the minister can put some parameters around it.

I find it interesting that the parliamentary assistant just said that this is the same as in the—in fact, we talked about it the first of this hearing, and this is similar to that, so it's good. That's why I didn't think this act should override that one. Thank you.

1510

The Chair (Mr. Peter Tabuns): Thank you. Mr. Hatfield?

Mr. Percy Hatfield: Thank you, Chair. If I read from the act in front of me, it says: "The tribunal may order that any document filed in a proceeding before it be treated as confidential and not be disclosed to the public, where the tribunal is of the opinion that,

"(a) matters involving public security may be disclosed; or

"(b) the document contains information regarding intimate financial or personal matters or other matters

that are of such a nature that the public interest or the interest of a person affected would be better served by avoiding disclosure, despite the desirability of adhering to the principle that documents filed in a proceeding be available to the public."

When I read from the motion: "The tribunal may order that any document filed in a proceeding before it be treated as confidential and not be disclosed to the public, where the tribunal is of the opinion that any prescribed condition is satisfied and that,

"(a) matters involving public security may be disclosed; or

"(b) the document contains information regarding intimate financial or personal matters or other matters that are of such a nature that the public interest or the interest of a person affected would be better served by avoiding disclosure, despite the desirability of adhering to the principle that documents filed in a proceeding be available to the public."

I still see them as identical. I don't know why the amendment is in front of us because it says exactly the same as what's there.

The Chair (Mr. Peter Tabuns): Fair enough. Is there any further discussion before we go to the vote? Are you ready to vote?

Mr. Ernie Hardeman: Recorded.

Ayes

Hardeman, Norm Miller.

Nays

Delaney, Hatfield, Hoggarth, Malhi, McMeekin, Rinaldi.

The Chair (Mr. Peter Tabuns): The motion is lost.

We go then to PC motion 13.

Mr. Norm Miller: Government.

The Chair (Mr. Peter Tabuns): My apologies. Government motion 13. I didn't mean to give either side a hard time on that. Mr. Rinaldi? Government motion 13?

Mr. Lou Rinaldi: Thank you, Chair. I move that subsection 33(4) of the Local Planning Appeal Tribunal Act, 2017, as set out in schedule 1 to the bill, be struck out and the following substituted:

"Power to fix costs

"(4) Subject to any general or special act, the tribunal may fix the costs of and incidental to any proceeding in accordance with the rules and regulations made under this act."

The Chair (Mr. Peter Tabuns): Any commentary? Mr. Rinaldi?

Mr. Lou Rinaldi: Sure. Motion 13 will give the government the power to ensure that the costs awarded to a local planning appeal tribunal are fair and effective.

The Chair (Mr. Peter Tabuns): Thank you. Mr. Hatfield and then Mr. Hardeman.

Mr. Percy Hatfield: That's it?

Mr. Lou Rinaldi: That's it.

Mr. Percy Hatfield: Whatever happened to principle?

Chair, the motion obviously is about the awarding of cost, but I really can't figure out what the effect here is because when you combine it with motion 21 it seems to allow the government to make regulations about cost awards, but there are no principles to guide the regulations.

Meanwhile, later on, you'll see there is an NDP motion that says no cost awards unless they are in the public interest. We don't want to enable deep-pocketed appellants to seek punitive cost awards against community organizations for the purpose of intimidation and to discourage public participation. Such principles should have been spelled out in Bill 139, or in this government amendment, but they weren't. So it comes down to the principle of the thing.

You're leading it to an act of faith that in the regulations it's going to be looked after. But I have to tell you, there's not a lot of faith that the regulations, somewhere down the road, might address this issue of principle. Let's have some principle here.

The Chair (Mr. Peter Tabuns): Thank you. I have Mr. Hardeman and then Mr. Rinaldi. Mr. Hardeman.

Mr. Ernie Hardeman: Thank you very much, Mr. Chair. This amendment would set fixed costs associated with the tribunal in any lawsuits that could result.

We received a number of written submissions from a couple who were very concerned about the issue. They said they would have loved "to have told the story to the committee, but, alas, we were not able to" within the available dates.

Gillian Evans and David Toyne have a family farm, and land surrounding them was set for development. They fought to have a buffer around their farm in order to protect their cattle and the new residents of the proposed subdivision. They ended up winning at the OMB and got a 4.5-metre buffer, but the developer still sued them and they ended up being told that they had to pay \$86,000 to the developer.

This submission strongly encourages "that Bill 39 limits costs awards to a notional amount. To not address this issue will surely derail any real public policy attempt to encourage public participation and hand even more power" to the development industry.

So we will be supporting this motion.

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

Mr. Lou Rinaldi: Just to follow up with maybe more clarification, motion 13 will amend subsection 33(4) to provide that in addition to any act and its rules, the tribunal must exercise its power to award costs in accordance with regulations made under the proposed act.

Motion 13 is related to motion 21, which will amend the proposed act to provide the Lieutenant Governor in Council the power to make regulations governing costs awards to the tribunal.

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

Mr. Ernie Hardeman: It has just been pointed out by my able colleague next to me that as I was presenting the

last comments, I said 39 instead of 139, so I wanted to correct the record.

The Chair (Mr. Peter Tabuns): Fair enough.

Is there any further discussion? If there is none, we're ready for the vote?

Mr. Percy Hatfield: Recorded vote.

Ayes

Delaney, Hardeman, Hoggarth, Malhi, McMeekin, Norm Miller, Rinaldi.

Nays

Hatfield.

The Chair (Mr. Peter Tabuns): It is carried.

We then go to NDP motion 13.1: Mr. Hatfield.

Mr. Percy Hatfield: I move that section 33 of the Local Planning Appeal Tribunal Act, 2017, as set out in schedule 1 to the bill, be amended by adding the following subsection:

"Same

"(5) The tribunal shall not award costs if the tribunal believes that it would not be in the public interest to make such an award."

The Chair (Mr. Peter Tabuns): Did you have any comments?

Mr. Percy Hatfield: I think I just made them on the last motion, Chair.

The Chair (Mr. Peter Tabuns): Fine. Any others? There being none, you're ready for the vote? Sorry; Mr. Hardeman, did you want to speak?

Mr. Ernie Hardeman: I did put my hand up to speak. I agree with the motion that there needs to be some ability of the tribunal to not award costs. But I believe, unless I've misread it, that the OMB and the tribunal have always had that right to award costs where they deem appropriate. Contrary to the government position on these motions, I think covering it twice is better than missing it altogether, so I'll vote in favour of the motion.

The Chair (Mr. Peter Tabuns): Fine. I see no other discussion. You're all ready for the vote? All those in favour of NDP motion 13.1? All those opposed? It is lost.

With that, we go to adoption of the section as a whole. Is there any comment on section 33?

Interjection.

The Chair (Mr. Peter Tabuns): I haven't called the vote yet. We're at schedule 1, section 33, for the vote. We've been debating amendments related to section 33, and we adopted one. We now have to vote on the schedule and the section as a whole.

1520

Mr. Ernie Hardeman: Recorded.

Ayes

Delaney, Hatfield, Hoggarth, Malhi, McMeekin, Rinaldi.

Nays

Hardeman, Norm Miller.

The Chair (Mr. Peter Tabuns): It is carried.

Colleagues, we don't have any amendments for sections 34 to 39 and I propose to bundle them. Is there any objection to that? You're agreed? Agreed. Shall schedule 1, sections 34 to 39 inclusive, carry? Carried.

We now go to NDP motion 13.2. Mr. Hatfield.

Mr. Percy Hatfield: I move that subsection 40(4) of the Local Planning Appeal Tribunal Act, 2017, as set out in schedule 1 to the bill, be struck out and the following substituted:

“Additional parties

“(4) A person who provides a written submission in accordance with this section may participate in the appeal as an additional party or otherwise participate in the appeal on such terms as the tribunal may determine.”

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

Mr. Percy Hatfield: If you read what is in the proposed act now, it says, “The tribunal may determine, from among the persons who provide written submissions, whether a person may participate in the appeal as an additional party or otherwise participate in the appeal on such terms as the tribunal may determine.”

If you have put in a written submission and you would want to continue on, right now, it's entirely up to the tribunal whether or not you'll be selected to do it, as opposed to the amendment, which offers you more of an option: that you “may participate in the appeal as an additional party or otherwise participate in the appeal on such terms as the tribunal may determine.” I think it just broadens the possibility of being accepted to continue if you have submitted a written submission.

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

Mr. Lou Rinaldi: I recommend opposing this motion. The Ontario Municipal Board currently has the power to determine whether a person may be added as a party or otherwise participate in an appeal before it under the Planning Act.

Subsection 40(4) of the proposed Local Planning Appeal Tribunal Act, 2017, would similarly empower the Local Planning Appeal Tribunal to determine whether a person may be added as a party or otherwise participate in the appeal before it under the Planning Act and provides that the person has made a written submission to the tribunal in respect of the appeal. So the motion before us will limit the tribunal's ability to take a more active role in the proceedings before it and determine who may participate as an additional party or participant.

The Chair (Mr. Peter Tabuns): Any further discussion? There being none, you're ready for the vote on this? All those in favour of NDP motion 13.2? All those opposed? It fails. It's lost.

We then go to PC motion number 14. Mr. Hardeman.

Mr. Ernie Hardeman: I move that section 40 of the Local Planning Appeal Tribunal Act, 2017, as set out in

schedule 1 to the bill, be amended by adding the following subsection:

“Written reasons

“(5) If the tribunal determines under subsection (4) that a person may not participate in an appeal, the tribunal shall provide written reasons for its decision.”

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

Mr. Ernie Hardeman: This amendment would require that the tribunal provide written reasons for not allowing a person to participate in an appeal. The tribunal needs to remain accountable for its actions and should provide individuals or groups a reason for denying their participation in an appeal. Individuals have taken the time to write written submissions for the tribunal, so they should receive written reasons as to why they are no longer able to participate in the appeal. This would provide transparency and ensure that neighbourhood groups have a voice in the future of their community. This goes to the concern raised by Environmental Defence that the public should have access to the hearings.

The Swansea ratepayers association was one of the groups that applied to speak to this committee but was unable to because today's public hearings were cancelled. I want to share one of their concerns about ensuring local neighbourhood groups have a say. This is the first of a number of amendments that we are putting forward to protect their rights.

Swansea Area Ratepayers Association's written submission: “When the matter goes to the Ontario Municipal Board” or a tribunal “(in the case of the city of Toronto), ratepayers and community groups are usually advised by city legal that city legal represents the wishes of city council and not the community even when they are on the same side. As a result it is not sufficient to state that the fact the city will be present at the board that ratepayers and community groups will have their concerns represented.”

I think that—from reading those that came in the mail to us—precipitated putting this amendment forward to make sure that the tribunal has to notify people when they are not going to be heard and why they are not going to be heard. I think that, again, it goes to transparency. I can see not a great detriment to the thrust of the legislation or anything that would hurt the proceedings just to have somebody drop them a note to say, “These are the reasons that we have not accepted you as a participant in the hearing.”

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

Mr. Lou Rinaldi: Yes, briefly, Chair, this particular motion would be inconsistent with subsection 16.1(3) of the Statutory Powers Procedure Act, which states, “An interim decision or order,” such as the determination by a Local Planning Appeal Tribunal that a person may not participate in an appeal, “need not be accompanied by reasons.”

The Chair (Mr. Peter Tabuns): Thank you. Mr. Hardeman?

Mr. Ernie Hardeman: Mr. Chair, it seems that each time we keep talking about that it's already in the Statutory Powers Procedure Act. My question is, if it's in the act and—at the first of the debate this afternoon, we decided that, if there's a conflict between the two, this one would apply, not the Statutory Powers Procedure Act. If that's the case, why do we keep hearing that we don't need to put it in this act because it's in that one, but that if it's not here, then they don't have to adhere to the other one?

I'm really confused with the government's position on the two—the relationship between saying it's already there, so we don't need to put it in this one, when we originally said they don't have to pay any attention to the other one. Maybe we could ask the parliamentary assistant if he could speak to that.

The Chair (Mr. Peter Tabuns): Okay. I have Mr. Hatfield next.

Mr. Percy Hatfield: Let me first say ditto to what my friend from Oxford has just said. But let me also suggest how wrong the parliamentary assistant is in terms of, I don't know, maybe common respect. If you are chosen not to participate in the appeal, I mean, there's got to be reasons for it. It could be your presentation is frivolous or it's vexatious or it's redundant, or you missed the deadline, as opposed to your application went down a black hole somewhere. We talk a lot about open and transparent government, but then stuff goes down the black hole, is never heard from again, and people are wondering, "Whatever happened to the Liberals' promise of an open, transparent government? Nobody got back to me. Nobody tells me why I'm not allowed to participate." Then we hear, "Well, it's in the other act." As the member from Oxford said a few minutes ago, yeah, but you've already said the other act doesn't matter because this is the one that takes precedence.

What the government is putting forward at this moment is foolish—silliness. Somebody should go back, and they should change it, and they should accept this. It only makes sense.

1530

The Chair (Mr. Peter Tabuns): Thank you, Mr. Hatfield. Any further discussion? Mr. Hardeman.

Mr. Ernie Hardeman: Yes. I guess bringing up the issue of which applies when, I wonder—and we had it earlier; we asked the legal branch to come forward. I think that must be why they're here: to answer our questions. I would ask if we could get the legal branch to tell us whether this is covered by the Statutory Powers Procedure Act—if that's actually what happens or not.

The Chair (Mr. Peter Tabuns): Mr. Rinaldi, are you going to be calling someone forward?

Mr. Lou Rinaldi: Sure.

The Chair (Mr. Peter Tabuns): Welcome back. Again, if you could introduce yourself for Hansard.

Ms. Sara Khajavi: Sure. My name is Sara Khajavi. I'm counsel with the Ministry of the Attorney General.

To answer the question about the application of the Statutory Powers Procedure Act, the legislation as it's

currently drafted would have the Statutory Powers Procedure Act apply to the tribunal unless there is a conflicting provision in the act, a regulation made under the act or the tribunal's rules. In the case of conflict, the conflicting provision would prevail.

Mr. Ernie Hardeman: If I could just carry on with the question?

The Chair (Mr. Peter Tabuns): Yes, please.

Mr. Ernie Hardeman: As it relates to this issue, the parliamentary assistant suggested that the powers procedure act will cover this. If it's not mentioned in this act, and it is in the other one, does that mean the conflict is there? Or is that not a conflict, and we'd just have to go with the Statutory Powers Procedure Act?

Ms. Sara Khajavi: Yes, that's the case. There's no conflict. There would have to be another provision within the act that would have to conflict with the Statutory Powers Procedure Act for that conflicting provision to prevail.

Mr. Ernie Hardeman: Thank you very much. That's all I wanted to hear.

The Chair (Mr. Peter Tabuns): Mr. Hatfield, I believe, has a question. Mr. Hatfield, is that correct?

Mr. Percy Hatfield: Yes. Thank you. In the other acts, if you want to appeal and it's determined that they're not going to allow you to appeal, does it say that they will give you written reasons, meaning that your appeal is frivolous, vexatious, redundant or you missed the deadline? Does it give you a reason why you have not been selected to be part of the process as it goes forward?

Ms. Sara Khajavi: I don't have the Statutory Powers Procedure Act before me, but my understanding is if you're seeking to be added as a party—this is not proceeding with a right of appeal, but to be added as a party to an existing appeal—that is an interim decision, and section 16.1, subsection (3) provides that "An interim decision or order"—such as a determination by the tribunal to add or not add a person as a party to an appeal—"need not be accompanied by reasons."

Mr. Percy Hatfield: I'm sorry; what was the last part?

Ms. Sara Khajavi: It "need not be accompanied by reasons." For an interim decision by a tribunal, reasons do not need to be provided.

Mr. Percy Hatfield: Legally, if that's the case, does the person who is affected by this have any recourse under the law to do anything about that?

Ms. Sara Khajavi: Yes. They can apply for a judicial review of the decision.

Mr. Percy Hatfield: Is that a tactic that could be called a stalling tactic, that would slow down the proceeding?

Ms. Sara Khajavi: I can't answer that. I'm not sure.

Mr. Percy Hatfield: How long would it take for a judicial review of such a decision?

Ms. Sara Khajavi: It depends. I'm not sure.

Mr. Percy Hatfield: Would it not be quicker, and probably less expensive, just to allow that person to join the proceeding?

Ms. Sara Khajavi: The way the legislation is drafted is that it would give the tribunal authority to determine whether or not a person may participate in an appeal as a party, or as a participant in other ways.

Mr. Percy Hatfield: Thank you.

The Chair (Mr. Peter Tabuns): Thank you. No further questions? Mr. Hardeman.

Mr. Ernie Hardeman: Yes, just one further question. My earlier question was, if there's no direction in this one, would that be a conflict or would that just maybe go to the other one?

Relating to this motion that we're presently debating, what if they make a regulation at the tribunal that they don't have to answer in writing? So they've made the regulation, they have that regulatory power, and now that's in direct conflict of what the other act is that they do have to do. Would, then, this one prevail?

Ms. Sara Khajavi: So the tribunal does have power to make rules governing their practices and procedures, and I believe that that could include the power to make rules about providing written reasons for interim decisions. If their rules were in conflict with the Statutory Powers Procedure Act, their rules would prevail.

Mr. Ernie Hardeman: Okay. I got the answer. Thank you very much for the answer.

The Chair (Mr. Peter Tabuns): No further questions? Thank you very much.

Mr. Ernie Hardeman: That's the very reason that this motion is here: to make sure that the public would still have that right to be responded to if they write in, where presently under the act, without having that regulation, it's not that way. They could pass a regulation that they didn't have to do it and then the Statutory Powers Procedure Act would not come into play. They would just be able to avoid answering people. This motion would keep that from happening.

That's why I recommend, and hope, that we can count on the government's support for it.

The Chair (Mr. Peter Tabuns): No further debate? We're ready for the vote?

Mr. Ernie Hardeman: Recorded vote.

Ayes

Hardeman, Hatfield, Norm Miller.

Nays

Delaney, Hoggarth, Malhi, McMeekin, Rinaldi.

The Chair (Mr. Peter Tabuns): It is lost.

We then go to a vote on section 40 of schedule 1. Are you ready to go—

Mr. Ernie Hardeman: No.

The Chair (Mr. Peter Tabuns): No? All right, that's fine.

Interjection.

The Chair (Mr. Peter Tabuns): I've had a request for a five-minute recess. Is that agreeable to the committee? Agreed.

We're recessed for five minutes.

The committee recessed from 1537 to 1546.

The Chair (Mr. Peter Tabuns): The committee is back in session. When we left off, we were preparing to discuss and/or vote on schedule 1, section 40. Are people ready for the vote on section 40?

Mr. Lou Rinaldi: Yes.

The Chair (Mr. Peter Tabuns): Yes? All right.

Mr. Ernie Hardeman: Recorded.

Ayes

Delaney, Hatfield, Hoggarth, Malhi, McMeekin, Rinaldi.

Nays

Hardeman, Norm Miller.

The Chair (Mr. Peter Tabuns): It is carried.

We then go to section 41 and PC motion 15. Mr. Hardeman.

Mr. Ernie Hardeman: I move that section 41 of the Local Planning Appeal Tribunal Act, 2017, as set out in schedule 1 to the bill, be amended by adding the following subsection:

“Written reasons

“(4) If the tribunal determines under subsection (3) that a person may not participate in an appeal, the tribunal shall provide written reasons for its decision.”

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

Mr. Ernie Hardeman: This amendment would require the tribunal to provide written reasons for not allowing a person to participate in appeal.

“(3) The person must serve a copy of the submission on the municipality or approval authority whose decision or failure to make a decision is being appealed and file a certificate of service with the tribunal in the form approved by the tribunal.”

That's what the applicant must do. The tribunal needs to remain accountable for its actions and should provide individuals or groups a reason for denying their participation in an appeal. Individuals have taken the time to write written submissions for the tribunal, so they should receive written reasons as to why they can no longer participate in the appeal. This would provide transparency and ensure that neighbourhood groups have a voice in the future of their community.

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

Mr. Lou Rinaldi: Chair, I'll make it very brief: The same argument that I proposed in the previous amendment stands for this one as well.

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

Mr. Percy Hatfield: Chair, I don't know if Hansard does cut and paste, but if they do, just put down everything I said on the previous one into this one.

The Chair (Mr. Peter Tabuns): Hansard is so instructed.

Mr. Percy Hatfield: Thank you.

The Chair (Mr. Peter Tabuns): Any further discussion? There being none, you're ready to call the vote?

Mr. Norm Miller: Recorded vote.

Ayes

Hardeman, Hatfield, Norm Miller.

Nays

Delaney, Hoggarth, Malhi, McMeekin, Rinaldi.

The Chair (Mr. Peter Tabuns): The motion is lost.

We then go to the section as a whole. Unless there is concern, we will go to the vote. You're ready to go to the vote?

Mr. Norm Miller: Section 41?

The Chair (Mr. Peter Tabuns): Section 41, yes. You're ready for the vote?

Mr. Norm Miller: Yes. Recorded, please.

Ayes

Delaney, Hatfield, Hoggarth, Malhi, McMeekin, Rinaldi.

Nays

Hardeman, Norm Miller.

The Chair (Mr. Peter Tabuns): It is carried.

We go to PC motion 15.1. Mr. Hardeman.

Mr. Ernie Hardeman: I move that subsection 42(1) of the Local Planning Appeal Tribunal Act, 2017, as set out in schedule 1 to the bill, be struck out and the following substituted:

“Oral hearings

“Appeals under subs. 38(1)

“(1) If the tribunal holds an oral hearing of an appeal described in subsection 38 (1), the only persons who may participate in the oral hearing are,

“(a) the parties; and

“(b) such persons identified by the tribunal under subsection 40(4) as persons who may participate in the oral hearing.”

The Chair (Mr. Peter Tabuns): Any further discussion on this matter? Mr. Rinaldi.

Mr. Lou Rinaldi: This particular motion would be contrary to the intention of subsection 42(1) of the proposed Local Planning Appeal Tribunal Act, 2017, which is to limit participation at the oral hearing of an appeal described in subsection 38(1) of the proposed act to the parties to the appeal.

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

Mr. Ernie Hardeman: Currently, in an appeal under section 38(2)—failure to make a decision—the hearing

can include both the parties and anyone else who has done a written submission and who the tribunal deems appropriate.

However, for appeals under section 38(1)—inconsistent with official plans or PPS etc.—the hearing is limited to the parties. This excludes community organizations and others from the process, even if the tribunal would have deemed it appropriate to include them given the facts of the appeal. Again, it goes back to not so much that more people can force their way in—it's only if the tribunal deems that their input would be appropriate and helpful that they can allow that to be part of it. Presently, that's not the case, and that's why we have this amendment put forward.

The Chair (Mr. Peter Tabuns): Unless there's further discussion, you're ready for the vote?

Mr. Norm Miller: Recorded vote, please.

Ayes

Hardeman, Hatfield, Norm Miller.

Nays

Delaney, Hoggarth, Malhi, McMeekin, Rinaldi.

The Chair (Mr. Peter Tabuns): The motion is lost.

We now go to a vote on the section as a whole: schedule 1, section 42. Shall schedule 1, section 42, carry? Carried.

Now we go to schedule 1, section 43. We have PC motion number 16. Mr. Hardeman.

Mr. Ernie Hardeman: I move that clause 43(1)(a) of the Local Planning Appeal Tribunal Act, 2017, as set out in schedule 1 to the bill, be struck out and the following substituted:

“(a) governing the practices and procedures of the tribunal, including prescribing the conduct and format of hearings, the format of decisions and practices regarding the admission of evidence and the calling of witnesses;”

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

Mr. Ernie Hardeman: Mr. Chair, this amendment would allow the minister to make regulations regarding the format of hearings and the decisions and practices regarding admission of evidence and calling of witnesses. The tribunal should be consistent in its practices, to make it easier for the tribunal, the people and organizations.

We heard from a number of experienced lawyers that the tribunal should have the ability to control its own procedures, including the ability to hear oral evidence and allow cross-examinations. Those lawyers acknowledge that the hearing process could be made more efficient, but that prohibiting oral evidence and cross-examination was too blunt an approach and a denial of natural justice.

These amendments would strike a more appropriate balance by making hearings more efficient, without lim-

iting the abilities of the tribunal to control its own procedures.

The Chair (Mr. Peter Tabuns): Thank you, Mr. Hardeman. Mr. Rinaldi?

Mr. Lou Rinaldi: Chair, motion 16 is not necessary. Clause 43(1)(a) of the proposed Local Planning Appeal Tribunal Act, 2017, gives the minister responsible for the proposed act the power to make regulations governing the practices and procedure of the Local Planning Appeal Tribunal. This will include practices regarding the calling of witnesses.

The Chair (Mr. Peter Tabuns): Further discussion on this motion?

Mr. Ernie Hardeman: In comment to the parliamentary assistant's comments and his opinion that this is not necessary: I do not see anywhere in this motion that it would in any way make this a worse bill. I think the improvements that are here are not going to make the system worse.

If it's going to do anything as I suggested then it would seem to me that—if the only reason that they would vote against it would be because it's not necessary, you would think, then, that you could just humour me and put it in anyway.

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

Mr. Lou Rinaldi: A for effort.

The Chair (Mr. Peter Tabuns): There's no other discussion? People are ready for the vote?

Mr. Ernie Hardeman: Recorded.

Ayes

Hardeman, Norm Miller.

Nays

Delaney, Hoggarth, Malhi, McMeekin, Rinaldi.

The Chair (Mr. Peter Tabuns): The motion is lost. We go to PC motion 17. Mr. Hardeman.

Mr. Ernie Hardeman: I move that subsection 43(1) of the Local Planning Appeal Tribunal Act, 2017, as set out in schedule 1 to the bill, be amended by striking out clauses (b) and (c) and substituting the following:

“(b) providing for multi-member panels to hear proceedings before the tribunal and governing the composition of such panels;

“(c) prescribing timelines applicable to proceedings on appeals to the tribunal under the Planning Act; and

“(d) prescribing conditions for the purposes of clause 33(3)(c).”

The Chair (Mr. Peter Tabuns): Mr. Hardeman, unfortunately this is out of order because there is no clause 33(3)(c).

Mr. Ernie Hardeman: Okay.

The Chair (Mr. Peter Tabuns): Yes, Mr. Miller?

Mr. Norm Miller: I believe we'll withdraw that.

The Chair (Mr. Peter Tabuns): Excellent.

Then we go to PC motion 17.1. You'll remember that was dependent on number 12 passing.

Mr. Norm Miller: We'll withdraw that, then.

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

Interjections.

The Chair (Mr. Peter Tabuns): Motions 17 and 17.1 are both withdrawn.

That takes us to PC motion 18.

Mr. Ernie Hardeman: I move that section 43 of the Local Planning Appeal Tribunal Act, 2017, as set out in schedule 1 to the bill, be amended by adding the following subsection:

“Same

“(1.1) For greater clarity, the length of an oral hearing may not be restricted by regulation.”

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

Mr. Ernie Hardeman: Mr. Chair, this amendment provides clarity to ensure that the length of oral hearings is not restricted in regulations. As we saw earlier this week with the shortened public hearings and limited time for speaking, and as we've heard about hearings before municipalities regarding planning matters, five to 10 minutes is not enough time to really dig into the planning matters.

The tribunal should be thorough in its approach to mediating and deciding on planning matters and should therefore not limit the time available for groups wishing to present.

David Bronskill of BILD said during his presentation, “Limitations on oral hearings at the tribunal run contrary to the duty of procedural fairness and natural justice.” Well, this is to make sure that the tribunal gets to set the timelines of how long they believe that they want to hear as opposed to it being set by the minister in regulations.

1600

The Chair (Mr. Peter Tabuns): Further discussion? Mr. Rinaldi.

Mr. Lou Rinaldi: My recommendation, again, is similar to the past couple of motions. This particular motion is contrary to the intention of subsection 43(1)(c) of the proposed Local Planning Appeal Tribunal Act, 2017, which is to give the minister responsible for the proposed act broad power to make regulations prescribing timelines applicable to the proceeding on appeals to the Local Planning Appeal Tribunal under the Planning Act.

The Chair (Mr. Peter Tabuns): Further discussion on this? There being none—

Mr. Ernie Hardeman: Recorded.

Ayes

Hardeman, Norm Miller.

Nays

Delaney, Hatfield, Hoggarth, Malhi, Rinaldi.

The Chair (Mr. Peter Tabuns): The motion is lost. We go to PC motion number 19: Mr. Hardeman.

Mr. Ernie Hardeman: I move that clause 43(3)(a) of the Local Planning Appeal Tribunal Act, 2017, as set out in schedule 1 to the bill, be struck out and the following substituted:

“(a) determine which classes of matters and types of proceedings may be continued and disposed of under the Ontario Municipal Board Act, as it read on the day before the effective date, and which classes of matters and types of proceedings must be continued and disposed of under this act, as it read on the effective date;”

The Chair (Mr. Peter Tabuns): Thank you, Mr. Hardeman. Do you have any comment?

Mr. Ernie Hardeman: Yes, Mr. Chair. This amendment would give the minister the authority to make regulations to determine which classes and types of proceedings would be continued and disposed of under the OMB, and which would be continued and disposed of under the new act.

Municipalities and community groups have concerns regarding how their matters currently before the Ontario Municipal Board will be continued when it is replaced with the tribunal. Some types of appeals before the board aren't even possible under the new tribunal.

We need to make clear and consistent rules regarding the transition, to ensure a fair process for all municipalities and cases. This is a concern that was raised by numerous organizations, both in presentations and in written submissions.

Rather than make decisions on a case-by-case basis, the same criteria should be applied to all cases of the same type. If the minister is allowed to direct which cases are appealed under which method, it could create an appearance that he's determining where an appeal will be heard in order to get specific results. Given the concerns around influence, we should take steps to ensure that there isn't even an appearance of a minister doing something inappropriate.

The Chair (Mr. Peter Tabuns): Mr. Rinaldi?

Mr. Lou Rinaldi: I would just say that we're prepared to support this motion.

Mr. Percy Hatfield: Whoa.

Mr. Lou Rinaldi: Did I catch you off guard? You don't like it?

Mr. James J. Bradley: Now what are you going to say?

Mr. Ernie Hardeman: I'm just catching my breath.

Mr. James J. Bradley: Quit now. Quit now.

The Chair (Mr. Peter Tabuns): It's a limited-time offer.

Mr. Lou Rinaldi: Thank you, Chair.

The Chair (Mr. Peter Tabuns): No further discussion, I gather? Fine. Are you ready for the vote?

Mr. Ernie Hardeman: Recorded vote.

The Chair (Mr. Peter Tabuns): It is carried. Well, anything can happen in a committee—anything.

We go on to PC motion 20.

Mr. Percy Hatfield: Let the record show: It's PCs two, NDP nothing, at this point.

Mr. Ernie Hardeman: I move that the definition of “effective date” in subsection 43(5) of the Local Planning Appeal Tribunal Act, 2017—

Interjections.

Mr. Norm Miller: Can I just ask for clarification? Sorry to interrupt my colleague. PC amendment number 1 did fail; is that correct? So I believe that we'd like to withdraw this amendment.

Mr. Ernie Hardeman: Yes, you're right.

The Chair (Mr. Peter Tabuns): The amendment is withdrawn. Thank you.

Then we go to a vote on the section as a whole. This is schedule 1, section 43. Any comment or question before we go to the vote on section 43?

Mr. Lou Rinaldi: So where are we at, Chair?

The Chair (Mr. Peter Tabuns): We are at the vote on section 43 of schedule 1.

Mr. Lou Rinaldi: Okay, we're ready.

The Chair (Mr. Peter Tabuns): You're ready?

Mr. Ernie Hardeman: Ready.

The Chair (Mr. Peter Tabuns): You're ready? Shall schedule 1, section 43, as amended, carry? Carried.

We now go to schedule 1, section 43.1. This is new. Government motion 21: Mr. Rinaldi.

Mr. Lou Rinaldi: I move that the Local Planning Appeal Tribunal Act, 2017, as set out in schedule 1 to the bill, be amended by adding the following section:

“Regulations re costs

“43.1 The Lieutenant Governor in Council may make regulations governing the fixing of costs by the tribunal under subsection 33(4).”

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

Mr. Ernie Hardeman: Yes, I think this is similar to the previous one. This amendment would give the Lieutenant Governor in Council the power to set fixed costs associated with tribunal lawsuits that result. This is a subsequent amendment to amendment number 13, I believe.

We have received a written submission from a couple that were very concerned about the issue. They said that they would have loved to have told the story to the committee, but alas, they were not able to with the available dates. Gillian Evans and David Toyne have a family farm surrounding them that was set for development. They fought to have a buffer zone and they won the case. The OMB gave them a buffer but the developers still sued them and they ended up being told they had to pay \$86,000 to the developers. In the submission they “strongly encourage that Bill 139 limits costs awards to a notional amount. To not address this issue will surely derail any real public policy attempt to encourage public participation and hand even more power” to the development industry.

Ayes

Delaney, Hardeman, Hatfield, Hogarth, Malhi, McMeekin, Norm Miller, Rinaldi.

The one challenge I see in this, Mr. Chair, is that this does give the Lieutenant Governor in Council the right to make a regulation governing the fixing of costs by the tribunal under section 33. It doesn't deal with how much those costs will be. So although I will be supporting this motion, I want to encourage the government to make sure that the regulation setting those costs is solid enough not to discourage people from getting involved in the system, not knowing how much they may be charged to give back. That \$86,000 just doesn't seem a reasonable amount to encourage people to get involved when they believe the system is not treating them as it should be. So I encourage the government to make sure that that's a nominal amount, but with that, I think the fact that the government is setting it makes a good idea.

The Chair (Mr. Peter Tabuns): Mr. Hatfield?

Mr. Percy Hatfield: Chair, I wonder if I could ask the member from Northumberland—Quinte West, the parliamentary assistant, a question through you. I believe it was AMO and maybe some other delegations that appeared before us that suggested that the regulations—and we don't know what's going to be in the regulations, but they suggested that the regulations should be released in draft form prior to being adopted to allow for commentary from affected parties. If you're adding more regulations, especially on the fixing of costs, is it the government's intention at this point to do what has been requested of you and submit regulations in draft form prior to adoption?

The Chair (Mr. Peter Tabuns): Mr. Rinaldi?

Mr. Lou Rinaldi: To answer Mr. Hardeman about the costs, I think part of our objective is to make sure that those costs are fair and effective—to have that kind of balance.

As far as Mr. Hatfield's question, as you know, regulations are posted for a number of days and people have ample opportunity to make comments on the posting. That's the general practice of government, because it's hard to make regulations until we have the legislation in place to give us the ability to do that. So regulations will be posted in due time and people will have an opportunity to comment on that.

1610

The Chair (Mr. Peter Tabuns): Thank you. Any further discussion? People are ready for the vote?

All those in favour of government motion number 21, please indicate. Those opposed? It is carried.

We then go to NDP motion 21.1: Mr. Hatfield.

Mr. Percy Hatfield: Thank you, Chair. I move that the Local Planning Appeal Tribunal Act, 2017, as set out in schedule 1 to the bill, be amended by adding the following section:

“Transition

“43.1 An appeal filed after May 1, 2017 for which proceedings have not commenced by the day the Building Better Communities and Conserving Watersheds Act, 2017 receives royal assent shall be disposed of under this act, as it read on the effective date.”

The Chair (Mr. Peter Tabuns): Any further discussion? Mr. Rinaldi and then Mr. Hardeman.

Mr. Lou Rinaldi: The intention of the member's motion is unclear. As a matter of law, the filing of an appeal commences a proceeding at the Local Planning Appeal Tribunal, so motion 21.1 is not necessary.

Section 43 of the proposed Local Planning Appeal Tribunal Act, 2017, gives the minister power to make regulations providing for transitional matters respecting matters and proceedings that were commenced before or after the proposed act comes into force.

The Chair (Mr. Peter Tabuns): I've got Mr. Hardeman and then I have you. Mr. Hardeman?

Mr. Ernie Hardeman: Thank you very much, Mr. Chair. This amendment would move all appeals filed after May 1 to a new system, unless the proceedings have started before—

Mr. Ted McMeekin: Excuse me, Chair. I'm having trouble hearing the honourable member.

The Chair (Mr. Peter Tabuns): Ah, fair enough. If you would bring the microphone closer, please.

Mr. Ernie Hardeman: Thank you very much, Mr. Chair. This amendment would move all appeals filed after May 1 to the new system, unless the proceedings have started before this bill gets royal assent. We understand that everyone is seeking clarity on when transition will take place, but since the bill wasn't introduced until May 30, we don't think it's appropriate to pick that date before then.

I think the challenge of picking those days is going to be much more difficult than it would seem today. It's one thing to say the ones that are before the appeals board at that time, that you can continue doing them under the old OMB, but if you look at all applications, there may be some there that have not yet had a date designated that are two years old. Where do you draw the line as to where to start that?

The second thing, of course, is it's possible—not only possible; it's quite probable—that a lot of the appeals that would fall in this category were made in good faith but no longer qualify as appeals because of the more stringent rules of what qualifies for an appeal going forward. So I think we need to be very careful that we don't treat people unfairly in that they did everything they were supposed to do up to a certain date when that was the law, that we don't all of a sudden put a new law at them and then make them abide by that.

So I will not be supporting this motion.

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

Mr. Percy Hatfield: I'm broken-hearted to hear that, Chair, but nonetheless I will soldier on.

It's a retroactivity motion, obviously. The bill was tabled at the end of May—May 31—but the provisions were announced weeks earlier. So the motion, as simple as it is, sets a retroactivity date of May 1 to address the concerns of people who are now being deluged by OMB applications by developers seeking to get an application in before the new rules take effect.

There are also provisions to have various schedules come into force upon royal assent instead of proclama-

tion. That means whenever the government of the day wishes, and probably not until after the next election.

Since Bill 139 gives the minister maximally broad regulatory authority to manage the transition, including the ability to decide whether the old or new rules will apply for applications received before or after Bill 139 comes into force, there really is no reason to delay having Bill 139 come into force right away, unless, of course, the government has its own reasons to delay these OMB reforms while using the royal assent of Bill 139 to give the appearance of change. You get the headline, then there's the election, and then nothing happens. So that's why this motion is in front of us this afternoon, and I would hope it would be accepted.

The Chair (Mr. Peter Tabuns): Is there any further discussion? I see none. We're ready for the vote?

Mr. Percy Hatfield: Recorded vote.

Ayes

Hatfield.

Nays

Delaney, Hardeman, Hoggarth, McMeekin, Norm Miller, Rinaldi.

The Chair (Mr. Peter Tabuns): The motion is lost.

We then go to NDP motion 21.2. Mr. Hatfield.

Mr. Percy Hatfield: Thank you, Chair. I'm on a roll.

I move that the Local Planning Appeal Tribunal Act, 2017, as set out in schedule 1 to the bill, be amended by adding the following section:

"Transition

"Transition

"43.1 An appeal filed after May 1, 2017 for which proceedings have not commenced by the day section 2 comes into force shall be disposed of under this act, as it read on the effective date."

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

Mr. Percy Hatfield: No, I think I know where it's headed.

The Chair (Mr. Peter Tabuns): Any other discussion? There being none, we're ready for the vote?

Mr. Percy Hatfield: Recorded vote.

Ayes

Hatfield.

Nays

Delaney, Hardeman, Hoggarth, McMeekin, Norm Miller, Rinaldi.

The Chair (Mr. Peter Tabuns): I'm sorry, Mr. Hatfield, but that lost.

Mr. Percy Hatfield: I accept your apology.

Mr. Bob Delaney: It was a squeaker.

Mr. Ernie Hardeman: You're not supposed to be sorry.

The Chair (Mr. Peter Tabuns): I say it out of empathy for the member, without any partisan tinge whatsoever.

Mr. Ernie Hardeman: I accept that, Mr. Chair.

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

We go on to schedule 1, section 44. There are no amendments. Is there any discussion?

Mr. Ernie Hardeman: Have we voted on 43?

The Chair (Mr. Peter Tabuns): We've previously voted on 43, and we now move on to section 44, because there was a 43.1 that was established but with government motion 21.

So section 44—I'm assuming the government is ready to vote on this. Everyone's ready? Shall schedule 1, section 44, carry? Carried. Done.

We now go to section 45. There are no amendments. Is everyone ready to vote on schedule 45? Okay. Shall schedule 1, section 45, carry? Carried.

We now go to section 46. We have NDP motion 21.3. Mr. Hatfield.

Mr. Percy Hatfield: Third time lucky, Chair. Third time lucky.

I move that section 46 of the Local Planning Appeal Tribunal Act, as set out in schedule 1 to the bill, be struck out and the following substituted:

"Commencement

"46. The act set out in this schedule comes into force on the day the Building Better Communities and Conserving Watersheds Act, 2017 receives royal assent."

The Chair (Mr. Peter Tabuns): Thank you. Mr. Hatfield?

Mr. Percy Hatfield: Just very briefly: You give it royal assent—that's it. We start all over as opposed to waiting for some time down the road, whenever the government gets around to bringing it forth and proclaiming it. I think royal assent is a fair starting point.

The Chair (Mr. Peter Tabuns): Further discussion? Mr. Rinaldi.

Mr. Lou Rinaldi: Chair, to be fair, I think the government needs time between royal assent and proclamation to develop regulations. The Local Planning Appeal Tribunal would also require time to make rules in accordance with the proposed legislation, so it's a new game for them as well.

The Chair (Mr. Peter Tabuns): Further discussion? There being none, you're ready for the vote?

Mr. Percy Hatfield: Recorded vote.

1620

Ayes

Hatfield.

Nays

Delaney, Hardeman, Hoggarth, McMeekin, Norm Miller, Rinaldi.

The Chair (Mr. Peter Tabuns): The votes are not there. You have lost, sir.

We now get to vote on the section as a whole. That's section 46. Are people ready to vote on section 46?

Interjections.

The Chair (Mr. Peter Tabuns): You're ready? Shall schedule 1, section 46, carry? It is carried.

We then go to section 47. We have PC motion 22.

Mr. Norm Miller: I believe we'd like to withdraw that.

The Chair (Mr. Peter Tabuns): It is withdrawn.

That takes us to a vote on section 47 as a whole. Are people ready to vote on section 47? Yes? Shall schedule 1, section 47 carry? It is carried.

Now we vote on the schedule as a whole. Are you ready to vote? Okay. Shall schedule 1, as amended, carry? It is carried.

We move on, then, to schedule 2. We have no amendments in sections 1 to 4. Are people ready to bundle those as a group?

Interjection: Yes.

The Chair (Mr. Peter Tabuns): You are?

Mr. Norm Miller: Sorry. We're bundling which?

The Chair (Mr. Peter Tabuns): Sections 1 to 4 of schedule 2. There are no amendments that have been proposed.

Mr. Norm Miller: Okay. I'll just make sure my colleague has found that spot.

Mr. Ernie Hardeman: If I could—

The Chair (Mr. Peter Tabuns): I'm at your disposal.

Mr. Ernie Hardeman: This is just a question. In our briefing, the government was unable to answer questions about what the budget for the Local Planning Appeal Support Centre would be, and who would be eligible for assistance. We wondered, as we're passing this bill, whether they would have any information on that.

The Chair (Mr. Peter Tabuns): Is this relevant to a particular section?

Mr. Ernie Hardeman: Schedule 2.

The Chair (Mr. Peter Tabuns): Schedule 2. Section 1 or section 2?

Mr. Ernie Hardeman: I don't know which section it is, but it's generally schedule 2, which is the Local Planning Appeal Support Centre. We have a number of questions that haven't been answered yet, and I wondered if we can get some of those answers.

The Chair (Mr. Peter Tabuns): Then I won't carry it forward as a bundle. We'll go to schedule 2, section 1, that is before us.

You have a statement, Mr. Hardeman? The government may or may not respond.

Mr. Ernie Hardeman: Yes. Again, at our briefings, we had questions about the budget for the Local Planning Appeal Support Centre: what it would be, who would be eligible for assistance, and other details. We wondered if the government members have any information on that: how the centre would function, what the budget would be, who will receive support and how they will provide assistance across the province.

It's setting up a new structure. Whether there's any information that would help us understand what the body is going to do, how it's going to function, how it's going to be funded and who would be eligible and so forth—is there any information that's available today that wasn't available when we had the briefing on the bill?

The Chair (Mr. Peter Tabuns): Mr. Rinaldi indicated they'd be willing to speak to this. Mr. Rinaldi.

Mr. Lou Rinaldi: Sure. Chair, I think I'd be correct in assuming that that information will be done through a regulatory process, because until the legislation is passed, there is no body. We committed to have that body, and I would presume that during the regulatory process, those answers will be forthcoming.

Mr. Ernie Hardeman: Thank you.

The Chair (Mr. Peter Tabuns): Unless you have further questions, if people are agreeable, we can bundle sections 1 to 4. You're ready? Shall schedule 2, sections 1 to 4, inclusive, carry? Carried. Done.

Okay. We then go to section 5. We have PC motion 23: Mr. Hardeman.

Mr. Ernie Hardeman: I move that section 5 of the Local Planning Appeal Support Centre Act, 2017, as set out in schedule 2 to the bill, be amended by adding the following subsection:

“Ineligible appeals

“(5) The centre shall not provide support for appeals that it determines are frivolous or vexatious.”

The Chair (Mr. Peter Tabuns): Thank you. Any further discussion? Mr. Rinaldi.

Mr. Lou Rinaldi: Sure. Very briefly, I think as in my previous answer to the question from the member, these are things that will be done under the regulatory process.

The Chair (Mr. Peter Tabuns): Further discussion? Mr. Hardeman.

Mr. Ernie Hardeman: I agree with that. I think this motion is slightly beyond what the government plans to do and actually gives a direction for one of the things not to do.

This amendment would allow the support centre to deny support for appeals that they determine to be frivolous or vexatious. The support centre's resources are best spent on legitimate cases. Spending time, human and monetary resources on appeals that are frivolous and vexatious would be a misuse of public funds, and could mean the centre loses credibility. The tribunal should not be abused by those who are out to get someone, and they should not have the support of the support centre to do so.

The reason the motion is there is to make sure that when we set the parameters, those are taken into consideration: that the parameters of the program will actually, right from the get-go, stop those types of cases from proceeding. It's actually meant to give direction that a regulation usually wouldn't include, because that's usually a subjective thing that you can't regulate, because the person making the decision of whether they are frivolous or vexatious needs to be done to the people who are going to do the granting, and there wouldn't be a check-point on the list of the criteria to eliminate those. That's

why we believe it should be in the bill: to make sure they don't exist.

It seems fairly benign, as far as everyone else is concerned, but it really points out that it isn't. Just because they apply, it doesn't mean they're eligible, even though they fit the criteria of the bill. One of those would be turned down by the board.

The Chair (Mr. Peter Tabuns): Thank you, Mr. Hardeman. Any further discussion on this matter? Mr. Hatfield.

Mr. Percy Hatfield: Well, to be completely frivolous and vexatious, I was having trouble hearing from the chewing of the potato chips on the other side, the noise on the other side. But other than being frivolous and vexatious—

Laughter.

Mr. Bob Delaney: Can we get you some chips, Percy?

The Chair (Mr. Peter Tabuns): Thank you, Mr. Hatfield. Any discussion? There being no further discussion, people are ready for the vote?

Mr. Ernie Hardeman: Recorded.

Ayes

Hardeman, Norm Miller.

Nays

Delaney, Hatfield, Hoggarth, Malhi, McMeekin, Rinaldi.

The Chair (Mr. Peter Tabuns): The motion is lost.

We then go to a vote on section 5 as a whole. Is there any discussion?

Mr. Ernie Hardeman: Section 5?

The Chair (Mr. Peter Tabuns): Yes, schedule 2, section 5.

Mr. Ernie Hardeman: A question for government: In their submission, the Blue Mountain Watershed Trust Foundation asked, "We would like some clarification of the statement that the centre would provide support services to eligible persons. Does this include funding, or only advice? We understand that eligibility criteria would be promulgated later"—anyway, "created" later is the right word. I think they specifically asked whether they were talking primarily about advice through the centre as opposed to money through the centre and funding for the cost of doing it.

Again, I would appreciate it if we could get some clarification of that for those folks from the Blue Mountain Watershed Trust Foundation.

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

Mr. Lou Rinaldi: My comments are going to be the same. I appreciate where the member is going and I think that's good advice for the regulatory process.

The Chair (Mr. Peter Tabuns): Thank you, Mr. Rinaldi. Further discussion? You're ready for the vote on this section?

Mr. Ernie Hardeman: Recorded.

Ayes

Delaney, Hatfield, Hoggarth, Malhi, McMeekin, Rinaldi.

Nays

Hardeman, Norm Miller.

The Chair (Mr. Peter Tabuns): It is carried.

We now go to schedule 2, section 6, where there are no amendments. Are people ready to vote on schedule 2, section 6? All are ready? Shall schedule 2, section 6, carry? Carried.

1630

We then go to section 7, and we have PC motion 24. Mr. Hardeman.

Mr. Ernie Hardeman: I move that subsection 7(2) of the Local Planning Appeal Support Centre Act, 2017, as set out in schedule 2 to the bill, be struck out and the following substituted:

"Composition, appointment

"(2) The board of directors of the centre shall consist of up to seven members, all of whom shall be appointed by the Lieutenant Governor in Council in accordance with the following rules:

"1. The members shall be appointed from across Ontario.

"2. At least one member shall be from northern Ontario.

"3. At least one member shall be from a rural area outside of northern Ontario."

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

Mr. Ernie Hardeman: Chair, this amendment would require the support centre to appoint at least one member from northern Ontario and one member from another rural area of Ontario to their board.

The support centre will be set up to serve individuals from across the province, and the board should reflect this as well. The north is an important part of Ontario and should be represented on the board for the OMB support centre. Planning issues are different across the province, so it's crucial that we reflect that within the support centre board of directors.

We heard in the public hearings—Karen Peterson, Environment North: "Planning issues are quite different in this region." She went on to say, "Northern townships are experiencing increased pressure to develop lands in populated areas, yet the local planning boards are not as equipped as the GTA municipalities that have extensive bureaucracies and sufficient funds to hire subject matter experts."

We heard about the differences in the north from the Sudbury home builders. When they asked the committee to travel there for committee hearings, they said, "The proposed legislative changes will have considerable implications for economic development and growth in

northern Ontario. Our members are very concerned that the unique circumstances and needs of northern Ontario may be overlooked by the government and we respectfully request that the standing committee make the effort to travel to Sudbury not just to hear from the Sudbury and District Home Builders' Association, but also from other businesses, municipalities and members of the public—the views of northern Ontario must be heard on this important piece of legislation.”

Obviously we're past that part of the program, shall we say, but I think it's very important, in this amendment, to make sure that when the board is appointed, representation on this board will be able to reflect the needs of northern Ontario by always having an appointment from northern Ontario, and again from rural Ontario.

Most of my planning experience is in rural Ontario, and I can tell you, there are a lot of differences in the planning in Oxford county than in downtown Toronto. I think it's very, very important that we have representation on the board so that when they're deciding how they're going to operate with this new board, in fact, everyone's perspective is on the board to help make that decision. That's why we feel that this is a great amendment. Assuring that everyone is represented: I can't see that the government would see that as a negative impact to this legislation.

With that, I hope we can count on their support.

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

Mr. Lou Rinaldi: I agree with, frankly, the majority of the statements that the member has made. I think I must remind the member that we have a Public Appointments Secretariat that does appointments for other agencies. Through their structure, they ensure that the people selected to serve on agencies reflect the true face of Ontario in terms of diversity and regional representation. So we have an agency in place to do just that, and I'm not sure we need to do something different. I have a lot of faith and trust in that particular agency.

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

Mr. Percy Hatfield: I guess I don't have the same faith and trust that the secretariat would do what I believe is right in this case.

This is an important amendment, equally important as ensuring that the members to the tribunals fall into the same classification, the same categories of being appointed from all across Ontario, from the north and from rural parts of Ontario.

Where I come from, in Windsor, we often think Ontario begins or ends in London, because we see, in our perception—and our perception sometimes becomes reality—that everything from London down gets the cream of the announcements, and we get some of the leftovers. It has been that way through successive governments. I'm not saying this is a Liberal thing. Certainly, when the PCs were in power, we felt the same way, if not more so.

I think the perception with the OMB—and I have nothing to base this on other than perception—is that most of the members came from Toronto or the GTHA. It

may not be a stated bias, but they can bring with them what they grew up with, what they know the planning principles are in Toronto or in the GTHA.

When you come to my southern part of the province—the gateway to Ontario, the front door of Canada, however you want to phrase it—we do things a little bit differently, and we think about planning a little bit differently.

I haven't lived in the north—I've lived in Pembroke, but that's not the north—unless you want to consider what was then Fort Churchill on Hudson Bay, where I started school, in Manitoba.

People in the north do things differently than we do in the south, and people in rural—as you know—

Mr. Lou Rinaldi: Absolutely.

Mr. Percy Hatfield: Sir, you know well, in representing a rural area, that people in the rural areas do things differently than we do in the big metropolis of Toronto.

So I think putting this in here is fair. I think it gives the secretariat the direction that is needed. I'm sure they do their best. But they can also be assured that—what's the use of appointing somebody from one occupation onto a board that regulates doctors? They should have some kind of a medical fraternity-type something in the medical community. Putting people on the board from across the province opens it up for people with expertise in planning, expertise in the law, expertise in whatever. They could come from any part of the province, but they'll bring with them their own experience, and it could be different than just from the Toronto perspective.

So I think it is a very good motion. I think we all should be supporting it.

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

Mr. Norm Miller: As the northern critic for the PC Party and the MNR critic, I have to say that in travelling around the north, the single biggest criticism of this government is Toronto-centric decision-making, rules made—

Mr. James J. Bradley: No.

Mr. Norm Miller: I heard some comment from the government side.

Mr. Bradley, I suggest you travel around the north, then, because that is the number one complaint when you travel around the north: decisions made at Queen's Park that don't reflect the reality of northern Ontario.

I think until you experience it, you don't realize just how huge northern Ontario is—the fact that there are indigenous communities; areas of northern Ontario that are mainly francophone; areas that have unorganized territories; much more reliance on natural resources, on mining, on forestry. It's just very different. The same applies, as well, to rural Ontario.

I think anything we can do to give the people of the north more of a voice here at Queen's Park is a positive thing, so I would support this motion.

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

Mr. Ernie Hardeman: I just want to point out, I think in Mr. Hatfield's comments comparing it to the Ontario Municipal Board and over time—the appointments there seem to be more centred around the large urban centres than they are in rural and northern Ontario.

I think what's even more important is that this isn't about the people who are going to adjudicate the actual applications and so forth; this is about the people who are going to deal with who they're going to help through the process, and what constitutes the public interest in having this application come forward. We want to make sure that every time somebody comes in and applies for funding, there's somebody there, at least one from northern and rural Ontario, that can say, "Yes, I understand. That's a very important issue in northern Ontario." It may be that the other five members of the board had never given it much thought because it wasn't what they'd been dealing with a lot, because most of it comes from the more urbanized parts of the province. But to have the voice of the less populated parts of the province on the board and guaranteed to be on the board I think is a great thing.

1640

I appreciate the comments of the parliamentary assistant, but I would just ask him if he really believes that when you go out and ask people in northern and rural Ontario—just go down the street in Northumberland and ask them, "Do you think that if there's no direction, you will be well represented on this new board that we're putting up?" I think they would say, "Not likely, because it will all be members from the large urban centres." That's why I think it's so important that it's not only seen to be done, because the people on the street that I talk to really believe, as my colleague said, that rural and northern get left out of these types of appointments because there is so much more population in the urban part of the province. This will be a reassurance that on this board, everybody's voice will be heard.

Again, I encourage the government to give it some consideration and decide that that's the right way to go. I think northern Ontario deserves it.

The Chair (Mr. Peter Tabuns): Further discussion? There being no further discussion—

Mr. Ernie Hardeman: Recorded vote, please.

Ayes

Hardeman, Hatfield, Norm Miller.

Nays

Delaney, Hoggarth, Malhi, McMeekin, Rinaldi.

The Chair (Mr. Peter Tabuns): The motion is lost.

We now go to the vote on the section as a whole. Are people ready to vote on section 7? All are ready? Good. Shall schedule 2, section 7, carry? Carried.

We then go to schedule 2, section 8. Is there any discussion on this section? People are ready to vote? Shall schedule 2, section 8, carry? It is carried.

We then go to schedule 2, section 9. Is there any discussion? There is none. You're ready for the vote? Shall schedule 2, section 9, carry? Carried.

We are then on section 10, and we have PC motion 25. Mr. Hardeman.

Mr. Ernie Hardeman: I move that section 10 of the Local Planning Appeal Support Centre Act, 2017, as set out in schedule 2 to the bill, be amended by adding the following subsection:

"Minister shall table report

"(3) The minister shall table the report in the Legislature."

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

Mr. Ernie Hardeman: This amendment would require the minister to table the annual report of the Local Planning Appeal Support Centre in the Legislature. To ensure transparency and accountability within the support centre, we believe the annual report should be tabled in the Legislature so all parties can be aware of how the centre is performing.

The Housing Services Corp. is required by legislation to give their annual report to the minister each year, and yet they were able to get away with gross misuse of funds until members of the opposition began to look at their spending. Giving the report to the minister wasn't sufficient to stop them investing housing money into numbered companies in Manchester whose only address was a lawyer's office or to stop HSC paying for a seven-day luxury vacation in South Africa for a board member.

Section 101 of the Ontario Municipal Board Act currently requires that the annual report be tabled in the Legislature:

"Annual report

"101. The board shall"—this is the requirement for the OMB presently—"after the close of each calendar year, make an annual report upon the affairs of the board to the Attorney General who shall submit the report to the Lieutenant Governor in Council and shall then lay the report before the assembly if it is in session or, if not, at the next session. R.S.O. 1990, c. O.28, s. 101."

This motion just has the requirement the same as it is presently for the OMB. If we look at this legislation, it refers to the fact that this is the OMB with slightly different criteria as to how they operate. But it is a transfer of the OMB function to the tribunal. We believe, when the OMB act disappears, that's one of the functions that should remain with this tribunal too. We believe the minister shall table the report in the Legislature when he receives it from the centre.

The Chair (Mr. Peter Tabuns): Mr. Rinaldi, please.

Mr. Lou Rinaldi: I'm not sure this is necessary. The Management Board of Cabinet's agencies and appointments directive already requires that the annual report of public agencies be made available to the public.

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

Mr. Ernie Hardeman: Presently, the function that's being performed requires it to be tabled with the Legislature so the people of Ontario know what's going on and how the money was spent, where it was spent and so forth from the annual statement of the Ontario Municipal Board.

Now we're going to call it something different—it is the municipal planning tribunal—but it says right in the documents that we started with that, in fact, this is a transfer of the powers from the Ontario Municipal Board to there with some modification as to the jurisdiction or the ability of the appeals to reduce the number of appeals. But, in fact, in a number of cases, the two are synonymous with the same body. If you listen to what the government has been telling us all, the change of names is only to protect the innocent and to give the assurances that we are changing the function, but the appeals body will still be there.

I think that the cost of doing that and how it runs—if it's going to be run by an outside jurisdiction, in fact, it should report to the government, and the government includes all members of the Legislature. I think something like this, particularly when it's just being set up—at this point, we don't know what the size of the budget will be; we don't know who's going to be eligible for the money and how it's going to function. I think it should be mandated that they have to report to the Legislature their annual report. I'm presuming that they're going to prepare an annual report, but so far I don't see that either.

I believe that we should be very clear that the Legislature wants to see how this entity is functioning. For transparency and accountability, I can't see anybody on this committee voting not to have a report tabled to find out how the organization that we just set up is performing.

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

Mr. Percy Hatfield: If I was still a betting man—I used to be a betting man until the Liberals killed the slots-at-raceways program that led to the 3,000 job losses at Windsor Raceway—

Interjection.

Mr. Percy Hatfield: I used to bet there; actually, that's what propelled me here: the loss of 3,000 local jobs. I would have bet that this was the one amendment that would have been accepted today. I would have put money on it.

I mean, for a government that says, "We're open and transparent," to hear the member from Northumberland—Quinte West say, "Well, it's already handled and it will be made public"—so what? What's the harm in accepting this that says it will come to the Legislature? Even if some obscure clause in some other bill somewhere on a shelf in some corner office says it will be made public, why not put it in here so that we know the annual report, as the precedent had it from other ones, will be given to the Legislature?

An open and transparent government would do that. I would have bet money on it. Obviously, I didn't win at the track that much; I wouldn't have won here, but I would have bet on it. I thought for sure that this was the one that would have been—I just don't see the harm in the government setting aside their speaking notes and doing what they know is right in their hearts and saying, "Yes, you know what? We are going to report this. We're going to table it in the Legislature."

1650

The Chair (Mr. Peter Tabuns): Thank you, Mr. Hatfield. Further discussion? There being none, people are ready for the vote?

Mr. Norm Miller: Recorded vote, please.

Ayes

Hardeman, Hatfield, Norm Miller.

Nays

Delaney, Hoggarth, Malhi, Rinaldi.

The Chair (Mr. Peter Tabuns): The motion is lost. We now go to the vote on section 10 as a whole.

Mr. Ernie Hardeman: Recorded vote, please.

The Chair (Mr. Peter Tabuns): A recorded vote is requested. All those in favour of adoption of schedule 2, section 10, please indicate.

Mr. Lou Rinaldi: Carried.

The Chair (Mr. Peter Tabuns): No. I've been asked for a recorded vote, so please indicate if you're in favour.

Ayes

Delaney, Hoggarth, Malhi, McMeekin, Rinaldi.

Nays

Hardeman, Hatfield, Norm Miller.

The Chair (Mr. Peter Tabuns): It is carried.

We then go to PC motion 26, on section 11: Mr. Hardeman.

Mr. Ernie Hardeman: I move that section 11 of the Local Planning Appeal Support Centre Act, 2017, as set out in schedule 2 to the bill, be amended by adding the following subsection:

"Minister shall table audit

"(1.1) The minister shall table the audit in the Legislature."

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

Mr. Ernie Hardeman: Yes. This amendment would require the minister to table the Local Planning Appeal Support Centre's annual audit in the Legislature, similar to the last amendment, to ensure transparency and accountability within the support centre. We believe the annual audit should be tabled in the Legislature so that all parties can be aware of how the centre is managing its finances.

The argument is generally the same as the last one. I think everyone in the Legislature has a right to the information as to how a body that was set up by the ministry to do this function, replacing the Ontario Municipal Board—at the very least, so we can actually have a look at the audit and see whether the last one from the Ontario Municipal Board—if we look at that and look at the new

one, are we actually doing the right thing? Are they doing the function as it should be done?

I don't know why anyone would suggest that telling the Legislature how an organization is doing is not the right thing to do, or is not contributing to transparency and accountability, both on the organization's part, and the people using it.

This is an organization that's going to help fund people who are going through the planning process. I think it becomes very important that we all know whether that's working. Is most of the money that's going into the support centre going to administration of it, or is most of it going to the people we intended to serve? I think the members of the Legislature have a right to know.

I know the members on the government side seem to think they don't have an interest because they're in government and they know all this stuff already. But I can tell you that if this isn't part of the tabling, the minister responsible will not likely be sharing it with the other members of the party either.

That's why I think it's so important that it becomes a public function, so we all know what this organization is doing.

The Chair (Mr. Peter Tabuns): Thank you. Mr. Rinaldi.

Mr. Lou Rinaldi: Very briefly, the argument that I posed before stays the same. That's already happening as we speak. It's part of the Management Board of Cabinet's agencies reporting mechanism. My argument is the same as for the previous motion.

The Chair (Mr. Peter Tabuns): Further discussion? There's none? People are ready for the vote?

Mr. Ernie Hardeman: Recorded vote.

Ayes

Hardeman, Hatfield, Norm Miller.

Nays

Delaney, Hoggarth, Malhi, McMeekin, Rinaldi.

The Chair (Mr. Peter Tabuns): The motion is lost.

We now go to the vote on the section as a whole. Any questions about the vote on the section as a whole? Mr. Hardeman.

Mr. Ernie Hardeman: Recorded vote.

Ayes

Delaney, Hoggarth, Malhi, McMeekin, Rinaldi.

Nays

Hardeman, Hatfield, Norm Miller.

The Chair (Mr. Peter Tabuns): It is carried.

Sections 12 to 16 have no amendments, and I would like to bundle them. Does anyone have any objection to bundling those four sections? No objections? Okay.

Shall schedule 2, sections 12 to 16, inclusive, carry? Carried. Done.

Mr. Percy Hatfield: Chair, I think we're making great progress here. Can I request a five-minute break?

The Chair (Mr. Peter Tabuns): Certainly. People are agreeable to a five-minute recess? All right.

The committee recessed from 1655 to 1702.

The Chair (Mr. Peter Tabuns): The committee is back in session.

We have NDP motion 26.1. Mr. Hatfield?

Mr. Percy Hatfield: I move that subsection 17(1) of the Local Planning Appeal Support Centre Act, 2017, as set out in schedule 2 to the bill, be struck out and the following substituted:

"17(1) Subject to subsection (2), the act set out in this schedule comes into force on the day the Building Better Communities and Conserving Watersheds Act, 2017 receives royal assent."

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

Mr. Percy Hatfield: It's self-explanatory, sir.

The Chair (Mr. Peter Tabuns): Comments from others? None? Mr. Hardeman.

Mr. Ernie Hardeman: I think being more definitive of how and when this bill comes into force—I think there's a challenge with having it come into force on the day of royal assent when there would be no regulations to govern it, because obviously the regulations would come out after the royal assent. In my opinion, the proclamation that's presently in the bill is the one that should drive the day, because the minister should not proclaim it until they're ready with all the regulations to make it function.

The Chair (Mr. Peter Tabuns): I have Mr. Rinaldi, and then Mr. Hatfield.

Mr. Lou Rinaldi: I talked about this in the past. The government needs time between royal assent and proclamation to appoint members to the board of directors and the support centre, which will then need to be operationalized. It's going to take a little bit of time.

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

Mr. Percy Hatfield: I was just hoping that the government would say, "You know, for once we're going to think outside the box. We're going to get to a certain stage, and then do the regulations and then we're going to release the regulations in draft form, and then we're going to hear comment from the interested parties, and then we're going to finalize the regulations, and then we're going to pass the bill and put it forward for royal assent." A better way of doing things.

The Chair (Mr. Peter Tabuns): I have no further speakers. You are ready for the vote? All those in favour of NDP motion 26.1, please indicate. All those opposed? It is lost.

We go to the vote on section 17 as a whole. Are there any questions before we go to the vote? There are none. Shall schedule 2, section 17, carry? Carried.

We then go to section 18. There are no amendments to section 18. Are there any questions about section 18?

Mr. Ted McMeekin: Carried.

The Chair (Mr. Peter Tabuns): I appreciate your enthusiasm, sir.

Mr. Ted McMeekin: It's my favourite section, Chair.

The Chair (Mr. Peter Tabuns): I have no doubt about it. I've been picking that up.

You're all ready? Okay. Shall schedule 2, section 18, carry? Carried.

We get to vote on schedule 2 as a whole. You're ready for the vote? Shall schedule 2, as amended, carry? Carried.

We go on to schedule 3, section 1. We have NDP motion 26.2. Mr. Hatfield.

Mr. Percy Hatfield: I move that subsection 1(1) of schedule 3 to the bill be struck out and the following substituted:

"1(1) Subsection 1(1) of the Planning Act is amended by adding the following definitions:

"'higher-order transit' means transit that operates in whole or in part in a dedicated right of way, including heavy rail, light rail and buses; ('transports en commun d'un niveau supérieur')

"'affordable housing' means housing that is priced with regard to household income and ability to pay with particular regard for low-income and medium-income households;"

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

Mr. Percy Hatfield: This is a motion that adds definitions to the Planning Act. Only the definition pertaining to affordable housing is new—for example, not the rapid transit definition, which is in Bill 139. The goal is to clarify that affordable housing is priced based on ability to pay and not on prevailing market prices, which could be unaffordable for most low- or middle-income people even with a 20% discount.

The Chair (Mr. Peter Tabuns): Further discussion? Mr. Rinaldi.

Mr. Lou Rinaldi: Again, I recommend voting against it for the reason that the provincial policy statement already includes a definition of affordable housing that is different than the proposed definition. The current definition is more detailed than the proposed definition. Municipalities have been using the current definition for many years. Adding the proposed definition to the provincial act will create confusion in implementation of provincial policies. Defining affordable housing in policy as opposed to legislation allows for a more flexible approach to the changing needs of those municipalities. Chair, as we have said in the past, there are different needs and different approaches in different parts of the province.

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

Mr. Percy Hatfield: I wonder if the parliamentary assistant could give me that definition he's making reference to, saying it's so much better.

The Chair (Mr. Peter Tabuns): Mr. Rinaldi?

Mr. Lou Rinaldi: I don't have it in front of me, Chair. Sorry.

Mr. Percy Hatfield: When they give you the speaking notes, they should also give you the definition. That's common sense.

Mr. Lou Rinaldi: Sometimes one does not want to—*Interjections.*

Mr. Lou Rinaldi: All right. So you want to hear it?

Mr. Percy Hatfield: Please. I do.

1710

Mr. Lou Rinaldi: "'Affordable' means:

"a) in the case of ownership housing, the least expensive of:

"1. housing for which the purchase price results in annual accommodation costs which do not exceed 30% of gross annual household income for low and moderate income households; or

"2. housing for which the purchase price is at least 10% below the average purchase price of a resale unit in the regional market area;

"b) in the case of rental housing, the least expensive of:

1. a unit for which the rent does not exceed 30% of gross annual household income for low and moderate income households; or

"2. a unit for which the rent is at or below the average market rent of a unit in the regional market area."

Mr. Percy Hatfield: It's not bad. I like it.

Mr. Lou Rinaldi: Thank you for asking.

Mr. Percy Hatfield: Thank you for having it available.

The Chair (Mr. Peter Tabuns): Further discussion? Mr. Hardeman.

Mr. Ernie Hardeman: Very much, Mr. Chair, I support the higher order of transit, but I understand that that's already what's in the bill; it's just taking out and putting back.

I have concerns with the wording of the housing one. It means "housing that is priced with regard to household income and ability to pay with particular regard for low and medium income households." What does that mean? I think the definition that the parliamentary assistant just raised had more information as to how you identify as opposed to just "have regard to." I think in a lot of things we've put in "shall have regard to," but that doesn't mean anything meaningful happens.

I'd be more inclined to see something that had a little bit more criteria, first of all, as to what low and medium income is and how we end up doing that. If you have the lowest income, it's hard to imagine that you could build or have something that's going to meet the needs of that individual without just actually subsidizing the individual to help pay the rent, because you can't build the building for that kind of return.

I'm a little concerned that that doesn't do as much, so I think we'll not be supporting this motion.

The Chair (Mr. Peter Tabuns): Okay. Is there any further discussion? There being none, we're ready for the vote. All those in favour of NDP motion 26.2, please indicate. All those opposed? It is lost.

We then go to the vote on section 1 as a whole. Any questions before we go to that vote? There are none. Shall schedule 3, section 1, carry? Carried.

Then we go to section 2. There are no amendments in section 2. Before we go to the vote, are there any questions? There are none? The vote, then: Shall schedule 3, section 2, carry? It is carried.

Then we go to schedule 3, section 3. Now, colleagues, I ask for your patience. Motion 27 is going to be stood down as this amendment is dependent on PC motion 38 or government motions 39 and 47 carrying. So we will wait until we've gone through those before we come back to this.

Now we need to change the order of the amendment package. We're going to deal with PC motion number 28 first and then go to NDP motion 27.1. You're all comfortable? Excellent.

We go to PC motion 28. Mr. Hardeman.

Mr. Ernie Hardeman: I move that subsections 3(8) and (9) of the Planning Act, as set out in section 3 of schedule 3 to the bill, be struck out.

The Chair (Mr. Peter Tabuns): Thank you. Discussion? Mr. Hardeman.

Mr. Ernie Hardeman: This amendment would strike out references to other legislation that focus only on the provincial policy statement for the defined provincial plan. This would reduce confusion and conflicting direction by ensuring that the tribunal is looking at the provincial policy statement when they are making a decision.

This amendment was requested by AMO, who said, "The intent of the provincial policy statement is to assemble all provincial policy that affects land use planning into one document to simplify and thus ensure all municipal planning is done in keeping with the provincial policies. In the past, planners had to sift through some hundred different pieces of legislation, regulation, and guidance to find provincial policy."

This, Mr. Chair, is to identify that and to put that change forward to make it simpler to find the statements as they do their planning process.

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

Mr. Lou Rinaldi: Again, I would recommend voting against. This could put the tribunal in an untenable position. For example, the Metrolinx Act requires municipal decisions to be consistent with the policy statement that can be used under the Metrolinx Act. This motion would conflict with that provision if it's passed.

The Chair (Mr. Peter Tabuns): Further discussion? There being none—

Mr. Ernie Hardeman: Recorded vote.

Ayes

Hardeman, Hatfield, Norm Miller.

Nays

Crack, Delaney, Hoggarth, McMeekin, Rinaldi.

The Chair (Mr. Peter Tabuns): The motion is lost. We then go to NDP motion 27.1. Mr. Hatfield.

Mr. Percy Hatfield: I move that section 3 of schedule 3 to the bill be amended by adding the following subsection:

"(2) Section 3 of the act is amended by adding the following subsection:

""New policy statement

""(11) If, pursuant to subsection (8), a policy statement is deemed to be a policy statement under subsection (1), the minister shall compile the deemed statement with any other existing policy statements.""

The Chair (Mr. Peter Tabuns): Thank you. Discussion? Mr. Rinaldi.

Mr. Lou Rinaldi: Chair, Bill 139 proposes to identify policy documents in the Planning Act for ease of reference.

Mr. Percy Hatfield: So you're voting in favour of that?

Mr. Lou Rinaldi: No.

Mr. Percy Hatfield: Oh.

The Chair (Mr. Peter Tabuns): Further discussion? There being none—

Mr. Norm Miller: Sorry.

The Chair (Mr. Peter Tabuns): Yes, Mr. Miller.

Mr. Norm Miller: This would require the policy statements issued under the Metrolinx Act, the Resource Recovery and Circular Economy Act and other policy statements prescribed to comply with the provincial policy to address AMO's concern that having to follow multiple policy statements would result in confusion and conflicts.

The government just defeated our motion, which would have been a better solution, I think, but this, I think, is trying to accomplish the same thing.

The Chair (Mr. Peter Tabuns): Okay, thank you. No further discussion? People are ready for the vote? All those in favour of NDP motion 27.1, please indicate. All those opposed? It is lost.

I'm going to hold down the vote on section 3, as we have a motion that still has to be considered. Any discussion on this before we have the vote? We're ready? Shall schedule 1, section 4, carry? Carried.

We then go to section 5, and we have NDP motion 28.1. Mr. Hatfield.

Mr. Percy Hatfield: I move that section 5 of schedule 3 to the bill be amended by adding the following subsection:

"(0.1) Subsection 16(1) of the act is amended by adding the following clause:

""(a.1) such policies and measures as are practicable to ensure the adequate provision of affordable housing;""

The Chair (Mr. Peter Tabuns): Further discussion? Mr. Rinaldi.

1720

Mr. Lou Rinaldi: I'd like to inform the member that we'd be prepared to support this.

Are you okay?

Mr. Percy Hatfield: I didn't hear that. What did he say?

Mr. Lou Rinaldi: Watch my hand.

The Chair (Mr. Peter Tabuns): Any further discussion? There being none, ready for the vote? All those in favour of NDP motion 28.1, please indicate. Opposed? It is carried.

Then we go to the vote on the section as a whole. Any questions about section 5?

Mr. Lou Rinaldi: We're ready.

The Chair (Mr. Peter Tabuns): Good.

Mr. Ernie Hardeman: Just a point I wanted to make for the record. The concern the public had, the impression, was that this bill will enforce pre-zoning around transit stations, but in reality, it only provides the option. I think everyone should understand that the zoning around transit stations is an option that municipalities may choose. It doesn't happen because this bill is passed.

The Chair (Mr. Peter Tabuns): Thank you. With that, we're ready for the vote. Shall schedule 3, section 5, as amended, carry? It is carried.

We now go to section 6 and we start with NDP motion 28.2. Mr. Hatfield.

Mr. Percy Hatfield: I move that subsection 17(24.0.1) of the Planning Act, as set out in subsection 6(1) of schedule 3 to the bill, be struck out and the following substituted:

"Basis for appeal

"(24.0.1) An appeal under subsection (2) may only be made on the basis that part of the decision to which the notice relates,

"(a) was made without regard to the matters of provincial interest set out in section 2; or

"(b) is inconsistent with a policy statement issued under subsection 3(1), fails to conform with or conflicts with a provincial plan or, in the case of the official plan of a lower-tier municipality, fails to conform with the upper-tier municipality's official plan."

The Chair (Mr. Peter Tabuns): Discussion? Mr. Rinaldi.

Mr. Lou Rinaldi: Again, I recommend voting against this motion. The matters of provincial interest set out in section 2 of the Planning Act are broad objectives. They do not set out specific planning policies or tests and, as such, do not lend themselves to being used as grounds for an appeal.

Provincial policies and plans set out the province's detailed interests in land use planning. They build on the matters identified in section 2 of the Planning Act. Municipalities' approval authorities and the tribunal need to ensure their decisions are consistent and conform to these more detailed policies and plans.

The Chair (Mr. Peter Tabuns): Further discussion? There being none, ready for the vote? All those in favour of NDP motion 28.2, please indicate. All those opposed? It is lost.

We go, then, to government motion 29. Mr. Rinaldi.

Mr. Lou Rinaldi: I move that section 6 of schedule 3 to the bill be amended by adding the following subsections:

"(3.1) Subsection 17(27) of the act is amended by striking out the portion before clause (a) and substituting the following:

"Decision final

"(27) If one or more persons or public bodies have a right of appeal under subsection (24) in respect of all or part of the decision of council, but no notice of appeal is filed under that subsection and the time for filing appeals has expired,...

"(3.2) Section 17 of the act is amended by adding the following subsection:

"Same

"(27.1) If no person or public body has any right of appeal under subsection (24) in respect of any part of the decision of council,

"(a) the decision of council is final; and

"(b) the plan that was adopted comes into effect as an official plan on the day after the day it was adopted."

Obviously, I recommend supporting this. The bill proposes that certain official plans and amendments would not be subject to appeal in their entirety. This technical motion will clarify that a non-appealable decision will come into effect on the day after the day it was adopted.

The Chair (Mr. Peter Tabuns): Discussion? Mr. Hardeman.

Mr. Ernie Hardeman: I'm sitting here reading it and I can't figure out what it is we're trying to accomplish with this. If someone has a right to appeal but doesn't appeal, the decision is deemed final when the deadline passes? Is that right? Maybe we need some legal clarification.

The Chair (Mr. Peter Tabuns): Please introduce yourself for Hansard, then proceed.

Mr. Peter Matheson-Young: My name is Peter Matheson-Young. I'm counsel with the Ministry of Municipal Affairs and Ministry of Housing, legal services branch.

If I understood the question, I think it would be resolved by the words that are omitted in the motion, where the ellipses appear. The existing subsection 17(27) does provide, as you said, that the decision today would come into effect at the end of the appeal period. In a circumstance now where there will be no appeal period because there is no right of appeal, the new subsection 17(27.1) would provide that the official plan amendment would come into effect the day after the day it was adopted.

Mr. Ernie Hardeman: Could you try that again?

Mr. Peter Matheson-Young: Sure. I think I was ultimately agreeing with what you said—that the existing provision would provide that an official plan or an official plan amendment comes into effect at the end of the period for filing a notice of appeal. The problem is, with the proposed bill there will be situations where no right of appeal exists; there is no appeal period. So the new subsection is to deal with that eventuality. But in all

other circumstances where someone can appeal, then an official plan would not come into effect until they've had the opportunity to potentially appeal, and if they don't file the notice of appeal, then at the end of that 20-day appeal period the official plan or official plan amendment comes into effect.

Mr. Ernie Hardeman: Maybe this is asking a legal question, but if I was that person who was deprived of my right to appeal before the deadline passed, but I hadn't done it before and it—what would be my chances of not taking it to court?

Mr. Peter Matheson-Young: Sorry. I'm not sure I understood the question.

Mr. Ernie Hardeman: I had a right to appeal for so many days, but I didn't do it at the time they passed it, so then they don't have to wait for the appeal period to expire before they take my right to appeal away?

Mr. Peter Matheson-Young: The act provides for 20-day appeal periods. If an appeal is filed outside of that period, then—and there have been board cases. Sadly, the ministry was involved in one of them, where the appeal was made after that appeal period and it's not a valid appeal.

Mr. Ernie Hardeman: Isn't that natural? If you have an official plan, there's an appeal period of time, and when it expires you don't have an appeal.

Mr. Peter Matheson-Young: That's right.

Mr. Ernie Hardeman: This must be talking about somebody else who had a right to appeal, didn't exercise it and then had a shorter time to exercise it?

Mr. Peter Matheson-Young: No. It's talking about a situation where no one decides to appeal. The existing subsection 17(27) would talk simply about the circumstance where no one chooses to appeal; everyone is fine with the decision. Should someone appeal the decision, then neither of these provisions would apply. They're there for circumstances only where no one appeals in the case of the existing subsection 17(27), because they choose not to appeal through the proposed motion on 17(27.1) because there is no right of appeal whatsoever of the decision. The Legislature has seen fit to remove that.

1730

Mr. Ernie Hardeman: Okay.

The Chair (Mr. Peter Tabuns): No further questions? Mr. Hatfield.

Mr. Percy Hatfield: The way I look at this government amendment: I realize it's housekeeping to some extent, but it does reflect the fact that Bill 139 will remove the automatic right to appeal for some people, although we don't know who. As written, subsection 34(7) says "if no notice of appeal is filed," but the government motion would clarify that only those with a right to appeal may actually appeal. Unfortunately, Bill 139 does not spell out exactly who does and does not have the right to appeal. It's the same with your motion 32 that's coming up. What's missing in here is who has the right to appeal and who doesn't have the right to appeal, as opposed to some of us having been removed from the list

of who has the right to appeal, but we don't know who it is yet.

The Chair (Mr. Peter Tabuns): Any further discussion? Yes, Mr. Miller.

Mr. Norm Miller: Would this amendment prevent an applicant or a party to the appeal from taking a lack of an appeal to court?

The Chair (Mr. Peter Tabuns): Welcome back, and again if you'd introduce yourself for Hansard.

Mr. Peter Matheson-Young: My name is still Peter Matheson-Young, and I'm still with the ministry as counsel in the legal services branch.

Mr. Norm Miller: Do you want me to restate the question?

Mr. Peter Matheson-Young: No, no, that's fine; thank you. No, this provision does not do anything about other potential avenues that may exist outside of the statutory right of appeal in terms of challenging a decision of a municipality through an application for a judicial review or an application under the Municipal Act. Whatever other avenues exist to challenge a decision outside of the statutory right of appeal are not impacted by this provision or indeed any amendments to the Planning Act.

The Chair (Mr. Peter Tabuns): No further questions? Thank you.

Any further discussion? There being none, are we ready to vote on government motion 29?

Mr. Percy Hatfield: Recorded vote.

Ayes

Crack, Delaney, Hoggarth, McMeekin, Rinaldi.

Nays

Hardeman, Hatfield, Norm Miller.

The Chair (Mr. Peter Tabuns): It is carried.

We go to PC motion number 30. Mr. Hardeman.

Mr. Ernie Hardeman: I move that subsection 6(4) of schedule 3 to the bill be struck out.

What this amendment would do, Mr. Chair, is reduce the delays in the planning process by reverting the timeline back to 180 days. This is one of a number of similar amendments we will be making.

Over the 13 years this government has been in office, they have lengthened the planning process over and over. While you can justify each one, that 30 days would give additional time for the process to work—all of those extensions add up. As the government has lengthened the process and added more red tape, Ontarians have seen a growing housing crisis. We have vacancy rates around 1% and over 171,000 families on waiting lists for social housing. We need to take steps to make the process more efficient to reduce the cost that is passed on to new homeowners and renters and to encourage more supply so the shortage doesn't drive housing prices up even further.

I think that's what has been happening. Each time you pass another piece of legislation that, for whatever reason, we decide—in this case, the discussion has been a lot about how, if we give more time, there will be more time for mediation, to talk and try and come to a solution to avoid the end result of what would be an appeal.

There's another one that goes on and has another—you can go back again and see if you can make another decision, have more mediation to do it again. All this is a very notable cause, and I would agree with needing more time to see if we can resolve it at the local level. But at some point in time—and everyone in the industry will tell you that time is money. Every time there's a delay and their investment is sitting there not getting built on, eventually it's going to increase the price of housing and make it more unaffordable for people. So, this here is just a motion to reduce the length of time back to 180 days.

The Chair (Mr. Peter Tabuns): Okay. Thank you. Further discussion?

Mr. Lou Rinaldi: Chair, I propose to vote against it. With Bill 139, we propose to extend the land use planning decision-making timelines for official plans and zoning bylaws by 30 days. Municipalities want to deal with issues in a timely fashion so they can move on. There was an enormous amount of consultation. We spent a lot of time. Extending that even further I think will delay decision-making even more.

The Chair (Mr. Peter Tabuns): Thank you. Further discussion? There being none, we'll go to the vote.

Mr. Norm Miller: Recorded vote.

Ayes

Hardeman, Norm Miller.

Nays

Crack, Delaney, Hoggarth, McMeekin, Rinaldi.

The Chair (Mr. Peter Tabuns): The motion is lost.

We then go to PC motion number 31. Mr. Hardeman?

Mr. Ernie Hardeman: I move that subsection 17(36.1.4) of the Planning Act, as set out in subsection 6(6) of schedule 3 to the bill, be amended by striking out “maximum densities” wherever it appears and substituting in each case “minimum or maximum densities”.

The Chair (Mr. Peter Tabuns): Thank you. Would you like to speak to that, Mr. Hardeman?

Mr. Ernie Hardeman: Yes. Currently, the bill says there is no appeal on maximum densities in a protected major transit station area. This amendment would change that to say that there is no appeal on both maximum and minimum densities in areas around transit stations. The province has already given municipalities the ability to prevent appeals on minimum heights in these areas. It makes sense that they would give municipalities the ability to set and maintain minimum density as well.

The province and cities are encouraging infill growth and development around transit to make more transit-

friendly cities. This would give municipalities another tool to help them achieve a minimum density to stop urban sprawl and build better transit hubs. This is consistent with the government's growth plan, which says, “Communities need to grow at transit-supportive densities, with walkable street configurations. Compact built form and intensification efforts go hand in hand with more effective transit and active transportation networks and are fundamental to where and how we grow. They are necessary to ensure the viability of transit, connect people to homes, jobs and other aspects of daily living, and meet climate change mitigation and adaptation objectives.”

This is why it's so important that we just add the word to make sure that this is based on both maximum densities and minimum densities. In certain areas, obviously the maximum is in the control of the municipalities. They may only want to go that dense, but it could also be a property where the owner has a different idea of what they build and all of a sudden they're going to build in a transit area the type of housing that will not be dense enough to create that population base that we should be building on our transit routes.

We're just asking that the words “maximum” and “minimum” both be included, that they can make rules to affect either one.

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

Mr. Lou Rinaldi: This motion will be redundant, frankly. The subsection proposed to be amended by the motion already proposes to restrict appeals of minimum density in protected major transit station areas through cross-reference to subsections 16(15) and (16) that address minimum density among other matters. Those issues are already addressed, Chair.

The Chair (Mr. Peter Tabuns): Thank you, Mr. Rinaldi. Further discussion? There being none—

Mr. Ernie Hardeman: Recorded vote.

Ayes

Hardeman, Norm Miller.

Nays

Crack, Delaney, Hatfield, Hoggarth, McMeekin, Rinaldi.

The Chair (Mr. Peter Tabuns): The motion is lost.
1740

We go to government motion number 32. Mr. Rinaldi.

Mr. Lou Rinaldi: I move that section 6 of schedule 3 to the bill be amended by adding the following subsections:

“(10.1) Subsection 17(38) of the act is amended by striking out the portion before clause (a) and substituting the following:

““Decision final

“(38) If one or more persons or public bodies have a right of appeal under subsection (36) in respect of all or part of the decision of the approval authority, but no notice of appeal is filed under that subsection and the time for filing appeals has expired,”

“(10.2) Section 17 of the act is amended by adding the following subsection:

“Same

“(38.1) If no person or public body has any right of appeal under subsection (36) in respect of any part of the decision of the approval authority,

“(a) the decision of the approval authority is final; and

“(b) the plan or part of the plan that was approved comes into effect as an official plan or part of an official plan on the day after the day it was approved.”

This basically follows the other, similar motion, without going into any further explanation.

The Chair (Mr. Peter Tabuns): Thank you, Mr. Rinaldi. Further discussion? Mr. Hardeman.

Mr. Ernie Hardeman: I guess I’m having a similar problem as I was with the last one. Who are we talking about? How would the approval authority know who has the right to appeal without having appealed?

Mr. Lou Rinaldi: If I could ask staff, Chair.

The Chair (Mr. Peter Tabuns): You’ll have staff come up. Welcome back, sir. Once again, an introduction, please.

Mr. Peter Matheson-Young: My name is Peter Matheson-Young. I’m counsel with the ministry.

It relates to the type of decision that’s being made. As the parliamentary assistant indicated, there are certain types of decisions proposed by the bill that would not be appealable. A new official plan, for instance, approved by the Minister of Municipal Affairs and Housing: No person or public body has a right of appeal, subject to the Legislature passing the bill as currently proposed. In that instance, the ministry would know, in making a decision, no one can appeal this decision, and so would want to give a notice that reflected that. They would not want to give a notice that said, “Oh, there’s a 20-day appeal period,” only to turn around and say, “No, we were just joking.” They want to give a notice saying that there’s no right of appeal, so the proposed 17(38.1) would be the provision that would provide for that decision to be final and to come into effect on the day after the date the ministry made the decision.

Mr. Ernie Hardeman: Thank you.

The Chair (Mr. Peter Tabuns): No other questions? Did you have a question? I’m sorry, sir. Mr. Hatfield, please proceed.

Mr. Percy Hatfield: Peter, did you really mean the Minister of Municipal Affairs and Housing?

Mr. Peter Matheson-Young: I apologize, Mr. Hatfield. I misspoke. I meant the Minister of Municipal Affairs.

Interjections.

The Chair (Mr. Peter Tabuns): Thank you, sir. Anything further, Mr. Hatfield?

Mr. Percy Hatfield: No, just having fun.

The Chair (Mr. Peter Tabuns): Fair enough, sir. Any other debate? There being none, I’ll call the motion, then. All those in favour of government motion number 32, please indicate. All those opposed? It is carried.

We then go to PC motion number 33. Mr. Hardeman.

Mr. Ernie Hardeman: I move that clause 6(11)(a) of schedule 3 to the bill be struck out.

The Chair (Mr. Peter Tabuns): Would you like to address that, Mr. Hardeman?

Mr. Ernie Hardeman: Yes. This amendment would reduce delays in the planning process by reverting back to the 180 days. This is one of a number of similar amendments we will be making.

Over the last 13 years the government has been in office, they have lengthened the planning process over and over. While you can justify each one, that 30 days would give additional time for the process to work, all those extensions add up.

As the government has lengthened the process and added more red tape, Ontario has seen a growing housing crisis. We have vacancy rates around 1% and over 171,000 families on the waiting list for social housing. We need to take steps to make the process more efficient to reduce the costs that are passed on to new homeowners and renters and to encourage more supply so the shortage doesn’t drive housing prices further up.

With this amendment, approval authorities will have 180 days to give notice of decision in respect to all or part of a plan unless they have been approved for an extension, or else groups may appeal to the tribunal for a decision. This is the same as what they currently have, so it strikes out the amendment for 210 days suggested in the bill.

Again, we believe that the 180 days is sufficient time to make a decision. The other days are just added on. I think everybody would agree that more time to get your job done is always beneficial, but if it’s not accomplishing sufficient results in better decisions, then we should look at getting rid of some of the time and the red tape so we can get on with the building, if that’s going to happen. A lot of these decisions wouldn’t even be appealable, so it’s very important that the local people make the decision one way or the other so that we can move on and get on with building, if that’s what’s going to be allowed, or tell them no, if that’s going to be the decision, so they can be planning for what else they’re able to accomplish, with the help of the municipalities.

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

Mr. Percy Hatfield: As Newton said, for every action there’s a reaction. This and some of the subsequent motions that are about to come up would remove the time extensions granted to municipalities under Bill 139. This would increase costs and time pressures on municipalities and make appeals to the LPAT more likely.

Here's a scary thought: Appeals that are based on these missed deadlines would be settled under the old rules with de novo hearings and not under the more limited scope of appeal enacted by Bill 139. I guess I've had enough of the municipal Kool-Aid that I don't want to go back to de novo hearings. I don't want to start all over; I want this bill to take us forward under a new regime. So I won't be supporting it.

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

Mr. Lou Rinaldi: I'll make it very brief. This motion is really contrary to the intent of the bill. We can't support it.

This is similar to motion 30. It's another attempt by the opposition to undermine municipalities. We will not be supporting it.

The Chair (Mr. Peter Tabuns): Further discussion? There being none, you're ready for the vote?

Mr. Ernie Hardeman: Recorded vote.

Ayes

Hardeman, Norm Miller.

Nays

Crack, Delaney, Hatfield, Hoggarth, McMeekin, Rinaldi.

The Chair (Mr. Peter Tabuns): It is lost.

We go to PC motion number 34. Mr. Hardeman.

Mr. Ernie Hardeman: I'm giving up, Mr. Chair. I withdraw that motion.

The Chair (Mr. Peter Tabuns): My goodness—so early in the day.

We go to PC motion number 35. Mr. Hardeman.

Mr. Ernie Hardeman: I move that subsection 6(13) of schedule 3 to the bill be struck out.

The Chair (Mr. Peter Tabuns): Mr. Hardeman, did you want to speak to that?

Mr. Ernie Hardeman: Yes. This amendment would change section 40.2 to match the number of days in section 40, keeping it at 180 instead of 210, for plans to be received and decided. This section is an exception for non-conforming lower-tier municipalities denied the right to appeal if they don't conform with upper-tier plans.

This is one of a number of similar amendments we will be making. Over 13 years—I could go on with that, but that's exactly the same. I'll do the courtesy that Mr. Hatfield made: If Hansard can put that into the next one, they're exactly the same comments on the reason why we think we need to shorten the time: to accommodate building more housing so people will not have to pay unaffordable housing costs and there will be units available for them to use.

1750

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

Mr. Lou Rinaldi: Chair, this is the same as the previous motion, 33, and actually 34 that they withdrew, and we feel the same way; we just cannot support this.

The Chair (Mr. Peter Tabuns): Further discussion? There being none, are people ready for the vote?

Mr. Norm Miller: Recorded.

Ayes

Hardeman, Norm Miller.

Nays

Crack, Delaney, Hatfield, Hoggarth, McMeekin, Rinaldi.

The Chair (Mr. Peter Tabuns): It is lost.

We then go on to PC motion 36. Mr. Hardeman.

Mr. Ernie Hardeman: I move that subsection 6(14) of schedule 3 of the bill be struck out.

The Chair (Mr. Peter Tabuns): Comments? Mr. Hardeman.

Mr. Ernie Hardeman: This amendment would change the number of days to match the number of days before an appeal could be filed in the rest of subsection 40. This planning process is already long. Adding more delays is not beneficial.

The Chair (Mr. Peter Tabuns): Further discussion? There is none. Are people ready for the vote?

Mr. Norm Miller: Recorded.

Ayes

Hardeman, Norm Miller.

Nays

Crack, Delaney, Hatfield, Hoggarth, McMeekin, Rinaldi.

The Chair (Mr. Peter Tabuns): It is lost.

We go to PC motion number 37. Mr. Hardeman.

Mr. Ernie Hardeman: I move that subsection 6(20) of schedule 3 to the bill be amended by adding the following subsections:

“Motion acknowledging non-conformity

“(49.3.1) Despite subsection (49.3), if the council of a municipality passes a motion acknowledging that a part of a decision to which a notice of appeal under subsection (24) or (36) relates is inconsistent with a policy statement issued under subsection 3(1), fails to conform with or conflicts with a provincial plan or, in the case of the official plan of a lower-tier municipality, fails to conform with the upper-tier municipality's official plan, the tribunal shall consider the appeal.

“Same

“(49.3.2) If the notice under clause (49.3)(b) has already been given when the municipality passes a mo-

tion under subsection (49.3.1), the matter shall immediately be referred back to the tribunal for a decision.”

The Chair (Mr. Peter Tabuns): Discussion? Mr. Hardeman.

Mr. Ernie Hardeman: This amendment would allow the tribunal to proceed with considering an appeal if a municipality passes a motion acknowledging that their decision is inconsistent with the policy statement and conflicts with the official plans. The planning process is already long. Adding more delays is not beneficial.

If a municipality has knowingly made a decision that is inconsistent with the provincial policy statements, this would allow them to acknowledge that, so the tribunal can proceed with the hearing and decision rather than having the delay of sending it back to the municipality.

For many communities that are fighting these appeals, it is already a long and stressful process. They would like it resolved as soon as possible. I have seen that first-hand with a group in my riding fighting a landfill proposal.

If a municipality knows that it does not conform to the provincial policy statement or the official plan and has no intent of changing that, it should not be held up waiting for a time period to pass before it goes to a tribunal. Chair, I think that’s so important. I know the purpose of this bill is to have more local decision-making and to make sure that every opportunity is given to the municipality and the elected officials to be able to make that decision. But if they have made the decision and they know the process it has to go through, I think it would be appropriate if they passed a motion to say, “Don’t bother sending it back to us for another review because we’re going to send it back to you in exactly the same way, and you make a decision as you see fit.” I believe that should be allowed, rather than to wait the other 210 days or whatever it is to put it through the second time for exactly the same result, if they already know they can’t meet the requirements that would prevent it from being appealed. So I think this will help—contrary to all the other motions that were trying to shorten the time, this will actually shorten the time for the benefit of everyone, most particularly the municipalities, because it would only happen when they pass a motion to actually allow it or to make it happen. I would hope that the government could see their way clear to actually support this one.

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

Mr. Lou Rinaldi: Chair, I mean, very inconsistent: One motion wants to shorten it and another one wants to lengthen it. But I would say that this is, again, contrary to the intent of the bill to provide for more decisions to be made locally. By requiring municipalities to reconsider their decision if the tribunal determines that a municipal decision was inconsistent or did not conform to provincial or local plans or policies, Bill 139 proposes to give municipalities the opportunity to address the shortcomings of their position while continuing to have the ability to address local matters in proposing a new decision.

Chair, what this really means is that if there’s something that maybe was an oversight, they have an oppor-

tunity to review it before assembling a full tribunal. I think this will actually shorten the process. And frankly, if they don’t want to review it, well, then, just say they don’t want to review it and it goes to the tribunal.

We cannot support this.

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

Mr. Percy Hatfield: I do not have anything close to the municipal experience that my friend from Oxford has, but I believe that I have a great deal more faith in our municipal politicians. As I read this motion, it says “if the council of a municipality passes a motion acknowledging that a part of a decision to which a notice of appeal ... relates is inconsistent with a policy statement ... or fails to conform”: if they pass that motion acknowledging they’ve done this against the rules and the regulations and the policy. Why would they do that?

For the most part, municipalities across the province have been calling for a reform of the OMB. If you’re calling for a reform of the OMB to get to a Local Planning Appeal Tribunal, why on earth would you purposely pass a motion to say, “Yes, we’re going to do this even though we know it’s not right,” knowing that the rule says that if you do it, it comes back to you and you’ve got to change your mind or else the appeal body makes the decision for you? Why would any municipality purposely go out and thwart the new regulations, rules and policies? Maybe I’m naive, but I have more faith in municipal politicians in Ontario that they wouldn’t do this. I don’t see the need for this amendment.

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

Mr. Ernie Hardeman: I very much appreciate the argument being made, but I would just refer back to the process that we’ve set in place in this bill, which is that if a municipality makes the decision and it doesn’t pay appropriate heed to the provincial policy statement or the local official plan, it goes to the board and then the board rules whether they did or didn’t. If they didn’t, they send it back. Then the legislation goes on to say that if they don’t correct it to meet the requirements of that, they can send it back to the board again, and then the board can make a decision on their own.

In that process, they did exactly what you said they wouldn’t do. In that process, they were just told by the authority that they were not meeting the requirements, and they sent it back the same way anyway, and that’s why the tribunal then has the opportunity to decide what they’re going to do with it.

It would seem if they never would do it based on it being against the provincial policy statement or the official plan, then we wouldn’t need this return visit because then it would be corrected and done. But this is based on that there could be a return visit.

I can almost assure you, in the reference I made about my local landfill site, that my community is concerned enough about that that they would, in spite of the official plan or in spite of provincial policy statements, still not support the zoning of the landfill site. I think, to save time and effort in the whole process, if that’s the case and

they sent a notice with that to the tribunal, there is not much sense in going through a second hearing, sending it back so we can do it again just to take up time, when we know the decision is going to have to be made by the tribunal and, either one way or another, decide it's not going to happen or change their position on it.

It's very closely aligned with a situation close to my heart. I know what you're saying, but I also know there

are going to be times like that where municipalities would, in fact, make a decision that's not necessarily in other people's interests, but it is in our interest.

The Chair (Mr. Peter Tabuns): Mr. Hardeman, with that, we're out of time.

The committee is adjourned until 4 p.m. tomorrow, reconvening in this room.

The committee adjourned at 1800.

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Also taking part / Autres participants et participantes

Mr. James J. Bradley (St. Catharines L)

Ms. Sara Khajavi, policy counsel, Ministry of the Attorney General

Mr. Peter Matheson-Young, counsel, legal services branch,

Ministry of Municipal Affairs and Ministry of Housing

Clerk / Greffière

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Ms. Catherine Oh, legislative counsel