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Smart Growth for Our Communities Act, 2015

Chair: Peter Tabuns
Clerk: Valerie Quioc Lim

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Comité permanent de la politique sociale

Loi de 2015 pour une croissance intelligente de nos collectivités

Président : Peter Tabuns
Greffière : Valerie Quioc Lim

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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON SOCIAL POLICY

COMITÉ PERMANENT DE LA POLITIQUE SOCIALE

Tuesday 3 November 2015

Mardi 3 novembre 2015

The committee met at 1600 in committee room 1.

SMART GROWTH FOR OUR COMMUNITIES ACT, 2015

LOI DE 2015 POUR UNE CROISSANCE INTELLIGENTE DE NOS COLLECTIVITÉS

Consideration of the following bill:

Bill 73, An Act to amend the Development Charges Act, 1997 and the Planning Act / Projet de loi 73, Loi modifiant la Loi de 1997 sur les redevances d'aménagement et la Loi sur l'aménagement du territoire.

The Chair (Mr. Peter Tabuns): Good afternoon, everyone. The Standing Committee on Social Policy will now come to order. We're here to resume public hearings on Bill 73, An Act to amend the Development Charges Act, 1997, and the Planning Act.

Please note, committee members, that additional written submissions that were received are distributed today.

For those who are presenting, you have up to 15 minutes for your presentation. Any time remaining will be used for questions by committee members.

ASSOCIATION OF MUNICIPALITIES OF ONTARIO

The Chair (Mr. Peter Tabuns): Our first presenters are from the Association of Municipalities of Ontario: Gary McNamara and Pat Vanini. If you'd have a seat and introduce yourselves for Hansard.

Mr. Gary McNamara: Thank you, Mr. Chairman. I'm Gary McNamara, president of the Association of Municipalities of Ontario.

Ms. Pat Vanini: Pat Vanini, executive director, Association of Municipalities of Ontario.

Mr. Gary McNamara: All right. Thank you for providing the Association of Municipalities of Ontario, AMO, the opportunity to contribute to your deliberations. First, there is much to support in this bill but there are also concerns.

In our package, you have a copy of my remarks, as well as a list of all recommendations and specific amendments, beginning on page 7. Today, given the available time, we are only be able to highlight some of the requested changes. However, I know you will seriously consider them all.

Let me start with the land use planning part of the bill.

There are several positive changes that create stability in the local planning process, that create efficiencies and improve predictability. These include:

—limiting appeals to the OMB where the municipality has amended its planning documents to comply with provincial plan requirements;

—changes that scope appeal situations;

—going from a five-year to a 10-year review period for the provincial policy statement;

—instructing the OMB to have regard for municipal decisions as it considers an appeal;

—requiring those who appeal to provide greater detail on the basis of their appeal; and

—providing greater time and means to settle appeals.

We are making eight recommendations for amendments to the planning portion and will highlight four of them now.

(1) Freezing the ability to make official plan amendments for two years after the plan is approved can have positive outcomes in more urban circumstances where growth is anticipated and for which it is planned. In rural-based areas where there is very low or no growth, it is not seen as a positive approach.

Rural-based municipal governments are largely dependent on single-activity or lot-based-activity applications brought forward by an individual who sees an economic opportunity. Some have suggested that the fix to this problem is to make rural councils the proponent. In most cases, it would be difficult to rationalize. It is further complicated as there would be no planning fees to support planning research and reports which are often done by consultants in rural areas. This will put even more pressure on the tight financial situations of rural governments.

The bill's one-size-fits-all approach will have different impacts and repercussions. An exception is needed for rural no-growth/low-growth areas, and we believe the government must act on this recommendation.

(2) Public engagement is integral to the planning process, and municipal governments have deep experience in consulting with the general public. Notwithstanding all the good consultation practices, some members of the public, or applicants, can be unhappy with a council's decision. If their desired outcome is not achieved, then the problem must be with the process. More process will not necessarily make for different decision-making out-

comes, but they will require a new administrative requirement which will further strain municipal capacity.

Changes to process also offer a new area for dispute. For example, in order to provide evidence to the OMB on oral submissions, will the bill be viewed as implying that municipalities are to record all meetings in order to have a record of verbal presentations? What will this mean for municipal freedom of information and privacy?

We ask that how oral submissions are to be accomplished should be the prudent choice of the municipality based on local circumstances and not arbitrarily regulated by the province. Gathering information at public meetings is very helpful and summaries of that information are often included in municipal planning reports.

(3) In the same vein, the requirement for an upper-tier planning advisory committee, PAC, with at least one member of the public is an overreach. This idea of mandatory planning advisory committees was tried in the past and was abandoned. It created confusion as to the legislative role of councils and what the accountability framework of public advisers is, and again involves another administrative practice.

If the goal is for the public to understand how their input is used by the municipality, we submit that a member of the public on a planning advisory committee will not achieve this. The mandatory PAC will create more issues than it resolves, and we respectfully ask that it be deleted.

(4) A key interest for AMO is to expand the use of planning tools to facilitate the development of affordable housing. An additional optional tool to facilitate affordable housing development is inclusionary zoning, but it's not a panacea solution for all new affordable housing development. Inclusionary zoning is typically more effective at helping moderate-income households rather than the very-low-income ones.

A blanket policy approach that says that secondary units are permitted throughout a municipality may create impacts, notwithstanding the desire to accommodate more units. It could put residents at risk or put municipal governments in a position that means additional levels of services are needed. Fire service is one example, as are water and sewer capacity, and we know who will hold the liability if something goes wrong.

In planning for the housing system and enacting solutions, the province should consider that there are different housing markets in Ontario which may require different solutions in different areas. In short, a one-size-fits-all approach is not the appropriate one. The language in Bill 39, the Planning Statute Law Amendment Act, 2014, which has been referred to the Standing Committee on General Government, is much more attuned to the reality of intensification through inclusionary zoning.

Let me now turn to development charges.

For there to be any hope of moving to municipal fiscal sustainability, growth must pay for growth. There needs to be an end to the ineligible services list, an end to the discounts on certain services, and an end to any service level calculation that looks 10 years back, instead of looking forward.

I wish to cover four areas in this portion of the bill.

Transit should not be a discounted service, nor should the development charge be calculated on a rolling average of the previous 10 years. Only a formula that covers 100% of costs and future service levels will fulfill the objectives of smart growth. To be very clear, the only DCA model that gets us to where we need to be on transit is the one the province used for the Toronto-York Spadina subway extension. The TYSSE approach was the right approach in 2006 and it is the right approach now for all municipal governments providing transit service.

Developers now know that they need this change, too. The housing market is looking for transit. Families look for less time commuting. Experts speak to the loss of productivity as a result of congestion. Let's get on with the future today.

Section 8 of the bill is of critical concern. It refers to agreements not only under the Development Charges Act, but any other act. Let me break this down a bit.

First, there are agreements related to services that are contained within the Development Charges Act but which may have a mandatory discount or are ineligible. However, there are agreements, mutually negotiated and entered into, that deal with these matters. It must be clear that any current agreements are continued and without uncertainty. There must be a clear grandfathering clause.

Second, we strongly suggest that negating any new related agreements may not be helpful to developers who wish to accelerate their interests. You will no doubt have submissions from municipal governments that speak to this matter.

Finally, there are other types of agreements between municipal governments and people who want to utilize land and build where there may or may not be development charge bylaws. For example, there are agreements for the maintenance and improvements related to solar and wind development. Are these types of agreements, generally done under the Municipal Act, also invalid now or in the near future? The province gave municipal governments natural person powers to enter into agreements, and this bill seems to take that away. The province not only must make this section absolutely clear; it must leave all existing agreements intact and not impinge on the future ability to enter into agreements under the DCA and, even more so, other acts, including the Municipal Act.

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As legislators, your job is to ensure the law is clear, that it makes sense in practice and anticipates and avoids unintended consequences. At this point, much greater analysis of this section and clarity are needed.

With respect to other municipal services that are on the discounted list in the current act or listed as ineligible, we understand that they are to be moved to regulations.

With respect to the discounted services, we look forward to reviewing the regulation that will remove the 10% discount on recreation facilities, libraries and child care to support fiscally sustainable community hubs. We

were pleased in August, and remain so, with the government's acceptance of Karen Pitre's community hubs report and its implementation.

Section 6 of the bill is problematic. It makes charges payable upon the first building permit being issued. It should be deleted. Our concern is that if this section is not amended, it may lock in lower DC rates and permit developers to not follow through on their building timelines to avoid increased charges.

There are a couple of additional requests of a technical nature related to area-specific charges and asset management in the specific amendments portion of the document.

In summary, we support much of what is contained in Bill 73. At the same time, there is a need for more critically important amendments. We ask the committee to give them serious consideration.

At the end of the day, long after the shovels have left the ground, the sod has been laid and the keys have been turned over, municipalities are called upon to deliver services, keep them running well, and also financially plan for their ongoing maintenance and eventual future replacement. Over time, it is municipal governments that have to respond to the community needs.

The Chair (Mr. Peter Tabuns): Thank you, Mr. McNamara. We have a little over three minutes left. We'll start with the official opposition.

Mr. Ernie Hardeman: Thank you very much, Mr. President, for your presentation.

Just in the order of your presentation, the issue of the planning advisory committee having one layperson on it: Could you explain a little bit more about AMO's concern with that? We have that concern in Oxford, I know, because all planning committees are all elected officials. They do all their business in public and they don't want to set up a new committee. Is that true of the rest of the province too?

Mr. Gary McNamara: Well, as I stated earlier in my remarks, by adding another layer, especially at the upper tier, for example, it could be problematic; there's no question. You're absolutely right in terms of: What transpires within the municipality is very open and transparent. We have our public meetings that are there. The opportunities for the general public to take part, to get involved, are certainly there—

The Chair (Mr. Peter Tabuns): I'm sorry to say you're out of time, and I have to go to the third party.

Mr. Percy Hatfield: You were just about to finish a point. Would you care to finish that point?

Mr. Gary McNamara: Well, the point is that it has added another layer of bureaucracy or another layer of red tape—another slow issue that affects both the municipality and the developers.

Mr. Percy Hatfield: In part of your presentation, you talked about agreements "mutually negotiated and entered into that deal with these matters. It must be clear that any current agreements are continued and without any uncertainty. There must be a clear grandfathering clause." Are you thinking about the Seaton lands in Pickering, or is this something else?

Mr. Gary McNamara: No, this is basically any agreement that a municipality has worked with. A good example of that is an agreement on solar farms, an agreement on solar projects, where there's a benefit that's been negotiated between that particular developer and a municipality. That is an area that we feel, under the act, could be problematic and basically a loss of that ability. The person's powers that were given to the municipalities could be taken away.

The Chair (Mr. Peter Tabuns): Sorry, Mr. McNamara; time's up. Mr. Rinaldi.

Mr. Lou Rinaldi: Gary, hello again, and Pat.

Mr. Gary McNamara: It's nice to see you, Lou.

Mr. Lou Rinaldi: It's good to see you. We'll see you Thursday, probably.

You've made some references to inclusionary zoning in your remarks. Inclusionary zoning is not part of Bill 73, but it is part of the review of the Long-Term Affordable Housing Strategy. If you could just refresh my memory, did AMO make a submission to the Long-Term Affordable Housing Strategy?

Ms. Pat Vanini: Yes, we did. The reason we placed the inclusionary in this is because we knew you were going to get commentary from others to change the bill to make it as a right.

Mr. Lou Rinaldi: But that piece is being dealt with through another section. I'll just point it out, to be clear. Thank you.

The Chair (Mr. Peter Tabuns): Okay. Thank you, Mr. Rinaldi. Thank you very much.

Mr. Gary McNamara: Thank you, Mr. Chairman.

NAIOP

The Chair (Mr. Peter Tabuns): Our next presenter: Joel Pearlman, NAIOP, the Commercial Real Estate Development Association. Mr. Pearlman, have a seat and identify yourself for Hansard. You have up to 15 minutes.

Mr. Joel Pearlman: Chair, members of the committee, thank you for the opportunity to speak on Bill 73. My name is Joel Pearlman and I am the co-chair of NAIOP's government relations committee. NAIOP is a commercial real estate development organization and it represents developers, owners and professionals in office, industrial, retail and mixed-use real estate. With over 1,000 members from 200 companies in the greater Toronto area, NAIOP is the prominent voice for commercial real estate in the region. We work closely with other groups in the real estate industry. Indeed, we support the submissions from the Ontario Home Builders' Association with respect to Bill 73.

While NAIOP supports the government's efforts to create a planning and development charges system that is accountable and transparent, we are concerned that some of the proposed amendments will undermine the goals of the legislation, dramatically increase costs and hurt growth. In particular, we are concerned that Bill 73 will

lead to disproportionate taxation on development and limit Planning Act appeal rights.

The commercial real estate development industry has four primary concerns with Bill 73. The first one is the moratorium on official plan amendments. During the two-year period following the adoption of a new official plan or the global replacement of a municipality's zoning bylaws, no applications for amendment are permitted.

NAIOP understands the rationale behind providing municipalities and landowners with a period of certainty following the adoption of a new official plan or global replacement of zoning bylaws. However, the proposed amendments will have negative, unintended consequences as there is not a clear definition of what constitutes a new official plan or comprehensive zoning bylaw review.

To ensure fairness and transparency, Bill 73 must provide certainty as to what standard must be reached to obtain this moratorium on amendment applications. As drafted, the bill assumes that new official plans anticipate all the potential consequences of amendments made to existing plans. Unfortunately, planning is an evolving process, and this legislative proposal is too inflexible a tool for the fluid nature of planning.

Secondly, during the two-year period following an owner-initiated site-specific rezoning, applications for minor variances are permitted only with city council approval. NAIOP opposes a two-year moratorium on applications for minor variances following an owner-initiated site-specific rezoning. This restriction appears to have been motivated by a few isolated cases related to residential projects in Toronto, where floors were added immediately after approval.

Unfortunately, the restriction will have a substantial negative impact on all zoning applications and will add uncertainty to the planning process. In the development process, minor variances are necessary in instances where something may have been missed, was measured differently, or where a tenant in a commercial property requires a small change that was not initially envisioned. Restricting this ability to obtain a minor variance will cause substantial delays and constraints for developers by forcing them to request council approval.

Due to the nature of municipal councils, there can be months of delays between meetings or even getting the item on the agenda. Forcing developers to go to council for minor tweaks to the zoning bylaws seems excessive and inflexible when considering building realities.

Both the moratorium on the official plan amendments and rezoning will have unintended consequences. For example, tenants supporting new commercial developments sometimes require changes that the developer has not envisioned when the official plan or zoning changes were made. Flexibility is required, and a two-year moratorium would hamstring developers and tenants.

Transit services are added to the list of services for which no reduction of capital costs is required in determining development charges. NAIOP proposes the elimination of the 10% municipal contribution. By adding transit to the list of services where there is no reduction in the capital costs that benefit existing residents, this amendment will result in a new development paying a disproportionate share of the costs.

While NAIOP's membership is pleased to pay for its fair share for these services, it is unfair and unbalanced to have a new commercial tenant bear the costs of connecting a region through transit.

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If a development consists of one building that requires more than one building permit, the development charges for the development are payable upon the first building permit being issued. NAIOP is concerned that this proposed change would impact sites that are being developed over multiple stages. It is important for municipalities and developers to clearly understand whether development charges in a multi-building development will be payable upon the issuance of the first building permit or if development charges will be payable as the phase building development progresses. Given that the timeline for a multi-building development often extends over many years, NAIOP wants to ensure that there is flexibility in the legislation related to the payment of development charges.

In closing, I'd like to thank you again for this opportunity to present NAIOP's recommendations on Bill 73. I'd be pleased to answer any questions.

The Chair (Mr. Peter Tabuns): Thank you very much. We have about three minutes per party. We start with the third party: Mr. Hatfield.

Mr. Percy Hatfield: Thank you for being here today. I was reading some of the written submissions that we received yesterday. We have one from the Federation of North Toronto Residents' Associations, FONTRA. According to that, usually more than 3,500 minor variance applications a year are being adjudicated by Toronto's committee of adjustment, of which about 300 are being appealed to the OMB. I think you were giving the impression that minor committee of adjustment decisions weren't all that big a deal. It seems like that's what they deal with all the time.

Mr. Joel Pearlman: No, I don't think that it's not a big deal. I think it's a necessary tool for development. You're going to have unintended consequences in commercial developments by having a two-year moratorium on them.

Mr. Percy Hatfield: All right. This group also suggested that the official plan next year will reach the 15-year milestone of its 30-year planning horizon already mutilated by some 300 amendments. We listened to the chief planner for the city yesterday as well, who said that it's always in a continual flow. What is a new official plan when the existing official plan is constantly under appeal or under review, always being updated?

Mr. Joel Pearlman: I think, as you suggest, on the official plan, we're looking for a little more clarity on it. I think some of the official plan, as you said, is always in constant flow. But what we're looking for is, if there's going to be a moratorium, that the plans have to be updated to a level that makes it acceptable for there to be a

moratorium. Otherwise, again, we're worried about the development being stagnated if you have an old plan and you're putting a two-year moratorium on it.

Mr. Percy Hatfield: Under a phased development and paying all the fees up front, some municipalities are concerned that we don't hear about development fees going down; they're usually going up. If you pay it up front, you can buy it at this year's rate as opposed to three, five or 10 years down the road when the rates have gone up. They see that as a loss to the municipality but a benefit to the developer. But you see it as not that at all, then?

Mr. Joel Pearlman: There's always the present value of money. If a developer chose to pay it three or five years in advance, there is value to having the money in hand at that point.

I'm saying that it shouldn't be a requirement, but it should be an option because there can be developments, and there are developments in the downtown core I can think of—Bay and Adelaide—where they stagnated the development for almost 15 to 20 years, the phases of the development. If they were forced to pay those fees up front, it's a huge cost to that developer.

The Chair (Mr. Peter Tabuns): Thank you. Your time is up. To the government, Mr. Milczyn.

Mr. Peter Z. Milczyn: Thank you, Mr. Chair. I appreciate your concerns around the removal of the 10% discount on transit, but I was wondering: In a typical Ontario municipality, what proportion of an industrial or commercial development charge would actually be allocated towards transit?

Mr. Joel Pearlman: In a typical—I'm not sure I have that information.

Mr. Peter Z. Milczyn: I know the city of Toronto answer. In Toronto, 12% of development charges go to transit, so a 10% discount would add 1.2%. So it's a pretty small amount. You're concerned about a disproportionate charge of development charges against certain types of development. But I would assume that if one of your members is building an office building, that actually creates more demand for public transit than just a few detached homes. Perhaps we are actually allocating the cost where it should go.

Mr. Joel Pearlman: I can see your point. Again, I think our concern is that this is happening in areas where there is existing transit and the upgrade of that existing transit is all being put on the new development when there are other owners or landowners or office owners who should be paying their share there. So to put the entire taxes on the new development doesn't seem proportionate.

Mr. Peter Z. Milczyn: But growth is supposed to pay for growth. "The incremental costs are being allocated in a more equitable way" is what our argument would be.

Mr. Joel Pearlman: Okay. I think we see it as being allocated more to the development side. I understand your argument is that growth should pay for growth, but there are a number of development charges that current owners and developers are already paying, and this is just an added one. We think if there's existing infrastructure, it's benefiting everyone; it's not just for the sole benefit of the development.

The Chair (Mr. Peter Tabuns): Further questions? You have 20 seconds.

Mr. Peter Z. Milczyn: In general, the suite of changes proposed in the act: Is it going to allow development to continue apace in the province?

Mr. Joel Pearlman: I think development will continue, but there are definite concerns when it comes to minor variances and the official plan, because development is fluid. If it becomes too restrictive and there's a moratorium, we have an issue with getting things done, especially when you're trying—

The Chair (Mr. Peter Tabuns): I'm sorry to say, but your time is finished and I have to go to the opposition. Mr. Miller.

Mr. Norm Miller: Thank you for your presentation. I guess I'll ask about your point 2, which is, "During the two-year period following an owner-initiated site-specific rezoning, applications for minor variances are permitted only with council approval."

Could you give examples of problems that would be created by this provision and also, in addition to the examples, what you would rather see than what I gather you think is too restrictive and would create problems for you?

Mr. Joel Pearlman: Sure. We spoke about how part of the genesis may be coming from some of the residential minor variances. I could put that same example where a commercial development has an anchor tenant that's waiting to move downtown and bring taxes to the city and they need an extra floor. That's a minor variance that we could go to the city, to council, to get done, but under this moratorium, you wouldn't be able to do that.

There are changes constantly when you sign an anchor tenant for a large building that may revolve around parking, that may revolve around some of the design—they want extra features. It's a part of the business where we need to be able to be a little bit flexible to deal with it.

Personally, we think the current system isn't as flawed as others may think. We think the OMB system works and we think that having the ability to go to a committee of adjustment for minor variances shouldn't be altered that dramatically.

Mr. Norm Miller: And I think you gave an example, also, of just measurements being off. So that might be a surveying mistake?

Mr. Joel Pearlman: Yes. It could be as minor as that, and this seems to capture those things, where it's just a minor change: It's built a little bit off or measurements were off on the initial plans and we need to get a minor variance.

Mr. Norm Miller: So you see it as being too restrictive and that would negatively affect your business?

Mr. Joel Pearlman: Correct.

Mr. Norm Miller: Okay.

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

Mr. Ernie Hardeman: One of the things that's in there is about timing, but the review of the official plans generally, the first one—we're going 10 years instead of

five. Everybody tells me it takes a long time to do the review of an official plan. Do you believe that after this first one, they could get it done in five years?

Mr. Joel Pearlman: Quite frankly, no; I think it will take more time. Again, I think development is an evolving process. You might think of something for five years from now, and five years from now, everything will have changed. Tenants' needs will have changed 10 years from now or two years from now. So we have to be able to be a little bit flexible. That's really our largest concern with Bill 73. It's removing a lot of the flexibility.

The Chair (Mr. Peter Tabuns): Okay. Time's up. Thank you very much.

Mr. Joel Pearlman: Thank you.

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COUNTY OF RENFREW

The Chair (Mr. Peter Tabuns): Our next presenter: county of Renfrew, Peter Emon, warden.

Mr. Emon, thank you. Have a seat. You have up to 15 minutes. Please introduce yourself for Hansard.

Mr. Peter Emon: Good afternoon, Chair and committee. My name is Peter Emon. I'm the warden of the county of Renfrew. We're along the Ottawa River in eastern Ontario—7,000 square kilometres, with 50% of our land being crown land of some description.

The county of Renfrew is pleased to submit our comments on the proposed changes to Bill 73. There are portions of Bill 73 that the county fully supports. These include:

—clarifying what is meant by "minor" in minor variances;

—requiring greater explanation of appeals in certain cases;

—removing the requirement to review employment land policies in the five-year official plan reviews; and

—removing the ability to appeal entire new official plans.

The county also supports a change in the time frames required for official plan and PPS—provincial policy statement—reviews. We see benefits to changing these to 10-year reviews.

There are several portions of Bill 73 that cause the county of Renfrew concern. Like any review of legislation, the proposed changes must be examined in the context of existing legislation. In this case, the proposed changes may result in limitations to growth in parts of the province that are already deemed to be slow-growth areas, and we are such an area.

Bill 73, combined with the impact of existing legislation like the Endangered Species Act, would add unnecessary layers of bureaucracy and process to land use planning in rural eastern Ontario.

Specifically, the following section numbers refer to proposed legislation:

Subsections 26(1) and (1.2): We agree with the proposed changes that would extend the review interval of the PPS and new official plans from every five years to every 10 years. The five-year review cycle comes around very quickly and places a strain on the resources of municipalities, and puts them in a constant state of review, at the expense of other planning initiatives. The 10-year cycle provides a balance between ensuring stability of the documents while ensuring they are updated appropriately to reflect changing trends.

Unfortunately, the benefits of these changes are somewhat undermined by the continued requirement in Bill 73 that official plans be reviewed every five years thereafter. Since most updates to official plans are through the five-year review process, the proposed changes to the Planning Act will have a negligible impact.

In order to fully realize the benefits of the 10-year review cycle, all official plans, new and updated ones, should be reviewed every 10 years. Since the PPS itself is proposed to be reviewed every 10 years, and since the main purpose of OP updates is to ensure consistency with the PPS, it only makes sense in our minds to make the 10-year time frame standard across all reviews.

The option of reviewing all or parts of its official plan sooner than the 10-year time frame would always be available to a municipality and would strengthen local autonomy, which is a stated objective of Bill 73.

Respectfully, the county of Renfrew recommends amending this section to require a 10-year review of official plan updates, which would be consistent with the 10-year review cycle of the PPS.

Section 8: We are opposed to making planning advisory committees mandatory at the upper tier. We're also opposed to requiring that at least one member of the public sit on these committees. Most, if not all, of my county colleagues have standing committees of county council which have served their communities well as reporting vehicles on planning matters. It is difficult to see how requiring the creation of another committee at the upper tier streamlines the planning process or enhances local autonomy.

We also fail to see how having one member from the public on a committee engages the wider public. The Planning Act already requires extensive public engagement and public consultation. It is important to acknowledge that elected officials play a significant role in representing the public interest.

The bill should be amended by making planning advisory committees optional at the upper tier, as is proposed for lower tiers. The decision to have citizen representation on these committees should also be left to the municipality, thus enhancing local autonomy.

Respectfully, the county of Renfrew recommends that we amend this section to delete the requirement to have planning advisory committees at the upper-tier level and remove the requirement to have citizen representation.

Subsections 22(2.1) and 34(10.0.0.1): We do not agree with the proposed change that would prohibit amendments to a new official plan or global replacement of a zoning bylaw in the first two years except those initiated by the municipality. This has never been an issue in the county of Renfrew, and we do not see the need for this

change, which has the potential to delay and even prevent development projects which are needed for growth—I should say "desperately needed for growth."

We would also like to point out a possible discrepancy in what is intended by the proposed legislation and what the legislation actually states. The backgrounder on Bill 73 dated March 5, 2015, prepared by the MMAH, states that once a municipality establishes a new official plan, it would be frozen and therefore not subject to new amendments for two years, unless changes are initiated by the municipality.

We note, however, that the wording in the proposed legislation in section 22(2.1) states: "No person or public body shall request an amendment...." Under the Planning Act, "public body" includes a municipality. Therefore, a straight reading of the proposed legislation would lead one to believe that no amendments, including those by a municipality, would be permitted within two years. The legislation should be amended to reflect the true intent.

Respectfully, the county of Renfrew recommends to delete the reference to a two-year moratorium on amendments to new official plans and zoning by-laws. If the two-year moratorium is kept, this section should be amended to permit a public body to initiate an amendment.

Finally, subsections 45(1.2) and (1.3) would prohibit a minor variance to an owner-initiated site-specific rezoning within two years unless council passes a resolution permitting such an application. We find this is an unnecessary complication of the process, without any perceived gain. This and other various changes to time frames and notice procedures spread throughout Bill 73—for example, subsection 34(18.1)—add more administrative complexities to the Planning Act, making the implementation of planning matters all the more difficult for municipalities, without resulting in commensurate benefits.

Respectfully, the county of Renfrew recommends to delete restriction on minor variance applications within two years of a site-specific zoning by-law amendment.

Submitted on behalf of the county of Renfrew by myself.

I would take questions, if there are any.

The Chair (Mr. Peter Tabuns): Thank you very much. We have a little over two minutes for each party. We start with the government: Mr. Rinaldi?

Mr. Lou Rinaldi: Your Worship, welcome.

Mr. Peter Emon: Thank you.

Mr. Lou Rinaldi: Good to see you, coming from the far east.

Mr. Peter Emon: The far east, yes.

Mr. Lou Rinaldi: The employment lands piece in Bill 73: The bill, if passed as proposed, proposes that municipalities are not forced to review their employment lands policies at the time of their official plan review.

My understanding from you is that you support that. But I wonder if you could be a bit more specific about what that really means to a municipality during an official plan review, that you don't have to deal with that piece.

Mr. Peter Emon: In the county of Renfrew, 68% of our tax revenue is generated by the residential tax return. As such, we've been slowly losing industrial and commercial land, and we're not able to adequately quantify or project what lands will be tied to employment, in short. It would make it difficult, and it's just another added level of study that may be out of date after a small plant either changes purpose or leaves.

Mr. Lou Rinaldi: I guess what I glean from that is that it gives you a little bit more stability when it comes to investment in your community.

Mr. Peter Emon: Yes, that would be the short version of it. Thank you.

Mr. Lou Rinaldi: Okay, thank you very much. Thank you for being here today.

Mr. Peter Emon: Thank you.

The Chair (Mr. Peter Tabuns): Official opposition: Mr. Hardeman?

Mr. Ernie Hardeman: Thank you very much, Warden, for your presentation. Having had the privilege of being a municipal politician and a warden for 14 years in my career, I find it interesting that this is almost an identical presentation to one I made when the minister introduced this piece of legislation. It seems that the issues you speak to are more prevalent because this bill is trying to solve a problem in the more urban areas, and it reflects differently in rural Ontario than they propose.

One of the first ones you mentioned was that you appreciated the clarification of "minor." Yesterday, when I asked the city of Toronto about the freezing of the minor variance for the two years, I said it would be rather difficult in some cases, because it may be a very minor change, but they can't make it until they go through the process of getting a minor variance at the request of the municipalities. She was talking about the minor variance being increasing the building by three or four floors. In all my years in politics, I never saw three or four floors being a minor variance to any building. That's a major building.

1640

Could you explain to me a little bit what you call a minor variance and what you appreciate about the bill—clarifying?

Mr. Peter Emon: I've chaired our minor variance committee in my host municipality for about 12 years. For us, a minor variance may include allowing a deck to be within two or three metres of the property line. It maybe include sawing off some of the property from an adjoining property owner to clarify where the neighbouring septic system is because the land has been transferred over the years using a stone as a marking, or an old fence line that's no longer there. So a minor variance for us often means allowing someone to do something unique to their property that's not of great expense and not something that involves a great deal of effort by our planning department or the legal department to clarify what—it's usually a site inspection and then a site plan.

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

Mr. Percy Hatfield: Welcome, Warden. I lived in Pembroke from 1970 to 1974. I don't know if I should mention that; I'm not sure about the statute of limitations, 40 years, whether that's covered or not.

Mr. Peter Z. Milczyn: Do you have some outstanding parking tickets?

Mr. Percy Hatfield: It's still there. Parking tickets are there.

Mr. Peter Emon: The ladies at the Canada house were asking about you.

Mr. Percy Hatfield: Oh, no, the Pembroke hotel.

The possibility of a citizen-partner on the planning advisory committee—there's nothing in here about any criteria that that person would have. If this does go ahead, can you suggest any criteria or qualifications that a citizen would have to have?

Mr. Peter Emon: I would hope that if it were to go forward, there would be some kind of an educational process similar to minor variance, where you have to consider the four criteria before you offer up a decision, and you speak to those criteria in the minor variance decision. I think, should someone who isn't as experienced in planning matters—I think they need an education and a planning 101 and then possibly some instruction on process as well. As you know, there are a series of timing requirements for most of the Planning Act and appeals, and the language has to be quite specific, quite prescriptive and usually quite bland in order to not give somebody too much of a leverage point should they try to appeal it.

Mr. Percy Hatfield: Have you passed this through the Eastern Ontario Wardens' Caucus? Have they had the chance to look at this yet at all?

Mr. Peter Emon: Yes, we have talked about it, and I think they're quite comfortable with the approach that there's not an overriding need for public representation in a body such as this.

Mr. Percy Hatfield: Thank you.

The Chair (Mr. Peter Tabuns): Thank you very much, sir. Thanks for your presentation.

Mr. Peter Emon: Thank you.

WATSON AND ASSOCIATES ECONOMISTS LTD.

The Chair (Mr. Peter Tabuns): Our next presenter is Watson and Associates Economists Ltd. Gentlemen, as you've seen, you have up to 15 minutes. If you'd introduce yourselves for Hansard, we'll go from there.

Mr. Gary Scandlan: Thank you, Mr. Chair and members of the committee. We've prepared a response to you. The response we've prepared is more of a technical nature. Our firm represents probably 50% of the active development charge bylaws in the province. We've been doing development charges and before that lot levies going back into the 1980s, so we've got a little bit of experience in this particular area.

We've summarized our comments into seven particular areas. I'd like to quickly go through those. The first two are probably the ones that are most key, but there are some other comments that we have on the remaining five.

Transit service is obviously a significant one; 1.1 talks to the recommendation to remove that mandatory 10% deduction. Our firm is in full support of that deduction in order to provide municipalities as much financial assistance in this area as possible.

The second is with respect to transit, the level of service for transit. Right now we're into a round where we have to do quality/quantity measurements and it's backwards-looking. The suggestion in the act is to have a more forward-looking service level, but it's unclear what that service level would be.

In the working committee, the technical group that we're working with, there was a perspective that maybe it should be quality/quantity and maybe you should have a target and average up over time. So maybe you can only collect 30% now. Our first bylaw, we can collect 50%; next bylaw, 70%, etc. That's still not assisting in moving people off of roads and getting them into buses, because there are financial issues.

The other suggestion was to take a look at an end level of service and to identify the capital needs and how you would deploy the service over time. Our firm is more supportive of the second one, where we have an ideal we're trying to meet, but with that planned level of service we do believe that there are some fundamental issues that probably should be introduced to give some measurement or some framework around that end marker, what we're trying to obtain. There should be consideration of what the existing levels of service are and where we're trying to be to accommodate the growth over the time period. We should be demonstrating how future development will be accommodated through the transit service by increasing the amount of use of that service. Quite often that's reducing other levels of service, such as roads, and supplementing them with transit, so where does transit play in that?

It's important that, up front, they understand what the capital costs are, so you're not only dealing with a service level but you know what the quantum of that cost will be.

Last is looking at a transparent process so that it can be discussed and we can have a dialogue before council ultimately approves the planned level of service. We feel that this is important, and a lot of this should probably take place during a transportation master plan rather than waiting until we do a development charge, which is after those approvals have already been put in place. As I say, we've suggested a framework.

The last one is not quite embraced by the act, but I think we wanted to point out that, really, transit is part of a broader transportation service. We do transportation master plans, and our firm participates quite extensively in these master plans, from an affordability perspective etc. Three years ago, I did a transportation master plan that went into DC, and we were able to demonstrate that we could save $120 million in roads costs by putting into place $58 million in buses, roughly 120 buses, and we

could save everybody over $60 million. Because of service standards, because of affordability, the municipality couldn't afford $58 million, so they ended up, in their long-term capital plan, putting in in the range of about $30 million and they left that gap unanswered. But the next master plan, they could be coming back and saying, "Well, maybe we have to re-shift and go back to adding more roads." It's just that you can demonstrate that there is a savings.

I think we should not only look at roads and transit but also alternative transit methods. We have bike lanes; we have trails; we have parking lots that you can double up in commuter movements. We have isolated pedestrian pathways. There are a number of these alternative methods that are also part of that modal split, but we don't know quite where to put them. Sometimes they fall into parks and recreation; sometimes they fall into a category unto themselves. Right now, our belief is that, in the whole transportation realm, we should be looking more towards putting them all together as one service rather than keeping them on a siloed basis. We leave that to the consideration of the committee.

The second area is voluntary payments. This is something that I don't believe is quite understood, and how the implications of these voluntary payments actually pan out in allowing development to proceed in many different instances. I've given you four different examples which I'll briefly touch on.

The town of Milton: In the year 2001, there were 32,000 people. In 2006 and 2011, they were deemed by Statistics Canada as the fastest-growing municipality in Canada. This is only as a result of being able to negotiate with the development community in order to receive these voluntary payments and voluntary contributions of additional parkland. If that wasn't allowed—they build in the realm of 1,500, maybe 2,000 units a year. Our original recommendations were that they could only build probably in the range of 250 to 300 units a year. To move from 32,000 people and to move over 20 years—their target was somewhere in the range of 175 to 180. That's six times the size of the original municipality. Nobody can grow that fast, with all of the costs.

1650

The issue that they were facing was debt capacity, where the province would allow 25%. We would have seen 50%. It couldn't have happened. We see tax increases ranging from 8% to 10% per year, average annual impact over time. That's not something that's sustainable. It's not something that's acceptable by the residents of the community.

Through negotiation and really through a partnership with the development community, we were allowed to allow them to grow. I think at the end of the day, the business community and the development community in Milton are very happy with what they've had and the success that they've had, and Milton is very proud of it.

The second example is Barrie. Even though Barrie is in the range of 135,000 people, they had very similar issues. They've got an existing built area in which they would have to service 27,000 people. There is about $1 billion in infrastructure that has to be built, just to service them. They annexed land from Innisfil: another 40,000 people, another $1.4 billion to service them. On top of that, they're facing a huge infrastructure deficit.

Critical works were actually over $2 billion. We pared it back to taking the most important services, and they still have to build about $1.4 billion. Added all together, they were looking at debt capacity of 45%. They would not have allowed the annexed lands to proceed in parallel with the existing built boundary. They would have had to phase the development and allow it to proceed in a sequential way.

Keep in mind that with development charges, when you go through all the reductions and deductions, we're talking about perhaps 60% to 65% recovery for all of the growth-related costs. There is 30% to 35% or 35% to 40% of the costs that end up on the municipal side of the equation. So when we ask for these additional contributions only towards growth-related costs, they're basically overcoming shortcomings within the act.

Two other situations, items 3 and 4 in our presentation: There are situations where in municipalities, the developers approach and say, "You've planned this project for year 8, year 10. We want it to proceed earlier. We're ready to go. We want to leapfrog other developments," and the municipality says, "Well, we haven't planned for the non-growth component." Maybe it's 10%, 20% of the extension of water mains, building of sewers, whatever. The municipality says, "You will wait until we can integrate it into our financial plan or you have to top up and pay for the non-growth share." In that particular case, a lot of times developers say, "Okay, I'll pick up the 10 cents on the dollar or the 15%. Just allow me to proceed." A lot of times, there's cash flow there.

The last situation: Keep in mind that 50% of Ontario municipalities do not have development charge bylaws. If a small municipality that doesn't have a DC bylaw has maybe a shopping mall, maybe has an industry, maybe has a big box store that's being built, there are a lot of localized services they would ask for. "Put in a taper lane. Put in signalization. Put in sidewalks." The way it's written right now, I would deem that they're not able to recover those costs. So they're either forced into a development charge process or they're not allowed to recover these costs. I think that it needs to be considered.

We've suggested, on page 5, that we put in a framework or criteria. I think the act should be set up to say that they're allowed, but you should either have a fiscal impact to demonstrate the need and the financial affordability, things like debt capacity; or in other situations, in order to accelerate the timing of capital works, even for those municipalities without a DC bylaw, they're allowed to negotiate these more localized works.

My time is running, so I'll quickly go through.

Area-specific: We do them right now. We think that it's generally to the municipality to decide when we do them, but it's most focused on the hard services: water, waste water and storm. When we get out into other

services, there are problems. There are other areas of the act which would reduce your ability to recover the full growth-related cost from those areas, because we can't go past the average service standard for the—averaged across the whole municipality. So there are some stumbling blocks if we're required to do these. Our suggestion is, if there is going to be area-specific, it stay to the water, waste water and storm services.

Ineligible services: no problem with moving it into the regulation. We would just like to see more or less a transparent process if there is going to be change to what is or isn't eligible. If you're going to change the list from time to time, there has to be more of a dialogue. Rather than just putting it on the registry, there should be an opportunity for all participants to comment.

Asset management plan: We're in agreement with that; we just don't know the details of it. We are suggesting that anything that comes forward through the regs be forwarded through AMO, municipal finance officers and AMCTO.

Amendments for the treasurer for reporting requirements: not a problem.

The last item on the first building permit: We do see this as a bit of a problem. For high-rise developments, you go through a number of different building permits, the first one normally being a foundation permit. At that point, we don't know what is within the rest of the building. We don't know how many single detached apartments, two-bedroom or more; there is a differentiation of the charge. We don't know how much square footage of retail, or office, etc. We would suggest that if this is put into place, everybody would benefit by the ability to revisit at the end to make sure that what they'd been charged is accurate, either to refund, or for the municipality to charge a little bit extra.

Thank you, Mr. Chair. I have a couple of minutes, I think.

The Chair (Mr. Peter Tabuns): You've just about a minute left.

The Conservatives have the first question. My advice is to be very brief.

Mr. Ernie Hardeman: Thank you very much.

My question is just on the 50% of the municipalities that don't have a development charges bylaw under this. What is your suggestion of how we deal with those?

Mr. Gary Scandlan: With respect to the voluntary payments, or—

Mr. Ernie Hardeman: Yes.

Mr. Gary Scandlan: I think that they should be allowed to recover more localized types of works: quite often, the roads, the sidewalks, street lights, things related to transportation or storm water management, or things that are fundamental to allowing the development to proceed without inhibiting or causing problems to the residents.

The Chair (Mr. Peter Tabuns): Thank you. I'm sorry to say that your time is up. Thank you very much for your presentation.

Mr. Gary Scandlan: Thank you.

TEDDINGTON PARK RESIDENTS ASSOCIATION INC.

The Chair (Mr. Peter Tabuns): Our next presenter is the Teddington Park Residents Association: Eileen Denny. Ms. Denny, you have up to 15 minutes to speak. If you would identify yourself for Hansard, and then please proceed.

Ms. Eileen Denny: Good evening. My name is Eileen Denny.

Thank you for giving Teddington Park Residents Association Inc. this opportunity to provide our perspective on Bill 73, concerning the amendments to the Planning Act and the Development Charges Act.

My name is Eileen Denny and I am the president of Teddington Park Residents Association Inc. We are an active, independent, not-for-profit, incorporated association that represents the concerns of residents in north Toronto located within the limits of the former city of Toronto. TPRA is a member group of CORRA, which is the Confederation of Resident Ratepayer Associations in Toronto. While TPRA operates out of Toronto, we believe our comments are applicable to the resident and ratepayer groups elsewhere in the province. Our focus today is on the changes to the Planning Act in Bill 73, the Smart Growth for Our Communities Act, 2015.

Overall, TPRA supports many of the proposed changes to the Planning Act, such as requiring written decisions to reflect the evidence of both oral and written submissions at the committee of adjustment, as noted in subsections 45(8.1) and (8.2). TPRA does have concerns about how pre-board consultations will occur and work, especially when there are multiple parties. Any provisions should ensure transparency and accountability, with notice to all parties.

1700

TPRA identifies the following areas for further consideration.

Strengthening subsection 45, minor variances: Currently, the legislation states that the committee of adjustment must be satisfied that the variances requested maintain the intent and purpose of the official plan and zoning bylaw; that it is considered desirable for the appropriate development or use of the land; and that the variances are to be minor.

Subsection 45(1) can be improved by: (1) identifying and clarifying the four tests that need to be met, explicitly; and (2) codifying Vincent v. DeGasperis, the Divisional Court decision involving these tests.

The case law indicates that a flexible approach is be taken to determine if a variance is minor, "relating the assessment of the significance of the variance to the surrounding circumstances and to the terms of the existing bylaw."

In Vincent v. DeGasperis, the Ontario Divisional Court decision observed that "minor" involves consideration of both size and impact. The decision also provided the proper interpretation of the four tests and what would

constitute the appropriate evidence to satisfy the legislated criteria.

For example, subsection 45 can be amended to be more explicit about the four-part test by setting out the requirements to add clarity.

I'll just read, for an example, how it can be clarified. When you go down to "Powers of committee," section 45(1), you can add "if the variance individually and the variances collectively are determined to:

"(a) be minor with respect to both size and importance, which includes impact;

"(b) be desirable in the public interest and/or existing context, in the opinion of the committee, for the appropriate development or use of the land, building, or structure;

"(c) maintain, in the opinion of the committee, the general intent and purpose of the zoning bylaw; and

"(d) conform, in the opinion of the committee, to the official plan."

Strengthening the word from "maintain" to "conform" in (d) is needed because official plans are far more sophisticated today, and we believe the higher test of conformity is needed to ensure the integrity of those official plans.

Administratively, the number of days to consider a variance application should increase from 30 days to 45 days at minimum, preferably 60 days. Also, the variance application should disclose or inform the applicant of the four-part test under section 45(1) that must be met before variances are granted. The general public considers the four-part test as the responsibility of the applicant for the right to vary from the law.

The next area that we are concerned with is strengthening the role of the committee of adjustment.

The committee of adjustment is a quasi-judicial body responsible for making decisions on development applications seeking variances from the zoning bylaws. As noted above, the committee must be satisfied that the variances individually and collectively meet the four-part statutory test.

This is one committee that residents and ratepayer groups frequently and regularly engage to make their views known. The decisions rendered by this committee can impact the use and enjoyment of one's property and the broader neighbourhood.

For example, in the Toronto context, some committee panels require the opponents to speak first, followed by the proponent. Opponents can be caught off guard if new information or changes are made without the opportunity to address them because they are not allowed to speak any further. In addition, in some cases, review of the contents ahead of the public hearing is restricted, and city reports are not available until the day of the hearing.

It is from this perspective that the committee of adjustment must be an independent body, separate from the administrative function of the city, and operate in accordance with the rules of natural justice in order to render decisions that are objective, impartial and fair.

TPRA suggests the following amendments for consideration: in the section "Power of committee to grant minor variances," that perhaps a statement be inserted to say, "be an independent body, to operate in accordance with the rules of natural justice" to grant minor variances from the provisions of any bylaw.

The next section we would like to speak on is the imposition of the development permit system, DPS, on lower- and upper-tier municipalities.

Most municipalities have chosen to adopt an official plan as the document to represent its long-term vision for guiding growth and change. With 400 municipalities in the province, only four have chosen the DPS model to be applied within a given context and under high specificity.

The proposed amendment under subsection 70.2.2(1), that "The minister may, by order ... require a local municipality to adopt or establish a development permit system ... or require an upper-tier municipality to act" is of concern. The DPS remains relatively new, with insufficient empirical evidence from adopting municipalities to determine its effectiveness.

At the policy level we understand that the DPS combines the decision-making—minor variance, zoning bylaw amendments and site plan approval processes—into one process resulting from an area-specific DPS bylaw being established. However, the reality of the changes results in the removal of the underlying bylaws, to be replaced with a new DPS bylaw that may allow for conditional and flexible zoning.

The DPS bylaw removes committee of adjustment decision-making, it removes third-party rights to appeal except for the applicant seeking an amendment and allows delegated decision-making powers. The DPS demands a higher level of policy specificity concerning the appropriate level of consultation at the outset, following and during an area subject to a DPS regime; proper due notice; how the system will operate within areas not subject to the DPS; and when or if delegation of such decisions, especially in light of conditional zoning options that will occur episodically across time, is indeed appropriate.

TPRA draws from the city of Toronto experience. Toronto's OP is a comprehensive and integrative policy framework for priority-setting and decision-making. Planning tools such as secondary and area-specific plans are available and cost-effective tools that are publicly understood, do not remove third-party rights in the decision-making process, and also allow for area-based decision-making. TPRA suggests a cautious approach. The imposition of DPS on municipalities at this time is at best premature.

In summary, thank you for considering TPRA's submission. If you have any questions, I would be glad to answer them.

The Chair (Mr. Peter Tabuns): Thank you very much. We start with the third party, Mr. Hatfield. People have about two minutes each.

Mr. Percy Hatfield: Welcome. Thank you for coming. Have you taken a position on inclusionary zoning?

Ms. Eileen Denny: And how do you define inclusionary zoning?

Mr. Percy Hatfield: I guess that would be subject to a lot of different factors, but it would be one of the many tools to create more housing. If you wanted to build, say, a 10-storey complex, you would have to make some of those units available for less than market rate.

Ms. Eileen Denny: Oh, yes, I would support that, because affordable housing is what is being removed with the new structures in Toronto. If you're putting a condominium on a main street, you would displace five entrepreneurial shops. You would displace the rental housing that is above it—perhaps one, two or three storeys, usually affordable—and then when you put in a larger condominium, the rates of the condominium are quite high.

If you don't make that accommodation over time, what you do is you erase the affordability of, let's say, living on a main street. Or if you're actually removing affordable rental housing to put in a mixed building, that's the same thing. If you're not going to think long-term and account for that loss, you're not going to have available affordable housing.

Mr. Percy Hatfield: Thank you. You talked about the committee of adjustment in Toronto. I think there are 3,500 minor variance applications a year and 300 appeals to the OMB, and they say that very substantial variances to the zoning bylaw for major developments are routinely approved in the absence of any opponents appearing at the hearing. Is that accurate?

Ms. Eileen Denny: Yes. By and large, if no one attends the OMB hearing, they conduct a hearing which is uncontested, and it usually—

The Chair (Mr. Peter Tabuns): I'm sorry to say that you're out of time with this questioner. We have to go to the government. Mr. Milczyn.

Mr. Peter Z. Milczyn: Hi, Ms. Denny. Nice to see you again.

Ms. Eileen Denny: Hi.

Mr. Peter Z. Milczyn: Just to continue on the line of questioning that my friend from the third party initiated: The intent here is to give a little bit more certainty to the planning process. If somebody undertakes a zoning amendment application and goes through the process, whatever ultimately is approved is approved, and the notion that they can't easily then go and try to undermine it through attempting a minor variance application.

1710

In your experience, is that something that is actually required as a protection for planning local communities?

Ms. Eileen Denny: I think if the decision-making was ideal, you would not have to do that. When you think of what should happen on a zoning bylaw, you've already gone through the comprehensive consultation, you've gone through a major amendment to zoning, and that should be the approval.

If you embed the height and density in the OP, then in going through minor variance, it would be very difficult to actually exceed that, because the element is—you would have to vary from the OP. In a minor variance application, you cannot vary. That's why the wording I suggested, "conform"—by just changing that, you could not go beyond following a zoning amendment.

There are pragmatic solutions. Everyone seems to look for a silver bullet or an overall concept to deal with something. Sometimes just a very small change in legislation can actually trigger a change in how decisions are made.

The Chair (Mr. Peter Tabuns): Thank you. I'm afraid we have to go to the next questioner. Mr. Hardeman?

Mr. Ernie Hardeman: Thank you very much for your presentation. I just want to follow up in the same circle.

When we look at the planning process, obviously, this document is trying to redesign or fix the problems that are in it. Obviously, we have the zoning of a property, and then you have site plan control, where you go back for another application to build something on that property that's allowed.

This is really the question: A minor variance, to me, is when you've gone through the whole process and you're going to build it, or you already have it, and you want a change so minor that it's not substantive. Nobody would technically notice that the community is developing differently because of that change. A minor variance is something that, to me, should be much simpler to apply for and get approval for than a site-specific zoning or a site plan which tells you exactly what you're going to build and how many storeys it's going to be.

How would you interpret or design or define a minor variance application that would work in order to make sure you could facilitate those small changes without going through the long process of the rezoning of a piece of property?

Ms. Eileen Denny: For the city of Toronto, minor variances have dramatically changed. We used to deal with decks and porches and little additions at the back. How minor variance is being used today in residential neighbourhoods is to rebuild an entire house, and to review an application of that substantive nature takes time. Clearly, demolishing a home and rebuilding it under those circumstances, I would say, is not minor. It is stretching, I guess, the parameters of the legislation.

However, the minor variance section is structured quite well. Those tests are onerous. It means that any minor variance has to meet the intent and purpose of the zoning bylaw and the intent and purpose of the OP classifying it as minor.

The Chair (Mr. Peter Tabuns): Ms. Denny, I'm sorry to say that you've run out of time.

Ms. Eileen Denny: Okay.

The Chair (Mr. Peter Tabuns): Thank you very much for your presentation.

Ms. Eileen Denny: Thank you.

SUSTAINABLE PROSPERITY

The Chair (Mr. Peter Tabuns): Our next presenters are Sustainable Prosperity: Mr. Wilson and Mr.

Thompson. You have up to 15 minutes. If you'd identify yourselves for Hansard—or yourself.

Mr. David Thompson: Thank you, Mr. Chair. My name is David Thompson. I'm with Sustainable Prosperity. My colleague Mike Wilson sends his regrets.

I'm very pleased to be here to speak to Bill 73 and focus on the amendments to the Development Charges Act—the easy stuff, as it were. I'll try to keep it quick.

Sustainable Prosperity is a research and policy network based at the University of Ottawa, bringing together business, policy and academic leaders to inform policy development. We focus on market-based policies to build a stronger, greener economy in Canada.

What we've seen, in researching fiscal policy across Canada, is that prices are actually a strong influence on decisions not just of businesses but also individuals and governments.

We've also observed that government fiscal policy, including that of municipal governments, both on the revenue side and on the spending side, affects prices. When governments make changes to prices using their fiscal policy instruments, they are more successful in achieving their other policy goals. We can think of several commonplace examples; for instance, when governments reduce taxation on earnings in order to encourage savings through RRSP programs, when governments impose taxes on tobacco in order to reduce youth uptake in smoking, and when governments adjust prices on things like plastic bags, landfill tipping and carbon pricing in order to reduce waste and pollution. So using fiscal instruments in order to achieve policy goals is well established in Canada.

What I'm going to speak to right now is four considerations for reform of the Development Charges Act: policy goals relating to urban form; financial sustainability of municipalities; program funding, including social programs; and fairness.

A quick quote from the Ministry of Municipal Affairs and Housing: "Ontario's long-term prosperity, environmental health and social well-being depend on wisely managing change and promoting efficient land use and development patterns." This explains why the government of Ontario has adopted a very clear policy direction relating to urban form: to reduce suburban sprawl; to direct growth to built-up areas; to use land efficiently, thereby minimizing air quality impacts and climate change emissions; and to promote energy efficiency.

Municipalities across Ontario have also adopted similar public policy goals in relation to urban form. The implication for development charges is enabling municipalities the freedom to set their own development charges to allow full cost recovery. It means they can adjust their development charges to send the right price signals to the market to reduce future sprawl—not current sprawl—and direct future growth to more-established areas, thereby reducing automobile dependency and reducing emissions and other costs.

Another important consideration in reform is fiscal sustainability of municipalities and their ability to deliver on programs, including social programs. We all know that municipal governments in Ontario have taken on a greater range of program delivery over the years, including delivery of programs for lower-income citizens. Municipalities, of course, need resources to finance those programs, and their main source of unrestricted funding is property taxes. However, if the costs to municipalities of new development are not covered by development charges, then municipalities have to draw away revenues from property taxes in order to pay for those costs of development—either that or go into debt or require tax increases. Enabling municipalities to fully recover the costs that they feel are due to development can help to alleviate their fiscal position but also, indirectly, to maintain program spending.

The final consideration is the question of fairness. Is it fair for existing property owners to subsidize the costs of new development through their property taxes if development charges are not high enough to cover the full costs of development that are imposed on municipal governments? This is addressed by the principle that Bill 73 attempts to support, the principle of growth paying for growth, and that is supported by allowing municipalities full cost recovery.

Bill 73 takes a lot of steps in the right direction on amending the Development Charges Act; however, it could go further. What we need to bear in mind in this is that giving municipalities the authority to fully recover their costs does not always mean that municipalities are going to do that. Municipal councils are going to decide in their particular circumstances whether and to what extent to recover costs. They're going to be accountable to voters in doing so and they're also going to be subject to market discipline to make sure that they're not going overboard because development can easily go to the next municipality or next county over.

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I want to quickly address three specific changes in Bill 73 to eligible services, the 10% reduction and the 10-year average service cap. I'm sure you've heard a lot about this in the last few days and know a lot about it from before that. Ineligible services: Bill 73 would revoke the ineligibility list, which is a good first step towards full cost recovery for development. But it would still allow for regulation to prescribe ineligible services and thereby create a risk that future governments could simply reinstate the full list of ineligible services or even more services without any legislative oversight. Bill 73 would have greater transparency, ensure greater deliberation and accountability if it omitted that regulatory avenue and required legislative change.

On the 10% reduction, Bill 73 adds transit services to the list of services excluded from the 10% reduction requirement, which again is a good step in the direction of full cost recovery and also will assist municipalities in the development of transit. But it still leaves in place a 10% loss for municipalities in respect of other services. That loss, in conjunction with the other losses to municipalities caused by the DCA, adds up to tens or hundreds

of millions of dollars. For full cost recovery, what would need to happen with the act is simply the repeal of section 5(1)8, the 10% reduction.

The third change in Bill 73 that I wanted to address was the 10-year average service level cap. Bill 73 would relax that restriction, but only for services prescribed by regulation. That could be a move towards full cost recovery. It depends, though, entirely on what the regulation is that's passed, if any. Also, it leaves it open again for future governments to decide, without legislative oversight, that calculations for all services will be subject to the historic service levels requirement. A more reliable way to make that change towards full cost recovery would be to allow the municipalities to determine needed service levels, taking into consideration historic demand and future anticipated demand, but not imposing a particular formula for calculating it.

In relation to those three changes, Bill 73, as I said, makes some good first steps. It could go further towards full cost recovery. There are a couple of important issues to also address here. One is housing affordability and the other is economic growth and jobs.

On housing affordability, you sometimes hear the argument that lowballing development charges is going to make housing more affordable. The problem with that argument, of course, is that it ignores important costs beyond the upfront sticker price of the house. First off, it's not a reduction in costs; it's a shifting of costs. Instead of the developer paying or the homeowner paying, we're now shifting the costs of new development onto existing taxpayers, including lower-income people and people who live in resale and rental housing. It makes their housing less affordable when they have to pick up the costs of new development.

A second area on affordability is transportation costs. If low development charges encourage far-flung suburban sprawl that exacerbates automobile dependency, then you get homeowners who are now required to buy another car for their family. That costs, according to the CAA, $10,000 per year per car. If you add that up over the lifetime of a typical mortgage, it increases the costs of housing by hundreds of thousands of dollars, taking it out of the range of truly affordable housing. Then there are additional costs of automobile dependency: smog, collisions, climate change emissions, policing, emergency responses. These are real costs, borne by real people and real businesses and municipal governments.

The other consideration is economic growth and job creation. Allowing municipalities the authority to require full cost recovery, if they choose to do so, can help them not only restrain sprawl, but direct growth—because growth is going to happen—into established areas, increasing density. By doing so, you can generate what economists call economies of agglomeration. These are economies that boost economic growth by spreading the costs of infrastructure over more businesses and households in order to reduce the per-unit costs, and setting it up so that firms have more potential workers to choose from because of the population density, resulting in better employment fit and higher productivity. Job seekers will have more employers to choose from, reducing unemployment. Greater density of firms results in knowledge spillovers, increasing productivity.

I could recap, but I think that I'm almost out of time, and I wanted to leave a little bit of time for questions.

Thank you very much for your attention so far.

The Chair (Mr. Peter Tabuns): Thank you very much, Mr. Thompson. You're right; we have about 40 seconds per party. I'll start with the government.

Mr. Peter Z. Milczyn: Thanks for your presentation.

Your view is that this legislation is going in the right direction to help municipalities raise, potentially, tens of millions of dollars or more, but also leaves them the ability to choose to not do that if, for economic reasons, they want to attract investment. It provides choice to municipalities in how they want to go.

Mr. David Thompson: Yes, greater choice and flexibility, recognizing the democratic accountability that municipalities have.

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

Mr. Ernie Hardeman: Thank you very much for your presentation. We appreciated it very much.

I just wanted to tell you that I think that everyone who has presented in the last two days on this bill generally agrees that growth should pay for growth. The challenge is just making sure that can happen: that one side or the other isn't able to skew it so that, first of all, they're not paying enough for growth. That's your concern. The second one, of course, is that municipalities aren't set—it seems to be easier to tax those that we don't know than those that we do know; so to make sure that development charges are not too high, to make sure that they're paying for more than the growth that they're causing—

The Chair (Mr. Peter Tabuns): Thank you, Mr. Hardeman. I appreciate your comments.

We go to Mr. Hatfield.

Mr. Percy Hatfield: Welcome. Thanks for being here.

If growth should pay for growth, why do we have 10% reductions?

Mr. David Thompson: Exactly. If we wanted to accelerate growth—and maybe say that growth is not going to quite pay for growth.

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

MUNICIPAL FINANCE OFFICERS' ASSOCIATION OF ONTARIO

The Chair (Mr. Peter Tabuns): Our next presenters are the Municipal Finance Officers' Association of Ontario. You have up to 15 minutes. Please introduce yourselves for Hansard.

Ms. Patti Elliott-Spencer: Good afternoon. I'm Patti Elliott-Spencer. I'm the president of the Municipal Finance Officers' Association of Ontario. I'm also the general manager of community and corporate services for the city of Barrie, but I am speaking on behalf of MFOA today. With me is Dan Cowin, who is executive director of the Municipal Finance Officers' Association of On-

tario, and Shira Babins, who is our manager of policy. Thank you for the opportunity to speak on this topic.

Just a little bit of background on us: We're an organization that was established in 1989 to represent the interests of municipal finance officers across Ontario. We promote the interests of our members in carrying out their statutory and other financial responsibilities by initiating studies and sponsoring seminars to review, discuss and develop positions on important policy and financial management issues.

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We have been keenly involved in the development charge issue since it was introduced back in 1989, and we were very active in the review that was announced in 2013. We actually produced two reports at that time: first, Frozen in Time: Development Charges Legislation Underfunding Infrastructure 16 Years and Counting, as well as a second document, Dispelling Development Charge Myths and Misconceptions. These documents were supported by many municipalities as well as AMO, MARCO and LUMCO.

Development charge policy has a significant impact on the quality and quantity of infrastructure in Ontario. Development charges are the only substantial own-source-revenue tool that municipalities have to recover the cost of growth-related infrastructure. Development charge proceeds have exceeded $1.3 billion per year, every year since 2010, with as much as $1.9 billion in 2012. In 2013, 204 municipalities collected development charges.

As our previous speaker noted, existing legislation, and the new legislation, to some extent, keeps these principles. There are a number of ineligible services in the current act. The new act moves that into regulations but there will still be, possibly, ineligible services. There are also ineligible costs. There is the 10% discount which is mandatory. We feel it is somewhat arbitrary. It just reduces the costs that can be recovered and does not support growth paying for growth.

Finally, service levels are constrained in that we can only plan based on an historical average rather than actually trying to fund our growth based on our current and forward-looking service levels.

According to research by Watson and Associates, who presented earlier, after all of the various restrictions that are in the current act, DCs now only pay for approximately 80% of growth-related costs. That puts significant pressure on municipalities, which are faced with huge infrastructure deficits as well as demands for new services, and trying to rehabilitate and maintain our existing infrastructure.

It was our hope that this review would reverse some of the principles that were in the 1997 act and move toward more of growth paying for growth. That is our main principle in presenting: that growth pays for growth. Also, we believe that the legislation should be permissive rather than prescriptive. Municipalities are a strong form of government. We cannot have one-size-fits-all. We are of different sizes, different services. We would like to see the new legislation understand that and not be prescriptive and overly narrow.

We support reforms to the act, obviously, to recover as close to 100% of growth costs as possible. We are very pleased to see that the new act allows for greater recovery of transit costs and for waste diversion, so those are significant changes. Many of the critical details, however, surrounding these changes have yet to be announced, as they're being done through regulation. There were a number of municipalities involved in working groups on the regulations over the summer but we've yet to see the results of those.

We are very pleased that the 10% discount has been removed from transit services. However, it is very important to note that many municipalities have growth-related services over and above transit. Of the 204 municipalities that collected DCs in 2013, only 37 of those municipalities have transit systems. Based on what is before us and if no changes are made to discounted services or eligible services, only 37 municipalities will actually see improvement in their DC collections as a result of the changes to this bill, whereas the balance will see more accountability measures and more reporting measures.

MFOA appreciates that transit will be allowed to have somewhat of a forward-looking service level and will be able to be done in the same way as Toronto had been able to do it in the Toronto-York subway extension. We, however, do believe that the discounts for other services should be eliminated. That is really one of the reasons why DCs only cover about 80% of growth-related costs, because we have this arbitrary 10% discount.

Our recommendation is that the 10% reduction on services actually be removed from the act. I have it in detailed wording here as to the sections of the act, but I think that gets to the point.

The act also proposes that there be a link to asset management plans. MFOA has long been a supporter of asset management plans and long-term financial planning. Long-term financial plans should make provisions for the repair and rehabilitation and eventual replacement of all assets, including those in the growth-related capital forecast contained in the development charges background study.

MFOA also supports the requirement that future growth-related assets be part of an asset management plan. The province, however, should not prescribe the format of the asset management plan. Municipalities should be permitted to augment existing asset management plans using existing approaches and methodologies. Development of these plans requires considerable staff time and financial resources, and requiring asset management plans to be redone to a new methodology would place a burden on a number of municipalities.

MFOA also notes that not all growth-related assets are funded by development charges. We have ineligible services. We also have services that are built within subdivision developments which are turned over to municipalities, for which we must plan for their eventual replacement. Therefore, an asset management plan must include all growth-related assets, not just those funded by

development charges. Again, we do support including the link to asset management plans, but we do think that it should be more fulsome and for all growth-related assets as well as existing assets.

There were changes in the proposed act to change the timing of when charges would be payable such that they would be payable upon the first building permit. We believe that municipalities should be given the flexibility to respond to local circumstances and not be limited by prescriptive standards of making the payment at that point in time when multiple permits are issued over the development of a building.

Municipalities and developers should be able to create alternative arrangements such as setting-specific or negotiated timelines for the issuance of building permits and the indexing of charges. Therefore, we recommend that section 6 of Bill 73 be repealed.

MFOA also proposes that the status quo be maintained for a treasurer's financial statement. Within the proposed bill there are a number of increased accountability measures being put on municipalities to provide additional details on the use and source of funds. Currently, we have to complete a schedule in the financial information return, which is mandated, where we are required to disclose sources and uses of development charges. The province does use those funds, so there's considerable accountability in there.

As well, municipalities have very public budget processes where all of the information that goes into our budgeting and the use of our development charges is available to the public and developers to come and see. We have very open financial statements, so we feel that these additional accountability and prescriptive measures really are not necessary. It is our recommendation that subsection 7(1) of Bill 73 be repealed as well.

The final item we have recommendations on is with regard to voluntary payments and the proposal within the bill that they not be allowed. Our previous speaker—three speakers ago—from Watson's spoke to this issue. I am from the city of Barrie, one of the examples that he used. We do have a voluntary payment agreement. Without that agreement, the city of Barrie would not meet its growth targets. We would not be able to grow because of the financial burden upon our city.

That freely negotiated agreement was based on a detailed process of fiscal impact analysis and sitting down at the table. It was voluntarily proposed by the developers and they signed on. This section would make those types of agreements essentially illegal, and I think it would severely impact growth in a number of municipalities where we are anticipating growth and to meet our growth targets within the province. I think that if there is a freely negotiated agreement between a development community and a municipality, it should be allowed to remain.

There are a number of other issues that I won't spend a lot of time talking about. There are provisions for area rating, but we don't think that should be prescribed; municipalities actually do that right now through their development charges studies.

That basically concludes my remarks.

The Chair (Mr. Peter Tabuns): Thank you very much. We have roughly a minute per caucus. I'll start with the official opposition: Mr. Hardeman.

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Mr. Ernie Hardeman: Thank you very much for your presentation. One of the things that I'm concerned with: If you had full recovery—total cost, growth pays for growth and all the things you talked about, no limitations—would you still need the voluntary payment? There should be an ability for negotiating payment over the cost of growth paying for growth, recognizing that the new home owners are going to pay for it all.

Ms. Patti Elliott-Spencer: If the act were amended to eliminate the 10% discounts and the ineligible services, those voluntary payment agreements would largely not be required.

Mr. Ernie Hardeman: Thank you.

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

Mr. Percy Hatfield: At a rough count, I guess, you've suggested 15 appeals or amendments, from the written submission anyway. Is getting rid of the 10% discount and ineligible services the number one?

Ms. Patti Elliott-Spencer: I would say that the discount is probably the highest priority among municipalities. I think it would provide a benefit to all municipalities within the province. The ineligible services certainly would benefit many of us, but not all of us have the various lists of services. But yes, they're very high priorities.

Mr. Percy Hatfield: Thank you.

The Chair (Mr. Peter Tabuns): Thank you, Mr. Hatfield. Mr. Rinaldi or Mr. Milczyn? Gentlemen, I'll take either of you.

Mr. Peter Z. Milczyn: Okay. Thank you very much. I understand your concern around the 10% reduction. Though it's not part of the act specifically, the government's move to allow for growth-related service levels to be utilized to calculate development charges—would that not have a bigger positive impact than even the 10% reduction?

Ms. Patti Elliott-Spencer: At the present time, it's not clear whether the regs will allow that for services other than transit—transit no longer has the 10%—so that is something that would need to be clarified. But even if you had a forward-looking service level and still had a 10% discount, you're still only recovering 90% of your costs of what you really need.

Mr. Peter Z. Milczyn: What I'm getting at is: What would increase it more, a more forward-looking service level or a 10% discount?

Ms. Patti Elliott-Spencer: I think it depends on the service, actually.

Mr. Peter Z. Milczyn: Okay. Thank you.

The Chair (Mr. Peter Tabuns): Thank you, Mr. Milczyn, and thank you, Ms. Elliott-Spencer. We appreciate the presentation today.

CANADIAN ENVIRONMENTAL LAW ASSOCIATION

The Chair (Mr. Peter Tabuns): We go to our last presenter: Canadian Environmental Law Association. As you've seen, you have up to 15 minutes. If you'd introduce yourself for Hansard.

Ms. Jacqueline Wilson: Thank you. My name is Jacqueline Wilson. I'm a lawyer at the Canadian Environmental Law Association. Thanks very much for the opportunity to speak to the committee today.

The Canadian Environmental Law Association is a specialty legal aid clinic whose mandate is to look at environmental issues and environmental law policy issues in Ontario.

I'm going to spend the majority of my time today on the Development Charges Act. I'm pleased to say that I'm echoing many of the comments and suggested amendments that you've just heard from the last two speakers. Then I will make a couple of recommendations on the Planning Act amendments and hopefully leave time for questions.

Currently, provincial planning policies create a shared vision for compact, smart, environmentally sustainable land use. I would encourage the government to see the Development Charges Act as a planning tool that can influence whether growth will be compact, which is what we want to encourage, or sprawling, which we want to discourage.

With that lens in mind, we support the inclusion of subsections 2(9) and 2(11) in the Development Charges Act, which would allow municipalities to target prescribed services in prescribed areas and to charge different rates for different parts of the municipality. The reason we support that is, currently most development charges are calculated on a municipal-wide basis and then averaged, even though new infrastructure costs tend to be quite a lot higher for developments in sprawl-type development areas rather than the high-density areas that we're trying to encourage. That means the current averaging approach is subsidizing sprawl. Those two amendments, to subsections 2(9) and (11), would be one way for municipalities to better target certain areas and services and better support those provincial planning objectives.

The next area that I'd like to address has been talked about quite a bit by the last two speakers, and that's the changes that are being made to the treatment of transit under the Development Charges Act. The current act structure, by design, underfunds transit by having it in that category with the mandatory 10% discount. So we certainly welcome moving transit out of that category. We point out that that same 10% deduction hasn't been applied to roads, so there's an incentive there for municipalities to spend transport money on roads rather than transit, because they'll be able to recover more of their costs.

We also support section 5.2, which will allow for a planned level of service, rather than the 10-year historical service level, to calculate development charges. That 10-year historical average approach has been particularly problematic for development charges looking at transit. It's very ill-suited for forward-thinking, sustainable, growth-related transit planning, which, again, we're trying to encourage. If a region has rapid growth, there's often an escalating transit cost.

We've also seen an important shift that we would certainly like to encourage in priority given to transit infrastructure. If a region didn't have a public transit system, then development charges couldn't be used at all under that model. Of course, if the transit system was minimal but the municipality was looking to expand, the development charge would be severely restricted.

We note that the planned level of service is positive, but we're looking forward to seeing what's in the regulation to make sure transit is included.

Those amendments for transit raise many of the issues spoken to by the last two speakers, though. The proposed amendments should go farther. We urge the government to take this opportunity to get rid of the arbitrary barriers in the Development Charges Act that restrict municipalities from recovering the full cost of growth-related capital costs for infrastructure. We would recommend completely removing the 10% discount category from the Development Charges Act. The reduction is arbitrary, and it's necessarily creating funding deficits.

We'd also recommend removing the requirement for the 10-year historical average basis for development charges in all cases for those same reasons. Many of the problems that have been identified for transit exist for other services.

Finally, we also recommend, echoing the last two speakers, removing the list of ineligible services altogether. There's no reason for services to be completely excluded from recovery through development charges.

One argument that is raised in support of this list of ineligible services is a concern that these are the types of services that will benefit all residents, and so development charges would be overburdening these new residents. That concern is already dealt with through the methodology to calculate development charges in the act. When you look through the methodology that's used to calculate development charges, there are already provisions that restrict development charges only to that piece that would actually be related to the growth. For instance, paragraph 5(1)6 provides that if expenditures that were needed to service new development end up benefiting existing development, they are not included in development charges. So the increase in the need for service has to be reduced by the extent to which an increase which was funded by development charges would actually benefit everyone. There are already provisions in the act that are making sure these development charges aren't covering too much, so there's no reason for the ineligible services list, which is an additional, arbitrary barrier to the recovery of costs.

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The final issue I'd like to address under the Development Charges Act is, we do support the requirement for the development charge background studies to include an

asset management plan and a demonstration of the financial viability of the assets over their full life cycle. We also support the treasurer's statement identifying assets whose capital costs were funded through development charges, and again, how any shortfall will be funded.

We'd like to suggest a further amendment to address concerns about discounting that's being provided under the act. We'd ask that these treasurers' statements also be required to outline a calculation of what the municipality is able to charge under its development charge bylaws, compared to what the municipality has chosen to charge.

Right now, there is no way for citizens to know when their governments are choosing to discount development charges or by how much. That requirement would bring the further transparency and accountability to the process that is being dealt with in those amendments.

Those are my comments about the Development Charges Act. I'm going to make a few brief comments about the Planning Act and, hopefully, have some time for questions.

In terms of the section 8 suggestion to add mandatory planning advisory committees, we generally support that idea, but we suggest providing a bit more clarity about the role and the makeup of the committee in the legislation.

One precedent that I'd urge you to look at and consider is the National Drinking Water Advisory Council, created by the US Safe Drinking Water Act in 1974. It has been around for a long time, and it's a long precedent to look at.

That advisory council is generally understood to be a good and another opportunity for stakeholder and public input into, in that case, the Safe Drinking Water Act in the United States. That legislation outlines the council's function, which is to advise, consult with, and make recommendations to the relevant decision-makers. It also dictates the makeup of the council.

They have a 15-person committee. Five people are appointed from other levels of government. That's a federal statute, so other levels of government with concerns about those issues are on the committee. Five members are appointed from private organizations or groups demonstrating an active interest in the field. So it could be university professors and other experts in the field. The final five members are appointed from the general public. That's an interesting breakdown. I think it's an interesting model to consider.

We also recommend that there be some kind of transparent process to apply for positions on this committee; clear, merit-based criteria for members; and a public call for applications.

My last comment before we move to questions is, although we're generally supportive of the provisions in the Planning Act to facilitate alternative dispute resolution, we have concerns about the part of those provisions that allows council to choose as many of the appellants as the council considers appropriate to participate in the ADR.

ADR won't work if some of the appellants aren't invited. Even if there is some kind of resolution for some of the appellants, there are still going to be these outlier appellants who will have to go forward with the process. The municipality shouldn't be able to sidestep one appellant's concerns and choose who is participating. Of course, we have particular concerns about public-interest appellants being left out of that process. We would ask for that to be amended so that all appellants are invited to participate if there's going to be an ADR process.

Thanks very much.

The Chair (Mr. Peter Tabuns): Thank you very much. Colleagues, we have about a minute left per party. Mr. Hatfield, if you would start?

Mr. Percy Hatfield: Did I miss it? Did you talk about the parks plan and the reduction in parks?

Ms. Jacqueline Wilson: I didn't, but—

Mr. Percy Hatfield: But you're from environmental law. Why didn't you?

Ms. Jacqueline Wilson: I'm from the Canadian Environmental Law Association. We oppose the change to the payment that would see a reduction in the amount of money set aside for parks.

Mr. Percy Hatfield: Thank you.

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

Mr. Lou Rinaldi: A whole minute. Thank you for being here today.

I guess the part that the municipality has to be more accountable to the decision-making when it comes to Bill 73, in many facets.

You touched on the review process, with members of the public being part of a committee in a municipality. Can you elaborate a little bit more about the importance of municipalities making these decisions within the structure of the bill and how important that is?

Ms. Jacqueline Wilson: I think all of the changes that are going to increase public participation in this kind of decision-making, like land use planning, are extremely important, so we are heartened to see things that will help to increase public participation. We're interested in, for instance, these public advisory committees, but we're also interested in the notice requirements being put into the official plans, to allow the public to know how they'll get notice of decisions going forward.

The alternative measures: We certainly want to see more technology being used, and that's great; of course with the caveat that we want to make sure that that actually gives notice to more people, and that it isn't somehow a way to have notice be restricted.

Mr. Lou Rinaldi: Thank you.

The Chair (Mr. Peter Tabuns): To the opposition. Mr. Hardeman.

Mr. Ernie Hardeman: Thank you very much for your presentation. I want to go to the planning advisory committee having at least one member of the public. Recognizing that most of the planning advisory decision-makers are in fact elected local officials—so they were picked by the people to make these decisions on their behalf—you suggested that the public participation should be defined as having the right people appointed for their expertise, I think, something of that nature. How

would you suggest that we find the right person in those committees to help give advice to the people who are going to make the decision, recognizing that everybody else on the committee are going to be decision-makers? That one person is just there to give advice at the public meeting. How would we pick the right person, if I was the local planner in charge?

Ms. Jacqueline Wilson: I think that our submission about having a clear, merit-based process that would have a public call for applications would allow for the broadest array of people to apply for the position. I'd suggest as well that it might be worthwhile to expand this committee, so that it's not only one person. Like the example I gave: To have five people with some kind of expertise, five people from the community who are general public participants, might allow for better participation and better decision-making.

Mr. Ernie Hardeman: Thank you.

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

Colleagues, the committee is adjourned until 2 p.m. on Monday, November 9, 2015. Please note that the committee is scheduled to meet in room 151.

The committee adjourned at 1758.

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