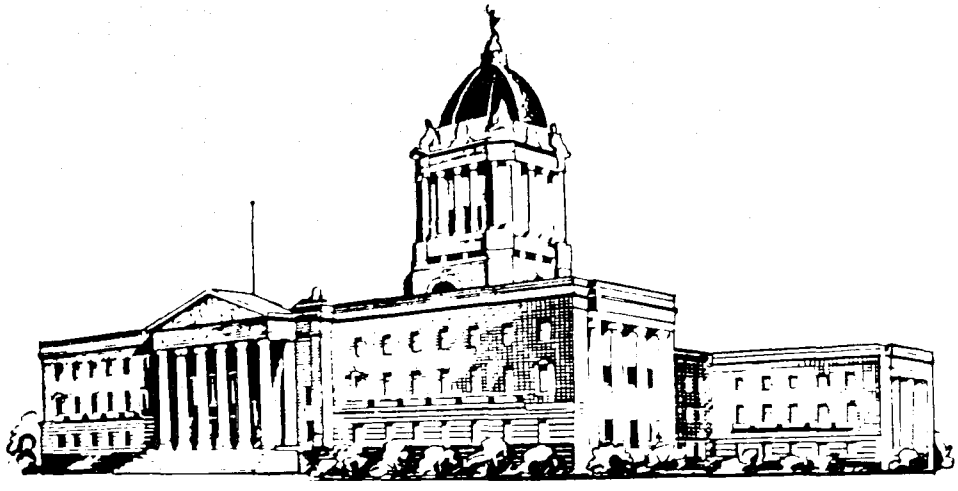
Legislative Assembly of Manitoba

HEARINGS OF THE STANDING COMMITTEE

ON

MUNICIPAL AFFAIRS

Chairman
John C. Gottfried, M.L.A.
Constituency of Gimli



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CHAIRMAN: Mr. John C. Gottfried.

MR. CHAIRMAN: The committee will come to order. This evening we have the following bills to consider. I'll read them for your convenience.

The first is No. 38, an Act to amend The City of Winnipeg Act (1).

The second, No. 45, an Act to amend an Act to repeal an Act to validate and confirm a certain agreement between the Town of Dauphin and the Rural Municipality of Dauphin.

No. 46, an Act to amend The City of Winnipeg Act (2).

No. 58, an Act to amend The Municipal Act (2)

No. 59, an Act to validate By-law 3269 of The Town of Dauphin.

I've been requested this evening to withhold Bills No. 45 and 58. Is that agreed? (Agreed) Fine.

We'll begin then with Bill 38 and I would ask you again to speak clearly into the microphone as the recorder has difficulty interpreting.

Bill 38.

MR. TALLIN: Could I speak for a moment?

MR. CHAIRMAN: Mr. Tallin.

MR. TALLIN: In Bill 38 there are a number of typographical errors for which we haven't prepared any amendments and as we get to those sections, I'll indicate that we are making the corrections of the typographical errors.

MR. CHAIRMAN: Now that the amendments have been distributed, we'll proceed. Section 1--pass. Section 2 -- Mr. Johnston.

MR. F. JOHNSTON: The explanation we have on Section 2 of the bill, it says the amendment clarifies the Lieutenant-Governor's power to change the ward names and boundaries of the City. Now is that--we have withdrawn that or the similar type of legislation from the Bill 46. Is this the same type of section here in Bill 38.

MR. SCHREYER: Mr. Chairman, this really relates to a section that is already in the City of Winnipeg Act which doesn't relate to the proposed power of the Lieutenant Governor in Council to alter the boundaries of wards and community committees and the numbers and therefore the numbers of councillors, etc., etc., but merely refers to the already delegated authority to Cabinet to change names of wards. And I believe it's only in that respect. But that's in the existing Act, Mr. Johnston.

MR. CHAIRMAN: Proceed. (Sections 2 to 7 were read and passed.) Section 8, 143.1--Mr. Tallin.

MR. TALLIN: In 143.1 (1), clause (d) there is a mistake. It should be Section 477 rather than subsection 434 (2). The typesetter has just brought down clause (b) down as clause (d), Section 477.

MR. CHAIRMAN: We'll proceed. (Sections 8, 9 and 10(a) were read and passed.)

MR. TALLIN: In Clause (b) the last word is misspelled. Should be "thereof" instead of "therof".

MR. CHAIRMAN: (Sections 10 to 19 were read and passed.) Section 20-- Mr. Johnston.

MR. JOHNSTON: This section is the one that we mentioned previously that requires the city to include with its tax notices information supplied by the Minister. Mr. Speaker, I don't really think that the senior government of any kind any more than we would want the Federal Government directing the Provincial Government as to what they would put out in their notices of any kind and I really think that the compulsory part of this section enforcing the city to include any information which is designated by the Minister should have to go out in the taxes without the city first approving what goes out with their tax notices or any other notices that they put out. And I know this refers to tax notices only but I think that the compulsory part of this section is bad, I think it should be "may"but not on the basis that they "shall" include therewith any printed notice.

MR. CHAIRMAN: Mr. Premier.

MR. SCHREYER: Mr. Chairman, some of the points that Mr. Johnston made have been given due consideration and one of them for certain has been incorporated into the amendments. I refer to the deletion of the section with respect to Lieutenant Governor in Council being empowered to establish numbers of wards, councils, etc. But in this particular case I fail to see what the real problem is because there is, I believe for one thing, Sir, that this is a direct transplant or lift if you like from the Metropolitan Corporation of Greater Winnipeg Act, and it's only a matter of administrative common sense and convenience which we re merely continuing. It doesn't

(MR. SCHREYER cont'd) . . . . .happen every year but there's often cause for some particular statement or notice.

MR. CHAIRMAN: Any further questions. Mr. Johnston.

MR. F. JOHNSTON: I still think--you're saying "shall" to the city in this respect and the Act previous to this amendment gave-- the government would contact the city and ask them if certain information could go out with tax notices and the city could consider whether that information should go out or not. This doesn't leave the city any leeway at all as far as what will go in the tax notices.

Now the Premier mentions the Metro Act, I'm sure he's right on that but I don't think because it happened before that this is the right way to do it, it's compulsory, and as I say, I don't really think that we would appreciate it as a provincial government if somebody were to tell us what would go out in our notices without consideration.

MR. CHAIRMAN: Mr. Pawley.

MR. PAWLEY: Mr. Chairman, when we deal with the municipalities outside of Winnipeg, we find that the tax bills are prepared and sent out by the Department of Municipal Affairs. They're prepared according to a certain form which is common to all the municipalties outside of Winnipeg; certain information may be included on those forms, certain words, the important think is consistency throughout the municipalities outside the city.

In the same way, Mr. Chairman, I would think that we would surely aim to want to ensure that the city's material and information that was sent out, instructions, was consistent with that which the Department of Municipal Affairs is issuing outside the City of Winnipeg. I would hesitate to think that we would proceed to a situation where we might find two different sets of tax bills going out, one within the City-- one outside the City with two different forms or two different types of information. I think it's important to obtain this consistency throughout the province, both city and rural, and if we do not make this provision mandatory then we could very well find ourselves with a form which is quite inconsistent, in fact contradictory with the forms that are going to other Manitobans.

MR. CHAIRMAN: Shall we proceed. Mr. Johnston.

MR. F. JOHNSTON: Well, Mr. Chairman, is the Minister saying that they can include whatever they want with the bills in the municipal or the rural part of the country for towns or municipalities. I know that the city does pay or the province pays in many respects for the printing of the bills, etc. but the inclusion of information with the tax bills should be the consideration of the municipalities or the cities. I really don't see where the word "shall" is the right way to do it at this time because you're paying for the tax bills or not. You should be able to, the cities or municipalities, should be able to say what goes in their notices.

MR. CHAIRMAN: Mr. Pawley.

MR. PAWLEY: Mr. Chairman, certainly the municipalties can add to the form which is sent out from the Department of Municipal Affairs, can add an additional form with different information. I believe the City of Winnipeg has done that this year, other municipalities will probably be doing likewise with forms sent out from the Department of Municipal Affairs but the basic form is one that is common to all municipalities outside of Winnipeg. They do not vary, one municipality to the other, they're basic in form and message. But if the individual municipality wants to add a second or third form, there's nothing to prevent them from doing it because they distribute it at the municipal level. But the basic form which is printed and sent out from the Department of Municipal Affairs is a basic common form to all municipalities in the province. I would think that the aim here would be to ensure that the forms sent out within the City of Winnipeg would not be dissimilar or inconsistent with the forms that are sent out to the municipalities outside the City of Winnipeg.

Now each year, in answer to Mr. Johnston's question, the form that is forwarded for mailing to the municipalities outside the city is brought to me for its approval before it is actually sent out and even in the information in respect to any updating of any tax information is also approved at the ministerial level prior to it being forwarded out to the areas outside of Winnipeg. And again I repeat, I hesitate to think what inconsistencies could develop to have two different forms going out to Manitobans, one in Winnipeg and a different form outside of Winnipeg.

MR. CHAIRMAN: Mr. Schreyer.

MR. SCHREYER: Well, Mr. Chairman, I wouldn't have thought that this was really a problem because for one thing, as the Minister has indicated and Mr. Johnston I am sure is aware, that with respect to all of the municipalities in the province with the exception of the City of Winnipeg, not only is the matter of notices or the

(MR. SCHREYER cont'd) . . . . .type of notices or information provided for in a mandatory way but the very form itself is predetermined to all municipalities. And this was done years ago, several years ago, as I would think a matter of administrative common sense so that it could be done in one more convenient and efficient computer operation. So it's been done. And insofar as the City of Winnipeg is concerned it's a separate tax notice but the form of that is approvable by the Minister under existing law in any case and all this does is ensure that there is a minimum of time delay. If this is not here then presumably there could be, theoretically at least, there could be all kinds of games played - the form is not approvable in the Minister's mind unless it is of a certain type, etc. and this merely takes care of the problem by making a clear provision.

MR. CHAIRMAN: Mr. Marion.

MR. MARION: Well, Mr. Chairman, I recall that after the first year of existence of the City of Winnipeg, there were representations made with respect to this section and I haven't heard after that dialogue, I don't think that there were any further objections brought forward by the official delegation so I certainly on behalf of the Liberal Party have no hang-up against the section.

MR. CHAIRMAN: Shall we proceed. Mr. Johnston.

MR. F. JOHNSTON: One more hang-up.

A MEMBER: Let's hear it.

MR. F. JOHNSTON: The Ministers keep talking about the form and to me that's the tax form which is a tax notice or the form of a tax notice. This is information. I think that I'd like to see that the information is information regarding the tax notice, I mean this is pretty loose as far as information is concerned; you could direct them to put any information at all in there and quite frankly, I think that's rather open.

MR. SCHREYER: If the question is that somewhere in that sentence there should be the term "tax related notice information or material", there would be no objection. I don't know if that poses a problem to Mr. Tallin. . . the words "tax related".

MR. PAWLEY: I suppose there would be no problem. I can think of situations when one might want to send provincial wide information out about some other programs, it would be a good way of . . . -- (Interjection) -- So you'd send it out in a second envelope with all the extra -- (Interjection) - - Then we would be accused, Mr. Chairman of excessive spending and waste, we'd save postage that way.

MR. F. JOHNSTON: Now the Minister is putting words in my mouth, I'm not putting them in his mouth saying that it should refer to information referring to the tax notices. If we say that it's to be included with tax notices, I think the information should be about tax notices.

MR. CHAIRMAN: Shall we proceed then.

MR. SCHREYER: Yes, the intent here was clear all along, it's tax related so I would think that the words "shall include therewith any tax related printed notice information or material"...

MR. CHAIRMAN: Section 20, 350.1 as modified--passed. Section 20--pass. Going forward. (Sections 21 and 22 were read and passed.)

A MEMBER: Page by page.

MR. CHAIRMAN: Fine. Page 7--pass. Page 8-- I understand there's an amendment on Page 8.

MR. SCHREYER: That is correction, Mr. Chairman. On Section 29 add-- on 29.1 and that has been distributed to honourable members. At the request of the City, there would be a section added here to provide for the appointment of a building commision

MR. CHAIRMAN: Is there any discussion on the amendment? Is this an amendment here?

MR. SCHREYER: Yes.

MR. CHAIRMAN: Is there any discussion. Agreed? (Agreed)

Page 8 as amended--pass. Page 9.

MR. TALLIN: There's a misspelling on Page 9, the word "licence" has an "s" in it instead of a "c".

MR. CHAIRMAN: Page 9, as corrected, passed. Page 10-pass. Page 11-- amendments.

MR. SCHREYER: Page 11, Mr. Chairman, there is the addition of section 42.1, a provision to allow a meeting preliminary to a public meeting, rezoning and subdivision, and rather than reading it all, it's also been circulated.

Frankly, I think this proposed amendment lends itself to very easy summary. It is to really make clear in law what I think should be clear in common sense if there is such a thing, and that is that members of a community committee or the

(MR. SCHREYER cont'd) . . . . . standing committee may, may clearly take part in discussions with an applicant for a zoning or subdivision application without in any way rendering their subsequent decision-making invalid. Now apparently there was some confusion in law under the existing Act as to whether they could rightfully hold such a meeting with an applicant and then subsequently engage in a quasi-judicial function. It wouldn't have occurred to me that this was a problem but apparently it was and so this section is being brought in.

MR. CHAIRMAN: You've heard the amendment. Is there any discussion? Agreed? Page 11 as amended--pass; Page 12--pass?

MR. TALLIN: There's an amendment on Page 12 or rather a correction on Page 12. In 588(5) strike out the words at the end of the second line and the beginning of the first line "of Section 587."It's just a repetition of 587(1)

MR. CHAIRMAN: Agreed? Page 12 as corrected--pass; Page 13--pass.

MR. SCHREYER: Mr. Chairman, at the very bottom of the page there is an amendment to bring in by way of - by adding after clause (e.2) the following clause. What is shown in the bill is to be deleted in its entirety and alternative wording is brought in here as circulated.

MR. CHAIRMAN: You've heard the amendment. Is there any discussion? Mr. Johnston.

MR. FRANK JOHNSTON: Mr. Chairman, the motion as circulated, when we get down to reading this do you notice "or combination of all or any number thereof, the council may by bylaw establish requirements for the conveyance of land or payment of money in lieu thereof." The explanation I would like here is, once a bylaw is passed it's firm. At the present time the City, if they want to say on a Manitoba Housing and Renewal Corporation, if they want to waive the charges involved in this they can or if it's a senior citizens' home they can. Now I think that bylaw would hold this in to a very stable thing that would give no flexibility. I think that the bylaw should be - I don't think you want to pass a bylaw on every zoning change either and I would say that the relief of payment should be written into the zoning agreement or there should - it could read "made by bylaw approving each specific rezoning," instead of having a bylaw that would tie them into a firm decision. If you pass a bylaw you are not going to be able to give relief on the charges as far as zoning is concerned.

MR. CHAIRMAN: Do we have a reply? Mr. Premier.

MR. SCHREYER: I think, Mr. Chairman, that the reply is that there is that rigidity all right. On the other hand the matter of required conveyance of land or payment of money in lieu certainly is, and in future will become even more so, an absolutely essential requirement of any urban development proposal that it ought to be enshrined in legislation.

MR. CHAIRMAN: Mr. Johnston.

MR. FRANK JOHNSTON: Mr. Chairman, I agree with the Premier when we're speaking of a very large land development or change, payment or money in lieu. I have no argument with that at all and I think it should be done. But at the present time there are considerations made by the city to certain organizations if they find they're charitable and that they do waive the payment of money in lieu to the city. I would say that they should have that flexibility where charitable organizations are concerned.

MR. CHAIRMAN: Mr. Premier.

MR. SCHREYER: But, Mr. Chairman, in the latter case it is always open to the city to exercise its authority to make a grant, to make a grant of reimbursement or equivalent thereto.

MR. CHAIRMAN: Is there any further discussion? Mr. Johnston.

MR. FRANK JOHNSTON: Mr. Chairman, just before we go any further. I know you can make a grant but would that have to be in the agreement. I don't know where this grant, the city gets the authority on the grant.

MR. SCHREYER: It is part of the City of Winnipeg Act. It applies to any municipality. The municipality is empowered to make a grant to any charitable or other organization to which the majority of council agrees and the community organization.

MR. CHAIRMAN: Agreed? Page 13 as amended--pass; Page 14--Mr. Premier.

MR. SCHREYER: Mr. Chairman, again this has been circulated and it's a case of Paragraph 50, 600 subsection (3) being deleted from the bill and the wording as contained in the circulated page substituted therefor.

MR. CHAIRMAN: You've heard the amendment . . .

MR. SCHREYER: Well perhaps members would wish a moment just to peruse it. This is really to take care of the problem which in the years ahead will be a

(MR. SCHREYER cont'd) . . . . growing problem of dedication in an outer zone municipality, making it clear that the dedication is to the outer zone municipality.

MR. CHAIRMAN: Is there any discussion? Agreed. Page 14 as amended--pass. Page 15--pass. Page 16--

MR. TALLIN: There are several minor corrections in this on Page 16. First of all in clause (c) (iii), the word 'or' should be 'of' so it will read. 'for the purposes of subsection 583(2) of subsection 578(1), (2) or' -- no, that should be 'or'.

A MEMBER: No, it's taken right out.

MR. TALLIN: Oh, yes, 'of' that's right.

And there's a misspelling of the Greater Winnipeg Development Plan, three lines further down. There's a misspelling of 'referral' in the third line of 607(3). And while I'm here, on Page 17, there's a misspelling of 'receive' in 609(2.1).

MR. CHAIRMAN: Are there any questions?

MR. SCHREYER: What line is that, Mr. Tallin?

MR. TALLIN: In the sixth line, sixth line of 609(2.1) on Page 17, 'received this bill from'.

MR. SCHREYER: Oh, yes.

MR. CHAIRMAN: Are there any questions? Page 16, as corrected -- pass. Page 17, as corrected --

MR. SCHREYER: No, Mr. Chairman, there is an amendment on Page 17 which is quite significant. It is to make permissive what was a mandatory provision with respect to the mailing of notices to all those within a certain radius or distance of a proposed zoning change. It was argued by the City and finally agreed to that making it mandatory would inject a certain rigidity that would make for departure of common sense from time to time. So it's been made permissive.

MR. CHAIRMAN: You've heard the amendment. Is there any discussion? Page 17, as corrected and amended--pass. Page 18--

MR. SCHREYER: On page 18 there is an amendment as well. Mr. Chairman, just let me clarify if there's any confusion on the matter. At the bottom of Page 17, it's rather a significant amendment, it is the amendment of 609 so as to make it permissive rather than mandatory for the City to mail out notices to all residents within a 500 foot distance of any proposed zoning change. -- (Interjection) -- Yes, requested by the City.

So then if there's no comment on that, then on Page 18, there is an amendment to 609(4) and that's a very brief amendment there. That clause 609(4) as set out in Section 55 be amended - that's the very top of the page, page 18 - by adding after the word 'ascertained' in the 4th line the words 'and compiled in a mailing list ; and then in the 6th line, after the word 'addresses' add the words 'on that list', and then it carries on.

MR. CHAIRMAN: You've heard the amendment. Is there any discussion? Page 18--as amended.

MR. TALLIN: No, there's still another one yet.

MR. CHAIRMAN: Another one.

MR. SCHREYER: And then, Mr. Chairman, 609(4.1) as set out in Section 56 be amended by adding immediately after the letters (ii) in the 2nd line, add the word 'and (4)(d)'.

MR. CHAIRMAN: Is there any discussion. Page 18. . .

MR. TALLIN: There's another one.

MR. CHAIRMAN: Another one? We have another amendment to Page 18. Mr. Premier.

MR. SCHREYER: Yes. Well, Mr. Chairman, this one is a little lengthier and I would refer members to the circulated sheet.

MR. F. JOHNSTON: 609(4.2), are we?

MR. SCHREYER: Yes, it's really a case of deleting the section as it appears in the bill, 609(4.2) deleting that in its entirety and substituting the wording of the circulated sheet.

MR. CHAIRMAN: Mr. Johnston.

MR. F. JOHNSTON: Mr. Chairman, section (b) of that 'subject to subsection (4.1) by mailing notices to the owners of land in the community or communities as shown on the assessment rolls of the City as of the date of the compilation of a mailing list from those rolls for the purpose of mailing notices'. Here again, aren't we into the same thing as mailing lists and wouldn't this mean if there was a small zoning change that somebody made it an application to have a hairdressing shop or some small zoning change on their street, should it be necessary to mail the whole city. And I think on large projects yes, but here again we're getting into the mailing the whole city on any zoning change.

MR. CHAIRMAN: Mr. Premier.

MR. SCHREYER: Well, Mr. Chairman, it may be a little unorthodox but perhaps this, by leave, members of the . . . would be the opportune time for you to call on Mr. Lennox and Mr. Thomas of the City Legal Department. They had a presentation to make with respect to this section and one or two other sections of this bill that they did not make presentation on the other night. If members agree, I think it would suit their convenience and ours.

MR. CHAIRMAN: Is it agreeable. (Agreed) I therefore call on Mr. Lennox and Mr. Thomas to approach the microphone. Mr. Lennox, will you please come to the microphone and make your presentation.

MR. LENNOX: Thank you very much, Mr. Chairman, for this opportunity. With your permission I would just perhaps make with respect some comments on the Section 600(4) which I know you have passed tonight, it's just with reference to those words "by by-law". We weren't concerned at all about the question of the requirements for the conveyance or the payment of money, it was the methodology of this that gave us concern because of the rigidity of a by-law and there may be many cases where the City may not, due to circumstances, wish to have any conveyance or perhaps just a partial conveyance lesser than what the by-law establishes. There may be cases of need, of hardship, of special circumstances, but in a by-law of course, we're fixed in every case and we'd have to amend the by-law which may be of doubtful legal validity. So that it was just a question of striking out those words "by by-law" and we would then would do it of course by resolution.

Now with respect to the question of notices, I know this is contentious and a troublesome matter and I'm sure you're rather sick of us talking about it but we're only talking now about the administration of this and trying to do a better job for the City of Winnipeg. I would ask your permission and Mr. Thomas could perhaps speak to this who has been handling the matter on a day-to-day basis and with your permission I would ask Mr. Thomas to speak on particular 609(4.2).

MR. CHAIRMAN: Is that agreeable? Mr. Thomas.

MR. THOMAS: Mr. Chairman, and honourable members, there are two problems involved in this notice section, it basically does two things; it starts out in 609(4) on page 17 by saying that publication is mandatory, there's no problem of that. It says that posting of the land affected by the amendment is mandatory, there is a potential problem with that. If you're dealing with an individual parcel of land obviously you are going to post the land, however under the proposed amendment on Page 18, it's intended to give a measure of relief from posting of the land affected and it says that where a proposed zoning change applies to the whole of one or more communities that instead of posting, you mail notices to all the owners in that community.

Now one of the honourable members has indicated a potential problem with that in, for example, if we are asked to amend all the residential provisions in St. James, that is R 1, 2 and 3 districts to allow for group foster homes for the Children's Aid Society as conditional uses, that is not an amendment which applies to the whole of one or more communities, it applies to part of a whole community, all the houses in the area whether they be single family or two-family. Since this 609(4.2) on Page 18 has no application then the net result is that in order to pass the text change that the Children's Aid Society wants, we have to send out a truck and post every house in St. James and I don't think we'd have the legal right to go on the property and nail a sign on the house. So the end result is if we can't post it, we can't legally proceed with the zoning so we can't make the text change at all.

The other problem is that if we were allowed to make the text change and posting was dispensed with in that case, then we still have to mail notices to every owner in the community, that would be perhaps 20,000 notices in order to put group foster homes in as a conditional use and the cost of that might be around $10,000; we'd probably bill it to the Children's Aid Society, well they would say, we can't afford it, so they wouldn't get their text change. Probably what we would do is then say, we'll make text changes once a year only and you'll have to wait till next year, you're too late.

Again the problem is that even at that as it's amended, as it's proposed now, we couldn't make the change at all without posting all of the houses which I think is - well it's a manifest impossibility and it would amount to trespassing on everybody's grounds.

Now we filed a brief last Tuesday, it's entitled Bill 46 and section 609(4) which suggested a complete revision to section 609(4) which in essence said, publication is always mandatory. It said, and the notice will be given in addition by posting. Now posting will be applied in almost every case but not in every one;and then we went on to say, by mailing notices to the applicant if any, etc.

(MR. THOMAS cont'd)

I have some concern, too, about the statement that we may mail notices to everybody within 500 feet. The effect of that wording quite possibly will be if we said in a particular case we would like to mail to everybody within 100 feet or 50 feet or whatever the Statute would say, you have to take your choice. You mail to nobody or you mail to everybody within 500 feet which might be undesirable in some cases. And I realize this is somewhat confusing but I think the point to remember is that when you have mandatory notice provisions, that's the foundation for everything, if you don't comply rigidly with those notice provisions your zoning's bad right off the bat, and nobody can safely put up a building or rely on it. So I would submit that if possible consideration be given to the amendment that the City proposed in its brief last week or something similar thereto that the Legislative Counsel might think would accomplish the purpose.

If there's any questions, I can answer them.

MR. CHAIRMAN: Yes. Does any member of the committee have any questions for clarification. Mr. Premier.

MR. SCHREYER: Mr. Chairman, I'm a little puzzled although I see the validity of the presentation just made. But I was given to understand that this particular - well not just this section - that this amendment as with most amendments came in by way of suggested change from the City. Now if in the consideration of it or the typing of it, we have made some substantive change here, that is substantively different from that which was initially requested, we can reconsider this. But does Mr. Thomas have the suggested replacement or substitution for this subsection.

MR. THOMAS: Well yes I have. I filed it last Tuesday in the form of a brief which was distributed, it bore the title Bill 46 and section 609(4) of Bill 38. We filed it together with a long letter from Mr. Darke of the Planning Division explaining some of the problems. And on Page 3 of that I set out my proposal for Section 609(4) which is fairly short and simple but includes in it provision for all the types of notice that we might give.And our suggestion I think was, in an earlier brief was that if this government felt the need to prompt the City into giving some particular types of notice, it's always free to do so because the Minister of course has a strong control over our zoning by-laws, he can say in advance that we think you ought to give strong consideration to certain types of notices because we might be disinclined to approve if you don't do it. I'm not saying that the City has to be bludgeoned into doing a different type of notice proceeding but I think that flexibility is desirable because in a particular case it may prove desirable to mail notices to everybody within a certain . . .

MR. SCHREYER: Well in any case, Mr. Chairman, I take it that there is no contention with respect to (a) and (c), it is only with respect to (b).

MR. THOMAS: That's (a) and (c) of section . . .

MR. SCHREYER: 609 (4.2) as proposed. That is to say requiring a copy to be published in two newspapers.

MR. THOMAS: No, that's no . . .

MR. SCHREYER: No problem and (c) the assurance that there will be notice at least to the council of a municipality which may by happenstance be within an immediate adjacency if the proposal in question is near a boundary.

MR. THOMAS: I don't think the city would have an objection to that because it's a simple procedure, it's not costly. I don't know if it need be put into the Act but if it is we don't mind.

MR. SCHREYER: Fine. Well then it's only (b) that's in contention. I'll ponder that for a moment.

MR. CHAIRMAN: Yes. Mr. Johnston.

MR. F. JOHNSTON: When you're referring to proposed amendments to Bill 38 which you distributed, on Page 4 you say - right at the bottom here. From proposed 609(4.2) the words following clause 4(a) and substitute the words "in such a manner the City deem advisable".

MR. THOMAS: This is on page 4 or page . . . We may have filed rather a multitude . . .

MR. F. JOHNSTON: Proposed amendment to Bill 38.

MR. THOMAS: We filed two briefs.

MR. F. JOHNSTON: Yes.

MR. THOMAS: It's the second one we filed last week.

MR. F. JOHNSTON: Yes but this one refers to this and in such a manner as the City deems advisable.

MR. THOMAS: Well I think what we've done is suggest two alternate wordings. You know we don't mind what the words are as long as they accomplish the purpose.

(MR. THOMAS cont'd) . . . . You know we have at various times submitted a wording and then been told it wasn't satisfactory, submitted another one and we've gathered that maybe that one wasn't so we've tried a third one. Part of the problem is that in the preliminary considerations of drafting we're really not in the picture until we see the bill and the motions and then it's a sort of a rush to try to get our foot in the door to explain the problems. Some of them are so technical and complicated that it's hard to make a clear explanation and we file various letters and briefs.

MR. CHAIRMAN: What is the intention then? Do we withdraw section (b) and proceed with sections (a) and (c)? What is the will of the Committee?

MR. SCHREYER: Mr. Chairman, I take it that members of the Committee do have this document then that was circulated the other day which if adopted here would have this effect, that (c) would become (b) - (b) would be deleted and (c) would become (b) and then there would be the addition of a section which would read - a subsection which would read: "and in any other manner the council deems advisable which may include (i) posting of a copy of the notice on or near any land, building or structure for at least two weeks before the meeting, (ii) mailing notices to the applicant or any other person or organization that has filed a request" etc. That would certainly take care of the drafting problem.

Really the substantive point at issue here is whether a change, a proposed zoning change that is of a magnitude that affects the entirety, the whole of the community, does not merit the sending of notice to all owners of land in the community as shown on the assessment roll. That's my point of issue.

MR. THOMAS: My point is that if it does and the Minister so indicates to the City then the City knows that they'd better do it or they aren't going to get their bylaw through. But my point is that if it affected say only the single family homes in the community, the way it's drawn now we'd have to post it. If it was felt desirable and the Minister suggested we should mail a notice to the occupant of every single family home, we could do that. But if for example all that the change says is that group foster homes may be permitted as a conditional use after a public meeting before the community committee, each one is dealt with on its merits as an individual case. You're never going to have every house in the city a group foster home obviously so there may be five in St. James at the request of the Children's Aid Society in which case there would be five hearings somewhat like a variance hearing. It might not be considered necessary to mail say 20,000 notices out to fill in a gap that's left in a bylaw where you know nobody had thought of group foster homes until recently and along came the Children's Aid Society - I merely use this as an example - and said, this is a socially desirable thing. And we've said well we agree but there's nothing in the bylaw that provides for it. We can't put it in. You fall within the definition of institution and therefore you can only go into a commercial area or a multiple high rise area downtown. They've said well we want to have four children in a single family home taken care of by the family and it generally doesn't seem to be publicly contentious. So that was a simple example where to put this in was a simple amendment but under these provisions we'd wind up, as I said, having to post everything, which is impossible, or mail out 20,000 notices which either the taxpayer at large bears it or the Children's Aid Society. Now on the other hand the amendment might be such that it is a matter of, for example that famous case of trying to amend the definition of "family" which would affect every single family home and it had to do with communes and co-ops, etc. Now that might be a case where we should notify everybody, I suppose.

MR. CHAIRMAN: Mr. Premier.

MR. SCHREYER: Mr. Chairman, one further point. I see other members wishing to raise a point as well. Your point, Mr. Thomas, is that in the event that a proposed zoning change seems to have some greater magnitude to it that it is open in any case to the Minister to cause, before he approves of the change, to cause the city to carry out an all household or all owner notice.

MR. THOMAS: What I'm suggesting is if the government thinks this is a matter that they should discuss with the Planning Division your administrative people could be given some general instructions to discuss with them and come up with some guidelines and then you can lay down to the city, well this is what we think should be done and if you don't agree come in each particular case and we'll work out a policy. If it was the type of bylaw that affects the whole community in that we're going to rezone the whole of St. James say, we're going to repeal the existing bylaw and re-enact a new one, I think that's the type of thing that was contemplated by the words "if it affects the whole of the community." That's the case where the whole

(MR. THOMAS cont'd) . . . . . zoning question is up for discussion and that would be a case where you'd only do it once every ten years perhaps and there there's no real problem about mailing notices to everybody because it's a one-shot thing and if it costs $10,000 or $20,000 or whatever that's not a particular problem I don't think. But if it's a text change, somebody comes in and says you've left a little point out in your bylaw, we'd like you to cover it, there's something wrong with your definition of drive-in restaurants for example. Now that might be of interest to a very small number of people in the community and to mail out 20,000-odd notices seems a waste of money but if it was considered as a matter of policy desirable then it could be done. I don't think it should be frozen in a notice provision in the Act which we probably can't change until next year.

MR. CHAIRMAN: Thank you. Mr. Enns.

MR. ENNS: Mr. Chairman, I detect in the First Minister's response to the representation made by the representative from the City a willingness to appreciate the problems that the City faces in this regard. I also detect in the First Minister's response the question that a matter of considerable substance is at issue and I am somewhat concerned about making a somewhat hasty decision at Committee stage at this stage of the bill, if a flexible clause could be left in the bill at this particular time which would allow the kind of consultation to take place prior to cementing something firmly into legislation. I'm just a little nervous at the response that I hear coming from the minister responsible for the bill, namely the First Minister in this instance. There seems to be a genuine case of concern here that has not at least previously obviously been brought to the full attention either to the members at the discussion stage of the bill, on the second reading of the bill in the Chamber or here. I just make that observation Mr. Chairman. I don't think that we should be so feel ourselves so bound to - not necessary give us proper and due time to consider the matter and I think we would caution the Committee to take whatever steps, or caution the First Minister to take whatever steps are necessary to not necessary delay the remainder, portion of the bill, the rest of the bill but to certainly not to feel obligated at least from members of the opposition to come to a hasty conclusion with this particular clause. I think the representation from the City was well received by the Committee.

MR. CHAIRMAN: Mr. Premier.

MR. SCHREYER: That's well put.I think that in the case of 609 (4.2) (b) that we would want to just lay this over and hopefully hear the City on the remainder of its presentation go on to other sections and then by the end of our deliberations this evening, or on the next day, have alternative wording.

MR. CHAIRMAN: Mr. Pawley.

MR.PAWLEY: I just wanted to ask one more question. I would like to get a response from the City. Rather than deleting the requirement for mailing notices to all owners of land in a community or communities and I can see the argument thousands of notices being sent out to the entire community. He was talking about St. James. When we're only dealing with one home within the St. James area for example, I can see that, but here I'm wondering what the response would be to the notices being forwarded out to all those homes within a certain radius of the home which is the subject of the zoning application, within a 500 ft. radius for instance.

Well why are we going from one complete extreme to the other is my concern because it seems to me that the people within the immediate notice area of the home affected should receive individual notices. That would be my first glance at this.

MR. THOMAS: Well the amendment that is proposed in the Bill says that mailing notice to everybody within 500 feet of a property affected would be optional at the discretion of the City.

MR. PAWLEY: Should it be optional though?

MR. THOMAS: Well I think, my personal opinion is yes it should be. You know there may be a circumstance in which we are dealing with a plan of subdivision on the bald prairie let's say and if you draw a line 500 feet around the land being affected you take in a vast swath and part of the problem that we elucidated in the letter that Mr. Darke filed was that if you implement this in legislation today, with the number of zoning applications we have backed up and even if we can hire a staff of about 20 people, it will take us about 9 months to get over the backlog so we'll stop all residential zoning in Winnipeg for about 9 months and then having managed to get over the backlog, if we then can find the staff and train them, it's going to take a minimum of two weeks to do the preparation of

(MR. THOMAS cont'd) . . . . . maps in order to find out the people within 500 feet and to make it mandatory in every case, we are going to have to set up another bureaucracy of we estimate something around 17 employees with a budget, well $200 - $300,000 a year. Now it may be that there will be cases where this is desirable and I think if there's enough flexibility in it we can embark on a study of what's involved and find out in practical terms where it is necessary and where it isn't and together with representatives of this government some kind of a policy can be worked out but to make it mandatory right now in legislation when we don't really know all the problems we can forecast some of them as for example with the amount of work that has to be done to get this together, we will run into about 9 months where we'll just have to stop taking applications and all sorts of sub-divisions etc. will stop. There won't be houses built and that's not, you know just raising a smokescreen, that's the practical result, well immediate result and then again where we talk about changes that affect part of a community like the residential R-1 area, it's not any individual house that's affected, it may be that any one of 5,000 houses might be the subject of an application for a conditional use and all the amendment does to the by-law is provide the fact that this is a conditional use under the list of conditional uses and it may be the subject of a public meeting but to send 20,000 notices out to tell everybody in the community that as of tomorrow you have the legal right to ask for permission for a widow to do hairdressing in her house, if she doesn't have signs outside etc. that's a tremendous expense to go to when what actually is going to happen if one person applies for the right to do that, then there's going to be a hearing on that subject and it may be desirable to notify the people within a certain radius perhaps not 500 feet which can take in a tremendous number of people, particularly if you happen to run into an apartment block and it may be of immediate concern to a lesser number of people but to forecast and put down a rule I think is going to cost a tremendous amount of money, which perhaps isn't the major concern. It can involve delay but the kinds of dollars you're talking about too aren't trivial and ...

MR. PAWLEY: I have no reservations about the reference to the entire community. I think that is very extensive. My only concern Mr. Chairman is the residents within the very immediate area and who may not in fact be living within that immediate area and you indicate that that will be within the discretion of the city to determine whether or not the notices be forwarded to those within the very immediate area.

MR. THOMAS: Yes, well that is proposed in the amendment and we are in agreement with the idea that it be discretionary. I have suggested that if you are getting into situations where you think there should be some guidelines as to when you should mail to everybody within 500 feet, then that can be done, but you know the re-zoning of a property may be a matter of some considerable public moment that would suggest this type of notice or it may not and to do it in every case means that if you're doing a subdivision and re-zoning for single family housing in a particular area, you draw a line 500 feet around the area and you may bring in 10,000 to 12,000 people and if you multiply that by the number of subdivisions going on at any one time, you're running into a vast job of searching out the owners from an assessment role. It's not a simple matter. You have to take the atlas maps and then plot from that and out of the assessment role you have got to piece together all the legal descriptions and try to cover everybody in that area which means you've got to have somebody trained like Land Titles' clerks and understanding descriptions and put this altogether into a mailing list. Now that's going to take 2 or 3 weeks or if it's a big subdivision a month and generally speaking, if you're merely creating a sub-division for single family housing, the people around it are probably not particularly upset about it. The land owners around there are usually happy because it means their area is developing and their land value is going up, that is the people who own land but don't live there. But in any event, all I'm suggesting is if you put it in as mandatory as proposed, the immediate problem will be that it will take so long to catch up it will stop everything. Now that alone I think is enough to suggest that it shouldn't be made mandatory in the Act at the present time. If there's some way of phasing this in, if it's considered desirable, after some more study as to what it really means then I think some other method might be found but to implement it now as mandatory, if you have time to read Mr. Darke's letter I think you can see in detail what will happen.

MR. CHAIRMAN: Are there any further questions? Mr. Premier.

MR. SCHREYER: Mr. Chairman I suggest that we lay over to subsequent consideration 609 (4.2) (b).

MR. THOMAS: My remarks also relate to page 17 609 (4) because the two are tied together really. It's the first section that makes posting mandatory in all cases and is relieved against partially by the section that says you don't have to post it if it affects the whole community, so really the two go together and I think the legislative counsel has a section we suggested that would in effect replace the whole of section 609 (4) including (4.1) (b) if I remember correctly.

MR. CHAIRMAN: Are there any other questions?

MR. SCHREYER: It's part of the same piece. It's a case of laying over 609 (4)

MR. CHAIRMAN: On behalf of the committee I wish to thank Mr. Lennox and Mr. Thomas for their contribution. Is it the wish of the committee to set aside pages 17 and 18 (609) (4) to be considered at a later date and (609) (4.2). We'll go on to page 19.

MR. SCHREYER: Well Mr. Chairman, just to be clear on what we are setting aside 609 (4) and 609 (4.2) is that correct?

MR. CHAIRMAN: 609 (4) and 609 (4.2). Is that agreed? Page 19 pass. We have an amendment on page 19.

MR. SCHREYER: On page 19 there is an amendment to section 615 - it's a case of deleting in its entirety 59 (a) and (b) and substituting therefor the amendment contained in the circulated sheet which has (a) and (b), subsections (a) and (b).

MR. CHAIRMAN: You've heard the motion, is there any discussion? Page 19 pass.

MR. TALLIN: Further down on that same page, subsection 615 (4) clause (a) in the second line there's a reference to section 600 it should be 609 (4) instead of 600.

MR. CHAIRMAN: That's the only one and on page 19 as amended and corrected, pass. Page 20 pass.

MR. TALLIN: There's a minor spelling error in the second last line of 616 (1) "responsible" is spelled wrong.

MR. CHAIRMAN: The second last line of 616 (1) agreed. Page 20 as corrected, pass. Page 21 pass. Page 22 pass.

MR. TALLIN: There are three minor changes on page 22. In subsection 621 (7) second last line the word "and" about a third of the way from the end of the line should be "but" and in the last line it should be "vote the order shall be made" instead of "an order" and then further down in the heading to section 622.1 it should be Notice of Meeting instead of Notice of Hearing, and I believe there's an amendment to this page as well.

MR. SCHREYER: Yes Mr. Chairman that's correct. For purposes of clarification under section 621 (7) immediately after that, there would be the inclusion of the following - 67 - the following subsection: "Subsection 621(12) of the Act is amended by adding thereto, at the end thereof, the words 'but in the event of a tie vote, the order shall be made dismissing the appeal'", and that's clarifying in the event of a tie vote in the Committee on Environment.

MR. CHAIRMAN: You've heard the amendment, is there any discussion? Page 22 as amended and corrected, pass. Page 23.

MR. TALLIN: On Page 23 in 622.1 (5) third last word of the second last line should be "but" so that it will read "but in the" instead of "and in the" and on the last line of 622.1 (5) it will read "event of a tie vote the order" instead of "an order".

MR. CHAIRMAN: Page 23 as corrected, pass. Page 24, pass. There's an amendment.

MR. SCHREYER: Well Mr. Chairman, there is at the bottom of page 24 an amendment here which would make permissive rather than mandatory the mailing of notices, except I'm not sure now if Mr. Thomas' presentation this evening causes us to change 609 whether then mutatis mutandis or whatever the expression is, wouldn't make this amendment irrelevant. So I'm not sure if it's in other words consequential or does it stand by itself?

Well Mr. Chairman, I'm advised that the proposed amendment here is not in conflict with any possible change to 609 and that it stands by itself and that would be then that 637 (15) in the bill be that 637 (15) (c) of the Act as set out in section 76 be amended by striking out the words "by mailing notices to" in the fifth line or in the first line of (c) by striking out "by mailing notices to" and substituting therefor the words "in any other manner the council deems advisable, and in its discretion it may mail notices to".

MR. CHAIRMAN: You've heard the amendment. Is there any discussion? Mr. Thomas, would you please come forward.

MR. THOMAS: It might result in a small discrepancy depending upon what you do with the provisions regarding notices on zoning because there we've suggested that we have the discretion to mail notices to everybody within 500 feet or a greater area or a smaller area, whatever appears to be desirable. Whereas if this goes through I think that the result is that if we're going to mail to anybody we'll have to mail it to everybody within 500 feet. We couldn't pick a smaller area or say adjust it flexibly. Now that might just mean that we'd have to give the greater of the notices. That is in the case of subdivision if we decided to mail we'd have to mail to everybody within 500 feet whereas in the case of the zoning under the amendment we proposed it might be that after we look at it in the light of experience, the Minister tells us, well we think it should be everybody within 200 feet in this particular case. In other words I think whatever you do with 609(4) for the sake of consistency and avoiding confusion on the part of administrative people who have to unravel all this and keep it straight that they should be consistent. Again I would suggest an amendment that is similar to the amendment that I mentioned the legislative counsel has in front of him.

MR. CHAIRMAN: Mr. Premier.

MR. SCHREYER: Well then, Mr. Chairman, it is as I suggested, consequential or at least consequential for the sake of consistency with 609(4) so I would suggest that this be set aside as well.

MR. CHAIRMAN: Committee agree that the amendment be set aside? That Section 76 be dealt with at a later date. (Agreed)

Going on then to Page 25. Section 77 has an amendment.

MR. SCHREYER: Yes, Section 77 of the bill is amended as follows: that subsection 637 (15.1) of the Act as set out in Section 77 of the bill be amended by adding immediately thereafter the letters (ii) in the second line thereof the word, number and letters "and (4)(d).

MR. CHAIRMAN: You've heard the amendment. Any discussion? Page 25 as amended--pass. (Pages 26 to 32 were read and passed) Page 33 - Mr. Premier.

MR. SCHREYER: Yes, Mr. Chairman, there is an amendment here. That Section 102 of the bill be deleted and the following substituted: That Section 659 of the Act as amended - this has been circulated - by repealing subsection (3) thereof and substituting therefor the following: The City and the Rural Municipality of Springfield, The Rural Municipality of Tache, the Local Government District of Reynolds may enter into an agreement pursuant to subsection (2) for the payment of a grant in lieu of taxes by the City to each of those municipalities and LGD in addition to the amounts set out in this subsection, but the City shall in any event annually pay to each of those municipalities and local government district and their successors in lieu of taxes or rates for the water supply, aqueduct and railroad right-of-way the amounts set out opposite their respective names as follows:

The Rural Municipality of Springfield - $15,000.00

The Rural Municipality of Tache - $3,750.00

The Local Government District of Reynolds - $2,500.00.

The purpose of this amendment is as requested to make it possible to negotiate an agreement that might be different from that which was hitherto provided for in statute. Both parties to this agreement have indicated a desire to be able to negotiate some alternative level of payments but in order to insure that in the event that there is failure to reach an agreement that the amount paid shall be at least the amount that is now set out in statute and not be a completely tax exempt situation.

MR. CHAIRMAN: Is there any discussion? Is everyone agreed? Section 102 agreed? (Agreed). The next amendment - Mr. Premier.

MR. SCHREYER: Mr. Chairman, the last amendment is with respect to the last section, the Commencement of the Act. The bill reads the Act comes into force on the day it receives Royal Assent and there's an amendment to simply add - I'm sorry - that that section be repealed and the following substituted: This Act, except Section 102, comes into force on the day it receives Royal Assent, and 102 comes into force on a day fixed by Proclamation.

MR. CHAIRMAN: Is there any discussion? Mr. Johnston.

MR. F. JOHNSTON: Not on that. There's another section on Page 33. Have you got the other amendments?

MR. SCHREYER: There are no other amendments.

MR. F. JOHNSTON: I wanted to speak on Section 105, Mr. Chairman.

MR. CHAIRMAN: That's on what page?

MR. F. JOHNSTON: Page 33.

MR. CHAIRMAN: Proceed Mr. Johnston.

MR. F. JOHNSTON: Mr. Chairman, this is retroactive legislation back to January 1st, 1972, which was the beginning of the Bill, 36. I think that this particular section is going to cause a lot of problems to the City when we talk about designated rank of any person. In this particular case when you talk about rank you could conceivably have, because there is no change in salaries, you could conceivably have a first class fireman working beside another first class fireman who is making lieutenant's wages. The same thing could certainly apply when the police department has its amalgamation.

Now I know there has - but I don't know where the court case stands at the present time but there is a fireman who has taken the City to court.

A MEMBER: It's withdrawn.

MR. F. JOHNSTON: It's withdrawn is it? Well that's one thing I mentioned while we were in second reading, that passing legislation while there's a court case and that's withdrawn. But the reasons I have given here, that going back retroactively to 1972 and as far as rank is concerned you can have an awful mix-up in salaries and you can have an awful mix-up in coordination regarding the employees of the City that are under contract. Here we have a situation where the bill says there's no change in salary and now we're going to say there is going to be a change in rank. Now what is happening the Outer-City men not having the seniority in many cases of the Inner-City men are certainly moving into the positions of lieutenants, captains, etc. yet the lieutenants and captains in the other areas or any one of them that happen to drop down, they drop down, they lose their rank but they don't lose their pay and you have men working side by side with the same rank and different pay schedules and I can only see that in time this is going to move everybody up again to that pay schedule and I think we're putting the City in an awkward position by putting this in. I don't think that it would be - I think it would be more advisable to consider it starting now than going back retroactively.

MR. CHAIRMAN: Mr. Premier.

MR. SCHREYER: Mr. Chairman, there's a number of points I could make in connection with 105. I suppose the first one is that we take the position, and I believe the City takes the position as well, that Section 666 of the City of Winnipeg Act was clear all along and that it provided for the City not to be bound to continue title or rank, but some litigation was started on this, to the dismay of the City. That litigation has now been withdrawn. Notwithstanding the fact that it's withdrawn, we still want to take advantage of the opportunity to clarify further that particular section. It's not a case of reversing a former intent, it's a case of buttressing and clarifying the initial intent and this section comes in with-- not only with the concurrence, I believe that at the request of and the suggestion of the City which we were quite prepared to do and therefore it's in this bill. The concept of a pay level being assured while title or rank is not necessarily assured is not a new concept - not that's any good argument - but it's in the federal public service for several years now. It's a concept known as red circling or blue circling or call it what you like, depending on your political stripe, you can call it red or blue circling.

But this is merely in clarification of the intent that was intended all along.

MR. CHAIRMAN: Mr. Marion.

MR. MARION: I really don't want to add much to that except the last words which the First Minister mentioned by saying it was intended all along. I think if we refer specifically to the amalgamation that was made of the Winnipeg Fire Department then I think we're making this retroactive because the steps that are being taken now with the amalgamation of the police force will perhaps not necessitate as much red circling - I like the terminology of that - red circling as was the case and is the case with respect to the Fire Department. So, you know, we're covering something that has been done really with this amendment in Section 105.

MR. SCHREYER: And intended all along.

MR. CHAIRMAN: Are there any further questions? Order please. Are there any further questions with respect to Page 32? Hearing none - Page 33 as amended-- pass. I understand this is as far as we can go with the bill as it is so we'll have to set it aside till the next meeting.

MR. SCHREYER: Bill 38, yes, we'll be setting it aside-- of those two sections.

MR. CHAIRMAN: We'll withhold it until the next meeting . . .

We'll proceed next with Bill 45, I believe.

MR. TALLIN: Bill 46, I think, Mr. Chairman.

MR. CHAIRMAN: Bill 46, an Act to amend the City of Winnipeg Act (2). Is it agreed page by page? Shall we proceed page by page? Agreed? Page 1--

MR. SCHREYER: Mr. Chairman, at the very bottom of Page 1 there is an amendment that reads as follows. That Bill 46 be amended by repealing Section 3 and substituting therefor the following: Section 9 of the Act is further amended by adding thereto immediately after subsection 1 thereof the following subsection 9(1.1) The mayor shall be elected by the electors of the city, which really replaces back what's in the bill now. But it's necessitated by style and by drafting style, I suppose.

MR. CHAIRMAN: You've heard the amendment, is there any discussion?

MR. SCHREYER: Well the effect, Mr. Chairman, is to remove (1.2) which would have empowered the Lieutenant Governor in Council by order in council to establish the number of councillors and to make consequential variations. I indicated we would withdraw that section, it is accordingly withdrawn.

MR. CHAIRMAN: Page 1, as amended--pass; Page 2--pass; Page 3--

MR. SCHREYER: Mr. Chairman, on Page 3, there is as an amendment as follows. That Bill 46 be amended by adding immediately after Section 11 thereof the following section: 11.1. Subsection 18.1 of the Act is amended by adding immediately at the end thereof the words "and council may provide an additional indemnity to any member of council who has additional responsibilities for which no additional remuneration has been provided in this section."

That is just, I might explain, that is just to make it completely clear that council while it is now empowered in the Act to alter the level of indemnities, there are some who interpret that to mean that they must alter all or none and this is making it clear that they may alter it with respect to an individual councillor or several councillors dependent on additional duties that council assigns to them or elects them to. It's just clarification.

MR. CHAIRMAN: Any further discussion. Mr. Marion.

MR. MARION: This would certainly take care of any indemnities that council would wish to pay the Deputy Mayor because of the additional function.

MR. SCHREYER: Precisely - the Deputy Mayor, the Chairmen of Standing Committees that they assign additional -- Vice Chairmen, it's open to council to decide.

MR. CHAIRMAN: Committee agreed? Page 3, as amended--pass. Page 4-- Another amendment?

MR. SCHREYER: Yes, there is an amendment at the bottom of Page 3. This follows immediately after the amendment with respect to council being empowered to vary or alter the level of indemnities to individuals and now Bill 46 be amended by repealing Section 13 thereof and substituting therefor the following sections: Section 20 of the Act is amended (a) by adding thereto immediately under the ward "Kilnorth" in clause (1)(c) thereof the ward "Riverton" and the ward "Talbot";

(b) by adding thereto immediately under the ward "Arlington" in clause (1)(f) thereof the ward "Norquay" and the ward "Strathcona"; and

(c) by striking out clause (1)(j) thereof;

(d) by striking out clause (2)(f) thereof;

(e) by striking out clause (3)(f) thereof.

And then 13.1. Notwithstanding any other provision of this Act, where any proceeding, matter, or thing is required to be done by this Act or has been commenced pursuant to this Act in, before or by the St. John's Community Committee that proceeding, matter or thing shall be deemed to be a proceeding,matter or thing done in, before or by the Lord Selkirk Community Committee or the East Kildonan Community Committee or both as the Council shall determine in its discretion -- and it goes on.

In sort of simple layman's terms, this flows from the--this amendment is necessitated by the fact that we have withdrawn the section empowering Lieutenant Governor in Council or Cabinet to make these changes so we're incorporating it right into the bill. It is incorporating that one recommendation of the Boundaries Commission, the supplementary report, that St. John's Community Committee be dis-established; two wards go into Lord Selkirk, two wards into East Kildonan and this is all consequential thereto.

MR. CHAIRMAN: You've heard the amendment. Mr. Tallin.

MR. TALLIN: There's a little technical drafting problem in this and that is what appears as 13.1 here should become subsection 20(6) of Section 20 of The City of Winnipeg Act and if you'd allow me just to make a minor drafting change of that but I won't recite it here. But there'll be no change in the wording of the thing; it's a drafting matter only in which I take great pride.

MR. SCHREYER: We wouldn't want to hold a talented craftsman from his crafts.

MR. CHAIRMAN: You've heard the amendment, is there any discussion. Page 3, as amended--pass. Page 4 -- Yes, Mr. Marion. Mr. Johnston.

MR. F. JOHNSTON: On Page 4, the deletion of Section 44 and in the Act its responsibilities to the board regarding commissioners . . .

MR. SCHREYER: I'm sorry, what section?

MR. F. JOHNSTON: Section 44. Section 44 of the Act as repealed.

MR. CHAIRMAN: Section 17 . . .

MR. F. JOHNSTON: Section 44 notwithstanding subsection 1, each appointed commissioner is responsible to the chief commissioner, the board of commissioners and to standing committee of which he is required by this Act to report for the supervision and operation of the specific departments and services assigned to him by the Act or by council.

Now I don't know why the commissioners wouldn't be required to report to the chief commissioner and to the standing committees to which he is required by this Act to report for the supervision and operation of the specific department and services assigned to him. I can't for the life of me see why the commissioner should not have to report to those committees.

MR. CHAIRMAN: Mr. Premier.

MR. SCHREYER: Well, Mr. Chairman, the point raised by Mr. Johnston is not the point that we were attempting to change. The reason for the repeal of Section 44 is because it certainly left an ambiguity as to just what the lines of reporting and authority were. It is not as though there are not other sections of the Act which make it clear just what the delegation or lines of authority are. For example, Sections 53, 54 and 56-in the Act I mean not the bill - make clear provision and Section 44 was a redundancy and in being redundant it was also ambiguous. Because it reads, to give you an idea of why we felt it was ambiguous, it reads: Each appointed commissioner is responsible to the chief commissioner, the board of commissioners and to the standing committee to which he is required by this Act or council to report. And even repealing Section 44, Section 56 still requires the appointed commissioners to report to their respective standing committees. Section 53 requires them to report to their respective standing committees: Section 56 requires the commissioners to attend their respective standing committees and Section 54(1) provides for direction of the commissioners, permits the Chief Commissioner to direct any other appointed commissioner or employee in the performance of his duties and responsibilities. So we don't feel that we're leaving a gap in terms of line of authority.

MR. CHAIRMAN: Is that satisfactory? Page 4 also has an amendment, I understand. Mr. Marion.

MR. MARION: I would like through you to offer a suggestion to the First Minister with respect to Section 16 where the deputy mayor becomes ex officio member of the board of commissioners. I think that in the presentations that were made to us of course the present Deputy Mayor felt that this was fulfilling a useful role inasmuch as the political link between executive policy committee and the board of commissioners was being properly carried out. It would seem to me and we had the mayor at one and the same time state that he insisted that the deputy mayor should take over his role or act in his capacity when he was out of the city physically. I wonder, with respect to Section 29(7), I'm very much in favor of that section whereby the physical absence or the physical non presence of the mayor immediately makes the deputy mayor the chairman of executive policy committee. And I wonder if this would not be the proper kind of way of proceeding with the membership of the deputy mayor on the board of commissioners. The moment that the mayor himself is not capable for one reason or another, whether or not he is in the city but not capable of being present at the board of commissioners, could then the ex officio--the deputy mayor ex officio status come into play.

MR. CHAIRMAN: Mr. Enns.

MR. ENNS: Mr. Chairman, . . . comment I believe that this would have danger of transgressing on the mayor's spiritual presence.

MR. CHAIRMAN: Mr. Premier.

MR. SCHREYER: Mr. Chairman, I'm aware of the suggestion that the presence of the deputy mayor at board of commissioners is something that could be left to the standing arrangement that applies in the case of the absence of the mayor from any function or duty, but that's not really the only thing that was being attempted here. It's felt that for the sake of liaison and heaven knows there's always a great chore of liaison and coordination involved, that for a period of time we would certainly want to ensure that there is some testing or experimentation, if you like,

(MR. SCHREYER cont'd) . . . . as to whether in fact something is not gained, something is indeed gained by virtue of having the deputy mayor as a member of the board of commissioners, hopefully for the sake of improved coordination and the reasoning that two is better than one, but frankly it's not something about which we would want to hold up this bill about. It's felt that it's desirable to see whether this is beneficial and the only way we can find out is to try it for a year.

MR. CHAIRMAN: Mr. Marion.

MR. MARION: I certainly won't be adamant then. I wouldn't want to hold up the bill for that specific clause but I think that we're all aware of a situation that exists in the City of Winnipeg, one that I feel is because of a personality clash, as it was put by the mayor himself. I'm wondering if we're not going about regulating this.And because of the situation that we have, it would seem that if the mayor's office were one that were well oiled and capable of working together, we wouldn't have to insert this kind of a clause and it could be along the same lines as 29(7) whereby the physicial presence or absence of the mayor, the deputy mayor merely watching - in spirit and in body, Mr. Chairman.

MR. CHAIRMAN: Mr. Premier.

MR. SCHREYER: Well, Mr. Chairman, the point is that this was also intended for clarification because I feel it's a fact and you perhaps know better than anyone else, Mr. Marion, the deputy mayor had come into the custom or habit of attending these board of commissioners meeting in any case and rather than leave that as a vague or amibiguous part of the Act, it was felt better to clarify what was already becoming a practise. Is it not already a practise, Mr. Marion?

MR.MARION: Yes, I believe it's the practise now.

MR. SCHREYER: I'm prepared, Mr. Chairman, to set this aside since we've set aside two sections from the other bill.

MR. CHAIRMAN: Is it agreed that we set this aside then? I believe there is also an amendment for this page - Page 4. Mr. Premier.

MR. SCHREYER: Yes. Still on Page 4. Is that clear then, Mr. Chairman, we set aside . . .

MR. CHAIRMAN: I think we have agreed to that.

MR. SCHREYER: Section 16 is set aside for the moment. Section 18, there is an amendment by means of adding immediately after Section 18, the following - 18.1. Section 123 of the Act is amended by numbering the Section as subsection (1) and by adding thereto at the end thereof the following subsection;

(2) Notwithstanding anything contained in Section 618, where the Council in passing a by-law, order, or resolution, has acted fraudulently or in bad faith, any person who has suffered damage by reason of the by-law, order or resolution shall have a right of action against the City to recover those damages, provided that no such action shall be brought until one month's notice in writing of the intention to bring the action has been given to the City, and every such action shall be brought against the City alone, and not against any person acting under the by-law, order or resolution.

MR. CHAIRMAN: Are there any questions? Agreed? (Agreed) Page 4 as amended excepting Section 16--pass. Page 5--pass. Page 6--pass.

MR. SCHREYER: Excuse me -- I'm sorry, proceed.

MR. CHAIRMAN: Page 7--pass; Page 8--pass; Page 9--pass; Page 10--pass; Page 11-- there is an amendment.

MR. SCHREYER: Yes, there is an amendment there, Mr. Chairman. Mr. Tallin have a technical amendment?

MR. CHAIRMAN: Mr. Tallin.

MR. TALLIN: No.

MR. SCHREYER: No. Mr. Chairman, on Page 11, a motion of amendment that Bill 46 be amended by adding after Section 40 thereof the following:

40.1 Section 618 of the Act is repealed and the following section is substituted therefor: 618. After a zoning by-law has been approved by the Minister and given third reading and finally passed, it has effect as fully to all intents and purposes as if the provisions of the by-law had been enacted by the Legislature and shall conclusively be deemed to have been within the power of the council to enact, and the validity and legality of the by-law shall not be questioned in any action, suit or proceeding in any court for any cause whatsoever.

This is really consequential on the section back on Page 4 and 618 as it is presently worded in the Act uses much the same language and this is merely in greater elaboration and clarification thereof. It reads now that after a zoning by-law has been approved by the Minister and given third reading and passed, it has effect as

(MR. SCHREYER cont'd) . . . if it were enacted as part of this Act.

MR. CHAIRMAN: You've heard the amendment, is there any discussion? Agreed? (Agreed) I believe there is a further amendment on page . . .

MR. SCHREYER: No.

MR. CHAIRMAN: Page 11 as amended--pass; Page 12--pass; Page 13--

MR. SCHREYER: There is an amendment on 13. I'm sorry, excuse me for one moment. Okay, Mr. Chairman, the amendment is merely adding words to the last section of the bill. It's section 51 of Bill 46 be amended by striking out the words and figures Section 20 is" in the third line thereof and substituting therefor the words and figures "Sections 20 and 40.1 are". And then everything else as is.

MR. CHAIRMAN: Is there any discussion? Page 13 as amended--pass. I believe we will have to set Bill 46 aside until it is completed and we'll proceed on then if it's the wish of the committee to Bill 58. Bill 58, an Act to amend The Municipal Act . . .

A MEMBER: No, that's held over.

MR. CHAIRMAN: That's held over. Bill 59, an Act to validate by-law 3269 of the Town of Dauphin. Mr. Johnston.

MR. F. JOHNSTON: Mr. Chairman, was there not a -- didn't you mention at the beginning of the meeting 58 would be . . .

MR. CHAIRMAN: But I was requested to . . .

MR. PAWLEY: It was 45.

MR. CHAIRMAN: It's Bill 59. (Sections 1 and 2 were read and passed.) Schedule A--pass; Title--pass; Preamble--pass; Bill be reported.

MR. PAWLEY: Mr. Chairman, on the other Dauphin bill, I would like to just indicate to the committee because I know that we're all sharing common concern about this bill because we've more or less as committee members been in bed with this bill for the last three years. I've asked for it to be deferred because I want to obtain some assessment and tax information and provide to the committee when we look at the various alternatives as to how we deal with the Dauphin and R.M. bill. So if we could defer it, Mr. Chairman, for this evening until such time as we have the additional information, it might be of assistance in weighing the alternatives.

MR. CHAIRMAN: I believe that completes our slate of business for this evening. Committee rise.