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**Official Report
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Monday 23 November 2015

**Journal
des débats
(Hansard)**

Lundi 23 novembre 2015

**Standing Committee on
Social Policy**

Electoral Boundaries Act, 2015

Smart Growth for Our
Communities Act, 2015

**Comité permanent de
la politique sociale**

Loi de 2015 sur les limites
des circonscriptions électorales

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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON SOCIAL POLICY

COMITÉ PERMANENT DE LA POLITIQUE SOCIALE

Monday 23 November 2015

Lundi 23 novembre 2015

The committee met at 1401 in room 151.

ELECTORAL BOUNDARIES ACT, 2015 LOI DE 2015 SUR LES LIMITES DES CIRCONSCRIPTIONS ÉLECTORALES

Consideration of the following bill:

Bill 115, An Act to enact the Representation Act, 2015, repeal the Representation Act, 2005 and amend the Election Act, the Election Finances Act and the Legislative Assembly Act / Projet de loi 115, Loi édictant la Loi de 2015 sur la représentation électorale, abrogeant la Loi de 2005 sur la représentation électorale et modifiant la Loi électorale, la Loi sur le financement des élections et la Loi sur l'Assemblée législative.

The Chair (Mr. Peter Tabuns): Good afternoon, everyone. The Standing Committee on Social Policy will now come to order. We're here to consider Bill 115, An Act to amend the Representation Act, 2015, repeal the Representation Act, 2005 and amend the Election Act, the Election Finances Act and the Legislative Assembly Act.

Each presenter will have up to five minutes for their presentation, followed by up to nine minutes of questions from committee members, which will be divided equally among the three parties, with rotations starting with the official opposition.

MR. GREG ESSENSA

The Chair (Mr. Peter Tabuns): Our first presenter is Mr. Greg Essensa, Chief Electoral Officer, Elections Ontario. Welcome.

Mr. Greg Essensa: Thank you.

The Chair (Mr. Peter Tabuns): And if you'd introduce yourself for Hansard, and we'll go from there.

Mr. Greg Essensa: Good morning. My name is Greg Essensa. I'm Ontario's Chief Electoral Officer. I'd like to begin by thanking Mr. Tabuns and all members of the committee for inviting me today to speak in respect of Bill 115, the Electoral Boundaries Act, 2015.

As you are aware, I have been advocating for a new redistribution process since 2009. Today, I will be outlining why an updated electoral map is necessary for Ontario, the scope of work that will need to be completed before the 2018 general election and the urgency of

passing this bill soon because the window for implementation is closing.

Ontario's electoral boundaries law was last updated in 2005. Since that time, Ontario's population has changed significantly.

The Chair (Mr. Peter Tabuns): Mr. Essensa, could you speak closer to the microphone? Thank you.

Mr. Greg Essensa: Sure. According to Ontario's Ministry of Finance, our population is expected to rise by almost 33% in the next 25 years. That is an increase from approximately 13 million people in 2011 to nearly 18 million people by 2036. The GTA is the fastest-growing region. It is expected to attract 2.8 million people, effectively doubling its current population.

These demographic realities must be taken into account by our current laws. Section 3 of the Canadian Charter of Rights and Freedoms guarantees our right to vote, which includes the right to "effective representation," according to the Supreme Court of Canada. Electoral boundary laws must provide citizens with effective representation by protecting the "relative parity of voting power" while taking into account other factors like geography, history, community interests and minority representation. This means that when an electoral map is drawn, the population size of each electoral district should be reasonably similar. Generally, the courts have allowed a variance of not more than 25% above the average district population.

Given the principle of effective representation and the populations we have seen, and will see, it is imperative that Ontario update our electoral map. If this bill is not passed, we may be at risk of having our existing map challenged in court because it does not currently reflect voter parity. Let me show you how by using a practical example.

The district of Oak Ridges–Markham has the largest population in the province. It has experienced tremendous growth in the last 10 years and now has a population of just over 243,000 people. The average district population in Ontario is about 128,000. Oak Ridges–Markham, therefore, exceeds the average population size by 89%, well beyond the 25% threshold that the courts find is reasonable. And this is not the only example.

It is cases such as Oak Ridges–Markham that can leave Ontario vulnerable to a charter challenge. For Ontario to have a healthy democracy and to be in compliance with our charter, I strongly believe that redis-

tribution is needed now to address the population disparities between electoral districts.

For most of the last two decades, Ontario's provincial boundaries have been aligned with its federal boundaries. My written submissions explain how this worked.

The timeline for passing redistribution legislation is becoming critical. It is important that this committee and all members are aware of the scope of work Elections Ontario, political parties and constituency associations will need to complete after the legislation is passed and before a general election can be held.

Parties need to work with their affected candidates to determine in which district they will run. Parties also need to work with their constituency associations to determine which ones need to be dissolved and where new constituency associations need to be created. Elections Ontario will need to work closely with parties to support them through this process and assist them in understanding the significant financial reporting obligations that accompany this process.

Additionally, Elections Ontario will need to develop all new map and list products, manage the recommendation process for appointing new returning officers for the new boundaries, while at the same time maintaining the slate of current returning officers in the current boundaries in the event of a by-election. This work means that legislation needs to be passed soon to be ready for 2018.

Before I conclude today, I do want to mention something that I believe is missing from Bill 115. In my report after the last election, in addition to recommending that Ontario needs to address the current redistribution problem, which Bill 115 does, I have also recommended that Ontario should have a regularly scheduled process for evaluating electoral boundaries. Since we delinked in 2005 from following the federal redistribution schedule, Ontario is the only province in Canada that does not have a regularly scheduled process for reviewing these boundaries.

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

Mr. Greg Essensa: Okay.

The Chair (Mr. Peter Tabuns): It may be that one of the parties will ask you to expand on those last comments.

Mr. Greg Essensa: No problem.

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

Mr. Norm Miller: Thank you very much, Mr. Tabuns. That's an excellent suggestion. So, please, finish your presentation.

Mr. Greg Essensa: Sure. Thank you. I'm very close to finishing.

Ontario's population will continue to grow and shift. Establishing a regularly scheduled process for reviewing the boundaries will allow Elections Ontario to find efficiencies in the process by making it predictable. This predictability will help us secure strong leadership in the field, and it will also help reduce the appearance of partisanship if the process is regularized.

I thank you for the opportunity to present to you and I'd more than welcome any questions you may have.

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

Mr. Norm Miller: Thank you for your presentation. It sounds like you have a bit of a cold or something and—

Mr. Greg Essensa: Sorry, just a—

Mr. Norm Miller: Ms. Martow's in the same situation. I thought she was just whispering to me to be polite—

Mrs. Gila Martow: Or sounding very sexy.

Mr. Norm Miller: That's as loud as she can get, so she handed me a question written out to ask, so I shall read her question.

Since the boundary changes for the province follow the federal changes, were you given an offer to give input when the feds were deciding their changes?

Mr. Greg Essensa: I was actually invited to Ottawa for the kickoff of the boundary commissions in Ontario, and I spent two days with Elections Canada and actually the three commissioners who oversaw the federal redistribution process. So I did have an opportunity to consult with them and discuss with them.

During the process, my office was in consultation with them as they were going through their redistribution process, so we did have an opportunity to have some consultations with them.

Mr. Norm Miller: Okay. And you mentioned a couple of times that the timing is critical. So what is the date by which you have to have the bill passed?

Mr. Greg Essensa: Well, the current legislation anticipates or puts in place a calendar whereby, by March 1, 2016, constituency associations may be dissolved. It also sets the calendar and the timeline for new constituency associations to be established.

There's a considerable amount of work for Elections Ontario to do as well in the remapping process, as well as guiding the parties and the constituency associations in their reporting requirements, because when a constituency association dissolves, they have fairly onerous reporting requirements to us. Elections Ontario's job is really to track the money and the assets and liabilities. So if you consider three constituency associations now becoming four—how that money is divvied up, where it goes—our job is to help the parties and the constituency associations meet their financial obligations in reporting that to us so there's clear transparency on that.

1410

Mr. Norm Miller: March 1, 2016: So you really do need this passed very quickly—

Mr. Greg Essensa: It is our recommendation, yes.

Mr. Norm Miller: —to be able to accomplish that.

I guess I'm interested in a couple of other things. You talked about, obviously, having—

The Chair (Mr. Peter Tabuns): I'm sorry to say, Mr. Miller, but your time has come to an end.

Mr. Norm Miller: Oh, okay.

The Chair (Mr. Peter Tabuns): We'll go to Mr. Singh.

Mr. Jagmeet Singh: I just have to say, Mr. Chair, it's very kind, the way you provide that time update. It's much appreciated.

Thank you very much for being here, sir. A couple of quick questions. One is the issue that you touched on—I think it's an important issue—the fact that there are people who are not getting the representation that they ought to get because of their population. There are areas like Oak Ridges–Markham that you mentioned. I know in the Peel region there are also quite large ridings. I know Brampton West is probably the second-largest after Oak Ridges–Markham, and I know my riding is also quite large. So it's an issue of representation.

One of the things you talked about was making the process more systemized, making it something that happens in a more regular manner so that it's not seen as partisan. Can you just expand on that? I think it's a great point.

Mr. Greg Essensa: I think it's important for all members of the assembly to put in place a practice that cannot be disputed as being partisan. One of the things that I think is really important for the assembly to consider is establishing in this bill a go-forward position so that after the next decennial StatsCan update and the feds' move to their next redistricting and redistribution process, here in Ontario, we have something that's already established in law. Whether that's you establishing our own commission here in Ontario or whether you're going to continue following the federal boundaries, I just think it's important for the assembly to establish that beforehand, because then it allows for a more predictable timetable under which Elections Ontario, political parties and constituency associations know how they're going to morph themselves as Ontario's population continues to grow.

Mr. Jagmeet Singh: I've got two quick questions; the answers might not be as quick. One is that Ontario is one of the few provinces where the boundaries mimic exactly the federal boundaries, with the exception of the north. Other provinces have completely different electoral boundaries for their provincial seats. Any input on why that's the case and why Ontario went in that direction?

Mr. Greg Essensa: From a public policy perspective, I can't comment on why they chose that. I can tell you that, from an administrative perspective, it is easier. It is something that I actually support because I do fundamentally believe that electors should be treated as consistently as possible. So if an elector goes out the door to turn right to the community centre for a federal election, they should go out the door and turn right to the community centre for a provincial election. There's a commonality of approach, and I think for both political parties and for electoral administrators, when there is consistency of the actual physical districts, it's easier for us to manage—from returning officers, from staff, from choosing of voting locations. I think that consistency will also prompt familiarity for the electors themselves.

Mr. Jagmeet Singh: I may not have time for this last question, but a question on—when we were providing

input to the new electoral boundaries, we weren't able to talk about growth. There were going to be changes within a year or two that would have impacted the riding size. That wasn't a factor—

The Chair (Mr. Peter Tabuns): Mr. Singh, I'm sorry to say, you're out of time.

Mr. Jagmeet Singh: No worries. Thanks.

The Chair (Mr. Peter Tabuns): We go to the government: Mr. Berardinetti.

Mr. Lorenzo Berardinetti: Good afternoon, Mr. Essensa.

Mr. Greg Essensa: Good afternoon.

Mr. Lorenzo Berardinetti: I guess I'm picking up a little bit from my colleague Mr. Singh from the NDP. So it's cost-effective, would you say, to mirror the ridings that are there federally—except for the one in the north—instead of setting up a whole new Ontario commission?

Mr. Greg Essensa: It's definitely, from Elections Ontario's perspective, cost-effective. Effectively, we've already been in contact with Elections Canada. We have the GIF files of the maps; we have a lot of that information, so when this bill is passed, we can effectively piggyback on the work that they've already done. So yes, it is cost-effective from our perspective.

Mr. Lorenzo Berardinetti: Okay. And also, the only thing that really changes is adding one riding in northern Ontario. We have our own reasoning, the Liberals and the government. Can you explain why you want—is that okay, in your view, to have one more extra seat in northern Ontario?

Mr. Greg Essensa: From my perspective as the Chief Electoral Officer, that's truly a political or an assembly question, to be perfectly honest. As far as the administration, we have, obviously, all of the metes and bounds for those 11 ridings. We have the returning officers in place. It's very little change for us whatsoever, so it does make it somewhat easier for us to maintain those 11.

Mr. Lorenzo Berardinetti: Thank you. The other question I wanted to ask you is the engagement of youth. This bill also talks about pre-registering voters at a younger age. Can you just give your thoughts on that? I just wanted to know what you thought about that.

Mr. Greg Essensa: Sure. After the 2014 election, one of my recommendations to the government and to the assembly was the consideration of providing provisional updates on 16-year-olds and 17-year-olds to our database, so that we can actually begin to communicate with them on the importance of voting, on the importance of our democracy, on a healthy civil society that is actually engaged in its electoral process. So when those individuals turn 18, they've been fully versed and well-immersed in the importance of voting. We can provide information to them on a regular basis and, in fact, once they turn 18, we can encourage them to become active, engaged citizens who are voting on a regular basis.

All of our studies have shown that if someone votes when they turn 18, we likely have them as a voter for life. If they don't vote when they turn 18, we likely miss them for upwards of five to 10 years.

Mr. Lorenzo Berardinetti: Thank you. The time, Mr. Chair?

The Chair (Mr. Peter Tabuns): You have 30 seconds.

Mr. Lorenzo Berardinetti: Thirty seconds? It was an excellent presentation, so I thank you very much. My question will take too long for you to answer, so I'll ask you later.

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

Mr. Greg Essensa: Thank you to the members of the committee.

MR. ALAN HALL

The Chair (Mr. Peter Tabuns): Our next presenter is Mr. Alan Hall.

Mr. Hall, as you've seen, you have five minutes to speak and they've got up to nine minutes to ask questions. If you would introduce yourself for Hansard.

Mr. Alan Hall: Good afternoon. Thank you for the opportunity to appear before you this afternoon. My name is Alan Hall. I'm appearing as a private citizen, but this is a subject area that I'm quite familiar with and quite interested in. I worked as a researcher for Elections Ontario for six years many, many years ago. I also worked for provincial boundaries commissions in Alberta and Nova Scotia, so this is an area that I know quite well.

There are six points that I've laid out in the written submission that I've submitted. The first one is regarding how the boundaries in northern Ontario should be designed. Bill 115, similar to Bill 214 from 10 years ago, would just keep in place the existing provincial boundaries, which were actually the federal boundaries set in 1996. Even though there have been municipal boundary changes in northern Ontario, there has been no review of those boundaries in 20 years.

My first point is that there should be something in place where people in northern Ontario can help make representations to suggest any changes that should happen to their provincial riding boundaries.

Points 2 and 3 regard changes that—I'm suggesting them rather than recommending them, because I think it's not really my place to set new boundaries. I've found several parts in northern Ontario where I think that a commission or commissioner should review to see if there's a way that the boundaries can be adjusted to better represent communities of interest and municipal boundaries. Actually, two of the ones on my list here were mentioned by Mr. John Vanthof, the member for Timiskaming—Cochrane, when he spoke on the bill in the Legislature a few weeks ago.

Four of them involve municipal boundaries, where the provincial riding cut into them, I guess you could say. The other nine regard parts of northern Ontario where, because of transportation links, there may be a better solution to which riding an area should belong.

Finally, one thing that was just touched on by Mr. Essensa is that the courts have detailed a 25% limit—I

guess you could say threshold—for representation in terms of making sure that populations are as equal as possible, but still allowing for special circumstances: geographic, transportation, communities of interest etc.

One of the issues is that if Bill 115 is put in place, there will actually be nine out of the 122 seats that are beyond this 25% limit: one in southern Ontario, Brantford—Brant; and eight in northern Ontario, including Sault Ste. Marie and Nipissing, which are not necessarily very large ridings or ridings that have a lot of rural territory, as compared to other ridings such as Algoma—Manitoulin, Kenora, Timmins etc.

1420

Also, northwest Ontario: One thing that is noticeable is that even though provincially northern Ontario has one more seat than it has federally, the federal riding of Kenora is much smaller than Kenora—Rainy River, the provincial counterpart. I'm suggesting that that's one area where some consideration should be given to keeping the federal and provincial boundaries in sync.

The last two points deal with, I guess you could say, technical changes in the law. One is regarding electoral district name changes. In the previous Representation Act, there was a section that, if a federal and provincial riding shared the same boundaries and the name was changed federally, it would also be changed provincially. I believe that should be included in the new law.

The other part is that schedule 1 of Bill 115 has boundary descriptions for each of the 11 ridings in northern Ontario, but there's no definition of what those boundaries mean.

The Chair (Mr. Peter Tabuns): Mr. Hall, I'm sorry to say that you've run out of time. We'll go to the first questioner, Mr. Singh, with the third party. Mr. Singh?

Mr. Jagmeet Singh: Sure. If you want to use some of my time for questions to finish your presentation, I'd be happy to—

Mr. Alan Hall: I'm actually finished. I was just saying that there should be legal descriptions at the start of schedule 1.

Mr. Jagmeet Singh: Okay. As New Democrats, we support maintaining the current riding distribution in the north to ensure that northern Ontarians have a strong voice. But I do agree, as my colleague from the New Democratic Party from the Timiskaming region talked about, that for some of the ridings, the boundaries just don't make sense geographically. He talked about a couple of areas. Do you think this is something that's important for us to address so that communities can be linked more accurately geographically?

Mr. Alan Hall: I think so. I think that if you could just have some process where some of these suggestions, some of these ideas could be brought forward so that the boundaries could reflect what the people in northern Ontario want today—not necessarily what federal boundaries they wanted 20 years ago.

Mr. Jagmeet Singh: That's a good point. We heard earlier from the Chief Electoral Officer about what processes should be in place to make sure that this

updating of ridings is more systemized and regularized. With respect to ensuring, I guess, the right boundaries, do you have any input on how we could actually make that happen, how we could create a system that would make it more predictable in terms of where the boundaries are drawn?

Mr. Alan Hall: I know federally they have the federal commissions that occur every 10 years after each decennial census. Ontario seems to have accepted, at least in southern Ontario, that the boundaries should be coterminous. So if there was some way to include provincial representation on a commission or to have sort of maybe a joint federal-provincial commission for southern Ontario, I think that would make sense.

The second thing is that I think that for northern Ontario, there should be something in place where changes could be considered on a regular basis rather than just leaving things untouched.

Mr. Jagmeet Singh: I also wanted to just mention how thorough your presentation and the materials you provided are. They're quite well done and I just want to commend you on that.

Mr. Alan Hall: Thank you very much.

Mr. Jagmeet Singh: I have no further questions. Thank you so much.

The Chair (Mr. Peter Tabuns): We'll go to the government: Mr. Thibeault.

Mr. Glenn Thibeault: Thank you, Mr. Hall. I'm going to echo my colleague Mr. Singh's comments: It's quite a thorough report, I do have to say. For, I guess, a hobby, you've picked quite an interesting one in terms of electoral boundaries. So thank you for that.

I guess I'll do a little bit of a preamble before I get to my question. In northern Ontario, we always want to ensure that our voice is heard in Queen's Park or on Parliament Hill. There was some concern initially at the federal level that the 10 seats that were in the north were going to disappear or be dropped down to eight or even less just to try to match the population piece. I know you've talked about the quotient that was with the Supreme Court as well and trying to match that.

It's important for those of us in the north, and I'm sure my colleague from Parry Sound–Muskoka will speak to that as well, to ensure that our voice is heard. So having 10 seats at the federal level and now maintaining the 11 seats at the provincial level is truly important for us. As I go through this, through your thorough report, there are many, many things in here that could be done to make it better. I understand that. Nothing is perfect; we're all human.

I guess my first question would be, do you not think it is important to ensure that we keep the 11 seats here in the north?

My second question would be: There was a lot of advocating done by MPs and MPPs to ensure that the north's voice was heard when we were looking at many of the things that you were suggesting. So my second question is did you have the opportunity to present to the federal electoral commission when they were starting their processes and looking at northern Ontario?

Mr. Alan Hall: Well, no. I did make a presentation for some areas in southern Ontario, but the federal boundary commissioners only had 10 seats to deal with. So to make a presentation for 11 seats I don't think would have been accepted at all at the federal level. That's why I'm saying that if you do have some sort of a joint committee, it would not make sense—as long as northern Ontario would keep its 11 seats, it wouldn't make sense to extend it beyond southern Ontario.

Whether northern Ontario should keep 11 seats, I think that's a matter for the Legislature. As someone who grew up in the southernmost part of Ontario, in Windsor—

Mr. Percy Hatfield: Hey.

Laughter.

Mr. Percy Hatfield: Sorry.

The Chair (Mr. Peter Tabuns): I'm sorry to say this to all, but you're out of time.

Mr. Alan Hall: Fair enough.

Mr. Glenn Thibeault: Thank you, Mr. Hall.

The Chair (Mr. Peter Tabuns): We go to the official opposition. Mr. Miller?

Mr. Norm Miller: If you want to finish off what you were saying, go ahead, and then I'll—

Mr. Alan Hall: It's really up to the Legislature to decide how many seats northern Ontario has.

One issue is that when they had the federal boundaries put in place, they added 15 seats to Ontario. So that allowed the population growth in southern Ontario to be accommodated without touching northern Ontario's 10 seats. If, in the next round, it's a very small number being added, then you're right, northern Ontario might actually have to drop down to nine seats in order to meet the Supreme Court rules.

Mr. Norm Miller: I also would like to thank you for your detailed presentation. You've done a great job.

I gather what you're suggesting that seems to make sense is that in southern Ontario, we more or less follow the federal electoral boundary commissioner, but northern Ontario is frozen in time in that we have 11 ridings and we're not looking at changing the boundaries. So you're suggesting that on a regular basis, there should be a specific northern Ontario electoral boundary commission to evaluate, as things change in the north, where those boundaries are drawn. Is that correct?

Mr. Alan Hall: Yes.

Mr. Norm Miller: You've gone into great detail making some suggestions, which on the surface seem to make sense, pointing out that there's—despite the federal government having only 10 ridings in the north, their Kenora riding is actually smaller than our Kenora-area riding. I see some effect on the riding I represent as well. I see that you know that there are five people who live in Killarney that are in the riding of Parry Sound–Muskoka, and you're suggesting that that might be better accommodated in another riding.

I think that does make sense to, on a regular basis, review the northern ridings. I absolutely feel that with the immense geography of northern Ontario, we need to

maintain 11 ridings. You just need to drive around the north to experience just how huge it is. So I do think geography and complexity of the ridings does need to be a factor in that there's only so much a person can represent when you're spending hundreds and hundreds and hundreds of kilometres driving around your riding, trying to represent the people. So I think that's a good point.

Ernie, do you have any questions?

Mr. Ernie Hardeman: No.

Mr. Norm Miller: Thank you very much for your presentation.

Mr. Alan Hall: Thank you.

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

Members of the committee, that completes the presentations that will be before us today. A reminder to all of you that, pursuant to the order of the House, the deadline to file amendments to Bill 115 with the committee Clerk is at 10 a.m. on Wednesday, November 25, 2015.

Colleagues, we have been given an order by the House to move on with resuming clause-by-clause consideration of Bill 73. May I suggest to all of you that we have a five-minute recess? You're agreeable? Excellent.

The committee recessed from 1430 to 1436.

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): The committee is back in order. Pursuant to today's order of the House, we now move on to resume clause-by-clause consideration of Bill 73, An Act to amend the Development Charges Act, 1997 and the Planning Act.

At the conclusion of the last meeting, the committee was on section 28 of the bill and I believe we were just about to go into government motion 60. Who will be speaking? Mr. Milczyn.

Mr. Peter Z. Milczyn: I move that subsection 28(1) of the bill be struck out and the following substituted:

“(1) Section 45 of the act is amended by adding the following subsections:

“Criteria

“(1.0.1) The committee of adjustment shall authorize a minor variance under subsection (1) only if, in addition to satisfying the requirements of that subsection, the minor variance conforms with,

“(a) the prescribed criteria, if any; and

“(b) the criteria established by the local municipality by bylaw, if any.

“Same

“(1.0.2) For the purposes of subsection (1.0.1), criteria that were not in force on the day the owner made the application do not apply.

“Criteria bylaw

“(1.0.3) The council of a local municipality may, by bylaw, establish criteria for the purposes of clause (1.0.1)(b) and the following provisions apply, with necessary modifications, in respect of the bylaw:

“(1) Clause 34(12)(a).

“(2) Subsections 34(13), (14.1) to (15), (17) to (19.0.1), (20) to (20.4), (22) to (25.1) and (25.2) to (26).

“Coming into force

“(1.0.4) A bylaw under subsection (1.0.3) comes into force,

“(a) if no notice of appeal is filed in respect of the bylaw and the time for filing appeals has expired, on the day after the last day of the time for filing appeals;

“(b) if all appeals in respect of the bylaw are withdrawn and the time for filing appeals has expired, on the day after the last day on which an appeal was withdrawn;

“(c) if the municipal board dismisses all appeals and the time for filing appeals has expired, on the day after the last day on which an appeal was dismissed;

“(d) if the municipal board allows an appeal in respect of the bylaw and amends the bylaw, on the day after the last day on which the municipal board makes a decision disposing of the appeal; or

“(e) if the municipal board allows an appeal in respect of the bylaw and directs the municipality to amend the bylaw, on the day after the municipality passes the amending bylaw.”

The Chair (Mr. Peter Tabuns): “On the day after the day”?

Mr. Peter Z. Milczyn: Are you referring to (e)?

The Chair (Mr. Peter Tabuns): Yes, (e). I heard you say “on the day after the municipality.”

Mr. Peter Z. Milczyn: Oh, my apologies. It's supposed to be “on the day after the day the municipality passes the amending bylaw.”

The Chair (Mr. Peter Tabuns): Thank you, Mr. Milczyn. Would you like to speak to that?

Mr. Peter Z. Milczyn: Yes. Obviously, I'm asking the committee to support this amendment. The purpose here is to respond to the many calls that have come throughout various communities to strengthen what defines a minor variance.

The government is not inclined to add additional tests or criteria to the ones that have already been established by law. However, we do believe that local municipalities should be empowered to establish additional criteria for the definition of a minor variance that a committee of adjustment would be required to uphold, and that that can be done through a municipal bylaw that would allow local municipalities to reflect local values and local needs.

Of course, the passage of such a new bylaw would be open to all the usual appeal rights that individuals would have. It would require public consultation in the municipality, a statutory public meeting, and there would

be appeal rights, but once in effect, that would be the bylaw and the law that would bind the committee of adjustment in its decision-making.

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

Mr. Ernie Hardeman: Thank you very much for the explanation. I agree with the motion and will be supporting it, but a couple of questions come to my mind. In all the times I was involved in minor variances at the committee of adjustment, the only definition you could possibly come up with for a minor variance is something that was not going to majorly impact anything negatively. But I don't know how you would write that down, because "minor" is in the eye of the beholder. Sometimes, a foot variance can be a major issue if the use next door is such that it's going to conflict by being a foot closer. Other times, it could be 20 feet and it doesn't mean anything because it's such a large backyard that 20 feet one way or the other is somewhat irrelevant.

How would you envision that a bylaw would cover that, the variance, to allow committees of adjustment to make decisions on whether it is or is not a minor variance without it being written in the law?

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

Mr. Peter Z. Milczyn: It would be written into the local bylaws. It's not for me to prejudge what each individual municipality may or may not choose to do.

There are already certain instances where there are other pieces of legislation that overlay—heritage preservation districts trump the ability to secure certain types of minor variances. But that speaks to the issue of preserving local character. There may be instances where the prevailing streetscape is something that a municipality might want to preserve: strengthen wording about maintaining the pattern of lots in a neighbourhood to prevent additional subdivision of lots.

There could be additional, stronger language that would be tabled to the entire municipality, or to a neighbourhood within a municipality, that would provide greater clarity on what the intent of the bylaw is. If the member opposite recalls from his municipal days, a minor variance has to comply with the official plan, but it also has to be in keeping with the spirit and intent of the underlying zoning bylaw. I would suggest that in a lot of cases, that's a test that is never really adhered to. This would be potentially an attempt by municipalities to strengthen clarity around what the spirit and intent of the original zoning bylaw is.

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

Mr. Ernie Hardeman: I just want to point out for the record that, again, I agree with this, but I think the challenge is the difference between what some people consider the minor variance process was and what others see.

Toronto presented to the committee and said that allowing five more storeys on a building is not a minor variance. In the community that I was a municipal politician in, that would never have even got that far to

become an application for a minor variance because that would be a different zoning. If it's single-storey zoning, to get the second storey you've got to apply for rezoning. But this seems like an awfully convoluted way to get to—when, all of a sudden, they've poured the foundation and they're six inches too close to the street, and they need a minor variance for the six inches. They forgot to put that in their bylaw, and now they've got to rip the foundation out to do that. I just point that out. But with that, I will support the motion.

The Chair (Mr. Peter Tabuns): Okay. Any other further commentary? Mr. Milczyn.

Mr. Peter Z. Milczyn: I just want to be clear: The government's intent is to empower local municipalities to have more control over their local decision-making.

Mr. Ernie Hardeman: I support that 100%.

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

Mr. Percy Hatfield: Yes. After hearing that final remark about giving local municipalities more control, I just think that's a perfect opportunity to say that we should have inclusionary zoning somewhere in this bill as well. I will be supporting this amendment.

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

It looks like you're ready to vote. As has previously been requested, all these votes are recorded.

Ayes

Berardinetti, Hardeman, Hatfield, Mangat, Martow, Milczyn, Rinaldi, Thibeault.

The Chair (Mr. Peter Tabuns): Opposed? There being none, the motion is carried.

We go to government motion 61. Mr. Milczyn, you're on a roll; keep going.

Mr. Peter Z. Milczyn: Yes. I move that subsection 45(1.3) of the Planning Act, as set out in subsection 28(2) of the bill, be struck out and the following substituted:

"Two-year period, no application for minor variance

"(1.3) Subject to subsection (1.4), no person shall apply for a minor variance from the provisions of the bylaw in respect of the land, building or structure before the second anniversary of the day on which the bylaw was amended.

"Exception

"(1.4) Subsection (1.3) does not apply in respect of an application if the council has declared by resolution that such an application is permitted, which resolution may be made in respect of a specific application, a class of applications or in respect of such applications generally."

The Chair (Mr. Peter Tabuns): Commentary? Do you want to speak to that, Mr. Milczyn?

Mr. Peter Z. Milczyn: Thank you, Mr. Chair. I know that the member opposite is going to ask some questions about this, so I'll try to provide clarity around this.

It might be, in certain municipalities, that this seems an onerous restriction; in other municipalities, it's a very

necessary one. The exception that's being proposed would address the issue that, in certain municipalities where this would not be seen as an issue, where they would want more flexibility, they could pass a resolution allowing for all manner of minor variance applications to zoning bylaws to be heard within the two-year period. Other municipalities might choose to restrict that. This amendment provides that flexibility to municipalities.

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

Mr. Ernie Hardeman: Just to show I'm not a creature of habit, I support this motion. When we get to it, I'll withdraw 62.

The Chair (Mr. Peter Tabuns): When we get to 62, I'll acknowledge that.

Any other comments on this? There being none, you're ready to vote?

Ayes

Berardinetti, Hardeman, Hatfield, Mangat, Martow, Milczyn, Rinaldi, Thibeault.

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

We go to PC motion 62: Mr. Hardeman.

Mr. Ernie Hardeman: I withdraw that.

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

We go to PC motion 63: Mr. Hardeman.

Mr. Ernie Hardeman: I move that subsection 45(8.1) of the Planning Act, as set out in subsection 28(3) of the bill, be struck out and the following substituted:

"Same

"(8.1) The decision of the committee, whether granting or refusing an application, shall be in writing, shall be signed by the members who concur in the decision and shall set out the reasons for the decision.

"Same

"(8.1.1) The decision of the committee, whether granting or refusing an application, may contain a brief explanation of the effect, if any, that the written and oral submissions mentioned in subsection (8.2) had on the decision."

The Chair (Mr. Peter Tabuns): Thank you, Mr. Hardeman. Do you want to comment on that?

Mr. Ernie Hardeman: Yes. This amendment would address the concerns raised by municipalities that reporting the impact of oral submissions on planning decisions as laid out in Bill 73 may not be feasible. I think this goes back to the issue of how you record in the minutes what was in the minds of the people who voted.

1450

A number of municipalities raised concerns about this clause, such as the resources required to record the oral submissions.

As well, the city of Toronto pointed out that they deal with thousands and thousands of applications every year, and there may be multiple reasons that councillors made

the decision to vote as they did. Interviewing each councillor to determine the impact of written and oral submissions simply isn't feasible. This here, though it does allow for the recording of those thoughts and comments, doesn't obligate the municipality to put that in notes of the meeting.

The Chair (Mr. Peter Tabuns): Is there any further debate on this matter? Mr. Milczyn.

Mr. Peter Z. Milczyn: I recommend that we do not support this motion. Notwithstanding what Mr. Hardeman said, in fact there are many instances where individuals may choose to challenge a decision and there is really little or no record as to the decision-making process that went in, other than what the final decision is. It makes it difficult for an individual to challenge incorrect assumptions that may have been made in the decision-making process. In fact, my own personal experience is that I've observed where sometimes decisions are made with no discussion. They're simply yes or no, and the public is left completely flummoxed as to knowing why that decision was made, which I think impedes their ability to potentially challenge those decisions.

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

Mr. Ernie Hardeman: I guess I'll do it one more time, Mr. Chairman. My concern is, on the comments made by the member opposite, that sometimes a decision is made with no comments at all. I don't know how the clerk of the committee would get any comments on decision-forming. If no one made comments, then there is nothing to record, oral or otherwise. That really isn't a great argument.

Every decision, once it's been made—what drove or what precipitated the decision becomes irrelevant, because the only alternative to the decision, the way it was—how little or how much the public knows becomes irrelevant. The only way you can overturn the decision is through the Ontario Municipal Board. What the clerk has recorded on the mindset of the committee members as they voted is not going to be evidence at the Ontario Municipal Board, so it seems to me, as difficult as it is to collect it, that even after it's collected it becomes totally worthless.

I think this would tighten the bill up much better and do a better job of letting people make the decisions, call their vote and then be held accountable for the vote they took.

The Chair (Mr. Peter Tabuns): Is there any other debate? Mr. Milczyn.

Mr. Peter Z. Milczyn: Well, just briefly to the point that Mr. Hardeman made about accountability: That's precisely the issue. When elected officials or appointed officials, as the case might be, are conducting business in public, they have an obligation to give a rationale for why they're voting one way or another. That's part of the accountability that we're seeking as well.

The Chair (Mr. Peter Tabuns): Seeing no other commentary, you're ready for the vote? Recorded vote.

Ayes

Hardeman, Hatfield, Martow.

Nays

Berardinetti, Mangat, Milczyn, Rinaldi, Thibeault.

The Chair (Mr. Peter Tabuns): The motion is lost. We go now to NDP motion 64. Mr. Hatfield.

Mr. Percy Hatfield: I move that section 28 of the bill be amended by adding the following subsection:

“(5) Section 45 of the act is amended by adding the following subsections:

“L.G. in C. may confirm, vary or rescind orders

“(21) Upon the petition of any party or person interested, filed with the clerk of the executive council within 28 days after the date of any order or decision of the municipal board under this section, the Lieutenant Governor in Council may,

“(a) confirm, vary or rescind the whole or any part of such order or decision; or

“(b) require the board to hold a new public hearing of the whole or any part of the application to the board upon which such order or decision of the board was made,

“and the decision of the board after the public hearing ordered under clause (b) is not subject to petition under this subsection.

“Withdrawal of petition

“(22) Any party or person who has filed a petition under subsection (21) may at any time withdraw the petition by filing a notice of withdrawal with the clerk of the executive council.”

The Chair (Mr. Peter Tabuns): Mr. Hatfield, do you want to comment?

Mr. Percy Hatfield: Why, thank you, sir. I think it’s an important amendment to restore—good afternoon, by the way—the government’s powers to overturn OMB decisions upon petition with respect to the committee of adjustment decisions. The government used to have this power, but for some reason, they gave it up back in 2009. It made no sense then and it makes no sense today.

Even OMB decisions with respect to the committee of adjustment require government scrutiny, as the OMB’s outrageous 2013 decision to throw out the rulebook and approve an illegally built home addition in Toronto demonstrated. They did the same thing back in Kitchener–Waterloo, which we’ve talked about so many times here. In the region of Waterloo, after a 10-year amendment to the adoption of an official plan that followed every policy statement that the province had, it was appealed and the OMB came in and made a ruling that threw out 10 years of hard work.

I think these decisions can put to rest any delusion that the OMB exists to uphold planning rules in Toronto or the region of Waterloo or any place else in Ontario because, basically, in Ontario today, no elected government has ultimate authority over planning policy in Ontario. Policy should be written by elected govern-

ments. We should stand by those decisions. People should hold us accountable.

But when you have a quasi-judicial body such as the Ontario Municipal Board that’s accountable to absolutely no one, and they can do what they want—the cabinet had, until 2009, the ability to overturn those decisions. If you go back to when Bill Davis was Premier and the Spadina Expressway, the OMB said, “Yes, finally,” and cabinet said, “No. No way.” They gave up the right in 2009. They shouldn’t have. This will repair some of that damage, Chair.

The Chair (Mr. Peter Tabuns): Thank you, Mr. Hatfield. Is there any—Mr. Rinaldi, then Mr. Milczyn.

Mr. Lou Rinaldi: Chair, we’ve been through this previously in clause-by-clause, and I appreciate the member’s concerns, but as I mentioned in the past, we’re going to be embarking on an Ontario Municipal Board review, and I think this is certainly something that is more appropriate to be talked about and decided upon at that time. I’m recommending that we don’t support it.

The Chair (Mr. Peter Tabuns): Thank you, Mr. Rinaldi. Is there any further commentary? Mr. Hardeman.

Mr. Ernie Hardeman: Thank you very much, Mr. Chair. I agree with the government’s position on this. I believe it’s inappropriate to send applications to the Ontario Municipal Board, with the Ontario Municipal Board having no authority to make a decision. Telling them how they have to decide or telling them what they can decide doesn’t make it an arm’s-length quasi-judicial type of committee.

I disagree with the third party and the suggestion that, somehow, they’re making planning decisions while not being elected. They are there to oversee the implementation of the policy put in place by the elected people of the province: first by the province here through these types of documents, and by local municipalities following these rules.

I think that it has enough oversight for that. I think the OMB is like the courts: They don’t tell people how fast they can go, but when it gets to court, they do adjudicate whether they, in fact, exceeded the speed limit or not.

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

Mr. Percy Hatfield: I won’t be long, Chair. I’ll just say that I’m not talking about breaking any land speed records; I’m talking about elected governments that follow the rules, the regulations. They cross every t, they dot every i. They spend 10 years developing an official plan. They make sure it conforms with every clause and provincial policy statements, such as Places to Grow. Everything is on the up and up—inclusionary consultation for 10 years. They adopt an official plan that says, “We’re going to do more infilling than we’re going to expand beyond the boundaries.” Somebody doesn’t like that decision and appeals to the Ontario Municipal Board. It doesn’t find that somebody was speeding. It doesn’t find that there was mistake made in any of the planning, in any of the consultation, in any of the decision-making.

Every process was followed to the letter of the law, and the OMB just says, "So what? Too bad, so sad. This is what we're going to allow." That's what I'm talking about, nothing else.

The Chair (Mr. Peter Tabuns): Thank you, Mr. Hatfield. I don't see any further debate. The committee is ready to vote. Recorded vote.

Ayes

Hatfield.

Nays

Berardinetti, Hardeman, Mangat, Martow, Milczyn, Rinaldi, Thibeault.

The Chair (Mr. Peter Tabuns): The motion is lost.
1500

We now go to section 28, as amended. Is there any commentary on section 28 before we call the vote? None? Shall section 28, as amended, carry? Recorded vote.

Ayes

Berardinetti, Hardeman, Hatfield, Mangat, Martow, Milczyn, Rinaldi, Thibeault.

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

We now go to section 29. There are no amendments. Any commentary on section 29? There being none, shall section 29 carry? Recorded vote.

Ayes

Berardinetti, Hardeman, Hatfield, Mangat, Milczyn, Rinaldi, Thibeault.

The Chair (Mr. Peter Tabuns): Opposed? There being none, section 29 is carried.

We go on to NDP motion number 65: Mr. Hatfield.

Mr. Percy Hatfield: Thank you, Chair. It's one of my favourites.

I move that section 30 of the bill be amended by adding the following subsection:

"(1.1) Subsection 51(25) of the act is amended by striking out 'and' at the end of clause (c) and by adding the following clause:

"(c.1) that a specified percentage of housing units in all new housing developments in the subdivision containing 20 or more housing units be affordable, and specifying the percentage; and"

The Chair (Mr. Peter Tabuns): Mr. Hatfield, I'm sorry to say that I have to rule this amendment out of order because it is outside the scope of the bill.

Mr. Percy Hatfield: Chair.

Mr. Peter Z. Milczyn: And I may have supported it, Percy.

The Chair (Mr. Peter Tabuns): Mr. Hatfield, I feel badly about it as well.

Mr. Percy Hatfield: No, but I heard I had support from the member on the opposite side.

Mr. Peter Z. Milczyn: I support the Chair.

The Chair (Mr. Peter Tabuns): I'm glad I have the support.

We go on to government motion 66: Mr. Milczyn.

Mr. Peter Z. Milczyn: Thank you, Mr. Chair. I always support you.

I move that subsection 51(37) of the Planning Act, as set out in subsection 30(4) of the bill, be amended by striking out the portion before clause (a) and substituting the following:

"Notice

"(37) If the approval authority gives or refuses to give approval to a draft plan of subdivision, the approval authority shall, within 15 days of its decision, give written notice of it in the prescribed manner to,"

The Chair (Mr. Peter Tabuns): Do you wish to speak to that, Mr. Milczyn?

Mr. Peter Z. Milczyn: Very briefly, this is a technical amendment that facilitates a more modern way of giving notice through additional methods, such as email. This is something that we heard clearly from municipalities and other stakeholders.

The Chair (Mr. Peter Tabuns): Okay. Mr. Hardeman, would you like to comment?

Mr. Ernie Hardeman: Thank you very much. I just want to say that I'll support this motion if I can count on the government's support on the next motion. Turnabout is fair play.

The Chair (Mr. Peter Tabuns): Thank you, Mr. Hardeman. Are there any further comments on this? There being none, the committee is ready to vote. Recorded vote.

Ayes

Berardinetti, Hardeman, Hatfield, Mangat, McDonell, Milczyn, Rinaldi, Thibeault.

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

We go to PC motion number 67: Mr. Hardeman.

Mr. Ernie Hardeman: I move that subsection 51(38) of the Planning Act, as set out in subsection 30(4) of the bill, be struck out and the following substituted:

"Contents

"(38) The notice under subsection (37) may contain a brief explanation of the effect, if any, that the written and oral submissions mentioned in subsection (38.1) had in the decision.

"Same

"(38.0.1) The notice under subsection (37) shall contain any information that is prescribed."

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

Mr. Percy Hatfield: Just as a point of order, Chair?

The Chair (Mr. Peter Tabuns): Point of order.

Mr. Percy Hatfield: I believe Mr. Hardeman said “had in the decision,” as opposed to “on the decision,” if he wants to correct that.

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

Mr. Ernie Hardeman: “Had on the decision,” yes.

The Chair (Mr. Peter Tabuns): Thank you so much. Mr. Hardeman, back to your comments.

Mr. Ernie Hardeman: Thank you very much, and, again, Mr. Chair, this is a similar motion to the previous one. Again, I think it’s asking an awful lot, with very little positive impact, in suggesting that you have to ask each person who voted why they voted. In our democratic society, in anything I’ve ever been involved with, I’ve never had to tell people why I voted the way I wanted. If I choose to do so, I can do that. But when even the Chair of this committee makes a ruling, Mr. Chair may—may—give an explanation of why he made that ruling, but he is not expected to provide it. I don’t think, on decisions like this, that we should ask municipalities to have the clerk of the committee, rather than just recording what happened at the meeting, actually have to follow up with each person and say, “Would you tell me why it is you voted that way? Was there any impact from the oral presentation that you heard today?” If the answer is no, what do they record? Nothing.

It may or may not be the facts, but the truth is, I think it’s erroneous to have legislation like this. I’m going to try it one last time just to see if we can get at least one place in this bill to have some common sense added to the hearing process when they have to record the minutes of the hearing, when they have to record what people are thinking instead of what they’re saying.

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

Mr. Peter Z. Milczyn: I recommend not supporting this motion. Throughout this bill, the government is proposing to increase the transparency and accountability around planning decisions.

The Chair (Mr. Peter Tabuns): There being no further debate, the committee is ready to vote. Recorded vote.

Ayes

Hardeman, Hatfield, McDonell.

Nays

Berardinetti, Mangat, Milczyn, Rinaldi, Thibeault.

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

We move to government motion 68. Mr. Rinaldi.

Mr. Lou Rinaldi: I move that section 30 of the bill be amended by adding the following subsection:

“(4.1) Subsection 51(40) of the act is amended by adding the following clause:

“(a.1) where notice is given by email, on the day that the sending by email of all required notices is completed;”

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

Mr. Lou Rinaldi: Chair, same as the previous ones: It’s more of a technical change to modernize the way we give out information.

The Chair (Mr. Peter Tabuns): Is there any further commentary? There being none, the committee appears prepared to vote. Since it’s a recorded vote, I will ask all those in favour, please indicate.

Ayes

Berardinetti, Hardeman, Hatfield, Mangat, McDonell, Milczyn, Rinaldi, Thibeault.

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

We go on to government motion 69. Mr. Milczyn.

Mr. Peter Z. Milczyn: I move that section 30 of the bill be amended by adding the following subsection:

“(4.2) Subsection 51(45) of the act is amended by striking out the portion before clause (a) and substituting the following:

“Notice

“(45) If the approval authority changes the conditions to the approval of a plan of subdivision under subsection (44) after notice has been given under subsection (37), the approval authority shall, within 15 days of its decision, give written notice of the changes in the prescribed manner and containing the information prescribed to,”

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

Mr. Peter Z. Milczyn: Again, this is a technical change that facilitates more modern notice being given, primarily emails.

The Chair (Mr. Peter Tabuns): Any further debate or commentary? There being none, the committee is ready to vote.

Ayes

Berardinetti, Hardeman, Hatfield, Mangat, McDonell, Milczyn, Rinaldi, Thibeault.

The Chair (Mr. Peter Tabuns): All those opposed? There being none, the motion is carried.

We go to NDP motion 70. Mr. Hatfield.

Mr. Percy Hatfield: I move that section 30 of the bill be amended by adding the following subsection:

“(6) Section 51 of the act is amended by adding the following subsections:

“L.G. in C. may confirm, vary or rescind orders

“(62) Upon the petition of any party or person interested, filed with the clerk of the executive council within 28 days after the date of any order or decision of

the Municipal Board under this section, the Lieutenant Governor in Council may,

1510

“(a) confirm, vary or rescind the whole or any part of such order or decision; or

“(b) require the board to hold a new public hearing of the whole or any part of the application to the board upon which such order or decision of the board was made,

“and the decision of the board after the public hearing ordered under clause (b) is not subject to petition under this subsection.

“Withdrawal of petition

“(63) Any party or person who has filed a petition under subsection (62) may at any time withdraw the petition by filing a notice of withdrawal with the clerk of the executive council.”

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

Mr. Percy Hatfield: I think it's an important amendment, as we've talked about before, to restore the government's powers to overturn OMB decisions upon petition, with respect to subdivision plans. As we've talked about previously, the government used to have the power, but for some unknown reason gave it up in 2009 and now no elected government has ultimate authority over planning policy in Ontario.

I firmly believe that policy should be written by elected governments when an unelected body, such as the OMB, has the extraordinary power to not just uphold the rules but actually rewrite the rules and make new policy with no recourse available to democratically elected governments, including the provincial government.

These aren't radical changes but normal government powers that existed for more than 100 years before the government gave them away in 2009, and they did so through what was supposed to be a boring housekeeping good government bill. But that was the true radical change of the whole thing, and it set in motion decisions that the OMB makes which have no rationale at all. I've talked so many times before about the various examples that are out there, and I could go into them again, if need be.

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

Mr. Lou Rinaldi: Chair, I do give the member credit, and I'm programmed to repeat what I said in the past. We're embarking on the review of the Ontario Municipal Board, and I really think these are issues that are better suited to discussion at that time.

The Chair (Mr. Peter Tabuns): There being no further commentary, the committee is ready to—Mr. Hatfield?

Mr. Percy Hatfield: Thank you, Chair. You're being very indulgent this afternoon.

I would just say that I hope at that time that we actually do hold a discussion and we're not told, “Oh, this isn't the time or the place for that amendment. We'll have to hold that at another time,” if you know what I mean.

The Chair (Mr. Peter Tabuns): The committee is ready to vote? Recorded vote.

Ayes

Hatfield.

Nays

Berardinetti, Hardeman, Mangat, McDonell, Milczyn, Rinaldi, Thibeault.

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

We're now going to consider section 30, as amended. Is there any commentary on section 30 as a whole? There being none, shall section 30, as amended, carry? Recorded vote.

Ayes

Berardinetti, Hatfield, Mangat, Milczyn, Rinaldi, Thibeault.

The Chair (Mr. Peter Tabuns): All those opposed? There being none, section 30 is carried, as amended.

We now go to section 31 and government motion 71. Mr. Milczyn.

Mr. Peter Z. Milczyn: I move that subsection 31(4) of the bill be struck out and the following substituted:

“(4) Subsection 51.1(5) of the act is amended by striking out ‘42(2), (5) and (12) to (16)’ and substituting ‘42(5) and (12) to (20)’”.

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

Mr. Peter Z. Milczyn: This is a consequential change to remove a cross-reference that would be outdated because of Bill 73.

The Chair (Mr. Peter Tabuns): Any other commentary by members of the committee? There being none, you appear ready to vote. Recorded vote.

Ayes

Berardinetti, Hardeman, Hatfield, Mangat, McDonell, Milczyn, Rinaldi, Thibeault.

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

Before we vote on section 31 as amended, any comment on 31 as a whole? There being none, shall section 31, as amended, carry? Recorded vote.

Ayes

Berardinetti, Hardeman, Hatfield, Mangat, McDonell, Milczyn, Rinaldi, Thibeault.

The Chair (Mr. Peter Tabuns): Section 31, as amended, is carried.

We now go to section 32—

Interjection.

The Chair (Mr. Peter Tabuns): Thank you. To make sure the record is clear: Opposed? There being none, we go now to section 32 and government motion 72. Mr. Rinaldi.

Mr. Lou Rinaldi: I move that subsection 53(17) of the Planning Act, as set out in subsection 32(5) of the bill, be amended by striking out the portion before clause (a) and substituting the following:

“Notice of decision

“(17) If the council or the minister gives or refuses to give a provisional consent, the council or the minister shall ensure that written notice of it is given in the prescribed manner within 15 days to,”

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

Mr. Lou Rinaldi: If I may, Chair?

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

Mr. Lou Rinaldi: Sure. This is really a technical change that will facilitate the modernization of giving a notice through additional methods, for example, email, that could be identified through an existing regulation.

The Chair (Mr. Peter Tabuns): Mr. Hatfield, you wanted to comment?

Mr. Percy Hatfield: I was just going to ask whether Mr. Rinaldi meant to say “content” as opposed to “consent,” or whether I heard it wrong.

Mr. Lou Rinaldi: Where are you?

Mr. Percy Hatfield: The bottom paragraph. I thought you said “provisional content” as opposed to “provisional consent.”

Mr. Lou Rinaldi: It should be “consent.” Thank you.

The Chair (Mr. Peter Tabuns): Any further discussion on this matter? We’re ready to vote. All those in favour of government motion 72, please indicate. Recorded vote.

Ayes

Berardinetti, Hardeman, Hatfield, Mangat, McDonell, Milczyn, Rinaldi, Thibeault.

The Chair (Mr. Peter Tabuns): All those opposed? There being none, the motion is carried.

We go to PC motion 73. Mr. McDonell.

Mr. Jim McDonell: I move that subsection 53(18) of the Planning Act, as set out in subsection 32(5) of the bill, be struck out and the following substituted:

“Contents

“(18) The notice under subsection (17) may contain a brief explanation of the effect, if any, that the written and oral submissions mentioned in subsection (18.1) had on the decision.

“Same

“(18.0.1) The notice under subsection (17) shall contain any information that is prescribed.”

The Chair (Mr. Peter Tabuns): Would you like to comment, Mr. McDonell?

Mr. Jim McDonell: Yes. The amendment would address concerns we heard from municipalities that reporting the impact of oral submissions on planning decisions, as laid out in Bill 73, may not and would reasonably not be feasible to do.

The Chair (Mr. Peter Tabuns): Is there any other commentary? Mr. Milczyn.

Mr. Peter Z. Milczyn: We’re opposing this amendment for the reasons I’ve previously stated.

The Chair (Mr. Peter Tabuns): There being no other commentary, the committee is ready to vote. Recorded vote.

Ayes

Hardeman, Hatfield, McDonell.

Nays

Berardinetti, Mangat, Milczyn, Rinaldi, Thibeault.

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

We go to government motion 74. Mr. Milczyn.

Mr. Peter Z. Milczyn: I move that section 32 of the bill be amended by adding the following subsection:

“(5.1) Subsection 53(20) of the act is amended by adding the following clause:

“(a.1) where notice is given by email, on the day that the sending by email of all required notices is completed;”

The Chair (Mr. Peter Tabuns): Would you like to speak to that, Mr. Milczyn?

Mr. Peter Z. Milczyn: This is a technical amendment simply to identify when notice of email is complete so that appeals flow from that if required.

The Chair (Mr. Peter Tabuns): Okay. Any other debate? There being none, we’re ready to go to a vote. Recorded vote.

Ayes

Berardinetti, Hardeman, Hatfield, Mangat, McDonell, Milczyn, Rinaldi, Thibeault.

The Chair (Mr. Peter Tabuns): Opposed? There being none, the motion is carried.

We go now to government motion 75. Speaking will be Mr. Rinaldi.

Mr. Lou Rinaldi: I move that section 32 of the bill be amended by adding the following subsection:

1520

“(5.2) Subsection 53(24) of the act is amended by striking out the portion before clause (a) and substituting the following:

“Notice

“(24) If the council or the minister changes conditions of a provisional consent under subsection (23) after notice has been given under subsection (17), the council or the minister shall, within 15 days of its decision, give

written notice” to “the changes in the prescribed manner and containing the information prescribed to.”

The Chair (Mr. Peter Tabuns): Mr. Rinaldi, before we go forward, what I and the Clerk both heard was “give written notice to the changes.” Did you mean “give written notice of the changes” in that second-last line?

Mr. Lou Rinaldi: “Of the changes.”

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

Any commentary on this?

Mr. Lou Rinaldi: This is more of a technical change that will facilitate, once again, the organization of giving notices.

The Chair (Mr. Peter Tabuns): Thank you. I don’t see any other commentary. People are ready to vote?

Ayes

Berardinetti, Hardeman, Hatfield, Mangat, McDonell, Milczyn, Rinaldi, Thibeault.

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

We now need to consider section 32, as amended. Is there any comment on section 32 before we go to the vote? There being none, shall section 32, as amended, carry?

Ayes

Berardinetti, Hardeman, Hatfield, Mangat, McDonell, Milczyn, Rinaldi, Thibeault.

The Chair (Mr. Peter Tabuns): The section, as amended, is carried.

We go now to section 33. If the committee is agreeable, I’ll combine sections 33 and 34, because there are no amendments proposed. Shall sections 33 and 34 carry?

Ayes

Berardinetti, Hardeman, Hatfield, Mangat, McDonell, Milczyn, Rinaldi, Thibeault.

The Chair (Mr. Peter Tabuns): Both are carried.

We now go to government motion 76: Mr. Milczyn.

Mr. Peter Z. Milczyn: I move that subsection 70.2(2.1) of the Planning Act, as set out in subsection 35(2) of the bill, be amended by adding the following clause:

“(c) provide that a prohibition provided under clause (a) or (b) does not apply in respect of an application if the council has declared by resolution that such an application is permitted.”

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

Mr. Peter Z. Milczyn: The purpose of this amendment is to provide for regulation-making authority to

allow councils, by resolution, to permit applications to amend development permit bylaws and official plan policies during the five-year period following the approval of the specified document.

This is something we heard from municipalities, that they wanted the flexibility to choose to be able to make amendments, and this would grant that.

The Chair (Mr. Peter Tabuns): Further commentary on this amendment? Mr. Hatfield.

Mr. Percy Hatfield: I’m just worried that this could be our final vote of the day, and I’d just like to take the next three or four hours to talk about inclusionary zoning—but I won’t. I’d like to, but I won’t.

The Chair (Mr. Peter Tabuns): Nervous laughter in the room, Mr. Hatfield.

No further debate? People are ready to vote?

Ayes

Berardinetti, Hardeman, Hatfield, Mangat, McDonell, Milczyn, Rinaldi, Thibeault.

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

We are now going to consider section 35, as amended. Is there any commentary on section 35? There being none, all those in favour of section 35, as amended?

Ayes

Berardinetti, Hardeman, Hatfield, Mangat, McDonell, Milczyn, Rinaldi, Thibeault.

The Chair (Mr. Peter Tabuns): The section, as amended, is carried.

Colleagues, sections 36, 37, 38 and 39 have no amendments. With your agreement, can we take all of them at once? Excellent. Shall sections 36, 37, 38 and 39 carry?

Ayes

Berardinetti, Hardeman, Hatfield, Mangat, McDonell, Milczyn, Rinaldi, Thibeault.

The Chair (Mr. Peter Tabuns): Carried.

We now go to the title. Shall the title of the bill carry? Mr. Hardeman.

Mr. Ernie Hardeman: I realize that once the title of the bill carries, it’s all over but the crying. I just wanted to make a couple of comments on the bill generally.

As you will know, Mr. Chair, from the way we voted throughout this process, we have supported most of what’s in the bill, if not all that’s in the bill. There were three things that bothered us when we started the bill. One of those was, shall we say, corrected by the government when they put forward the motions to open it up to make sure that the municipalities could get past the freeze if an application was made within two years of the approval of an official plan or the approval of a zoning

bylaw, or the approval of a minor variance. I thank them for that. I don't think I've ever been through a bill, planning or otherwise, where there were so many resolutions and amendments doing exactly the same thing over and over again, in different sections of the bill, because of the different attributes.

The thing that bothers me that didn't get corrected and that I think is too bad: One is that I still really don't believe that you can ask municipalities, or in fact that you will get municipalities to adequately deal with all those sections in the bill that say they must record the comments that were orally made by the audience and which ones had an impact on how the members of council or the member of a committee of adjustment voted and what drove that vote. I guess, to prove my point, I would ask if we could go through this bill—and find out on each one of the amendments—and ask each member of this committee what part of the presentation made by the people made us vote the way we did on those amendments. I dare say we would not—it may be very transparent, as was pointed out a number of times today, but I would be hard pressed to believe that we would get any amendment that everyone would put their comment rightfully on what part of the presentation made them make that decision.

I use the third point that we didn't get corrected in this bill, and that was the issue in the development charges where it disallows the use of mutually agreed upon agreements, apart from the development charges. In places where they have mutual agreements in place, they weren't grandfathered to leave them in place if they put the development charges in place in that same area. I think that was a big mistake, and I think it's fair to say that everybody that made a presentation on that issue said that they wanted that problem solved, because it was going to cause a big problem for them.

The city of Barrie comes to mind; it was the largest one, where they had the new, annexed area that was under a development agreement, mutually agreed upon by developers and the city, which now is at risk of being null and void because of this legislation. They wanted that corrected. The vote was made to vote against that amendment. I would ask the government: What part of that presentation made them decide to vote that way? Just because they didn't like the way it was asked for? It couldn't have been based on what the content of the presentation was, because there was no one who commented against doing that. So I just don't believe that would be possible.

I think it's too bad that the government didn't come through and fix some of those problems. Though I'm disappointed with that, I think the bill generally will be an improvement for the process and development charges and for the Planning Act. So we will be supporting the bill, and even the title of the bill, Mr. Chairman.

The Chair (Mr. Peter Tabuns): I am glad to hear you will be supporting the title of the bill.

Mr. Hatfield.

Mr. Percy Hatfield: I guess I'll support the title of the bill, as well, although I thought there could have been

other ways we could have improved the smart growth for our communities.

As a member of provincial Parliament, this was my first clause-by-clause reading exercise. I found it interesting at times and quite stifling at times. I do hope that when we heard the government say, for example, "We'll deal with changes to the Ontario Municipal Board at a future date and we'll deal with inclusionary zoning in a future bill"—I do hope that that happens and happens relatively quickly.

1530

I know in the case of inclusionary zoning that we do have an affordable housing crisis in Ontario. I think we all recognize that. We just went past National Housing Day, a day where we could have done more to recognize homelessness and the need for more affordable housing and inclusionary zoning, and little was done or said about that. When I was researching that, I realized that, in the past, there were ministerial statements on National Housing Day. I found that it really started in Toronto. There's a monument in Toronto with 700 names on it of people who have died on the streets of Toronto, mostly homeless people or somehow connected to being homeless. I thought that should be a government priority and that we should recognize that somehow on that day, and we didn't.

I'd also like to say I'm disappointed that we didn't grandfather—when we heard from Ajax and Barrie, they wanted to grandfather the voluntary payments that were made prior to the bill. They have major developments going on in their communities that are now in jeopardy because they weren't grandfathered in.

I think we should have listened more to recommendations made by the Association of Municipalities Ontario and by the financial officers of Ontario. These are the people on the ground, and they know what it takes to make their municipalities grow, and small rural municipalities know what it takes to get a development off the ground. They needed more flexibility, and we didn't really offer much to them by way of that in consideration of this bill.

Finally, Chair, I want to thank you for your tolerance over the hearing days, and I want to thank Mr. Hardeman, the member from Oxford. When this committee first started out, we were talking about only giving delegations four minutes to state their case. Mr. Hardeman, with his vast years of knowledge on the committee and in government, made sure that the government took the time to actually listen—not that they made a lot of changes after hearing everything that was said, but at least the delegations felt that they had an opportunity to voice their concerns. I thank Mr. Hardeman for that. Thank you, Chair.

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

Mr. Peter Z. Milczyn: I do also want to thank Mr. Hardeman, especially, and Mr. Hatfield for all of their commentary and debate and input into this.

Mr. Chair, you've heard the term, "living the dream"? Well, for 14 years as a city councillor, I dreamt of the

day that the province would enact sweeping changes to planning reform. When I said that I would run to hopefully serve in the provincial Legislature—which, of course, ultimately I was successful in doing—it was because the government was making a commitment that they were serious about doing this.

Today, I am very proud of the bill that we'll be sending on to the Legislature. It's going to give municipalities a great deal more power to decide their own vision and implement their own visions for growth and development in their communities. It's going to give them more tools to do that, especially through development charges, through the ability to raise more funds. So this is a very good day for planning in Ontario.

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

Mr. Ernie Hardeman: Just another short comment. I knew there were three things I was trying to think of, and the third one was, of course, the planning committees. The reason I did want to interrupt again was that it was one of the requests from my own municipality, because it's going to be very inconvenient for them to have a brand new planning committee to give advice to their council because they have to have a layperson on it. AMO, again, also presented against that, but I just wanted to say I'm sorry that that didn't get passed.

I do want to thank the government for at least giving us this opportunity to get here today so we could have this discussion. I do hope that all the things that I have concerns about will not materialize and, in fact, that it will work better for the municipalities in the province of Ontario.

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

Colleagues, are you ready to vote on the title? Shall the title of the bill—

Mr. Lou Rinaldi: Chair, do we need to deal with that before—

The Chair (Mr. Peter Tabuns): No, we can do that after we vote on the title.

Shall the title of the bill carry? Recorded vote.

Ayes

Berardinetti, Hardeman, Hatfield, Mangat, McDonell, Milczyn, Rinaldi, Thibeault.

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

Colleagues, I'm going to ask legislative counsel to address us briefly. I gather there is a problem with one clause or amendment that went through. I'd like legislative counsel to address that because we may have to open up a part of the bill to correct a grammatical error.

Ms. Susan Klein: It was motion 75, a government motion, and what it says about halfway through is "the council or the minister shall, within 15 days of its decision." The minister isn't an "it," so grammatically it should have said "within 15 days of the decision."

I think I can do a motion to amend that motion, just to strike out "within 15 days of its decision" and change that to "within 15 days of the decision."

I'm not sure if that's something that we could do editorially ourselves, but since we're here, we can just clean it up, if that's okay.

The Chair (Mr. Peter Tabuns): Can I have unanimous consent of the committee to allow this to be introduced? I see unanimous consent from the committee to reopen the section and to reopen government motion 75. Unanimous consent is granted.

Do we have a motion to put? Does everyone want a copy?

Mr. Lou Rinaldi: We don't need a copy.

Mrs. Amrit Mangat: We don't need a copy.

The Chair (Mr. Peter Tabuns): Okay, we don't need a copy. We can have it read out.

Mr. Lou Rinaldi: No, I need a copy.

The Chair (Mr. Peter Tabuns): You need a copy, Mr. Rinaldi, because you need to read. Mr. Rinaldi, you're moving.

Mr. Lou Rinaldi: Yes, motion 75, the amended motion. I move that the government motion that amended section 32 of the bill by amending subsection 53(24) of the Planning Act be amended by striking out "within 15 days of its decision" and substituting "within 15 days of the decision."

The Chair (Mr. Peter Tabuns): Understood by everyone? Mr. Hatfield?

Mr. Percy Hatfield: If you need unanimous consent, is this the opportunity for the third party to talk more about inclusionary zoning before that unanimous consent—

The Chair (Mr. Peter Tabuns): I'm in the hands of the committee. If you deny unanimous consent, then you deny unanimous consent.

Mr. Ernie Hardeman: It's already been granted. We can't deny it anymore.

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

We are voting on the amendment, a recorded vote.

Ayes

Berardinetti, Hardeman, Hatfield, Mangat, McDonell, Milczyn, Rinaldi, Thibeault.

The Chair (Mr. Peter Tabuns): It is carried unanimously. We've adopted that amendment. Now we have to vote on government motion 75, as amended.

Ayes

Berardinetti, Hardeman, Hatfield, Mangat, McDonell, Milczyn, Rinaldi, Thibeault.

The Chair (Mr. Peter Tabuns): It is carried. I just have to check. Do we have to re-pass the section that it is in?

Interjection.

The Chair (Mr. Peter Tabuns): We need a vote to carry section 32, as amended.

Ayes

Berardinetti, Hardeman, Hatfield, Mangat, McDonell, Milczyn, Rinaldi, Thibeault.

The Chair (Mr. Peter Tabuns): The section is again carried.

We go back to shall Bill 73, as amended, carry?

Ayes

Berardinetti, Hardeman, Hatfield, Mangat, McDonell, Milczyn, Rinaldi, Thibeault.

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

Shall I report the bill, as amended, to the House?

Ayes

Berardinetti, Hardeman, Hatfield, Mangat, McDonell, Milczyn, Rinaldi, Thibeault.

The Chair (Mr. Peter Tabuns): That's it.

Interjection.

The Chair (Mr. Peter Tabuns): Opposed? There being none.

You know, when I get a unanimous vote I sort of figure, all right, there's not going to be any opposed, but I understand the form.

We are done. The committee is adjourned until 1 p.m. on Thursday, November 26, 2015, in committee room 2.

The committee adjourned at 1540.

CONTENTS

Monday 23 November 2015

Electoral Boundaries Act, 2015, Bill 115, Mme Meilleur / Loi de 2015 sur les limites des circonscriptions électorales, projet de loi 115, Mme Meilleur	SP-613
Mr. Greg Essensa	SP-613
Mr. Alan Hall	SP-616
Smart Growth for Our Communities Act, 2015, Bill 73, Mr. McMeekin / Loi de 2015 pour une croissance intelligente de nos collectivités, projet de loi 73, M. McMeekin	SP-618

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