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Official Report of Debates (Hansard)

Tuesday 7 March 2017

Journal des débats (Hansard)

Mardi 7 mars 2017

**Standing Committee on
Government Agencies**

Intended appointments

**Comité permanent des
organismes gouvernementaux**

Nominations prévues

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Clerk: Sylwia Przedziecki

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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON GOVERNMENT AGENCIES

COMITÉ PERMANENT DES ORGANISMES GOUVERNEMENTAUX

Tuesday 7 March 2017

Mardi 7 mars 2017

The committee met at 0901 in committee room 2.

The Vice-Chair (Ms. Daiene Vernile): Good morning, colleagues. The Standing Committee on Government Agencies will now come to order.

SUBCOMMITTEE REPORT

The Vice-Chair (Ms. Daiene Vernile): Our very first order of business today is a subcommittee report for Thursday, March 2, 2017. Mr. Pettapiece, would you please read that?

Mr. Randy Pettapiece: I move the adoption of the subcommittee report on intended appointments, dated Thursday, March 2, 2017.

The Vice-Chair (Ms. Daiene Vernile): Is there any discussion on this, committee members?

All in favour? Opposed? The motion is carried.

INTENDED APPOINTMENTS

MS. LINDA ROBINSON

Review of intended appointment, selected by official opposition party and third party: Linda Robinson, intended appointee as chair, Ontario Infrastructure and Lands Corp. (Infrastructure Ontario).

The Vice-Chair (Ms. Daiene Vernile): Our first intended appointee today is Linda Robinson. I would ask that Ms. Robinson come forward. She is nominated as chair of the Ontario Infrastructure and Lands Corp.

Welcome, Ms. Robinson. You are going to have 10 minutes to speak to our committee. Members of each party will then have 10 minutes for questions. Any time used for your statement will be deducted from the government's time for questions. Please begin.

Ms. Linda Robinson: Thank you very much, Madam Vice-Chair. As you know, I'm Linda Robinson. I'm currently the interim chair of Infrastructure Ontario, and I have been since last April, when our former chair Tony Ross, who had been the chair since the creation of IO, retired. I've served on the board of directors of IO since 2006. I've chaired the Governance and Compensation Committee since about 2007, until six months ago. And since 2009, I have served as vice-chair of the organization.

I appreciate this opportunity to present myself for consideration as permanent chair of the board.

Let me tell you a little bit about my qualifications.

I have a BA—many, many, many years ago—in political science from the University of Toronto. I spent a year after that studying political science at Sciences Po in Paris; and then a year in London, England, at the London School of Economics, where I received an MSc in urban and regional planning studies, and that is, I think, where I first developed an interest in public infrastructure and urban renewal. I came back from London and spent a couple of years paying back my student debts and working as a consultant, at which point I went back to U of T to complete a law degree.

I started practising law with a large Canadian law firm; first, in litigation, including construction and energy, regulatory and large commercial cases. After six or seven years, I switched my focus to corporate and commercial law. I practised corporate law for the next 23 years, most of it at Osler, Hoskin & Harcourt in Toronto. It's one of the oldest and largest business law firms in Canada. My practice focused principally on large, complex corporate and commercial transactions, including public and private mergers and acquisitions, financings, restructurings. Broadly speaking, my practice touched on all parts of business law, including corporate and financial services, real estate, construction and infrastructure, technology. Before retiring in 2009, I served as the senior partner in the corporate group and chaired the Osler business law department, composed of about 200 lawyers—about half the firm.

At the same time, I worked and I continue to work pro bono on various projects. Right now, I am engaged in a number, including a not-for-profit organization engaged in gender equality initiatives in Nepal. I work with the International Senior Lawyers Project, where I teach business skills, practical legal skills, in southern Africa—principally South Africa, but also the other southern African countries—to previously disadvantaged peoples. I also serve as a director and serve on the audit committee of a Canadian-based entertainment distribution and production company which is publicly listed on the London Stock Exchange. I do one-off projects of a public service nature. For example, right now I am currently on an advisory committee for the city of Toronto, assisting them in their initiative to reorganize their real estate holdings.

I mentioned that I joined the IO board in 2006, about a year after the agency was formed. Over its life, IO has demonstrated repeated success in delivering high-quality

infrastructure projects, as you know, and also real estate services, commercial advice and infrastructure financing. I am very proud of IO and its accomplishments to date. Ten years ago, IO was a start-up with no history but a lot of promise. It has grown in 10 or 11 years to become a leading, if not the leading, P3 organization in the world, recognized for its excellence and its innovation. It is the most efficient manager of public real estate in Canada. It has a commitment to excellence and continuous improvement that is not just talk; it's walked every day on the floors of IO.

Our role as board members, we believe, is to ensure consistency with IO's core mission, to ensure that projects deliver value for the money being spent. We uphold principles of transparency and accountability—and these aren't just words; we actually believe and operate on this basis. We try to maintain and protect the public interest in all of our operations. Above all, because our credibility is our brand, we work to maintain the confidence of both the government and the private sector in our ability to deliver on our promises.

I take the board's responsibility to the government and the people of Ontario very seriously, as does every member of our board. Each of us brings to the table a very strong commitment to public service, in addition to our individual expertise. We believe that good governance is at the core of the agency's strength and is fundamental to its success. IO's board of directors oversees the agency's strategic direction; financial and operating performance; and seeks to identify, manage and mitigate risk, and so far, we've done, I think, a very good job at that.

The capabilities of IO's management team and the professionalism and dedication of all of its employees underlie the agency's achievements.

I'm confident that Infrastructure Ontario is on track to continue to deliver on its commitment to the province and to our partners. It's now 10 years on, and I would very much like to steer it in the next stage of its journey.

Thank you again for inviting me here today. I look forward to your questions.

The Vice-Chair (Ms. Daiene Vernile): Thank you, Ms. Robinson. The first questions for you will come from the Conservative members.

Mr. Pettapiece.

Mr. Randy Pettapiece: I was interested in your comments about your work with the city of Toronto on real estate. What is your position there?

Ms. Linda Robinson: I'm on an advisory committee. It's a purely volunteer, public service committee advising them, helping them second-guess their initiatives in trying to restructure their real estate holdings.

Mr. Randy Pettapiece: To restructure their real estate holdings—that's the city of Toronto?

Ms. Linda Robinson: Yes.

Mr. Randy Pettapiece: You see no issue with being on this board and doing that too?

Ms. Linda Robinson: No. I've thought about it, talked about it with our people, and thought that it could

only be helpful to IO to do this. We don't have an intersection between the two.

Mr. Randy Pettapiece: Mr. Harris has a few questions.

Mr. Michael Harris: Welcome. In the last auditor's report, the auditor talked a lot about some of the projects that IO ultimately manages. In your role as chair, how would you see oversight or a better management of projects going forward, following up on some of the auditor's recommendations?

0910

Ms. Linda Robinson: We agreed with the auditor's recommendations and we have implemented all of them. We're gratified that the Auditor General's report, in fact, said we were an extremely well-managed organization, which is unusual for Auditors General in their conclusions on organizations they audit. Her recommendations, we viewed more as tweaking rather than substantial, and so we've embraced them because they were good suggestions.

Mr. Michael Harris: One of the big stories that came out in 2015 was a story involving a former employee at Infrastructure Ontario, Mr. Vas Georgiou. Obviously, he was involved at St. Mike's hospital as well. It came to light that, while working at IO, this gentleman had issued fake invoices that were used in a kickback scheme at York University. The media did report that at least one person at IO knew about this, but didn't say anything. What say you to that, I suppose, and what has been done since then to mitigate these problems in the future?

Ms. Linda Robinson: First, Mr. Georgiou had been an employee of IO, of some long standing. When it was discovered by the then CEO, that they were told by York University that he was about to be implicated in a fraudulent invoicing scheme, he was immediately brought in, put on leave, an investigation ensued, and, ultimately, his resignation was accepted.

He then, some months later, turned up at St. Michael's Hospital in a project management delivery role. It was after the Globe and Mail revelations that he had had this alleged sordid history at York that he was then put on leave from St. Mike's and we instituted an investigation as to what had happened within IO.

As it turned out, that special committee report—and I chaired the special committee—found that the procurement at St. Michael's Hospital had not been compromised at all by Mr. Georgiou's involvement. St. Michael's terminated him. I think that lawsuit is still going on. The project is in the midst of being, we hope, successfully concluded.

The result of that special committee report, in fact, led us to investigate and review our procedures. We ended up using the opportunity to benchmark ourselves against best practices in the world.

Mr. Michael Harris: What specific changes were made at IO to prevent this from happening—

Ms. Linda Robinson: There was nothing to prevent from happening, but what we did do is we took the advice of our independent advisers in making some

changes to some of our documentation and contractual arrangements, and in particular, making our bidders focus on conflicts of interest and put in place third-party auditor certificates to ensure they have proper procedures in place to ensure that they did not have any conflicts of interest.

Mr. Michael Harris: It was reported that one person at IO did know about this gentleman's past but didn't say anything. Do you believe there's a larger problem, a cultural problem within IO that prevented that employee from coming forward?

Ms. Linda Robinson: No. There was one employee, and that employee was the CEO who, for what appears to be quite human reasons—

Mr. Michael Harris: What were those reasons?

Ms. Linda Robinson: Friendship, not wanting to—well, I'm imposing my view on his motives, but the bottom line is, he decided, probably wrongly, not to inform the board of directors of the background to the resignation of Mr. Georgiou. We've set this out in our special committee report. He did so, I think, because he had a view that that would be in the best interest overall of IO. He did not want to prejudice Mr. Georgiou's chances of employment in a situation where he thought Mr. Georgiou had just made a very bad mistake.

Mr. Michael Harris: Obviously, the government has an aggressive agenda on building infrastructure, and IO is predominately the driving force in ensuring that that gets procured, managed etc. Do you see IO working with municipalities right across the province in terms of a bundling aspect to help smaller municipalities build infrastructure through IO's expertise?

Ms. Linda Robinson: Two answers to that: One is, we already help small municipalities because of our infrastructure lending program, the beneficiaries of which are principally small municipalities. So we lend a great deal of money for infrastructure projects across the province.

Secondly, if directed by our shareholder to assist municipalities, we are more than prepared to do that. We have the expertise. We have the resources, or we can get the resources. In our view, they are the same taxpayers. They happen to be taxpayers to another entity, but they're taxpayers also in the province of Ontario. It can only be of assistance to do that.

But to date, we've had limited involvement in the municipal sector. We expect that, if directed, we would have more.

Mr. Michael Harris: If you look at the example of Tim Hortons Field in Hamilton, that was a significant project that was delivered well beyond the scheduled completion date. There are obviously ongoing lawsuits involving IO and technical problems.

In your role as chair, how would you ensure IO better manages projects like this, to ensure that those shareholders—the taxpayers—get good value for their money?

Ms. Linda Robinson: The Hamilton ONSS situation is a very complex, nuanced one that probably would take up more time than either you have or the other side has.

Mr. Michael Harris: We're happy to talk after.

Ms. Linda Robinson: Yes, you're allowed to talk afterward.

In any event, we don't project-manage; we supervise the project management. That's IO's role. There was a great deal of—delay has many fathers or mothers. In this case, most of them lie outside of the city.

The fact is that the project manager, the construction company, did not perform as well as could have been expected, but the benefit of AFP is that it didn't cost the province or the city of Hamilton anything. The risk was on the contracting company, the project company.

Delays often end up costing money. It didn't cost anybody money, other than the project company in this case.

Mr. Michael Harris: But in that case, obviously, the project did run over significantly. How would you, as chair, ensure that these large-scale projects, working through the AFP process—because ultimately, IO is still accountable and responsible for executing the project.

In your role as chair, how will you, knowing that a lot of these projects have gone on longer than they should for a variety of different reasons—and I know that some of them are outside of the control of IO, but what changes do you feel IO is making to better have a grasp as to timing on some of these major infrastructure projects?

Ms. Linda Robinson: Okay, a couple of things: First of all, 70% to 75% of all of our projects have come in on time or ahead of time, and 96% have come in at or below budget. That's a pretty good success rate in a construction industry. In fact, it's fantastic.

The box that is AFP imposes a discipline and imposes its own set of penalties that are intended to and usually result in people being incentivized to come in on or before their scheduled date.

The Vice-Chair (Ms. Daiene Vernile): Thank you, Ms. Robinson. Our next set of questions for you is going to come from the third party.

Mr. Gates.

Mr. Wayne Gates: Good morning. How are you?

I'm going to follow up a little bit on what the PCs have said on Vas Georgiou and his kickback scheme at York University. CEO David Livingston claimed that he told the board chair, Anthony Ross, about the fraud in 2012, but we have learned that Ross denies this. A special committee report issued after an IO board investigation does not resolve these conflicting accounts, but simply acknowledges fraudulent inconsistencies and differences in the recollection of the relevant parties on the matter. In my view—and it should be in your view—this is completely unacceptable. Unanswered questions of the IO board chair's knowledge and possible involvement in the cover-up taints the whole investigation.

There are a couple of questions here. Did you know if Livingston told Ross about the fraud admission or not? Who else in Infrastructure Ontario knew about the fraud admission before the Globe article appeared? Did anyone on the board know? Would you have any of those answers?

0920

Ms. Linda Robinson: Yes, I do. We had an independent investigation take place. We had a special committee supervising that independent investigation. But an outside law firm looked at this and questioned all of the relevant people, and they were unable to conclude that the ultimate facts—there are conflicting recollections, and it's impossible to reconcile those conflicting recollections. The result is that we don't know for sure. I have my own views, but they're only my own views.

What I do know is that the board, other than possibly Mr. Ross, as chair, did not know. I know that for a fact, because I was on the board and involved in learning about the resignation of Mr. Georgiou. So with the possible exception of Mr. Ross, who is a man of the utmost integrity and who denies a recollection of being told about the fraud—and bear in mind that this is a fraud, by the way, that had nothing to do with IO. This was freelancing on the part of Mr. Georgiou, if it took place at all.

Mr. Wayne Gates: Okay. I don't need to know any more than that. I just wanted to know if anybody on the board knew. I have a number of questions here, and I only have 10 minutes, not 10 hours.

The special committee reported that the IO board was told in 2012 that Georgiou had left for personal reasons. But the report also says that, officially, Georgiou was terminated without cause, and presumably received severance pay.

Ms. Robinson, was the board aware that Georgiou was fired, and did not quit? Did the board ask how Georgiou could leave for personal reasons and also be terminated without cause, entitling him to severance pay? Did none of these seem odd to the board? And do you know how much severance pay he received?

Ms. Linda Robinson: That's a lot of questions. I'll see if I can remember all of them.

Mr. Wayne Gates: I can read them back to you one at a time.

Ms. Linda Robinson: Let me start. The board did not know that he had been fired without cause. The board was told and believed that he had resigned for personal reasons. This was a man who had, a year earlier, had a child die, and whose wife had just given birth to a very ill premature baby, and had significant personal issues and was at the time on leave. It was entirely credible to the board members who were at the meeting where they were told this that he was resigning for personal reasons. They were not told that he was being paid a severance, and they were not told that he was, in fact, being terminated without cause, as you put it.

Mr. Wayne Gates: Okay. When announcing Mr. Georgiou's resignation, the then Infrastructure Ontario CEO David Livingston praised Georgiou, writing in an email, "Vas has done as much as anyone forming our vision and our values." Why would Livingston, Ross and the IO staff praise the values of someone they knew had admitted to procurement fraud? What does this say about the culture, the accountability and the values within Infrastructure Ontario?

Ms. Linda Robinson: First of all, it was the CEO who made those statements. I can't tell you why he made those statements, other than, as I said earlier, I thought it probably derived from a very human feeling of wanting to protect a friend from embarrassment. It was Mr. Livingston and not the board. The board had never praised Mr. Georgiou. The board saw very little of Mr. Georgiou, so it wouldn't have been in a position to do that.

I can say, though, that the investigation revealed absolutely no issues with Mr. Georgiou during his tenure, and a general view of the employees, none of whom knew about the fraud, that Mr. Georgiou performed his job very well.

Mr. Wayne Gates: I guess that's up for opinion. Certainly, if he had done his job properly, he wouldn't have gotten involved with fraud and doing what he did to the university.

Now, this same CEO makes \$441,000 a year? Would that be accurate?

Ms. Linda Robinson: No. That was not Mr. Livingston's salary.

Mr. Wayne Gates: Okay. That's just on the notes that were given to me by the government.

Ms. Linda Robinson: The current CEO has a maximum salary, if he gets the maximum bonus of \$425,000, I believe—I think his actual salary last year as president of the project delivery—remember, it's a new CEO—was less than that. The salary of the actual CEO, Bert Clark, last year was less than that.

Mr. Wayne Gates: So we can say it's fair to say around \$400,000 if they don't get bonuses. In Quebec—

Ms. Linda Robinson: No, it's \$330,000 if they don't get bonuses.

Mr. Wayne Gates: Okay. I'm not going to argue with you over that issue. I just noticed it in the notes that were given to me by the government.

In Quebec, a bribery scandal involving the \$2-billion McGill hospital public-private partnership led the Charbonneau Commission to look at widespread procurement fraud within the public sector. Senior executives with prominent infrastructure firms, including the former CEO of SNC-Lavalin and top provincial officials, including the former Deputy Premier, are going on trial.

I mention this because many of the infrastructure firms named in the Charbonneau report continue to do billions of dollars' worth of business with the province of Ontario. Are you aware of that?

Ms. Linda Robinson: I don't know who was mentioned in the Charbonneau report other than SNC-Lavalin, but I'm aware of the fact that that inquiry in Quebec took place. That's Quebec, and this is Ontario.

Mr. Wayne Gates: Are you aware that we're still using some of those companies?

Ms. Linda Robinson: Well, we're using some divisions of those companies, yes.

Mr. Wayne Gates: You're aware of that, and that doesn't concern you?

Ms. Linda Robinson: Of course it concerns us, but we have a qualification process, a rigorous one, within IO

that looks at all of those issues. We have not decided—nor, by the way, has Quebec decided—to blackball or to suspend SNC.

I think SNC is the only one that we use with any degree of regularity here that was mentioned in the Charbonneau report.

Mr. Wayne Gates: Okay. My colleague from the PCs mentioned Hamilton, the Ticats stadium, and Tim Hortons. Who did that work?

Ms. Linda Robinson: You mean what contractor?

Mr. Wayne Gates: Yes.

Ms. Linda Robinson: ONSS.

Mr. Wayne Gates: And where are they from?

Ms. Linda Robinson: France.

Mr. Wayne Gates: Pardon?

Ms. Linda Robinson: I believe it's France.

Mr. Wayne Gates: We're using Ontario tax dollars, and there was nobody in Ontario to do that work?

Ms. Linda Robinson: Not at all. All of the labour and employment for that project was Ontario labour and employment, and the subsidiary of ONSS is an Ontario company.

Mr. Wayne Gates: Okay. I just wanted to ask that question because it was a disaster. Just saying.

Ms. Linda Robinson: Well, with respect—

Mr. Wayne Gates: In my opinion. In my opinion. I mean, the Ticats thought it was a disaster, seeing that they couldn't play home games for a long period of time too.

The Ontario government has promised to spend—

Ms. Linda Robinson: Can I respond to that?

Mr. Wayne Gates: Sure.

Ms. Linda Robinson: The Hamilton Tiger-Cats could have made their lives a lot easier by coming to a decision with the city of Hamilton earlier, as to the siting for that stadium.

Mr. Wayne Gates: The Ontario government has promised to spend \$160 billion on infrastructure. The public deserves to know that this money will be handled with honesty and integrity.

So you can appreciate why I remain deeply concerned about this fraud omission, and I am especially concerned about this apparent cover-up by a top IO official.

Senior procurement officials who committed fraud shouldn't just be allowed to quietly move on to another senior procurement position in the public sector at a much higher salary. But that seems to be what happened here. Infrastructure Ontario's internal investigation did not examine the culture that allowed this to happen. It failed to determine whether your predecessor, the IO board chair, knew about the fraud omission before 2015 or whether any other member of the board knew. In short—

The Vice-Chair (Ms. Daiene Vernile): Thank you, Mr. Gates. That's time.

Mr. Wayne Gates: Thank you.

The Vice-Chair (Ms. Daiene Vernile): Our final set of questions for you, Ms. Robinson, will be going to the government committee members, and Mr. Anderson.

You have three minutes and 57 seconds.

Mr. Granville Anderson: Thank you, Ms. Robinson, for being here. From your resumé, you seem to be well qualified for this position. You have been with IO for about 10 years?

Ms. Linda Robinson: Correct.

Mr. Granville Anderson: And as acting chair for roughly a year or so?

Ms. Linda Robinson: Almost a year, yes.

Mr. Granville Anderson: Okay. I know that a special committee report came out. What are your thoughts on that report? As well, you'll be taking over, should you be successful as chair. Any thoughts or ideas you have that are things you think you could put in place to make sure that this kind of thing doesn't happen again, as best as you can? There are no absolutes in these things, as you know.

Ms. Linda Robinson: The special committee report came out several months ago and it made recommendations as to a variety of matters based on the independent advisers, and we have implemented all of those.

As you may recall, a particular issue was conflicts of interest and to make sure the bidding community did not have relationships with any of the employees either with the client—in this case, St. Michael's Hospital—or at IO that might potentially compromise the procurement.

It was gratifying to see that what we had always assumed to be the case, which is that no single person or group of people could compromise a procurement because of the nature of the model, the box that we have developed and the sheer number of people both externally and internally who look at these things—it was concluded that that could not happen, that no single person could compromise a procurement.

At the same time, we had conflict of interest provisions we thought were rigorous and robust—clearly, they were capable of some misinterpretation potentially, so we have amended our procedures to make them the most rigorous in the world. We have required our bidding community to hire themselves auditors to provide auditor certificates as to procedures in place to make sure that they have and are able to identify any potential conflicts and bring them to our attention. That was the principal change to our processes to make more rigorous what we already thought was a fairly rigorous conflict-of-interest provision.

Bearing in mind that you can have the most rigorous procedures, what they take is enforcement. We have also implemented procedures to make sure that those are enforced and that people are, and continue to be, aware of them.

Mr. Granville Anderson: Have you given any thought to making it easier for anybody who's aware of anything that might be untoward to come forward and share that with the board?

Ms. Linda Robinson: Yes, we have a whistle-blowing policy. To my knowledge, it has been used once, and it turned out not to be an issue. But it exists, people know about it and people are reminded that it exists so

that they can report at the appropriate level—ultimately, to me—if there is a problem.

Mr. Granville Anderson: I don't have any other questions, but do you have any other thoughts or anything else you want to clarify based on what the opposition members said?

Ms. Linda Robinson: I think what I would like to reinforce is that we would not wish this situation of having to do an investigation on any organization, but it did give us, and we used it, an opportunity to benchmark ourselves against the rest of the world and other organizations domestically.

You always wonder whether you're drinking the Kool-Aid, or even making it, but we had considered ourselves best in class, and the benchmarking exercise indicated that we met or exceeded 85 out of 87 benchmarks. The other two were actually not relevant to the way in which we operated our business.

The Vice-Chair (Ms. Daiene Vernile): Thank you, Ms. Robinson. I'm sorry to be so abrupt, but I'm keeping time here and I am a strict taskmaster. I would ask you now to step down.

We will now consider the concurrence for Linda Robinson, nominated as chair for the Ontario Infrastructure and Lands Corp. Would someone now move the concurrence? Mr. Qadri.

Mr. Shafiq Qadri: I move concurrence in the intended appointment of Linda Robinson, nominated as chair, Ontario Infrastructure and Lands Corp. (Infrastructure Ontario).

The Vice-Chair (Ms. Daiene Vernile): Members, is there any discussion? Shall we vote? Let us take a vote. All those in favour? Opposed? The motion is carried.

I thank you all very much. That concludes our business for today. We stand adjourned until next week.

The committee adjourned at 0934.

STANDING COMMITTEE ON GOVERNMENT AGENCIES

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