



Second Session - Thirty-Fifth Legislature
of the
Legislative Assembly of Manitoba

STANDING COMMITTEE

on

MUNICIPAL AFFAIRS

40 Elizabeth II

Chairman
Mrs. Louise Dacquay
Constituency of Seine River



VOL. XL No. 5 - 1:30 p.m., FRIDAY, JULY 19, 1991



MANITOBA LEGISLATIVE ASSEMBLY
Thirty-Fifth Legislature

LIB - Liberal; ND - New Democrat; PC - Progressive Conservative

NAME	CONSTITUENCY	PARTY
ALCOCK, Reg	Osborne	LIB
ASHTON, Steve	Thompson	ND
BARRETT, Becky	Wellington	ND
CARR, James	Crescentwood	LIB
CARSTAIRS, Sharon	River Heights	LIB
CERILLI, Marianne	Radisson	ND
CHEEMA, Gulzar	The Maples	LIB
CHOMIAK, Dave	Kildonan	ND
CONNERY, Edward	Portage la Prairie	PC
CUMMINGS, Glen, Hon.	Ste. Rose	PC
DACQUAY, Louise	Seine River	PC
DERKACH, Leonard, Hon.	Roblin-Russell	PC
DEWAR, Gregory	Selkirk	ND
DOER, Gary	Concordia	ND
DOWNEY, James, Hon.	Arthur-Virden	PC
DRIEDGER, Albert, Hon.	Steinbach	PC
DUCHARME, Gerry, Hon.	Riel	PC
EDWARDS, Paul	St. James	LIB
ENNS, Harry, Hon.	Lakeside	PC
ERNST, Jim, Hon.	Charleswood	PC
EVANS, Cliff	Interlake	ND
EVANS, Leonard S.	Brandon East	ND
FILMON, Gary, Hon.	Tuxedo	PC
FINDLAY, Glen, Hon.	Springfield	PC
FRIESEN, Jean	Wolseley	ND
GAUDRY, Neil	St. Boniface	LIB
GILLESHAMMER, Harold, Hon.	Minnedosa	PC
HARPER, Elijah	Rupertsland	ND
HELWER, Edward R.	Gimli	PC
HICKES, George	Point Douglas	ND
LAMOUREUX, Kevin	Inkster	LIB
LATHLIN, Oscar	The Pas	ND
LAURENDEAU, Marcel	St. Norbert	PC
MALOWAY, Jim	Elmwood	ND
MANNES, Clayton, Hon.	Morris	PC
MARTINDALE, Doug	Burrows	ND
McALPINE, Gerry	Sturgeon Creek	PC
McCRAE, James, Hon.	Brandon West	PC
McINTOSH, Linda, Hon.	Assinibola	PC
MITCHELSON, Bonnie, Hon.	River East	PC
NEUFELD, Harold, Hon.	Rossmere	PC
ORCHARD, Donald, Hon.	Pembina	PC
PENNER, Jack	Emerson	PC
PLOHMAN, John	Dauphin	ND
PRAZNIK, Darren, Hon.	Lac du Bonnet	PC
REID, Daryl	Transcona	ND
REIMER, Jack	Niakwa	PC
RENDER, Shirley	St. Vital	PC
ROCAN, Denis, Hon.	Gladstone	PC
ROSE, Bob	Turtle Mountain	PC
SANTOS, Conrad	Broadway	ND
STEFANSON, Eric, Hon.	Kirkfield Park	PC
STORIE, Jerry	Flin Flon	ND
SVEINSON, Ben	La Verendrye	PC
VODREY, Rosemary	Fort Garry	PC
WASYLYCIA-LEIS, Judy	St. Johns	ND
WOWCHUK, Rosann	Swan River	ND

LEGISLATIVE ASSEMBLY OF MANITOBA
THE STANDING COMMITTEE ON MUNICIPAL AFFAIRS

Friday, July 19, 1991

TIME — 1:30 p.m.

LOCATION — Winnipeg, Manitoba

CHAIRMAN — Mrs. Louise Dacquay (Seine River)

ATTENDANCE - 10 — QUORUM - 6

Members of the Committee present:

Hon. Messrs. Ducharme, Ernst, Neufeld, Stefanson

Mr. Carr, Mrs. Dacquay, Ms. Friesen, Messrs. Gaudry, Laurendeau, McAlpine

Substitution:

Ms. Barrett for Mr. Maloway

WITNESS:

Greg Selinger, Councillor, Tache Ward, City of Winnipeg

MATTERS UNDER DISCUSSION:

Bill 35—The City of Winnipeg Amendment Act

Bill 68—The City of Winnipeg Amendment Act
(2)

* * *

Madam Chairman: Will the committee on Municipal Affairs please come to order to consider Bill Nos. 35 and 36.

With the indulgence of the committee, we have a committee change requested prior to the commencement of the committee. Is there leave to permit a committee change?

* (1340)

Committee Substitution

Ms. Jean Friesen (Wolseley): May I have leave to change, the honourable member for Wellington (Ms. Barrett) to replace the honourable member for Elmwood (Mr. Maloway).

Madam Chairman: It has been moved by the honourable member for Wolseley (Ms. Friesen) that the honourable member for Wellington (Ms. Barrett) replace the honourable member for Elmwood (Mr. Maloway) as a member of the Standing Committee

on Municipal Affairs, effective Friday, July 19, 1:30 p.m., with the understanding that the same substitution will also be moved in the House to be properly recorded in the official records of the House. Agreed? Agreed and so ordered.

* * *

Madam Chairman: When this committee sat last evening I stated, with the agreement of the committee, for the record, that public presentation had been concluded on Bill 68, and that the committee today would begin clause-by-clause consideration of Bills 35 and 68. It has since been drawn to my attention that there are a few people who still wish to make public presentation. What is the will of the committee?

Hon. Jim Ernst (Minister of Urban Affairs): Madam Chair, last evening we concluded public representations on the committee. All those who were present, who wished to make representation, were heard. We concluded about 12:20 a.m. this morning. I understand that there were three people on the list still, who had not been called a second time. Those people I believe were, in appropriate order, Mr. Goldspink, Ms. Jean Miller-Usiskin, and Councillor Greg Selinger. Those people had not been called a second time. I gather also now that Ms. Evelyn Reese wishes to appear as a Private Citizen, but only registered this morning for that consideration.

Madam Chairman, I would move that the committee hear those people who were listed yesterday, but who were not called a second time, that is, Mr. Goldspink, Ms. Jean Miller-Usiskin and Councillor Greg Selinger, on the condition that they limit their presentation to 10 minutes, and that anyone else who had registered after the close of the meeting early this morning be not heard.

Madam Chairman: It has been moved by the honourable minister that the three individuals whose names appeared on the original list, and whose names had been called, according to our rules, just once over the course of the last two days, if they are

present this afternoon they be allowed to make presentation, provided their presentations are restricted to 10 minutes in duration, and that the other individual, who registered this morning, not be heard. Agreed?

Ms. Friesen: Madam Chairman, I think, for the record, we did say at the end of the last meeting that we all believed that we had closed public hearings. I certainly did not understand, myself, that people had not been called a second time. I think we should be calling them a second time. I am not comfortable with the limitation imposed by the Chair, but I would anticipate that the remarks of the people who are here will be brief and to the point.

Madam Chairman: Agreed?

Some Honourable Members: Agreed.

Madam Chairman: Agreed and so ordered. Mr. Frank Goldspink; No. 2, Ms. Jean Miller-Usiskin; No. 3, Councillor Greg Selinger. Councillor Selinger, before you commence, do you have copies of your prepared presentation for members of the committee?

Mr. Greg Selinger (Councillor, Tache Ward, City of Winnipeg): I have one copy which I will table with the committee when I am finished.

Madam Chairman: I appreciate that. Thank you, Councillor Selinger. Please proceed.

* (1345)

Mr. Selinger: Thank you for the opportunity to speak. With respect to Bill 68, first of all, I noticed there is a clause put in there, Clause 210.1(1), Payment of taxes by instalments. I just want to thank you for including that within the bill. That will be extremely helpful in trying to make it easier for people to pay their taxes in the future years. We are planning to bring in a monthly tax installment program in the fall. We have advertised that in the tax bill this year, so I appreciate you facilitating that by bringing that change forward in the legislation. That is very helpful.

On the main bill itself, I find myself diametrically opposed to the government on what you are intending to do here by reducing council to 15. I feel it is far too Draconian and drastic a measure at this time in the life of the city government. I think it is going to not achieve the goals which you have stated you wish to set out for this which is a more efficient decision-making process at City Council.

When I first looked at the Order-in-Council, there was attached to it a list of cities across Canada and the average ward size on those cities. When I lined up in a rank order the largest to the smallest, we were the median. We were right in the middle. Half the cities have larger wards, half the cities have smaller wards, so we were very, very representative of the trend across Canada for Canadian cities.

When I saw the report that came out of the commission that you brought forward, the Eldon Ross commission, and I looked at the data in there, there were some fundamental errors in analysis in that commission. You showed within that report an average ward size of 40,000 being reasonable for western Canada, but what that report neglected to do was show that some of those 40,000 wards had two councillors representing them. So it is not really a fair statement to say that the average ward size is 40,000 when you have two councillors representing them. The issue is how much representation per councillor. So you should really take a look at the data analysis that you have there. It is flawed and faulty.

The other thing that I have a real problem with is when you double the ward size to 40,000 people—and another thing that has been allowed since when I was elected is you have now made it legal for corporate and union donations—I think you shift the whole dependency of politicians away from the average citizen onto special interest groups. I think that is what I call the death knell of local democracy. I think that in the long run will really undermine the sort of history of local government as being the government closest to the people and the most representative and the most accessible to the average citizen.

So the combination of corporate-union donations with a reduced City Council wards of the size of 40,000, I think in the long run will make city councillors less responsive to the communities and neighbourhoods that they try to represent. I think it is a real step backward. I think it will be particularly negative for minorities—I speak in terms of the Francophone community. I see Neil Gaudry here from my area. My ward is already larger than his area that he represents. It is already about 3,000 or 4,000 people larger. I think Neil would agree with me, there is a lot of work just keeping up with what we have. I think trying to double that will make it extremely difficult to try and be sensitive and respond to people.

I find it difficult now to keep up with all the calls and get back to people in a timely fashion and respond to them without having to make lengthy excuses for why I could not get to them within 24 hours, so I think it is going to be very difficult. I think that the idea of efficiency will not be achieved, because the whole concept of representation in a democracy is that diverse points of view find expression in their elected bodies. I am not persuaded that 15 councillors—and what that means is that any eight people out of the 15 could have a working majority. Eight people, I do not believe, could wind up representing the diversity of points of view of a city with as many different ethnic groups, cultural groups, historical groups as Winnipeg. It is not a homogeneous city by any means, and I think the reduction of City Council will make it more difficult for the smaller groups to find voice on City Council. They will be homogenized into the larger issues that start to dominate City Council.

The other thing I wanted to say was that you do have some amendments in the bill about election expenses and you eliminate political party donations, but you still reaffirm union and corporate donations. I would like to see you consider the model they have in operation in Quebec where there are no special interest groups that can make donations. The only people who can make donations are individuals with after-tax dollars, and then they are eligible for a credit, as you are at the provincial level. That concept of only allowing individual donations, there is nothing radical about that.

The president of the Royal Bank of Canada has endorsed that in a major address that he made in the last year, and I can get you a copy of his address on that. He argued, and I agree with him, that politics is not only the reality, but it is the perception. In his argument, he said that he gives major contributions to two of the major political parties in Canada, in excess of \$40,000 each year, and he would be quite happy not to be able to make those donations and only allow individuals to make donations. He thought that would strengthen democracy. I agree with him. I think that would be very important at the municipal level as well where there is a widely held perception that special interests drive many of the decisions that were made at City Hall. So if we are talking about election expenses, let us move to an individual donation

system and consider a tax credit scheme that will go along with that.

* (1350)

In terms of the larger council itself, the numbers of representation, the trite thing to say is that it is not the quantity, it is the quality. There has been, for a long time, a myth at City Hall that there are people who run as independents. The very essence of democracy is that people work together in groups to forge a consensus to bring forward a policy position and to implement that policy position. You cannot do that alone. You have to do it in concert with a group, and my argument would be that we make those groups explicit. If they run on a platform, they be accountable for that platform.

I would not want those groups to have direct linkage to, say, the Liberals or the New Democrats or the Conservatives at the provincial or the federal level. I would want them to be independent urban municipal political formations. I think that would be a better way to get accountability and a clarity for the public about where people stand on the major questions that confront the decision makers.

Really, that is the essence of what I had to say. The only other thing I could suggest in terms of alternatives is that if you are concerned about the way City Council runs, I think we should do things like strengthen the conflict-of-interest guidelines. My short experience there, a year and a half, tells me that there are a lot of people who fly awfully close to the edge in terms of confusing the public and the private interest. You see in the paper today a major sort of conflagration with respect to a hotel that has been rezoned up on St. Mary's Road, and it just calls into question the integrity of many councillors when these things are allowed to happen in the way that they are.

So stronger conflict-of-interest guidelines with more disclosure, codes of ethics that control and regulate the behaviour of how councillors conduct themselves, what I think, in concert with a restriction of donations to individuals go a long way toward strengthening the base of local democracy.

The other thing I wanted to mention was that we had a Citizen's Commission composed of Herb Middlestead, Mr. Ferguson and Mr. Tracktenburg go out and hear 30 representations in the community. They recommended a gradualist approach as a compromise where the council would be reduced in the next election to 23 people. I do not think that council should be reduced at all, but if there was

going to be any attempt to reduce representation, I would endorse their gradualist approach to doing it. I think it is a much more measured approach, and it would give more time for people to react to see how the changes are occurring.

That is my presentation.

Madam Chairman: Thank you, Councillor Selinger. Would you care to entertain a question?

Mr. Selinger: Certainly.

Mr. Ernst: Councillor Selinger, I do not remember exactly in your presentation on Bill 35, whether or not you supported the question of taking the use change away from the variance process.

Mr. Selinger: I heartily endorse that. The evidence of the last two days supports why that should be done. If I could have a little bit of latitude on that question, the whole thing about variances. I think the other issue that jumped out of the thing that we saw in the paper today was not only who decides, but the concept of using a variance to go from 20-suite hotel to a 120-suite hotel. That is not a variance. That is a major change in density. I wondered if you would consider having some constrictions on how variances can be used. In my experience, I have seen variances used to change residential lots into parking lots. I have now seen hotels grow five times through a variance. That is an abuse of the variance.

Mr. Ernst: Well, in part at least that is going to be addressed by the amendment proposed under Bill 35. Some of the other things you can do by changing your existing bylaws within the city to make that more restrictive.

Councillor Murray, I think it was, had come here the other day in opposition to that. I asked him last night, when he appeared, I said, have you changed your mind since the day before. I think he said he had.

Mr. Selinger: I have talked to him as well about that.

Mr. Ernst: I had one further question and that was with respect the commission that council appointed. While council had appointed a citizen's commission to go out and seek opinion and make recommendations about the size of council, council rejected that on Wednesday, rejected their proposal.

* (1355)

Mr. Selinger: Council rejected the idea of even reducing it to 23. They thought it would be a reasonable compromise, but the principal discussion led us to the conclusion that the size of council really was not the issue. That is why the majority of councillors voted as has been done in the past to retain the existing size of council and to approve its effectiveness and operating style in other ways.

Ms. Friesen: I wanted to ask you particularly about the impact on French language services in the city of Winnipeg and particularly the impact of this reduction in the number of councillors on the dense areas of Franco-Manitoban population—St. Boniface, St. Vital and St. Norbert. Councillor Diamont raised this and Councillor Murray raised it. I wonder, from your own experience, what the—

Mr. Selinger: I addressed it in my brief. I think in the long run all minorities, including Francophone minorities, will receive less representation under a smaller council system. When the City of St. Boniface joined the City of Winnipeg in 1972, they were given certain guarantees under part three. We are in the business right now of talking about how to improve those with the provincial government through the official delegation. I am optimistic that we will strengthen those provisions.

I think the most fundamental concept for any group of citizens in the city is not legislative guarantees of services or communications, but the ability to elect somebody who can speak for them. I think that will be diminished in terms of that community of interest by having a smaller City Council. I think that applies to other groups as well, particularly inner city and older neighbourhoods, aboriginal peoples, and other minority groups that you could think of.

Madam Chairman: Thank you for your presentation, Councillor Selinger. Before proceeding clause by clause, is it the will of the committee that public representation be concluded? Agreed? Agreed and so ordered. Now that all presentations have been concluded regarding Bills 35 and 68, we will proceed with the detailed consideration of clause-by-clause consideration of Bill 68. Does the honourable minister wish to make an opening statement?

Mr. Ernst: Madam Chairman, before we deal with Bill 68, Bill 35 has a number of amendments which I have provided to the critics in advance of our consideration of those. In addition to that, we had

some discussion over the past couple of days with regard to a further change related to the process of hearings of variances and conditional uses. We had proposed in the bill a committee called the Planning Appeal Board to hear appeals on variances and conditional uses after they had been heard by members of council or the committee of some type or other.

After hearing representations and after having had discussions with members of the committee, it was considered by the government to change that process and in fact put it in reverse. In other words, that the first hearing would be heard by no longer now a Planning Appeal Board because it is not an appeal process. We were proposing to change the board of adjustment to hear the variance and conditional use applications in the first place and then have the appeal heard by a committee of council. Council would determine ultimately what committee would be heard.

Having had some discussions with the critics and members of the government caucus, it was determined that we would advance that amendment today in consideration of clause by clause. That amendment necessitates 38 consequential amendments to accomplish that one objective, not knowing of course at the time that we had that discussion what the ultimate consequences would be. Nonetheless, to accomplish that objective will require a little bit of extra work on our part.

So I am going to table at this time for members of the committee packages of amendments. The first number of amendments relate to the ones that had been distributed earlier. The last number of amendments in the package relate to that particular proposal. When we get to deal with Bill 35, what I would propose that we do is that we go through all of the amendments, and we can have discussion and explanation of all of those amendments and why they are there and so on. Then once we have dealt with all the amendments, we can go back and deal with the bill as amended, clause by clause. I wanted to give them to you as soon as I could after the committee started, so they are being distributed at the present time.

Madam Chair, we can proceed to clause by clause of Bill 68. I have no further comment.

* (1400)

Bill 68—The City of Winnipeg Amendment Act (2)

Madam Chairman: Prior to commencement of Bill 68, clause by clause, are all committee members in possession of the bill? Okay. We will now proceed clause by clause with Bill 68. It is my understanding that the first amendments appear on page 5 of Bill 68, proposed amendments.

Hon. Jim Ernst (Minister of Urban Affairs): Madam Chair, there are two amendments to Bill 68, both appear on page 5. Rather than deal with it as I proposed in Bill 35, I will simply move them at the time that they appear.

Madam Chairman: Clause 1—pass; Clause 2—pass; Clause 3(1)—pass; Clause 3(2)—pass; Clause 5(4)—

Ms. Jean Friesen (Wolseley): I am sorry, I did not hear Clause 4.

Madam Chairman: I must read the clauses in the order in which they are printed in the bill, Ms. Friesen.

I am sorry. It is my mistake. That is not a clause. I misled you, I apologize. That is an explanation of the subsection of that previous clause. Thank you for drawing that to my attention, Ms. Friesen.

Clause 3(3) is on page 2. There is an amendment for this clause.

Mr. Ernst: Madam Chair, I move, in English and French,

THAT subsection 3(3) of the Bill be renumbered as subsection 3(5), and the following added after subsection 3(2):

Subsection 5(5) amended

3(3) Subsection 5(5) is amended by striking out "Where," and substituting "Subject to subsection (6), where".

Subsection 5(6) rep. and sub.

3(4) Subsection 5(6) is repealed and the following is substituted:

L.G. In C. may appoint person to act

5(6) Where a person referred to in subsection (5) is unable for any reason to act in place of a member of the commission referred to in subsection (3), the Lieutenant Governor in Council may appoint a person to act in place of the member.

(French version)

Il est proposé que le projet de loi soit amendé par substitution, à l'actuel numéro de paragraphe 3(3),

du numéro 3(5) et par adjonction, après le paragraphe 3(2), de ce qui suit

Modification du paragraphe 5(5)

3(3) Le paragraphe 5(5) est modifié par substitution, à "En cas", de "Sous réserve du paragraphe (6), en cas".

Remplacement du paragraphe 6(6)

3(4) Le paragraphe 5(6) est remplacé par ce qui suit:

Nomination par le lieutenant-gouverneur en conseil

5(6) Le lieutenant-gouverneur en conseil peut nommer des remplaçants pour les personnes visées au paragraphe (5) qui ne peuvent, pour quelque raison que ce soit, assurer l'intérim des membres de la Commission visés au paragraphe (3).

Let me give you a brief explanation of that amendment as advanced. This amendment is proposed by the government. The intent is to clarify that the existing authority of the Lieutenant Governor in Council, to appoint a person to fill a vacancy on the Winnipeg Ward Boundaries Commission, extends to situations where the temporary commissioner identified under 5(5) cannot, for some reason, fill the vacancy.

Existing wording in The City of Winnipeg Act appears to require the temporary commissioner to fill a vacancy on the commission with no consideration to any extenuating circumstances, which may preclude the ability of the temporary commissioner to serve.

That in fact occurred at the present time. Because of the transition of the city clerk and the fact that the old city clerk retired, there was an acting city clerk put into place, he cannot sit. The substitute is the enumerator of the City of Winnipeg. The enumerator, because he is also the city assessor, is in the middle of a large assessment problem. It was the view of the city administration that it would be untoward for him to go and leave his job as the city assessor. He is also brand new at the job, having been appointed only a few months ago. So there was a quandary. How do we appoint somebody?

The intent was to allow the Lieutenant Governor in Council, where circumstances like that occur and neither can sit, neither of the two contained in the legislation that the Lieutenant Governor in Council

In fact could advance another name from the city to deal with that.

* (1405)

Mr. James Carr (Crescentwood): Madam Chair, I remember we had this discussion in debating the legislation that created the Crown Corporations Council, because the board is defined within the act to consist of persons which are articulated in a subsection of the act itself. The way we ultimately got around the problem that the minister suggests to us is to say, in this case, it would be the president of the University of Winnipeg or designate. If the president of the University of Winnipeg, for whatever reason, was unable to perform that function, the president of the University of Winnipeg could ask—it has happened last time—for someone to replace him or her.

Is that preferable, in the minister's view, to leaving it as open as the Lieutenant Governor in Council, who could theoretically make more political an appointment to a nonpolitical board or commission than is mandated in the act?

Mr. Ernst: I should point out that in the act, at the present time, the authority for the Lieutenant Governor in Council to make an appointment to a vacancy exists. If there is a vacant position, the Lieutenant Governor in Council can, in fact, make an appointment in the act at the present time.

What we are trying to say is that while these positions are not necessarily vacant, they are unable to serve. It is highly unlikely and perhaps facetious in nature, but theoretically, "or designate" could mean that the president of the university could in fact appoint a food worker in the cafeteria to sit in her place without any consideration by the Manitoba Legislature. Not that the food worker would do any less or more of a job, but the intent was to I think have a senior person in that office as the person to sit on the commission. The intent of the government is that where a circumstance such as that occurred—and anything can happen—but where the situation such as occurred this year, we could have for instance, under this legislation, appointed the acting city clerk as opposed to having to seek out another mechanism.

Members of the committee can consider that. I think it is not a major problem.

Mr. Carr: I think we will have to satisfy ourselves that the political constraint on any Minister of Urban Affairs or the Lieutenant Governor in Council to

politicize that position would be such that it would not happen and then could be fought out in the political arena.

Given the minister's comments, I think we can accept the amendment.

Madam Chairman: It has been moved by the honourable minister

THAT subsection 3(3) of the Bill be renumbered as subsection 3(5), and the following added after subsection 3(2):

Subsection 5(5) amended

3(3) Subsection 5(5) is amended by striking out "Where," and substituting "Subject to subsection (6), where".

Subsection 5(6) rep. and sub.

3(4) Subsection 5(6) is repealed and the following is substituted:

L.G. In C. may appoint person to act

5(6) Where a person referred to in subsection (5) is unable for any reason to act in place of a member of the commission referred to in subsection (3), the Lieutenant Governor in Council may appoint a person to act in place of the member.

(French version)

Il est proposé que le projet de loi soit amendé par substitution, à l'actuel numéro de paragraphe 3(3), du numéro 3(5) et par adjonction, après le paragraphe 3(2), de ce qui suit:

Modification du paragraphe 5(5)

3(3) Le paragraphe 5(5) est modifié par substitution, à "En cas", de "Sous réserve du paragraphe (6), en cas".

Remplacement du paragraphe 5(6)

3(4) Le paragraphe 5(6) est remplacé par ce qui suit:

Nomination par le lieutenant-gouverneur en conseil

5(6) Le lieutenant-gouverneur en conseil peut nommer des remplaçants pour les personnes visées au paragraphe (5) qui ne peuvent, pour quelque raison que ce soit, assurer l'intérim des membres de la Commission visés au paragraphe (3).

* (1410)

Shall the amendment pass—pass.

Clause 3(3), as amended—pass; Clause 4—pass; Clause 5—pass; Clause 6—

Ms. Friesen: I am still lost on this paper. I do not know if it is my glasses or what, but I am getting clauses and subsections confused.

Mr. Ernst: On page 2, the clauses are the large numbers.

Ms. Friesen: See, they are not large to me.

Madam Chairman: I will repeat Clause 6. Shall Clause 6 pass?

Some Honourable Members: Pass.

Madam Chairman: Clause 6 is accordingly passed. Shall Clause—(interjection)—

An Honourable Member: She is voting against it.

Madam Chairman: You want to be recorded in opposition to Clause 4?

An Honourable Member: That is right.

Madam Chairman: I will repeat Clause 6. Shall Clause 6 pass—pass. You want to be recorded in opposition to Clause 4?

An Honourable Member: That is right.

Madam Chairman: Is it the will of the committee that we revert back to Clauses 4 and 5 and I re-ask the question? Is it the will of the committee?

Some Honourable Members: Agreed.

Madam Chairman: Agreed.

Shall Clause 4 pass? All those in favour, please say yea.

Some Honourable Members: Yea.

Madam Chairman: All those opposed, please say nay.

Some Honourable Members: Nay.

Madam Chairman: In my opinion, the Yeas have it.

Ms. Becky Barrett (Wellington): Recorded vote, please.

A COUNTED VOTE was taken, the result being as follows:

Yeas 8, Nays 2.

Madam Chairman: I declare the motion passed. Clause 4 is accordingly passed.

Shall Clause 5 pass? All those in favour, please say yea.

Some Honourable Members: Yea.

Madam Chairman: All those opposed, please say nay.

Some Honourable Members: Nay.

Madam Chairman: In my opinion, the Yeas have it.

Ms. Barrett: May I have a recorded vote?

A COUNTED VOTE was taken, the result being as follows:

Yeas 8, Nays 2.

Madam Chairman: The clause is accordingly passed.

Point of Order

Mr. Marcel Laurendeau (St. Norbert): On the votes, do we have to hold the vote each time or could they not just record themselves in opposition to the votes? I believe that is what they had attempted to do in the first place. -(interjection)- You just wanted to record your opposition though. Then you could just say, record me in opposition rather than us voting up and down all the time.

Madam Chairman: It is not a point of order. It is a point of clarification.

* * *

Madam Chairman: Clause 5 is accordingly passed.

Clause 6—pass; Clause 7—pass. Is it the will of the committee that I block some of these clauses now, because I have been informed by the Clerk that there are no further amendments until page 5, I believe.

An Honourable Member: Block them.

Madam Chairman: Is it the will of the committee?

Some Honourable Members: Agreed.

Ms. Friesen: Madam Chair, we would like to vote on Clause 9.

Madam Chairman: Thank you for drawing that to my attention. Shall Clauses 7 and 8 inclusive pass—pass.

Shall Clause 9 pass? All those in favour, please say yea.

Some Honourable Members: Yea.

Madam Chairman: All those opposed, please say nay.

Some Honourable Members: Nay.

Madam Chairman: In my opinion, the Yeas have it. A count-out vote has been requested.

A COUNTED VOTE was taken, the result being as follows:

Yeas 8, Nays 2.

Madam Chairman: The clause is accordingly passed.

Shall Clauses 11 through 16 inclusive pass—pass; Clause 17.

Mr. Ernst: I have an amendment, Madam Chair. I move, in both official languages of the country of Canada,

THAT the proposed subsection 63.1(1), as set out in section 17 of the Bill, be amended by striking out clause (a) and adding the following after "report to council on":

the annual financial statements of

(a) the city; or

THAT the proposed subsection 63.1(2), as set out in section 17 of the Bill, be amended

(a) in the heading preceding it, by striking out "Persons" and substituting "Accountants";

(b) by striking out "No person" and substituting "No accountant"; and

(c) by striking out "the person or a person in the partnership" and substituting "the accountant, or an accountant employed in or by the partnership,".

(French version)

Il est proposé que le paragraphe 63.1(1), énoncé à l'article 17 du projet de loi, soit amendé par adjonction, après "examen", de "des états financiers annuels" et par substitution, à l'alinéa a), de ce qui suit:

a) de la Ville;

Il est proposé que le paragraphe 63.1(2), énoncé à l'article 17 du projet de loi, soit amendé:

a) par substitution, à "Persons" dans la version anglaise du titre, de "Accountants";

b) par substitution, à "les personnes", de "les comptables";

c) par substitution, à "dont un des associés", de "dont un des comptables".

Motion presented.

Mr. Ernst: The explanation of the first part—it is a two-part amendment—is proposed by the city. The amendment is a technical wording change to clarify clause (b) by stating that the external auditors report to council shall deal with the annual financial statements of a board or commission established under The City of Winnipeg Act.

The second part of the amendment is also proposed by the city since Section 63.1(1) states that the external auditor is to be an accountant, the city requested that 63.1(2), which deals with eligibility for appointment as the external auditor should be clarified by substituting the word accountant for the word person wherever it appears.

Mr. Carr: Madam Chair, I have a question to the minister on Section 63.1(1), subsection (b). It says a board or commission established under this act—oh, I see, okay. I misread that to read board of commissioners established under this act, and it was my recollection that it was disestablished through amendments to other legislation. It is not a problem. Sorry for taking the committee's time.

Madam Chairman: Shall the amendment pass?

Some Honourable Members: Pass.

* (1420)

Madam Chairman: The amendment is accordingly passed.

Shall Clause 17, as amended, pass—pass.

I have been informed there are no further amendments, so may I group the clauses? Shall Clauses 18—

Ms. Barrett: We would like a recorded vote on Clause 21.

Madam Chairman: Shall Clauses 18 inclusive through to Clause 20 pass—pass.

Clause 21 (1)—pass; Clause 21 (2).

All those in favour of Clause 21(2), please say yea.

Some Honourable Members: Yea.

Madam Chairman: All those opposed, please say nay.

Some Honourable Members: Nay.

Madam Chairman: In my opinion, the Yeas have it.

Mr. Carr: On the issue raised by Councillor Selinger, this I gather is the pertinent section, is it not? It says: contributor means an individual, organization, corporation or trade union, but does not include. What are the consequences of that line in Clause 21(2) as it pertains to contributions from corporations and unions?

Madam Chairman: Mr. Carr, would you please repeat your question relative to Clause 21(2).

Mr. Carr: Well, there is a definition of contributor meaning an individual, organization, corporation or trade union, but not including political parties registered under The Election Finances Act or the Canada Elections Act, which therefore makes it possible for corporations and trade unions to make contributions, which is contrary to the representation we heard from Councillor Selinger, who is arguing that only individuals be allowed to make contributions. Have I got that right?

An Honourable Member: Right.

Mr. Carr: Thank you.

Mr. Ernst: Presently, corporations, trade unions and others under the act are permitted to make donations, so the only thing we are changing here in this amendment—and voting against it will not accomplish your objective if in fact you want to have corporations and trade unions excluded, because all this clause does is prohibit political parties from using the provincial and federal tax system to finance municipal candidates. This came from the City of Winnipeg as a request. What we are doing here is prohibiting provincial and federal political parties, registered parties, to use the provincial and federal tax system to finance the municipal election campaign.

A COUNTED VOTE was taken, the result being as follows:

Yeas 7, Nays 2.

The clause is accordingly passed; Clause 22(1)—pass; Clauses 22 to 24 inclusive—pass; Clauses 25 to 28 inclusive—pass; Clauses 29 through 32(5)—pass; Preamble—pass; Title—pass. Bill, as amended, be reported. That concludes the clause-by-clause consideration of Bill 68.

Mr. Chairman: We will now proceed with clause-by-clause consideration of Bill 35.

Ms. Friesen: Madam Chair, this is my mistake. This is the first time I have done this, so I think we should have recorded our vote as opposed to the bill as amended and as being reported.

Mr. Carr: We will support reverting to the bill and allowing them to record their objections.

Madam Chairman: Is it the will of the committee to revert to afford those in opposition to record their opposition?

An Honourable Member: Agreed.

Madam Chairman: Okay. Shall the bill, as amended, be reported? All those in favour, please say yea.

Some Honourable Members: Yea.

Madam Chairman: All those opposed, please say nay.

Some Honourable Members: Nay.

A COUNTED VOTE was taken, the result being as follows:

Yeas 8, Nays 2.

Madam Chairman: The bill, as amended, is accordingly to be reported.

Bill 35—The City of Winnipeg Amendment Act

Madam Chairman: We will now begin to consider, clause by clause, Bill 35, and there are considerable amendments. Procedurally, it is not a generally accepted tradition to deviate from considering the amendments prior to the clauses. My understanding is that, if there is unanimous consent of the committee, we can waive that traditional procedure and deal with all amendments first, clause by clause, and then revert to the passing of each clause as amended. What is the will of the committee?

Mr. James Carr (Crescentwood): In spite of the Chair's remarks about precedent and tradition, only several weeks ago, in this very room, in discussion clause by clause of Bill 6, The Mines Act, we dealt with a number of amendments before the bill in its entirety. As a matter of fact, the record should show that it was a good decision and expedited the passage of the bill in its entirety. So we support such a manoeuvre.

* (1430)

Madam Chairman: The Clerk has just advised me that it was not precedent setting. You need unanimous consent. It is technically not procedurally correct, but with unanimous consent of the committee, it is permissible, is the advice I have received from the Clerk. Do we have unanimous consent?

Some Honourable Members: Agreed.

Madam Chairman: Agreed and so ordered.

Hon. Jim Ernst (Minister of Urban Affairs): Madam Chair, if I can suggest that we use the package that came in the brown folder that we

distributed earlier which has them all in appropriate sequence and so on, and we will go each one—

Floor Comment: This is all of them?

Mr. Ernst: This is all of them. Yes, these are all of the amendments now that will be proposed for the bill, as contained in that package. Because of the number, it is very difficult, and I beg the indulgence of the committee, but we thought this was a better way, to put them all together so we do not have any confusion over what we are dealing with. We are dealing with this particular issue.

Mr. Carr: I know that the official opposition has a number of amendments to this bill. We have one amendment to this bill. Let us make sure that they are considered properly, along with the government amendments, please.

Madam Chairman: Have they been distributed?

Mr. Ernst: Madam Chair, apart from the Liberal amendment which Mr. Carr confided in me yesterday with, I have no idea what other amendments there are. I am proposing that we deal with the government amendments first, and that may in fact preclude further amendment. You know, it may not, but if we deal with the government amendments first, then we can in fact have perhaps some of the concerns of other members already allayed. I know there are a number that were made when representations were made, requested, and we are in fact changing a number of them as our discussions with this city. So if we deal with the government amendments first, then we can deal with the opposition amendments latterly and that way I think we will keep it somewhat clear at least anyway.

Ms. Jean Friesen (Wolseley): Madam Chair, I think the procedure I would like to follow is to take the minister's suggestion of dealing with all of the government's amendments in one package but, if I could before we start just give an indication of the kinds of amendments that we want to introduce, then the government may have an opportunity to pick up on them at the time, or we can continue dealing with them in one group as they see fit.

We do have a number of amendments proposed. There are six of them, and they deal essentially with two principles. Both of these I spoke on in the House. I am not making a lengthy statement, but we are, as we said in the House, not prepared at this stage to give up on the joint riverways management proposals, and we would prefer the existing

situation in Waterways to stay as is and to pursue more vigorously the other options, so some of our amendments are related to that.

There are some environmental proposals which were made by the Environmental Council the other night which I thought that we should put into an amendment form and see if it is the will of the committee to adopt those. Then there are two issues of accessibility, one of which I mentioned in the House, which was ensuring that the legislation is very clear on the posting of the yellow signs. The other has to deal with the nature of restrictions in public hearings. So that is it.

Mr. Ernst: We can then, Madam Chair, proceed to the first amendment, which is an amendment to Section 195.1, which is Section 11 of the bill. We propose to strike out that section and substitute the following.

I move, in both official languages,

THAT the proposed section 195.1, as set out in section 11 of the Bill, be struck out and the following substituted:

Council may limit business tax increase

195.1 Notwithstanding a provision in this Act or any other Act to the contrary, council may by by-law limit the amount of increase in business tax that council determines has resulted from business re-assessment or the annual rate of business tax prescribed under subsection 180(2), and council may limit the amount of the increase for any year or years for a class of business or a group of businesses, on such terms and conditions as council may set out in the by-law

(French version)

Il est proposé que l'article 195.1 prévu à l'article 11 du projet de loi soit remplacé par ce qui suit:

Limitation de l'augmentation de la taxe d'affaires

195.1 Par dérogation à toute disposition contraire de la présente loi ou d'une autre loi, le conseil municipal peut, par arrêté, limiter l'augmentation de la taxe d'affaires s'il détermine que l'augmentation résulte d'une nouvelle évaluation commerciale ou de l'application du taux annuel de la taxe d'affaires fixée par arrêté en vertu du paragraphe 180(2). La limitation de l'augmentation peut s'appliquer à une année quelconque à l'égard d'une catégorie ou d'un groupe d'entreprises, selon les modalités et conditions que le conseil municipal fixe dans l'arrêté.

Mr. Ernst: This amendment was requested by the city, given the legal challenge, although it has not been dealt with, to the validity of the 1991 assessment roll. The city requested that the wording under 195 be slightly changed to delete the reference to a business assessment under subsection 181(1) and replace it with a business reassessment.

The city was concerned that placing council in the position of determining unreasonable increase in business tax might lead to court challenges by individuals who were ineligible under a tax phase-in program and I think was the subject of a representation by Great-West Life the other night. This does not deal with the request of Great-West Life.

Motion agreed to.

Mr. Ernst: The next amendment is the amendment to subsection 488(7). I move, in both official languages,

THAT the proposed subsection 488(7), as set out in section 16 of the Bill, be amended by adding "the city" after "described in the notice, and".

(French version)

Il est proposé que le paragraphe 488(7) figurant à l'article 16 du projet de loi soit amendé par adjonction, après "dans l'avis et", de "la Ville".

* (1440)

That amendment has been proposed by the Land Titles Office. Since the action to appoint a receiver is being taken by the city, it should be the city that notifies the owner. This change would be consistent with changes in other legislation that the Land Titles Office is making, so it is a technical amendment.

Motion agreed to.

Mr. Ernst: The next amendment, Madam Chair, deals with Section 492(4).

I move, in both official languages,

THAT the proposed subsection 492(4), as set out in section 16 of the Bill, be deleted, and the following substituted:

Discharge of L.T.O charge

492(4) On repayment to the city of an amount referred to in subsection (1), the city shall register a notice of discharge in the Winnipeg Land Titles Office in the form prescribed under The Real Property Act and, on application of the owner, the

clerk of the city shall provide a certificate of repayment to the owner.

(French version)

Il est proposé que le paragraphe 492(4) figurant à l'article 16 du projet de loi soit remplacé par ce qui suit:

Mainlevée

492(4) Lorsque le montant visé au paragraphe (1) est remboursé à la Ville, celle-ci enregistre un avis de mainlevée au Bureau des titres fonciers de Winnipeg en la forme prescrite prévue en vertu de la Loi sur les biens réels. Par la suite, le greffier de la Ville fournit un certificat de remboursement au propriétaire, sur demande de celui-ci.

That again is an amendment requested by the Land Titles Office. It will make the section consistent with the other two provisions in Bill 35 dealing with the discharge of Land Titles Office entries.

Motion agreed to.

Mr. Ernst: The next one is 494.81(1)(a). Does everybody have that?

I would therefore move, in both official languages,

THAT the proposed clause 494.81(1)(a), as set out in section 17 of the Bill, be amended by adding "494.2(6) or" after "under subsection".

(French version)

Il est proposé que l'alinéa 494.81(1)a) figurant à l'article 17 du projet de loi soit amendé par adjonction, après "paragraphe", de "494.2(6) ou".

This is an amendment requested by the city to allow the city to register orders relating to building standards and maintenance and occupancy standards against a land title.

Motion agreed to.

Mr. Ernst: The next amendment dealing with Section 574, I would move, Madam Chair, in both official languages,

THAT the definition of "development" in the proposed section 574, as set out in section 18 of the Bill, be amended by adding "or material" after "stockpiling of soil".

(French version)

Il est proposé qu'à l'article 574 figurant à l'article 18 du projet de loi, la définition d'"aménagement" soit amendée par adjonction, après "stockage de terre", de "ou de matériaux".

Motion agreed to.

Mr. Ernst: The next amendment, Section 574, I move, in both official languages,

THAT the proposed section 574, as set out in section 18 of the Bill, be amended

(a) by striking out the definition "Planning Appeal Board"; and

(b) by adding the following definition in alphabetical order within section 574:

"board of adjustment" means the board of adjustment established under section 650;

(French version)

Il est proposé que l'article 574 énoncé à l'article 18 du projet de loi soit amendé:

a) par suppression de la définition de "Commission d'appel en matière de planification";

b) par adjonction, dans l'ordre alphabétique, de la définition suivante:

"Commission de redressement" La Commission de redressement constituée en vertu de l'article 650. ("board of adjustment")

This is the board now that we were talking about earlier.

Mr. Carr: Madam Chair, I just want to put one observation on the record at this point. I want to commend the minister for responding to the public hearing process and also to the position taken by both opposition critics in their speeches in second reading on this bill. There is a very important principle involved here, and that is the principle of final judgment on these matters to maintain in the hands of the elected political officials who are accountable to those who elect them.

We were told time and time again that a vast amount of time is spent on community committees dealing with routine conditional use in variance applications. We were told by some presenters that as many as 19 out of 20 are noncontroversial and could be done in a fashion that does not require political energy, time and investment.

We always believed that it was much better handled by a nonpolitical board, but that the appeal in the case of controversy or in the case of a decision that was not satisfactory to parties concerned, that the political people still maintained the final authority on this issue. It is a very important principle. The minister has accepted the principle as a result of the

public hearing process at this committee and urgings from both opposition parties, and he is to be congratulated for it. I want that on the record.

Mr. Ernst: Thank you, Mr. Carr, for the comments. Those kind are few and far between these days. I think I indicated at the start that all of the first amendments were in one section and all of the amendments relating to this particular subject were in another and obviously I am not correct, that they are in fact interspersed in the appropriate places where they need to be amended.

So if we want to have a general discussion on that issue at the moment, I am quite prepared to do that. If we all agree, then we do not need to have one, but I did not want anybody to expect that we were going to have a general discussion at the end when we dealt with all those amendments because they are in fact, I gather now, interspersed where they need to be in the process.

The proposal to which Mr. Carr referred in his remarks just earlier relates to the question of how the hearing process will work at City Hall relating to variances and conditional use applications. Under the original submission of Bill 35, there would have been a planning appeal board. What happened is an application for a variance or conditional use would be received by the city and referred to a committee of council for public hearing.

The committee of council that heard the public hearing would in fact then make a decision. If that decision was to be challenged or appealed, the appeal would go to the planning appeal board which was a board of private citizens appointed by the City of Winnipeg. The discussion that we had and the representations that we had during committee indicated that that process should be reversed so that in the first instance, the hearing would be heard by the committee of private citizens and the appeal would be heard by the elected representatives, a committee of council.

There are a number of amendments contained in this package which give effect to that principle, the principle that the appointed citizens would hear the variance or conditional use application first, the appeal would be heard by a committee of council. This is the first of the amendments related to give effect to that principle.

Ms. Friesen: Yes, we did propose in our speeches in the House on this that the principle of political accountability be paramount and certainly the minister has gone some way to meeting that. As I

listen to the specific explanation today, I think I am still a little concerned that it is a committee of council and not council itself. I am not sure that that meets all the objections of the presenters, particularly the kind of recent experience that they were recounting. Certainly in terms of principle, I think it has moved closer to the position we would like to see.

Mr. Ernst: I might say, Madam Chair, council will decide what kind of committee will hear the appeals. It may decide, for different appeals, to appoint different committees. Historically, since at least 1973, when I first became a member of City Council, appeals for variances and conditional uses have been heard by a committee of council, not by the whole council.

It was heard by environment committee; it was heard by a variety of other committees. In fact, that, council will determine ultimately itself.

Hon. Gerald Ducharme (Minister of Government Services): Just to add to that, I think this answers the other complaint that councillors have now, and that I know a lot of us did. We now, as a councillor, could appear. We were not involved in original hearings. We could appear to that committee that hears the appeals of the variances.

Madam Chairman: It has been moved by the Honourable Mr. Ernst

THAT the proposed section 574, as set out in section 18 of the Bill, be amended

(a) by striking out the definition "Planning Appeal Board"; and

(b) by adding the following definition in alphabetical order within section 574:

"board of adjustment" means the board of adjustment established under section 650;

(French version)

Il est proposé que l'article 574 énoncé à l'article 18 du projet de loi soit amendé:

a) par suppression de la définition de "Commission d'appel en matière de planification";

b) par adjonction, dans l'ordre alphabétique, de la définition suivante:

"Commission de redressement" La Commission de redressement constituée en vertu de l'article 650. ("board of adjustment")

* (1450)

Shall the amendment pass—pass.

Mr. Ernst: The next amendment, Madam Chair, is 589(3). I move, in both official languages of Canada,

THAT the proposed subsection 589(3), as set out in section 18 of the Bill, be amended by striking out "After first reading and before second reading of a proposed development by-law, council shall refer the proposed development by-law" and substituting "A proposed development by-law shall be referred".

(French version)

Il est proposé que le paragraphe 589(3) figurant à l'article 18 du projet de loi soit amendé par substitution, au passage précédant "au comité", de "Un arrêté d'aménagement proposé est renvoyé".

This was an original amendment distributed earlier and was requested by the city. The city would like to continue the process of referring all applications for development to a committee for a hearing, not just the ones to which council has agreed to give first reading.

We also heard representations by people from the city that, by giving first reading, implies some approval, and they have preferred not to do that. So this amendment relates to that particular section.

Motion agreed to.

Mr. Ernst: The next amendment deals with 591(1)(f), an original amendment. I move, in both official languages of Canada,

THAT the proposed clause 591(1)(f), as set out in section 18 of the Bill, be amended by striking out the semicolon at the end of subclause (f)(ii), substituting a comma, and adding the following after subclause (f)(ii):

that are beneficial to or necessary for the development, or to serve the development;

(French version)

Il est proposé que l'alinéa 591(1)f) figurant à l'article 18 du projet de loi soit amendé par substitution, au point-virgule à la fin du sous-alinéa (ii), d'une virgule et par adjonction, après ce sous-alinéa, de ce qui suit:

"utiles ou nécessaires à l'aménagement;".

That was an original amendment proposed by the city. It clarifies that the city can, as a condition of approval of a development, collect from a developer the costs of any public work the city has to undertake that is necessary to, or benefits the development. The city presently uses another section, and this

general authority is given to them through this section.

Motion agreed to.

Mr. Ernst: The next is a new amendment relating to the planning appeal process.

I move, in both official languages of Canada,

THAT the proposed subsection 596(3), as set out in section 18 of the Bill, be amended by striking out "a committee of council or the Planning Appeal Board" and substituting "the board of adjustment or, on appeal, by the committee of council designated by by-law".

(French version)

Il est proposé que le paragraphe 596(3) énoncé à l'article 18 du projet de loi soit amendé par substitution, à "par un comité ou par la Commission d'appel en matière de planification", de "par la Commission de redressement ou, sur appel, par le comité désigné par arrêté".

Motion agreed to.

Mr. Ernst: The next is section 597. It is an original amendment.

I move

THAT the proposed section 597, as set out in section 18 of the Bill, be amended by striking out "the development permit and development by-laws" and substituting "a by-law passed or an order made under this Part".

(French version)

Il est proposé que l'article 597 figurant à l'article 18 du projet de loi soit amendé par substitution, à "dans le permis d'aménagement et les arrêtés d'aménagement", de "dans les arrêtés pris en vertu de la présente partie ou dans les ordonnances rendues en vertu de celle-ci".

This amendment is requested by the city. The city believes the terms "orders" and "by-laws" is more all-encompassing than "development permit" and "development by-laws." We have a small discussion between the lawyers, I think, on this one.

Motion agreed to.

Mr. Ernst: This is a two-part amendment. The first part deals with subclause 600(2) and the second, 600(3).

I would move, in both official languages of Canada,

THAT the proposed subclause 600(2)(c)(i), as set out in section 18 of the Bill, be amended

- (a) by striking out "or secondary plan by-law";
- (b) by striking out "within the 90 days" and substituting "before the expiry of the 90 days".

THAT the proposed subsection 600(3), as set out in section 18 of the Bill, be amended by striking out "Where council passes a development by-law" and substituting "Where a Plan Winnipeg by-law, secondary plan by-law or development by-law comes into force".

(French version)

Il est proposé que le sous-alinéa 600(2)(c)(i) figurant à l'article 18 du projet de loi soit amendé:

- a) par suppression de "ou l'arrêté proposé portant sur un plan secondaire";
- (b) par substitution, à "ou pendant la période de 90 jours", de "ou avant l'expiration de la période de 90 jours".

Il est proposé que le paragraphe 600(3) figurant à l'article 18 du projet de loi soit amendé par substitution, à "si le conseil municipal prend un arrêté d'aménagement", de "si un arrêté portant sur le plan de la Ville de Winnipeg, un arrêté portant sur un plan secondaire ou un arrêté d'aménagement entre en vigueur".

Actually, the first amendment is proposed by us. It was an error in drafting, since any secondary plan that amends Plan Winnipeg would be referred to the minister as a Plan Winnipeg amendment. Secondary plans, themselves, do not require ministerial approval as long as they are consistent with Plan Winnipeg.

The (b) amendment is proposed by the city. The amendment clarifies that the 35-day extension applies when the referral to the minister occurs within the 60-day period as well as the 90-day period.

Motion agreed to.

Mr. Ernst: May I seek the direction of the committee? If you would prefer that I do not go into these explanations, just say so and I will not. I am only trying to make it easier for everyone to understand.

Mr. Carr: I was going to suggest that if an explanation is required, it could be requested.

Mr. Ernst: All right.

Ms. Friesen: Madam Chair, I know it is time-consuming, but I would prefer to have it on the record so that we understand what the minister's

intent is and where these amendments are coming from. Otherwise, they are only in the written form which I think does not then accompany the act.

Mr. Ernst: I move, in both official languages of Canada,

THAT the proposed subsection 607(1), as set out in section 18 of the Bill, be amended by striking out ", a committee of council or the Planning Appeal Board" and substituting "or the board of adjustment.

THAT the proposed subsection 607(2), as set out in section 18 of the Bill, be amended by striking out "a committee of council or the Planning Appeal Board" and substituting "the board of adjustment".

THAT the proposed subsection 608(1), as set out in section 18 of the Bill, be amended by striking out ", the committee of council or the Planning Appeal Board determines that, in its opinion," and substituting "or the board of adjustment is of the opinion that".

THAT the proposed subsection 608(2), as set out in section 18 of the Bill, be struck out and the following substituted:

Conditions applied to variance

608(2) Subject to a by-law passed under subsection 607(1), the designated city administrator or the board of adjustment may approve an application for an order of variance subject to any condition that the designated city administrator or the board of adjustment considers necessary to ensure that the proposed development conforms with subsection (1).

(French version)

Il est proposé que le paragraphe 607(1), énoncé à l'article 18 du projet de loi, soit amendé par substitution, à ", à un comité ou à la Commission d'appel en matière de planification", de "ou à la Commission de redressement".

Il est proposé que le paragraphe 607(2), énoncé à l'article 18 du projet de loi, soit amendé par substitution, à "un comité ou à la Commission d'appel en matière de planification, de "la Commission de redressement".

Il est proposé que le paragraphe 608(1), énoncé à l'article 18 du projet de loi, soit amendé par substitution, à ", le comité ou la Commission d'appel en matière de planification peut rendre une ordonnance de dérogations s'il est d'avis que", de "ou la Commission de redressement peut rendre une ordonnance de dérogation si à son avis".

Il est proposé que le paragraphe 608(2), énoncé à l'article 18 du projet de loi, soit remplacé par ce qui suit:

Conditions liées à la dérogation

(608(2)) Sous réserve de l'arrêté visé au paragraphe 607(1), l'administrateur désigné de la Ville ou la Commission de redressement peut approuver une demande d'ordonnance de dérogation sous réserve des conditions qui, à son avis, sont nécessaires pour faire en sorte que l'aménagement proposé soit conforme au paragraphe (1).

That, of course, is dealing again with further amendments related to our original principle of the Planning Appeal Board and that process.

Motion agreed to.

* (1500)

Mr. Ernst: Madam Chair, I move, in both official languages of Canada,

THAT the proposed section 609, as set out in section 18 of the Bill, be struck out and the following substituted:

By-law on conditional uses

609 An application for a conditional use or to amend an approved conditional use shall be referred to the board of adjustment.

THAT the proposed section 610, as set out in section 18 of the Bill, be amended by striking out "committee of council or the Planning Appeal Board" and substituting "board of adjustment".

(French version)

Il est proposé que l'article 609 énoncé à l'article 18 du projet de loi soit remplacé par ce qui suit:

Arrêtés portant sur des usages conditionnels

609 Les demandes d'usage conditionnel ou les demandes de modification des usages conditionnels approuvés sont renvoyées à la Commission de redressement.

Il est proposé que l'article 610 énoncé à l'article 18 du projet de loi soit amendé par substitution, à ",renvoyées au comité ou à la Commission d'appel en matière de planification," de "qui sont renvoyées à la Commission de redressement".

Motion agreed to.

Mr. Ernst: I move, Madam Chair, in both official languages of Canada,

THAT the proposed section 611, as set out in section 18 of the Bill, be amended

(a) by striking out "committee of council or the Planning Appeal Board" and substituting "board of adjustment";

(b) by striking out "is not detrimental to" and substituting "does not create a substantial adverse effect on".

(French version)

Il est proposé que l'article 611 énoncé à l'article 18 du projet de loi soit amendé:

a) par substitution, à "le comité ou la Commission d'appel en matière de planification", de "la Commission de redressement";

b) au sous-alinéa b)(II), par substitution, à "n'est pas préjudiciable", de "ne crée pas de conséquences préjudiciables importantes relativement".

The latter wording is requested by the city.

Motion agreed to.

Mr. Ernst: I move, Madam Chair, in both official languages,

THAT the proposed section 612, as set out in section 18 of the Bill, be amended by striking out "The committee of council or Planning Appeal Board" and substituting "The board of adjustment".

(French version)

Il est proposé que l'article 612 énoncé à l'article 18 du projet de loi soit amendé par substitution, à "Le comité ou la Commission d'appel en matière de planification", de "La Commission de redressement".

Motion agreed to.

Mr. Ernst: I move, in both official languages of Canada,

THAT the proposed subsection 617(3), as set out in section 18 of the Bill, be amended

(a) by striking out "Notwithstanding section 629" and substituting "Notwithstanding subsection 629(2)";

(b) by striking out "under section 629" and substituting "under subsection 629(1)".

(French version)

Il est proposé que le paragraphe 617(3) figurant à l'article 18 du projet de loi soit amendé:

a) par substitution, à "Par dérogation à l'article 629", de "Par dérogation au paragraphe 629(2)";

b) par substitution, à "en vertu de l'article 629", de "en vertu du paragraphe 629(1)".

Motion agreed to.

Mr. Ernst: I move, in both official languages of Canada,

THAT the proposed subsection 619(3), as set out in section 18 of the Bill, be amended by adding "619(1)(b) or" after "the condition relates to clause".

(French version)

Il est proposé que le paragraphe 619(3) figurant à l'article 18 du projet de loi soit amendé par adjonction, après "à l'allnée", de "619(1)b) ou".

Motion presented.

This amendment is proposed by the city. To accelerate the approval process, the city would like to be able to give an administrator the authority to grant a condition related to a road-widening, 619(1)(b), provided that the condition is a standard condition that applies to all subdivision approvals so delegated. If an owner disagrees with the condition, the owner can still have the matter referred to a committee of council.

Ms. Friesen: How does this wording make that possible? 619(1)(b), as it reads now, is: "(b) that land in the proposed subdivision be conveyed to the city or the Crown for the purpose of widening an existing highway." The new section, 619(1)(b) would read what? I think it is really the English I cannot put together.

Mr. Ernst: The definition of "highway," of course, includes any street, road, lane or right-of-way, so "highway" is meant to include all of those things.

Motion agreed to.

Mr. Ernst: I move, in both languages of Canada,

THAT the proposed subclause 620(1)(f)(iii), as set out in section 18 of the Bill, be amended by adding "at such rate as is agreed upon" after "including interest".

(French version)

Il est proposé que le sous-alinéa 620(1)f)(iii) figurant à l'article 18 du projet de loi soit amendé par adjonction, après "intérêts", de "au taux convenu".

That amendment is requested by the city.

Motion agreed to.

Mr. Ernst: I move, in both official languages of Canada,

THAT the proposed section 622, as set out in section 18 of the Bill, be amended by striking out "within 180 days" and substituting "within one year of the day".

(French version)

Il est proposé que l'article 622 figurant à l'article 18 du projet de loi soit amendé par substitution, à "dans les 180 jours suivant son approbation", de "dans l'année qui suit la date de son approbation".

That is the amendment requested by the city. In fact, we had a couple of delegations, I think, on it.

Motion agreed to.

Mr. Ernst: I move, in both official languages of Canada,

THAT the proposed section 628, as set out in section 18 of the Bill, be struck out.

(French version)

Il est proposé que l'article 628 figurant à l'article 18 du projet de loi soit supprimé.

Motion presented.

As an explanation, the Municipal Board has proposed the deletion of Section 628. By amending 95(1) of The Municipal Board Act to permit a municipality, in addition to an owner or a beneficial owner to apply for a planned amendment or cancellation, 628 becomes redundant with The Municipal Board Act and can be deleted.

Ms. Friesen: I remember reading that in the earlier section. I just was not sure from the way it was worded, has that amendment taken place to The Municipal Act, or is it about to?

Mr. Ernst: It is in this bill.

Ms. Friesen: I see. It is not an amendment under The Municipal Act, then. -(interjection)- I see.

Motion agreed to.

Mr. Ernst: I move, in both official languages of Canada,

THAT the proposed subsection 629(1), as set out in section 18 of the Bill, be amended

(a) by adding the following after clause (d):

(d.1) requirements for giving notice of a committee report or decision made under this Part, including giving notice where a written representation is made by or on behalf of more than one person;

(b) by striking out clause (j) and substituting the following:

(j) the right to appeal a decision, in addition to any right to appeal provided under this Part;

(j.1) procedure for appealing a decision, including time periods for appeal;

(j.2) procedure for hearing appeals;

(French version)

Il est proposé que le paragraphe 629(1) énoncé à l'article 18 du projet de loi soit amendé:

a) par adjonction, après l'alinéa d), de ce qui suit:

"d.1) les conditions de remise des avis de rapport ou de décision de comité en application de la présente partie, y compris la remise d'un avis lorsque des observations écrites sont faites au moins par deux personnes ou au nom de celles-ci;"

b) par substitution, à l'alinéa j), de ce qui suit:

"j) le droit d'appel d'une décision, en plus des droits d'appel visés par la présente partie;

j.1) la procédure d'appel d'une décision, y compris les délais d'appel;

j.2) la procédure d'audition des appels;"

I can provide you with a little explanation of those. The new Clause (d.1)—this amendment is proposed by the city. It clarifies that the city can adopt procedures for issuing a notice of a report or a decision under this part including where representations are made on behalf of more than one person. The city has interpreted the present clause to give it this authority so no new authority has really been given to the city.

New Clause (j)—this amendment is proposed by the government and relates to the amendment to 644(3)(b), which waives the requirement to notify adjoining landowners where the variance granted by an administrator is less than 5 percent of the bylaw requirement. This amendment allows the city to require the notice to adjoining landowners if it so chooses.

New Clause (j.1)—this amendment is the existing Clause (j) of Bill 35 with reference to objections deleted.

Motion agreed to.

Mr. Ernst: I move, in both official languages of Canada,

THAT the proposed subsection 630(2), as set out in section 18 of the Bill, be amended by striking out

"Planning Appeal Board" and substituting "board of adjustment".

(French version)

Il est proposé que le paragraphe 630(2), énoncé à l'article 18 du projet de loi, soit amendé par substitution, à "Commission d'appel en matière de planification", de "Commission de redressement".

Motion agreed to.

* (1510)

Mr. Ernst: I move, in both official languages of Canada,

THAT the proposed clause 633(2)(e), as set out in section 18 of the Bill, be struck out and the following substituted:

(e) in any other manner council considers necessary or advisable.

THAT the proposed subsection 633(4), in section 18 of the Bill, be struck out and the following substituted:

Exemption to newspaper notice

633(4) Where a designated employee determines that an application that is subject to a public hearing affects only a specific building or building site, a notice of the application shall be posted in accordance with subsection 635(1), and the posting of a notice may, subject to a by-law passed under subsection 629(1), substitute for publication of the notice in a newspaper under clause (2)(b).

(French version)

Il est proposé que le texte anglais de l'alinéa 633(2)e énoncé à l'article 18 du projet de loi soit remplacé par ce qui suit:

"(e) any other matter council considers necessary or advisable."

Il est proposé que le paragraphe 633(4) énoncé à l'article 18 du projet de loi soit remplacé par ce qui suit:

Exemption

633(4) Lorsqu'un employé désigné détermine qu'une demande faisant l'objet d'une audience publique ne vise qu'un chantier de construction ou qu'un bâtiment particulier, un avis de la demande est affiché conformément au paragraphe 635(1) et l'affichage de l'avis peut, sous réserve d'un arrêté pris en vertu du paragraphe 629(1), remplacer la publication de l'avis visé à l'alinéa (2)b).

Ms. Friesen: I also have an amendment on that. I do not know if you want to deal with it at this time. It is a notwithstanding amendment.

Mr. Ernst: I think the intent was to ensure that there be posted on the property notice that that not be discretionary, it be mandatory. By this amendment, we are making it mandatory. So we can consider this at this point and consider yours later. If in our discussion of your amendment it is deemed to have some additional things the committee may wish to consider, we can do it at that time.

Motion agreed to.

Mr. Ernst: I move, in both official languages of Canada,

THAT the proposed section 634, as set out in section 18 of the Bill, be amended by striking out "Planning Appeal Board" and substituting "board of adjustment".

(French version)

Il est proposé que l'article 634, énoncé à l'article 18 du projet de loi, soit amendé par substitution, à "Commission d'appel en matière de planification", de "Commission de redressement".

Motion agreed to.

Mr. Ernst: I move, in both official languages of Canada,

THAT the proposed clause 635(1)(b), as set out in section 18 of the Bill, be amended by striking out "not less than one metre from the lot line" and substituting "not more than one metre inside the lot line".

(French version)

Il est proposé que l'alinéa 635(1)(b) figurant à l'article 18 du projet de loi soit amendé par substitution, à "à un mètre au moins de la limite du lot", de "à un mètre au plus à l'intérieur de la limite du lot".

This is to location of the posting of notice.

Motion agreed to.

Mr. Ernst: I move, in both official languages of Canada,

THAT the proposed section 637, as set out in section 18 of the Bill, be amended by striking out "Planning Appeal Board" and substituting "board of adjustment".

THAT the proposed subsection 641(1), as set out in section 18 of the Bill, be amended by striking out "Planning Appeal Board" and substituting "board of adjustment".

(French version)

Il est proposé que l'article 637, énoncé à l'article 18 du projet de loi, soit amendé par substitution, à "Commission d'appel en matière de planification", de "Commission de redressement".

Il est proposé que le paragraphe 641(1), énoncé à l'article 18 du projet de loi, soit amendé par substitution, à "Commission d'appel en matière de planification", de "Commission de redressement".

Motion agreed to.

Mr. Ernst: I move in, both official languages of Canada,

THAT the proposed section 642, as set out in section 18 of the Bill, be renumbered as subsection 642(1), and the following added after subsection 642(1):

Conduct of combined public hearing

642(2) A public hearing authorized under subsection (1) shall be conducted

(a) by the board of adjustment, where the public hearing is in respect of a variance and conditional use; and

(b) by a committee of council, in all other cases.

(French version)

Il est proposé que l'article 642, énoncé à l'article 18 du projet de loi, soit modifié par substitution, à son numéro, du numéro de paragraphe 642(1) et par adjonction, après le paragraphe 642(1), de ce qui suit:

Tenue d'audiences publiques jointes

642(2) L'audience publique autorisée en vertu du paragraphe (1) est tenue:

a) par la Commission de redressement, si elle concerne une dérogation et un usage conditionnel;

b) par un comité, dans les autres cas.

Mr. Ernst: A word of explanation here—one of the consequences of our change in philosophy on this particular issue is, under some circumstances you can hear a zoning, a variance, a conditional use and a subdivision all at once under a certain set of circumstances where an application for a development requires amendments under all those sections. We thought it inappropriate that a zoning or a subdivision should be heard by the board of adjustment. Those are policy matters. They should be in the hands of the body politic, but to streamline matters because the variance and

conditional use if required under that development approval could be considered all at the same time because they are all relevant in all, in the mind of the public quite frankly, it could be germane to the application.

If you did not grant the conditional use, they might approve the whole thing but, if you did, they will not. So it is important in a large development particularly that all of them be heard together so that all of the information is available in everybody's mind and certainly not before a different committee. So it was our intent that in that case, the board of adjustment would not hear those variance and conditional use applications, but rather they would be heard by the body politic.

Motion agreed to.

Mr. Ernst: I move, in both official languages of Canada,

THAT the proposed subsection 643(4), as set out in section 18 of the Bill, be amended by striking out "in respect of the tie vote".

(French version)

Il est proposé que le paragraphe 643(4) figurant à l'article 18 du projet de loi soit amendé par suppression de "portant sur le partage du vote".

It is a redundant section.

Motion agreed to.

Mr. Ernst: I move, in both official languages of Canada,

THAT the proposed subsection 644(1), as set out in section 18 of the Bill, be amended

(a) by adding "in accordance with a by-law passed under section 629," after "give notice by mail,;" and

(b) by striking out "and the right to file an objection to it, in accordance with a by-law passed under section 629,".

(French version)

Il est proposé que le paragraphe 644(1) figurant à l'article 18 du projet de loi soit amendé:

a) par adjonction, après "dès que possible," de "conformément à un arrêté pris en vertu de l'article 629,;"

b) par suppression de "et du droit du requérant et des personnes de déposer une opposition à ce rapport, conformément à un arrêté pris en vertu de l'article 629,".

Mr. Ernst: This is one of a couple of sections where the right to object to council a second time on a zoning had been contained in the original bill and after representations from the city and from others that it could constitute a significant problem in the future in that new information could be introduced, both sides were not going to be heard, all of those kinds of things we have deleted it, and this gives effect to part of that process.

Ms. Friesen: I remember the city making those presentations and the import of their presentation was that you could not apply in writing after your hearing had been concluded.

Madam Chairman: Okay.

Ms. Friesen: So this deals with that? So what will the procedure be now, could you give us the new procedure?

Mr. Ernst: The procedure will be the same as it is now, that on a zoning application it would be heard by a committee of council, public hearings will be concluded and then it will follow the city process through either the planning committee, and ultimately through to council for approval and zoning bylaws. There will not be an opportunity for the public to file an objection after the public hearing has been concluded.

Motion agreed to.

Mr. Ernst: I move, in both official languages,

THAT the proposed subsection 644(2), as set out in section 18 of the Bill, be struck out and the following substituted:

Notice of decision by board of adjustment

644(2) Where the board of adjustment makes a decision respecting an application for a variance or conditional use, the secretary of the board of adjustment shall as soon as is practicable give notice by mail, in accordance with a by-law passed under section 629, to the applicant and any person who made representations at the public hearing, of the decision and the right to appeal the decision to the committee of council designated by by-law.

(French version)

Il est proposé que le paragraphe 644(2), énoncé à l'article 18 du projet de loi, soit remplacé par ce qui suit:

Avis de la décision de la Commission

644(2) Lorsque la Commission de redressement rend une décision à l'égard d'une demande de dérogation ou d'usage conditionnel, le secrétaire de

la Commission de redressement, dès que possible et conformément à un arrêté pris en vertu de l'article 629, envoie par courrier un avis au requérant et aux personnes qui ont fait des observations à l'audience publique, lequel avis fait état de la décision et du droit du requérant et des personnes d'interjeter appel de cette décision au comité désigné par arrêté.

Motion agreed to.

* (1520)

Mr. Ernst: I move, in both official languages,

THAT the proposed subsection 644(3), as set out in section 18 of the Bill, be amended

(a) by striking out "Planning Appeal Board" and substituting "the committee of council designated by by-law";

(b) by striking out clause (b) and substituting the following:

(b) In the case of a variance granted under subsection 607(3), in addition to the notice requirements set out in a by-law passed under clause 629(1)(e), to the owners of land adjoining the property in respect of which the variance is granted, where the variance exceeds 5% of the requirement set out in the development by-law.

(French version)

Il est proposé que le paragraphe 644(3) énoncé à l'article 18 du projet de loi soit amendé:

a) par substitution, à "à la Commission d'appel en matière de planification", de "au comité désigné par arrêté";

b) à la première phrase, par substitution, au passage qui suit "au requérant et.", de "dans le cas d'une dérogation accordée en vertu du paragraphe 607(3), aux propriétaires des biens-fonds contigus à la propriété à l'égard de laquelle la dérogation est accordée, lorsque celle-ci dépasse de 5 % l'exigence indiquée dans l'arrêté d'aménagement. Dans ce dernier cas, les conditions de remise d'avis indiquées dans l'arrêté pris en vertu de l'alinéa 629(1)e) sont également envoyées aux propriétaires."

Motion agreed to.

Mr. Ernst: I move, in both official languages,

THAT section 18 of the Bill be amended by adding the following after the proposed subsection 644(3):

Referral of report to board of adjustment

644.1 Council may refer the report of a committee of council respecting a secondary plan by-law or development by-law

THAT section 18 of the Bill be amended by adding the following after the proposed subsection 644(3):

Referral of report of board of adjustment

644.1 Council may refer the report of a committee of council respecting a secondary plan by-law or development by-law, or an application for approval of a plan of subdivision, to the board of adjustment, which shall conduct a public hearing in accordance with a by-law passed under subsection 652(1), and submit a report and recommendations to council.

(French version)

Il est proposé que l'article 18 du projet de loi soit amendé par adjonction, après le paragraphe 644(3), de ce qui suit:

Renvoi du rapport à la Commission de redressement

644.1 Le conseil municipal peut renvoyer à la Commission de redressement le rapport d'un comité à l'égard d'un arrêté portant sur un plan secondaire ou d'un arrêté d'aménagement, ou une demande d'approbation d'un plan de lotissement. La Commission préside alors une audience publique conformément à l'arrêté pris en vertu du paragraphe 652(1) et soumet un rapport et des recommandations au conseil municipal.

Just remember that under the former process the Board of Appeal could be used as a secondary vehicle to hold a further hearing if, for instance, it came to the attention of council that some gross error occurred, or there was some great question of whether something should have happened or not, council will have now, it does not have it at the present time, but it will have under this section, another vehicle for it to conduct a further public hearing. Council itself will not conduct it, the Board of Adjustment will conduct it, but they can in fact conduct a hearing and make a report back to council. They have no decision-making authority in this case, they have simply powers of recommendation.

I do not think I finished that, did I? I better do it again.

THAT the proposed subsection 645(1) of the Act, as set out in section 18 of the Bill, be amended

(a) by striking out ", any objection filed with respect to the report,";

(b) by striking out "subsection 647(2)" and substituting "section 644.1"; and

(c) by striking out the comma after "stated reasons".

THAT the proposed subsection 645(2) of the Act, as set out in section 18 of the Bill, be amended by striking out "or filed an objection under subsection 647(1)".

(French version)

Il est proposé que le paragraphe 645(1) énoncé à l'article 18 du projet de loi soit amendé:

a) par suppression de ", les oppositions déposées à l'égard du rapport";

b) par substitution, à "en vertu du paragraphe 647(2)", de "en vertu de l'article 644.1";

c) dans le texte anglais, par suppression de la virgule, après "stated reasons".

Il est proposé que le paragraphe 645(2) énoncé à l'article 18 du projet de loi soit amendé par suppression de "ou qui ont déposé une opposition en vertu du paragraphe 647(1)".

Motion agreed to.

Mr. Ernst: I move, in both official languages,

THAT the heading "OBJECTIONS AND APPEALS" preceding the proposed section 646 of the Act, as set out in section 18 of the Bill, be struck out and "APPEALS" be substituted.

THAT the proposed section 646, as set out in section 18 of the Bill, be amended by striking out "Planning Appeal Board" and substituting "board of adjustment".

THAT the proposed section 647 of the Act, as set out in section 18 of the Bill, be struck out.

(French version)

Il est proposé que l'intertitre "OPPOSITIONS ET APPELS", précédant l'article 646 qui est énoncé à l'article 18 du projet de loi, soit remplacé par "APPELS".

Il est proposé que l'article 646 énoncé à l'article 18 du projet de loi soit amendé par substitution, à "Commission d'appel en matière de planification", de "commission de redressement".

Il est proposé que l'article 647 énoncé à l'article 18 du projet de loi soit supprimé.

Motion agreed to.

Mr. Ernst: I move, in both official languages,

THAT the proposed subsection 648(1), as set out in section 18 of the Bill be amended

(a) by adding "conducted by the board" after "a public hearing"; and

(b) by striking out "the board" and substituting "the committee of council designated by by-law".

THAT the proposed subsection 648(2), as set out in section 18 of the Bill, be amended

(a) in the heading preceding it, by striking out "board" and substituting "committee";

(b) by striking out "Where the board" and substituting "Where the committee of council";

(c) by striking out "subsection 652(1) and substituting "subsection 629(1)".

THAT the Bill be amended by adding the following after subsection 648(2):

Application of provisions to committee

648(3) Subsections 608(1) and (2), and sections 611 and 612 apply to a decision of a committee of council made under subsection (2).

THAT the proposed clause 649(f), as set out in section 18 of the Bill, be struck out and the following substituted:

(f) a decision of a committee of council under subsection 648(2).

(French version)

Il est proposé que le paragraphe 648(1) énoncé à l'article 18 du projet de loi soit amendé:

a) par adjonction, après "l'audience publique tenue", de "par la Commission";

b) par substitution, à "à la Commission", de "au comité désigné par arrêté".

Il est proposé que le paragraphe 648(2) énoncé à l'article 18 du projet de loi soit amendé:

a) dans le titre, par substitution, à "la Commission", de "le comité";

b) par substitution, à "Lorsqu'elle est saisie d'un appel en vertu du paragraphe (1), la Commission", de "Lorsqu'il est saisi d'un appel en vertu du paragraphe (1), le comité";

c) par substitution, à "du paragraphe 652(1)", de "du paragraphe 629(1)".

Il est proposé que le projet de loi soit amendé par adjonction, après le paragraphe 648(2), de ce qui suit:

Application

648(3) Les paragraphes 608(1) et (2) ainsi que les articles 611 et 612 s'appliquent aux décisions du comité rendues en vertu du paragraphe (2).

Il est proposé que l'alinéa 649f) énoncé à l'article 18 du projet de loi soit remplacé par ce qui suit:

"f) la décision d'un comité rendue en vertu du paragraphe 648(2).".

These are consequential amendments to the question of changing the appeal arrangement. Subsection 648(3) ensures that council is bound by the appropriate regulations for the approval of variances and conditional uses. There is an appropriate mechanism that has to be followed in the act and this section assures that is followed.

Motion agreed to.

Mr. Ernst: I move, in both official languages,

THAT the heading "PLANNING APPEAL BOARD" preceding the proposed section 650, as set out in section 18 of the Bill, be struck out and "BOARD OF ADJUSTMENT" be substituted.

THAT the proposed section 650, as set out in section 18 of the Bill, be amended by striking out "Planning Appeal Board" and substituting "board of adjustment".

THAT the proposed subsection 651(1), as set out in section 18 of the Bill, be amended

(a) in clause (a), by adding "subject to a by-law passed under subsection 607(1)," after "(a)";

(b) by striking out clause (b) and renumbering clauses (c) and (d) as clauses (b) and (c), respectively.

(French version)

Il est proposé que l'intertitre "COMMISSION D'APPEL EN MATIERE DE PLANIFICATION" qui précède l'article 650, énoncé à l'article 18 du projet de loi, soit remplacé par "COMMISSION DE REDRESSEMENT".

Il est proposé que l'article 650, énoncé à l'article 18 du projet de loi, soit amendé par substitution, à "Commission d'appel en matière de planification", de "Commission de redressement".

Il est proposé que le paragraphe 651(1), énoncé à l'article 18 du projet de loi, soit amendé:

a) à l'alinéa a), par adjonction, après "a)", de "sous réserve de l'arrêté visé au paragraphe 607(1) et";

b) par suppression de l'alinéa b) et par substitution, aux désignations d'alinéas c) et d), des désignations b) et c).

Motion agreed to.

Mr. Ernst: I move, in both official languages of Canada,

THAT the proposed clause 652(1)(d), as set out in section 18 of the Bill, be struck out and the following substituted:

(d) rules of practice and procedure;

(French version)

Il est proposé que l'alinéa 652(1)d), énoncé à l'article 18 du projet de loi, soit remplacé par ce qui suit:

d) les règles de pratique et de procédure;

Ms. Friesen: This is the first time I have seen this amendment and I was wondering if I could have an explanation of what the consequences are of the change.

Mr. Ernst: This amendment requires the Board of Adjustment to follow council's rules and the regulations and rules that are contained within The City of Winnipeg Act. They cannot set up their own rules. They have to follow the rules as prescribed in the act, and this section ensures that is in fact what happens. We are a little concerned that the Board of Adjustment could decide that they will set up their own rules for notice and things of that nature, and we did not think that was appropriate. If we are going to put legislation in the act that requires them for instance to post the property, then the Board of Adjustment should be required to do that as well.

Ms. Friesen: I understand that principle, but I believe what is being eliminated is "including rules respecting notice in public hearings conducted by the board and notice of decisions." What is the purpose in dropping that?

* (1530)

Mr. Ernst: By limiting it to the rules of practice and procedure takes out any ambiguity with respect to the ability of the Board of Adjustment to change its procedures respecting notice and public hearings from what is contained in the act. The act already prescribes procedures for public hearing notices, et cetera. There is some concern that if you left "including rules respecting notice in public hearings conducted by the board and notice of decisions" in there, they could make other arrangements. We do

not want them to make other arrangements. So we simply want to say "rules of practice and procedure", period, then there is no question.

Ms. Friesen: Thank you, I am glad to have that on the record.

Motion agreed to.

Mr. Ernst: I move, in both official languages of Canada,

THAT section 21 of the Bill be struck out and the following substituted:

Section 688 rep. and sub.

21 Section 688 is repealed and the following is substituted:

Conditional approval of subdivision in additional zone

688 Where before the repeal of provisions of this Act respecting the addition zone by The City of Winnipeg Amendment Act (3), S.M. 1989-1990, chapter 52, council approved subject to conditions a proposed plan of subdivision in the additional zone, the approval is deemed for the purposes of a subdivision that was not completed by January 1, 1991 to be a conditional approval under clause 64(2)(a) of The Planning Act and is subject to the provisions of that Act.

(French version)

Il est proposé que l'article 21 du projet de loi soit remplacé par ce qui suit:

Remplacement de l'article 688

21 L'article 688 est remplacé par ce qui suit:

Approbation conditionnelle de lotissements dans un zone périphérique

688 Si, avant l'abrogation des dispositions de la présente loi relatives à la zone périphérique, prévue par la Loi no 3 modifiant la Loi sur la Ville de Winnipeg, L.M. 1989-90, chapitre 52, le conseil municipal a approuvé, sous réserve de certaines conditions, un plan proposé de lotissement dans la zone périphérique, l'approbation est réputée, aux fins des lotissements qui n'ont pas été complétés au 1er janvier 1991, être une approbation conditionnelle visée à l'alinéa 64(2)a) de la Loi sur l'aménagement de territoire et est assujettie aux dispositions de cette loi.

Mr. Ernst: This clarifies the present Section 688 which is intended to apply specifically to subdivision approvals—just one second I will, hang on, just give me a brief explanation.

The original section of the act deals in very general terms when it refers to development. The intent of this section was to deal only with subdivisions. Therefore, we are clarifying this section by saying it is only subdivisions that are subject to this particular section. A little bit of—well, the original draft was not too clear and so the intent is to clarify it in this section.

Motion agreed to.

Mr. Ernst: I move, in both official languages of Canada,

THAT subsection 24(3) of the Bill be deleted, subsection 24(2) of the Bill be renumbered as subsection 24(3), and the following be added as subsection 24(2):

Subsection 95(1) amended

24(2) Subsection 95(1) is amended

(a) by adding "a municipality or" after "upon the application of"; and

(b) by striking out "clause 112(3)(g)" and substituting "clause 177(6)(g)".

(French version)

Il est proposé que le paragraphe 24(3) du projet de loi soit supprimé, que le paragraphe 24(2) du projet de loi soit amendé par substitution, à son actuel numéro, du numéro 24(3) et que le paragraphe suivant soit ajouté à titre de paragraphe 24(2):

Modification du paragraphe 95(1)

24(2) Le paragraphe 95(1) est modifié:

(a) par adjonction, après "à la demande", de "d'une municipalité,";

(b) par substitution, à "l'alinéa 112(3)(g)", de "l'alinéa 117(6)(g)".

This is the consequential amendment to the municipal board act that we talked about earlier.

Motion agreed to.

Mr. Ernst: I move, in both official languages of Canada,

THAT clause 27(6)(b) of the Bill be amended by striking out "(objections and appeals)" and substituting "(appeals)".

THAT the following be added after subsection 27(6) of the Bill:

Retroactive: section 21

27(6.1) Section 21 is retroactive and is deemed to have come into force on January 1, 1991.

(French version)

Il est proposé que le texte anglais de l'alinéa 27(6)(b) du projet de loi soit amendé par substitution, à "(objections and appeals)", de "(appeals)".

Il est proposé d'ajouter, après le paragraphe 27(6) du projet de loi, ce qui suit:

Article 21

27(6.1) L'article 21 est entré en vigueur le 1er janvier 1991.

Motion agreed to.

Mr. Ernst: I move, in both official languages of Canada,

THAT Legislative Counsel be authorized to change all section numbers and internal references necessary to carry out the amendments adopted by this committee.

(French version)

Il est proposé que le Conseil législatif soit autorisé à changer les numéros d'articles et les renvois internes du projet de loi afin qu'il soit donné effet aux amendements adoptés par le comité.

Motion agreed to.

Mr. Carr: Madam Chair, shall we deal with our one minute?

An Honourable Member: Perhaps we could have a 10-minute recess so we can have a look at your amendments. Let us resume at quarter to four. We will review your amendments and give us a bit of a chance to have a gander at them.

Madam Chairman: Is it the will of the committee to take a 10-minute recess and reconvene the committee at 3:50? Agreed?

Some Honourable Members: Agreed.

Madam Chairman: Agreed and so ordered.

The committee took recess at 3:37 p.m.

After Recess

The committee resumed at 3:54 p.m.

Madam Chairman: Is it the will of the committee to review all the amendments as proposed by the official opposition? Agreed?

An Honourable Member: Agreed.

Madam Chairman: Agreed and so ordered.

Ms. Friesen: Madam Chair, I assume we all have copies and all in the same order.

I did make some introductory statements, so I will not speak very long on these.

My first amendment is based upon our preference for not changing the issue of waterways and the environmental controls of waterways in the city of Winnipeg at the moment. Part of this is because we would prefer to pursue, for perhaps more rigorously, more vigorously the intergovernmental control of waterways that I think both this government and we as government have also assumed.

My first amendment is actually a reintroduction of a previous old section 624.1, which in the session before last was introduced by a previous member for Wolseley and which was supported by both opposition parties. So that I am introducing:

494.21(1) Notwithstanding anything in this Act, a building permit shall not be issued under this Act for the construction or placement in the city of a building or structure which would span a waterway, other than a highway, a utility or a building or structure designated by regulation.

This is an amendment which was brought in to deal with some difficulties at Omands Creek. It is one which I think had considerable support in my constituency and across the city generally.

Madam Chairman: Ms. Friesen, may I request that you read the amendment in both English and French, and secondly that you read your entire motion prior to any discussion and calling the question, so that it is in the record. You make your introductory statement relative to both languages.

Ms. Friesen: I move, in both official languages of Canada,

THAT the proposed new Part 15.1 as set out in section 17 of the Bill be amended by adding the following after subsection 494.2(9):

Prohibition re: buildings spanning waterways

494.21(1) Notwithstanding anything in this Act, a building permit shall not be issued under this Act for the construction or placement in the city of a building or structure which would span a waterway, other than a highway, a utility or a building or structure designated by regulation.

Regulations by L.G. In C.

494.21(2) The Lieutenant Governor in Council may make regulations designating buildings and

structures or classes of buildings or structures for the purpose of subsection (1).

Retroactive effect

494.21(3) Where, before the coming into force of this section a permit is issued and is subsisting for the construction of a building or structure which spans a waterway, other than a highway, a utility or building or structure, designated by regulation under subsection (1), the permit is deemed to be cancelled and compensation shall be paid to the holder of the permit according to law.

(French version)

Il est proposé que la partie 15.1 prévue à l'article 17 du projet de loi soit amendée par adjonction, après le paragraphe 494.2(9), de ce qui suit:

Bâtiment enjambant un cours d'eau

494.21(1) Malgré toute autre disposition de la présente loi, il est interdit de délivrer sous le régime de celle-ci un permis visant la construction ou la mise en place dans la Ville d'un bâtiment ou d'un ouvrage qui enjambrerait un cours d'eau, à l'exclusion d'une route ou d'un service public ou encore d'un bâtiment ou d'un ouvrage désigné par règlement.

Règlements

494.21(2) Le lieutenant-gouverneur en conseil peut, par règlement, désigner des bâtiments et des ouvrages ou des catégories de bâtiments ou d'ouvrages pour l'application du paragraphe (1).

Effet rétroactif

494.21(3) Est réputé annulé le permis qui, avant l'entrée en vigueur du présent article, est délivré et est en vigueur relativement à la construction d'un bâtiment ou d'un ouvrage qui enjambe un cours d'eau, à l'exclusion d'une route ou d'un service public ou encore d'un bâtiment ou d'un ouvrage désigné par règlement pour l'application du paragraphe (1). Une indemnité doit être versée au titulaire du permis conformément à la loi.

Mr. Carr: Madam Chair, I would just like the record to show that a similar amendment, in fact a verbatim amendment was prepared by the Liberal Party and given to the minister and offered to the critic from the official opposition within the last several days.

Mr. Ernst: Madam Chair, obviously with this section still remaining in the bill, and if you consider the wording of the bill, this section will remain in force until such time as the City of Winnipeg introduces a bylaw relating to this topic and passes such a bylaw in council. If it was the intent of the government to

have this remain in the bill, it would have left it there and would not have introduced any change to it, No. 1.

Number 2, it is the view of the government that because we are consolidating the regulations, controls and authority over waterways within The City of Winnipeg Act and within the control of the City of Winnipeg council, it is our view that all of the sections should be there for them to consider and regulate and so on in the future. I guess it is a question of authority. It is our view that notwithstanding some of the current difficulties, council is reasonably mature and should be able to address these issues within that section; otherwise we would not be providing all of these additional powers and controls that we are presently doing. So we do not support your amendment.

Ms. Friesen: Madam Chair, I would like the record to show that the Liberal critic did, indeed, offer his amendments to me, but that I asked him not to show them to me and I did not in fact see them.

With reference to what the minister said, I would also like the record to show that this is not a comment on the maturity of the city. It is a comment on a different policy of the New Democratic Party, which is for a different kind of rivers policy.

Mr. Marcel Laurendeau (St. Norbert): Madam Chairperson, I would love to put a few words on the record on this subject, but I do feel that because of my position that I had on City Council at the time as chairman of properties when this came before this Legislature last year, I feel it would not be appropriate because it is before the courts at this time. I would really like to get into debate with the member and I will not be supporting this amendment.

Madam Chairman: It has been moved by Ms. Friesen

THAT the proposed new Part 15.1 as set out in section 17 of the Bill be amended by adding the following after subsection 494.2(9):

Prohibition re: buildings spanning waterways

494.21(1) Notwithstanding anything in this Act, a building permit shall not be issued under this Act for the construction or placement in the city of a building or structure which would span a waterway, other than a highway, a utility or a building or structure designated by regulation.

Regulations by L.G. In C.

494.21(2) The Lieutenant Governor in Council may

make regulations designating buildings and structures or classes of buildings or structures for the purpose of subsection (1).

Retroactive effect

494.21(3) Where, before the coming into force of this section a permit is issued and is subsisting for the construction of a building or structure which spans a waterway, other than a highway, a utility or building or structure, designated by regulation under subsection (1), the permit is deemed to be cancelled and compensation shall be paid to the holder of the permit according to law.

(French version)

Il est proposé que la partie 15.1 prévue à l'article 17 du projet de loi soit amendée par adjonction, après le paragraphe 494.2(9), de ce qui suit:

Bâtiment enjambant un cours d'eau

494.21(1) Malgré toute autre disposition de la présente loi, il est interdit de délivrer sous le régime de celle-ci un permis visant la construction ou la mise en place dans la Ville d'un bâtiment ou d'un ouvrage qui enjambrerait un cours d'eau, à l'exclusion d'une route ou d'un service public ou encore d'un bâtiment ou d'un ouvrage désigné par règlement.

Règlements

494.21(2) Le lieutenant-gouverneur en conseil peut, par règlement, désigner des bâtiments et des ouvrages ou des catégories de bâtiments ou d'ouvrages pour l'application du paragraphe (1).

Effet rétroactif

494.21(3) Est réputé annulé le permis qui, avant l'entrée en vigueur du présent article, est délivré et est en vigueur relativement à la construction d'un bâtiment ou d'un ouvrage qui enjambe un cours d'eau, à l'exclusion d'une route ou d'un service public ou encore d'un bâtiment ou d'un ouvrage désigné par règlement pour l'application du paragraphe (1). Une indemnité doit être versée au titulaire du permis conformément à la loi.

Shall the amendment pass? All those in favour, please say yea.

Some Honourable Members: Yea.

Madam Chairman: All those opposed, please say nay.

Some Honourable Members: Nay.

Madam Chairman: A counted vote has been requested.

A COUNTED VOTE was taken, the result being as follows:

Yeas 3, Nays 6.

* (1600)

Madam Chairman: I declare the amendment defeated.

Ms. Friesen: Madam Chair, I move in both official languages of Canada,

THAT proposed part 15.1, as set out in section 17 of the Bill be amended by adding the following after section 494.91 :

Review of waterway provisions by Assembly

494.92 Three years after the coming into force of Part 15.1 (Waterways), the Standing Committee of the Assembly on Municipal Affairs, or such other committee of the Assembly or other committee or person as the Assembly may specify by resolution, shall review the operation of Part 15.1 and shall, no later than 6 months after the review is commenced, table a report, with or without recommendations in the Assembly.

(French version)

Il est proposé que la partie 15.1 prévue à l'article 17 du projet de loi soit modifiée par adjonction, après l'article 494.91, de ce qui suit:

Examen des dispositions concernant les cours d'eau

494.92 Trois ans après l'entrée en vigueur de la partie 15.1, le Comité permanent des affaires municipales ou tout autre comité de l'Assemblée ou encore le comité ou la personne que l'Assemblée désigne par résolution examine l'application de la partie 15.1 et, au plus tard six mois après le début de l'examen, dépose un rapport, accompagné ou non de recommandations, à l'Assemblée.

Motion presented.

Ms. Friesen: Again, Madam Chair, it is based upon a different policy that we would like to follow in terms of waterways in the city of Winnipeg. So we are looking for not a sunset clause which would end this particular section but something which would draw people's attention to the waterways issue and, again, make provision for a review and for the possibility, we would hope, again, of intergovernmental authority for Winnipeg's waterways.

Mr. Ernst: Madam Chair, I appreciate the intent and the policy of the New Democratic Party as solicited by the member for Wolseley. However,

under our process, the government of the day, whoever it is, is responsible for control, review and administration of The City of Winnipeg Act, including any review of any section of that act. Regardless of what political stripe the government is, it is the government's responsibility. The government will ultimately be held responsible, so we do not support this amendment.

Madam Chairman: Shall the amendment pass? All those in favour of the amendment, please say yea.

Some Honourable Members: Yea.

Madam Chairman: All those opposed, please say nay.

Some Honourable Members: Nay.

Madam Chairman: In my opinion, the Nays have it.

An Honourable Member: Have a recorded vote.

A COUNTED VOTE was taken, the result being as follows:

Yeas 3, Nays 6.

Madam Chairman: The amendment has been defeated.

Ms. Friesen: Madam Chair, I move, in both official languages of Canada,

THAT proposed subsection 595(1) as set out in section 18 of the Bill be struck out and the following substituted:

Report on environmental impact

595(1) Council

(a) shall require a report on the environmental impact of a proposed public work or development; and

(b) may require a report on the environmental impact of a proposed variance or conditional use.

(French version)

Il est proposé que le paragraphe 595(1), énoncé à l'article 18 du projet de loi, soit remplacé par ce qui suit:

Rapport sur les conséquences environnementales

595(1) Le conseil municipal:

a) exige un rapport sur les conséquences environnementales de travaux publics ou d'un aménagement proposé;

b) peut exiger un rapport sur les conséquences environnementales d'une dérogation ou d'un usage conditionnel proposé.

Motion presented.

Ms. Friesen: Madam Chair, these proposals came from the environmental council, who made a presentation on Wednesday night, and the major changes it shall require so that it becomes not as permissive as it is in the proposed act.

Mr. Ernst: Madam Chair, I am not sure if everyone is aware on the committee, but The Environment Act of the Province of Manitoba has application for the City of Winnipeg. So notwithstanding anything here that The Environment Act will apply with whatever sections there are in it that relate to activities of the City of Winnipeg. With that in mind, we have some considerable concern with respect to requiring an environmental impact on a proposed public work.

A proposed public work could in fact be a water main break repair, filling of a pothole. There are an incredible number of things that do not make sense, quite frankly, to have an environmental impact study on, contained within the broad definition of a public work, because virtually everything that the city does related to its physical infrastructure is a public work.

The Environment Act can apply—and I am not sure if it is mandatory, but I know it can apply and is in fact applying to major public works such as, for instance, the Charleswood bridge, which is presently undergoing an environmental impact study. I think, for those major projects, The Environment Act will apply. The city may, under the proposal, carry out an additional environmental impact study and things that do not apply under The Environment Act, so we have a great concern with respect to (a).

With respect to (b), from practical experience, it is totally unworkable. Variance or conditional use application, well, suffice to say, without a lot of debate, that in my view and, I think, the view of an awful lot of other people who have experienced the practicalities of dealing with variances and conditional uses, I do not think it would be a practical application. Notwithstanding the good intention, the practical application of it would be adversely impossible. So the government does not support this amendment.

Ms. Friesen: I think we should note that, where my amendment tries to make it a requirement of City Council, I am actually using the same words that the

minister's own act uses on the issue of proposed public work, so it seems to me that the same difficulty that he is suggesting exists in the definition of public work also exists in the existing act.

Mr. Ernst: Except, Madam Chairman, under the existing act, it is permissive, not mandatory. In this case, it is mandatory on every public work. This thing would make it mandatory on every public work, whereas the city could determine, pick and choose, if you will, the type of public work upon which it would have an environmental impact study.

Madam Chairman: It has been moved by Ms. Friesen

THAT proposed section 595(1) as set out in section 18 of the Bill be struck out and the following substituted:

**Report on environmental impact
595(1) Council**

(a) shall require a report on the environmental impact of a proposed public work or development; and

(b) may require a report on the environmental impact of a proposed variance or conditional use.

(French version)

Il est proposé que le paragraphe 595(1), énoncé à l'article 18 du projet de loi, soit remplacé par ce qui suit:

**Rapport sur les conséquences
environnementales**

595(1) Le conseil municipal:

a) exige un rapport sur les conséquences environnementales de travaux publics ou d'un aménagement proposé;

b) peut exiger un rapport sur les conséquences environnementales d'une dérogation ou d'un usage conditionnel proposé.

Shall the amendment pass? -(Interjection)- Yeas and Nays.

A COUNTED VOTE was taken, the result being as follows:

Yeas 4, Nays 6.

Madam Chairman: I declare the amendment defeated.

Ms. Friesen: I move, in both official languages of Canada,

THAT proposed subsection 595(2) as set out in section 18 of the Bill be amended by striking out clause (b) and substituting the following:

(b) shall establish a procedure which includes a requirement for public hearings.

(French version)

Il est proposé que le paragraphe 595(2), énoncé à l'article 18 du projet de loi, soit amendé par substitution, à l'alinéa b), de ce qui suit:

b) établit une procédure qui prévoit notamment la tenue d'audiences publiques.

Motion presented.

This follows on the previous amendment, Madam Chair, which—and it is to establish public hearings in those cases.

Mr. Ernst: Yes, this government does not support this resolution.

Madam Chairman: All those in favour of the amendment, please say yea.

Some Honourable Members: Yea.

Madam Chairman: All those opposed, please say nay.

Some Honourable Members: Nay.

Madam Chairman: In my opinion, the Nays have it.

An Honourable Member: Count.

Madam Chairman: A count-out vote has been requested.

A COUNTED VOTE was taken, the result being as follows:

Yeas 4, Nays 6.

Madam Chairman: I declare the amendment defeated.

* (1610)

Ms. Friesen: I move, in both official languages of Canada,

THAT the proposed new Part 20 as set out in section 18 of the Bill be amended by adding the following after section 632—

Point of Order

Mr. Ernst: Madam Chairman, I would ask the member for Wolseley (Ms. Friesen), before going through the process of dealing with this proposed amendment, it is our view it is redundant. We have in fact addressed the issue, so we would not be

intending to support the resolution, but she may move it, of course, if she wishes.

Ms. Friesen: This was raised earlier. I think what I would like—is it possible at this stage to have an interpretation from staff or from legal counsel on the difference between what the government has proposed on this amendment?

Mr. Ernst: I suggest that, in that case, the member for Wolseley move her motion and the committee will deal with it.

Ms. Friesen: I move, then, in both official languages of Canada,

THAT the proposed new Part 20 as set out in section 18 of the Bill be amended by adding the following after section 632:

POSTING OF NOTICES RESPECTING APPLICATIONS

Posting notices of all applications

632.1 Notwithstanding anything in this Act, where an application is made for

- (a) a development permit;
- (b) approval of a plan of subdivision;
- (c) a conditional use; or
- (d) an order of variance;

the city shall post notices of the application

(e) for not less than 14 consecutive days before the day a decision with respect to the application is made; and

(f) outdoors in conspicuous locations facing each street adjacent to the lane or building which is the subject of the application, and located so that each notice is not more than one metre from the lot line.

(French version)

Il est proposé que la partie 20 prévue à l'article 18 du projet de loi soit amendée par adjonction, après le paragraphe 632, de ce qui suit:

AFFICHAGE DES AVIS RELATIF AUX DEMANDES

Affichage des avis de demandes

632.1 Par dérogation à toute autre disposition de la présente loi, dans le cas d'une demande:

- a) de permis d'aménagement;
- b) d'approbation d'un plan de lotissement;
- c) d'usage conditionnel;

d) d'ordonnance de dérogation,

la Ville affiche des avis relatifs à la demande en question:

e) pendant au moins 14 jours consécutifs avant qu'une décision relative à la demande soit rendue;

f) à l'extérieur, dans des endroits bien en vue faisant face aux rues adjacentes au bien-fonds ou au bâtiment visé par la demande, à un mètre au plus de la limite du lot.

Motion presented.

Ms. Friesen: Now we are discussing the amendment?

Madam Chairman: That is the will of the committee, yes.

Ms. Friesen: We do not need a will of the committee to discuss an amendment, do we? I mean, I thought that was general procedure.

What I asked for earlier, Madam Chair, is for an opinion from staff or from legal counsel on the difference between the amendment I am proposing and the one that was passed, and which the government believes addresses the same issues. I wanted to make sure it does address the same issues.

Mr. Ernst: Yes, basically what the government's amendment is, is that it maintains the status quo, with the exception that the difference would be that council may decide to waive the newspaper notice requirements in the act where it is deemed not appropriate, but that posted notices will still be required, so that the current requirements of posting will be there and remain in the act.

For instance, your amendment would require the posting of notices for tolerances, that is, the administratively approved ones. It seems to me that there is—I stand to be corrected and let me just check before I put my foot in my mouth here. Notwithstanding—and we are trying to find this section in the act—but it seems to me, and I stand to be corrected on this, that the current wording in the act says "cause to be posted" as opposed to "the city shall post." In other words: who pays for it, and who is responsible for actually going out and doing it.

There is a zoning inspector, for instance, that would travel his district and would check out that the owner—I believe the owner is required at the present time to post, not the city, which saves the

city the cost of having to send somebody out to do that. The owner is simply provided with the appropriate notice form, the yellow card that goes on the stick.

There are a number of problems related to this, and government feels that the intent of the concern, that is, that notices continue to be posted—will in fact be posted; and in accordance with the status quo—the fact that the process that has been ongoing for the past 20 years related to notices of this nature. So government does not support your amendment.

Ms. Friesen: I am still trying to clarify the difference between the two. I understand the government wants to return to the status quo, and that there was a difficulty in the act as it was proposed. It seems to me that the amendment I am proposing does go beyond what the minister is suggesting, in that it is a development permit, plan of a subdivision, conditional use or an order of variance. So I am asking for an opinion on that. Does this amendment go beyond—in the sense, for example, you suggest at the beginning that this amendment would be asking for posting on a tolerance.

Mr. Ernst: Yes, it does.

Ms. Friesen: So it goes beyond in that sense.

Point of Order

Hon. Harold Neufeld (Minister of Energy and Mines): I was just going to suggest that it is not incumbent on the minister to clarify or to give details of the difference between what is in the act and what is in the mover's motion. He offered to do that only on the condition that the mover would withdraw her motion.

Ms. Friesen: In response to the minister, I was actually asking if the minister would permit an interpretation by his staff. The minister offered his own interpretation, that is fine. I was not asking the minister to do anything that he did not want to do.

Madam Chairman: It has been moved by Ms. Friesen

THAT the proposed new Part 20 as set out in section 18 of the Bill be amended by adding the following after section 632:

POSTING OF NOTICES RESPECTING APPLICATIONS

Posting notices of all applications

632.1 Notwithstanding anything in this Act, where an application is made for

- (a) a development permit;
- (b) approval of a plan of subdivision;
- (c) a conditional use; or
- (d) an order of variance;

the city shall post notices of the application

(e) for not less than 14 consecutive days before the day a decision with respect to the application is made; and

(f) outdoors in conspicuous locations facing each street adjacent to the lane or building which is the subject of the application, and located so that each notice is not more than one metre from the lot line.

(French version)

Il est proposé que la partie 20 prévue à l'article 18 du projet de loi soit amendée par adjonction, après le paragraphe 632, de ce qui suit:

AFFICHAGE DES AVIS RELATIF AUX DEMANDES

Affichage des avis de demandes

632.1 Par dérogation à toute autre disposition de la présente loi, dans le cas d'une demande:

- a) de permis d'aménagement;
- b) d'approbation d'un plan de lotissement;
- c) d'usage conditionnel;
- d) d'ordonnance de dérogation,

la Ville affiche des avis relatifs à la demande en question:

e) pendant au moins 14 jours consécutifs avant qu'une décision relative à la demande soit rendue;

f) à l'extérieur, dans des endroits bien en vue faisant face aux rues adjacentes au bien-fonds ou au bâtiment visé par la demande, à un mètre au plus de la limite du lot.

Madam Chairman: Shall the amendment pass? All those in favour of the amendment, please say yea.

Some Honourable Members: Yea.

Madam Chairman: All those opposed, please say nay.

Some Honourable Members: Nay.

Madam Chairman: In my opinion, the Nays have it. A count-out vote has been requested.

A COUNTED VOTE was taken, the result being as follows:

Yeas 2, Nay 8.

Madam Chairman: I declare the amendment defeated.

Ms. Friesen: I move, in both official languages,

THAT proposed subsection 641(2) as set out in section 18 of the Bill be amended by striking out "may" and substituting "may not unreasonably."

(French version)

Il est proposé que le paragraphe 641(2), énoncé à l'article 18 du projet de loi, soit amendé par substitution, à "peut restreindre", de "ne peut restreindre de façon déraisonnable".

Motion presented.

Ms. Friesen: I think recent experience suggests that the cutting off of hearings in an unreasonable manner has not proved very productive, and it has led to a great deal of frustration and anger. I am referring specifically to the ways in which hearings were called on Bill 70.

* (1620)

I am sure that the government would not want to repeat that, and I would look for all-party support in this; in fact, that there be a reasonable representation of public opinion at public hearings and that this kind of blanket, permissive ability to cut off public representation, I think, is not appropriate in this kind of a bill.

Mr. Ernst: Madam Chair, let me give you an example of what this proposed amendment could do for the City Council. Presently, on any issue before City Council you have, I believe, two representatives to speak in favour of an issue and two opposed. The person is limited to 10 minutes, the second is limited to 5. That is from a practical point of view, otherwise you would never have a City Council meeting or it would take a week just to hear the presentations because, at the present time, even with the limited ability of people to make representations, it takes often four or five hours.

In many cases the issue has been before the public or before members of council or before

committees of council on a number of occasions, with unlimited time, by the way. So when you get to the final council meeting to deal with an issue or to read a bylaw, and quite frankly the issue may not even be on the agenda, but what may be on the agenda is the reading of a bylaw to give effect to a clause. I find from my own experience and from a common-sense point of view that this amendment would be impractical.

Ms. Friesen: Madam Chair, the reason actually I did not recognize this in the first place was that I had originally written it as "may not unreasonably restrict" and I am just checking with the legal department to see why, in fact, they took that out—"may not unreasonably restrict public hearings."

Thank you. The answer I have received from the lawyers is that "unreasonably" is difficult to interpret in bills. I am a bit puzzled about that one, because I think it does exist in other bills and in other jurisdictions. Then the issue is "unreasonable."

Madam Chairman: It has been moved by Ms. Friesen—

Ms. Friesen: Thank you, Madam Chair. May I have leave to withdraw this?

Madam Chairman: Does Ms. Friesen have leave to withdraw this existing amendment?

Some Honourable Members: Leave.

Ms. Friesen: Then what I propose is, and we are just preparing a written amendment, that proposed subsection 641, I move in both official languages of Canada that proposed subsection 641(2) as set out in Section 18 of the bill be amended to read: A hearing body may not unreasonably restrict the nature and length of representations at a public hearing.

Mr. Ernst: Madam Chair, if we apply a little common sense here, the government is not going to support the amendment. Do we need to put the staff through the effort? That is of course up to you. In order to have a vote on it, you have to put the staff through it; you have to have the staff draft it if you want to vote.

Madam Chairman: I have to have it in both languages before I can call the question.

Mr. Ernst: So you have a choice. Either do not submit it and withdraw, or put the original one back on and vote on that, or do not do anything and we will go home.

Mr. Carr: Madam Chair, the amendment that I had proposed and distributed or offered to the government and the critic for the official opposition has already been dealt with. There is no necessity to do it again.

Madam Chairman: It has been moved by Ms. Friesen

THAT proposed subsection 641(2) as set out in section 18 of the bill be amended by striking out "may" and substituting "may not unreasonably".

(French version)

Il est proposé que le paragraphe 641(2), énoncé à l'article 18 du projet de loi soit amendé par substitution, à "peut restreindre" de façon déraisonnable".

Shall the amendment pass?

Some Honourable Members: No.

Madam Chairman: All those in favour of the amendment, please say yea.

Some Honourable Members: Yea.

Madam Chairman: All those opposed, please say nay.

Some Honourable Members: Nay.

Madam Chairman: In my opinion, the Nays have it. A count-out vote has been requested.

A COUNTED VOTE was taken, the result being as follows:

Yeas 4, Nays 5.

Madam Chairman: Is it the will of the committee to proceed in blocks of clauses?

Some Honourable Members: Agreed.

Madam Chairman: Clauses 1,2 and 3—pass; Clauses 4 through 9—pass; Clause 10(1) and 10(2)—pass; Clause 11—pass; Clause 11 as amended—pass.

Clauses 12 inclusive through 15(2)—no.

I am sorry, now I have to revert to individual clauses because I am not sure which clause in there they are opposed to or if that is all.

Clause 12—pass.

Shall Clause 13 pass? All those in favour, please say yea.

Some Honourable Members: Yea.

Madam Chairman: All those opposed, please say nay.

Some Honourable Members: Nay.

Madam Chairman: In my opinion, the Yeas have it. Clause 13 is accordingly passed.

Shall Clause 14 pass? All those in favour, please say yea.

Some Honourable Members: Yea.

Madam Chairman: All those opposed, please say nay.

Some Honourable Members: Nay.

Madam Chairman: In my opinion, the Yeas have it. Clause 14 is accordingly passed.

Clause 15(1) and 15(2)—pass; Clause 16, as amended—pass.

Page 4, Part 15, Definitions 470 through 488(6) inclusive -(interjection)- Shall Definitions Part 15, page 4, inclusive through to Definition 488(6) on page 21 of the bill pass?

Ms. Friesen: I just wanted to put on the record—I am prepared to pass all that—but I wanted to put on the record some concerns about the sections on heritage and to note the remarks made by Councillor Murray on the way in which discussions were proceeding with the province on the development of heritage planning and heritage designation for the city of Winnipeg. So I do have some concerns about the heritage sections of this act, but at the moment we are prepared to pass them.

* (1630)

Madam Chairman: Definitions 470 to 488(6)—pass; Definition 488(7) as amended—pass; Limitations 489(1) to 490(3)—(pass); 491(1) inclusive to 492(3)—(pass).

Ms. Friesen: Madam Chair, I have a question on 493. Are we there yet?

An Honourable Member: No, we on 492.

Ms. Friesen: Just up to 492, okay, then pass.

Madam Chairman: Definition 492(4) as amended—pass.

Ms. Friesen: Madam Chair, my question is on 493 and it is on 493(c) where it says it might—"inspecting a building, well, excavation or opening that is or might be in an unsafe or dangerous condition;" and I am looking for an opinion from the minister or his staff. Does "unsafe" in that case include unsanitary?

Mr. Ernst: The opinion is that it probably could; but there is another section, the Public Health Section, that does deal with unsanitary buildings.

Madam Chairman: Definitions 493 inclusive to 494.8.

Ms. Friesen: Madam Chair, I am trying to be consistent here. We are opposed to changing the "Waterways" and I am not sure the "Definitions" affects that. I had anticipated voting against all of Part 15.1. Do you want to deal with it in separate sections? I think it is just regulated areas that I will need.

Madam Chairman: Ms. Friesen, for clarification, you have introduced an amendment on 494.2(9) so I will rephrase my blocking. Clause 493 inclusive to 494.2(8)—pass; Clause 494.2(9)—(pass).

An Honourable Member: That is not what she introduced the amendment on.

* (1640)

Madam Chairman: Order, please. We will now revert back. I think we are all on the same wavelength, hopefully. Part 15.1, Waterways, page 25, Clauses 494 inclusive to 494.2(9), shall the clauses pass? Those in favour, please say yea. Those opposed, please say nay.

In my opinion, the Yeas have it. Floodway areas, page 29, Clauses 494.3(1) inclusive to 494.8—

Ms. Friesen: This is just a question, and it is on 494.4(4), where I think in a previous act, the Minister of Natural Resources (Mr. Enns) was the referring authority. I wonder what the intent of this is?

Mr. Ernst: The member is correct. What is going on here is that the province will establish a regulation and variances under that regulation will be granted to the City of Winnipeg. This will make, for instance, situations where there are streets, blocks of houses intervening and so on, where the rule is there, but the practical application is not, that the City of Winnipeg can save the applicant time and money by simply dealing with the designated employee related to those applications. So there is a provincial regulation that sets out the guidelines, but the delivery mechanism is the City of Winnipeg and that is what this does.

Ms. Friesen: For clarification, the regulations will be passed by this department, that is the Department of Urban Affairs, or the Natural Resources?

Mr. Ernst: Natural Resources. Sorry, no, it is this department the regulation is under; when this is passed, if it is passed, presumptuous on my part,

but if it is passed, then the regulation will be amended to reflect this and then continue on.

Madam Chairman: Shall Clauses 494.3(1), page 29 inclusive to Clause 494.8—pass; Clause 494.8(1) as amended.

Ms. Friesen: I have a question on 494.6, which I am sorry I should have dealt with in my other question. I believe presently appeals are possible to the Minister of Natural Resources (Mr. Enns), and again it is just a clarification of what the intent of this is. Where are you filing this?

Mr. Ernst: We are streamlining this section as indicated, and presently you need an application and approval from the city and an application and approval from the provincial government, and we will no longer require the approval of the government.

Ms. Friesen: So that when this says "may file an objection to the order or decision . . ." where is it being filed?

Mr. Ernst: To the designate committee of council.

Ms. Friesen: Just drawing to the minister's attention, I know we have passed this and I do not have difficulty with the principle, but that is not really quite clear in the writing, maybe in the regulations it will become clear.

Mr. Ernst: If you note in the Section 494.6 it says, and Section 480 applies, and if you turn to Section 480, that is the designated committee section.

Madam Chairman: Shall the clauses pass—pass; Clause 494.81(1) as amended—pass; Clauses 494.81(2) inclusive to Clause 494.9—pass; Clause 494.91—pass; Clause 18—there is the potential to pass numerous pages in block if that is the will of the committee.

On page 38, Clause 18 inclusive through to page 87, there are a number of amendments that have already been passed and I would read the entire section as follows: Shall Clause 18, as amended, be passed? Is that the will of the committee?

Mr. Laurendeau: If I may recommend, Madam Chairperson, that if the honourable members want to ask their questions relevant to that and then we will pass it all as one block at that time. I believe that is what they would like to do.

Madam Chairman: Ms. Friesen, is it the clarification you are requesting in terms of adopting that procedure for passing the clauses?

Ms. Friesen: No. I think it is still a large number of pages to pass all at once. There certainly are a number of questions, and I think we could facilitate a lot by doing that. I believe that within this section, I have not been able to turn the 50 pages that fast, but I believe within these 50 pages there is at least one point where I do want to have something on the record.

Madam Chair, on page 43, I want to ask the minister. I note that this has been in the act before, but I am wondering what his Interpretation of this is. It seems to me like it is a best-efforts kind of clause. The "executive policy committee shall endeavour to consult with any committee of council, school board, adjacent municipality—" -(Interjection)- It is 579(1) on page 43. Any problems with it?

Mr. Ernst: The member is quite correct in the sense it is a best-efforts clause. The reason is that if somebody refuses, you cannot do anything about it and you cannot hamstring the process if somebody is refusing to do it. That difficulty has arisen in the past.

Ms. Friesen: On page 45, Section 581(1)(b), I am wondering about the word "amendment" if it should not be "condition". We use "amendment" in certain ways. Does it mean condition or does it mean amendment, subject to conditions?

An Honourable Member: It does mean amendment.

Ms. Friesen: It does mean amendment, okay. Could we clarify that on the record?

Madam Chair, I am looking at Section 581(1)(b) and I am questioning the word "amendment." I am wondering if indeed the minister intends "amendment" or intended "conditions"?

* (1650)

Mr. Ernst: Madam Chairman, the wording is correct. It is an "amendment."

Ms. Friesen: Thank you, Madam Chair. On page 51, 589(2)(t)—sorry, it is on page 52 actually. This is a section which—it is a development bylaw offering or enabling the city to develop protection of airport, water or sewage treatment facility, waste disposal facility or any other utility, et cetera. It is a new section. I am concerned and I want it on the record, as I mentioned in my speech in the House. We are concerned about the future of airport regulation in Winnipeg. The minister, I know, is well aware of the difficulties that have been encountered with the Pines project, with the public concerns

about that project, and the activity of both the city and the province in the protection of airports.

We also think that it is a much broader situation, that the province ought to be looking at the regulation and preparation of regulations for airport management and zoning throughout the province. We have recommended before the consideration of the Alberta legislation, and this was also mentioned by one of the presenters who came to speak to us as well. So I just wanted that on the record at the time. I am not going to oppose it.

Mr. Ernst: Just briefly, Madam Chairman, to point out that, yes, the government is also concerned with respect to protection of the airport as a very valuable economic tool in our province. We are, in fact, in conjunction with the City of Winnipeg, going to have a review during the Plan Winnipeg process. Extensively reviewed and the existing section broadened in Plan Winnipeg to address the concerns I think that everyone has with respect to the airport. In the process, as well, there are other considerations for areas of existing development, existing problems that can also be addressed in that process. Once that process is completed over the next few months, the expectation is that if the city has not done an adequate job, the province will amend Plan Winnipeg. If it is deemed after that process has been gone through that it is still inadequate, then the province will consider legislation.

Ms. Friesen: I think that is an interesting proposal. We will look forward to that. Our policy, I think, would go further than that to look at all provincial regulation of all airports. So I do not know whether the minister would want to consider that, but I would like to put that on the record.

Madam Chair, at what page does this section end?

Madam Chairman: Mid-page 86.

Ms. Friesen: On page 66, 617(2)(e). So it is actually on page 66. No, it is not (e), sorry. It is h-i-j-k-l-m. After (m) on page 66, I am wondering if there has been something omitted here which was in an earlier act. I think it was in an earlier act under 643(e) and it is the payment of money to the city in lieu of requirements. I wonder if there is some purpose in omitting that.

Mr. Ernst: That was redundant because under Section 620(1)(a) and (b), page 68—it is 86 we have to go to.

Madam Chairman: Clause 18, as amended—pass; Clauses 19 and 20—pass; Clause 21, as amended—pass; Clauses 22, 23, 24(1) inclusive—pass; Clause 24(2), as amended—pass.

Shall Clauses 24(3) inclusive to Clauses 27(6) on page 90 pass?

*(1700)

Ms. Friesen: I would like to be able to vote against 26, the repeal of The Rivers and Streams Act, just to be consistent.

Madam Chairman: Clauses 24(3) inclusive to 25(5) as amended—pass.

Shall Clause 26 pass? All those in favour, please say yea.

Some Honourable Members: Yea.

Madam Chairman: All those opposed, please say nay.

Some Honourable Members: Nay.

Madam Chairman: In my opinion, the Yeas have it.

A COUNTED VOTE was taken, the result being as follows:

Yeas 5, Nays 4.

Madam Chairman: The clause is accordingly passed.

Clause 27(1) inclusive to 27(5)—pass; Clause 27(6) and 27(7) as amended—pass; Preamble—pass; Title—pass; the bill as amended be reported—agreed and so ordered.

Is it the will of the committee that I report the bill as amended? Agreed and so ordered.

Mr. Carr: I just wanted to make sure that one observation was on the record. We dealt with a great number of amendments today, some of which had been given to members of the committee in advance, some of which could not be because of the length of time required for staff to deal with them.

I just wanted to pay tribute to those who drafted these amendments in very short order. I understand that two people in particular are to be

congratulated, Heather MacKnight and Norm Larson, who spent many long hours making sense of an amended principle in this act. I think all of us, those of us who are responsible for this legislation ultimately, should give them a round of applause. -(applause)-

Mr. Ernst: I just want to make two comments. Firstly, I want to echo Mr. Carr's comments with respect to the staff, particularly with this last change. They have, I am sure, had sleepless nights and a lot of concerns to make sure all of the i's are dotted and t's crossed, and as you can see by the amendments that went through today, it is a significant workload.

Secondly, I want to compliment the committee. I have not had a lot of experience in being a minister with a bill before a committee. As a matter of fact, this is my first opportunity, but I might say that having been around this place for five or six years, that the decorum of the committee has been excellent, the co-operation of the committee has been excellent, and were the House to work in this way in terms of both the decorum and co-operation, this might be even a pleasant place to come to.

I want to compliment all the members of the committee, both those who are here today and those who have preceded us as members of the committee. I think it has gone exceptionally well. I think common sense has ultimately prevailed for one of the few times perhaps that it does, but nonetheless it was an excellent experience. Thank you.

Ms. Friesen: We would like to add our congratulations and thanks to all the staff and to you, Madam Chairperson, for long hours. I think we might add that the conditions of labour in this room were not exactly conducive to the best of tempers. -(interjection)- Thank God, they were not, and thank you to the minister for providing the mosquito screens so quickly.

Madam Chairman: Committee rise.

COMMITTEE ROSE AT: 5:04 p.m.

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