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Legislative Assembly of Manitoba
Standing Committee
on
Public Accounts

Chairperson
Mr. Leonard Derkach
Constituency of Russell

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MANITOBA LEGISLATIVE ASSEMBLY
Thirty-Ninth Legislature

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**LEGISLATIVE ASSEMBLY OF MANITOBA
THE STANDING COMMITTEE ON PUBLIC ACCOUNTS**

Wednesday, May 19, 2010

TIME – 7 p.m.

LOCATION – Winnipeg, Manitoba

CHAIRPERSON – Mr. Leonard Derkach (Russell)

VICE-CHAIRPERSON – Mr. Gregory Dewar (Selkirk)

ATTENDANCE – 10 QUORUM – 6

Members of the Committee present:

Hon. Ms. Wowchuk

Ms. Braun, Messrs. Derkach, Dewar, Mrs. Driedger, Messrs. Graydon, Jennissen, Martindale, Nevakshonoff, Mrs. Stefanson

APPEARING:

Hon. Bill Blaikie, Minister of Conservation

Hon. Ron Lemieux, Minister of Local Government

Mr. Blaine Pedersen, MLA for Carman

Mr. Stuart Briese, MLA for Ste. Rose

Ms. Carol Bellringer, Auditor General

Mr. Hugh Eliasson, Deputy Minister of Finance

Mr. Fred Meier, Acting Deputy Minister of Conservation

Ms. Linda McFadyen, Deputy Minister of Local Government

MATTERS UNDER CONSIDERATION:

Auditor General's Report–Audit of the Province's Management of Contaminated Sites and Landfills, dated October 2007

Auditor General's Report–Special Audit: Rural Municipality of La Broquerie, dated March 2008

* * *

Mr. Chairperson: Good evening, ladies and gentlemen. Would the Standing Committee on Public Accounts please come to order.

This meeting has been called to consider the following Auditor General's reports: the Audit of the Province's Management of Contaminated Sites and Landfills, dated October 2007; and the Special Audit

of Rural Municipality of La Broquerie, dated March 2008.

Before we get started, are there any suggestions from the committee as to how long we should sit this evening?

* (19:10)

Mr. Doug Martindale (Burrows): Mr. Chairperson, I would recommend that we sit until 9 o'clock or until we pass both reports, whichever comes first, which usually means 9 o'clock.

Mr. Chairperson: Thank you very much. Is that agreed? *[Agreed]* Thank you.

Also, are there any suggestions—oh, wow, oh—are there any suggestions as to the order in which we should consider the various sections of this report?

Ms. Erna Braun (Rossmere): Mr. Chair, as printed on the agenda.

Mr. Chairperson: Thank you very much. So I'm now going to ask the deputy minister and the minister for the—for Conservation—*[interjection]*

There are actually three sets of witnesses in this first report, and I'm going to ask the committee which department they would like to have come forward as a witness first. The three departments are Finance, Conservation and Local Government. I think there was only one recommendation that was directed towards Finance, so—go ahead, Ms. Stefanson.

Mrs. Heather Stefanson (Tuxedo): Yeah, that's fine. We can deal with Finance first.

Mr. Chairperson: Okay, then—is that agreed? *[Agreed]*

So I would ask the deputy minister and the Minister of Finance (Ms. Wowchuk) to come forward, please.

Welcome, and I'll begin by asking the Auditor General if she has an opening statement.

Ms. Carol Bellringer (Auditor General): Mr. Chair, I don't have an opening statement. Both of the reports on the agenda for tonight were dealt with at

previous Public Accounts Committee meetings, and I did have opening statements at both of those. I will introduce my staff, if I may.

Mr. Chairperson: Yes, please.

Ms. Bellringer: Mala Sachdeva and Larry Lewarton are here with regards to the contaminated sites and landfills report.

And behind me, Jack Buchwold and Brian Wirth; both worked on the La Broquerie audit. As well, we have a guest from Nairobi, Kenya. Elizabeth, who is joining us for the week, and we, as you know, are twinned with the Auditor General's office in Kenya, and she's studying for a year in Ottawa with the Auditor-General of Canada's office, and has joined us, and next week will return to Ottawa, where she will graduate from her Canadian Comprehensive Auditing Foundation—the CCAF—fellowship course, and I will be at that graduation ceremony, so.

Mr. Chairperson: Thank you. Did you have any other opening statements?

Ms. Bellringer: No, I said I don't, so, no, I don't.

Mr. Chairperson: Thank you, Madam Auditor General.

Does the Deputy Minister of Finance have an opening statement?

Mr. Hugh Eliasson (Deputy Minister of Finance): I have a very brief statement. I'd like to thank the committee for the opportunity to provide an update on this report, which was issued by the Auditor General's office in October of 2007. The original report included 76 recommendations. One was directed towards the Department of Finance, three towards the Department of Local Government and the remaining recommendations directed to the Department of Conservation or government as a whole.

With regard to the recommendation directed toward the Department of Finance, the Auditor General found that the Province had assigned adequate staff to track environmental liabilities of reporting entities. Their analysis of the data being provided by the reporting entities was appropriate and the recognition and disclosure of the liability was appropriate. However, based on survey results obtained from other reporting entities, the Auditor General concluded that the initial reporting requirements sent by the Department of Finance

providing guidance to reporting entities was not provided in a timely manner.

As it was noted in the report, during 2006, the Department of Finance sent reporting entities a copy of their policy, as well as information on reporting requirements. At that time, the Province had until March 31, 2009, to finalize their own liability. So this was considered initial communication for the entities.

Since the—since that information was sent, the Department of Finance continues to communicate with reporting entities on a regular basis to ensure that they are in compliance with reporting requirements.

Mr. Chairperson: Thank you, Mr. Eliasson. The floor is now open for questions.

Mrs. Stefanson: Yeah, I believe there was the only recommendation to the Department of Finance, and the conclusion was the Department of Finance processes were sufficient. I don't believe that I have any further questions with respect to that one.

But I may just ask on—in No. 3, and perhaps it's not under your jurisdiction, but the third recommendation: the Oversight and Financial Reporting of Contaminated Sites by Entities and Municipalities—does any of that fall under the jurisdiction of the Department of Finance with respect to financial reporting?

Mr. Eliasson: The reporting by other government entities with municipalities does not.

Municipalities don't, but the other entities that make up the summary budget for the government would.

Mrs. Stefanson: So, in this, where the government entities—okay—so and municipalities, so you wouldn't—municipalities wouldn't fall under your jurisdictions.

But it says that the objective and criteria, the objective in this was to determine whether the processes of government entities and municipalities for identification of contaminated land sites and for the estimation of costs associated with remediation of these sites were sufficient to ensure appropriate accounting information was available to account for and report environmental liabilities in their financial statements.

And I'm just wondering if you could—are you able to comment on those entities other than the—

give us an update with these recommendations with respect to everything other than the municipalities,

Mr. Eliasson: Yes, I can. The government reported its environmental liabilities in 2009 at the suggestion of the Auditor General and that's adopting a standard in advance of the requirement of public sector auditing standards. So we're ahead of the game on that one.

And Manitoba is one of the few provinces that has the comprehensive reporting of the environmental liability.

Not every government entity is currently under public sector auditing standards. By 2013, the vast majority will be, and so those entities will be required to report the environmental liability in the same fashion that the government currently does. And we have taken the advice of the Auditor General to heart when we began working with government departments. We could have been earlier off the mark in making sure that they were fully conversant with the reporting requirements and to work with them to enable them to comply with those. With the other reporting entities, we have been very active in conducting round tables, educational sessions ensuring that there's a free flow of information, of the ability for them to ask questions so that they will be and should be well prepared when they do fall under public sector accounting standards to report fully on their environmental liabilities.

Mrs. Stefanson: Could you indicate for us which entities are currently preparing financial statements in accordance to public sector accounting standards and which are not?

Mr. Eliasson: I can. It's a fairly lengthy list.

Mrs. Stefanson: If you wanted to just provide us with that list, that would be sufficient if it's—if it indicates specifically which are and which are not, that would be great, in the interest of time.

Mr. Eliasson: Yes. I can undertake to do that.

An Honourable Member: Is that okay, Mr. Chairperson?

Mr. Chairperson: Thank you. No, that's fine.

An Honourable Member: Those are the only questions that I have.

Mr. Chairperson: Thank you very much.

Ms. Braun: No.

Mr. Chairperson: Mrs. Braun—no? Okay.

Seeing no further questions, I thank you for participating. You're a frequent visitor, Mr. Eliasson.

Floor Comment: You give points?

Mr. Chairperson: We'll see if we can offer any.

* (19:20)

We will now call forward the Department of Conservation. Thank you for appearing, Mr. Minister and Mr. Deputy Minister. You're both new to this committee, and I don't believe that either one of you have appeared here in—before.

So I'm going to ask the minister if he would introduce his staff who are here.

By the way, before we get started, Mr. Minister and Mr. Deputy, you're also allowed to bring your acting deputy minister or other staff to the table if you would like to, as well, and they may be introduced at the same time. So I'll turn it over to you, Mr. Minister, for introductions.

Hon. Bill Blaikie (Minister of Conservation): I'm pleased to introduce my deputy minister, Fred Meier, and Mike Gilbertson, director of Environmental Services.

Mr. Chairperson: Thank you very much, and welcome, gentlemen.

And now I'll ask the Auditor General if she has an opening statement or anything further to add on this section. [*interjection*] Okay. Thank you.

Mr. Deputy Minister, do you have a statement?

Mr. Fred Meier (Acting Deputy Minister of Conservation): Just a brief statement. My predecessor, Don Cook, former deputy minister of Conservation, addressed the Standing Committee on Public Accounts in regard to this audit in May 2009, and Mr. Cook spoke specifically about sections 4 and 5 of the audit report that dealt with Conservation's oversight of contaminated sites and landfills, and he highlighted the department's progress in addressing these OAG recommendations and responded to a number of questions from the committee.

And we'd like to thank the OAG for the recommendations of the report.

Mr. Chairperson: Thank you very much. The floor is now open for questions.

Mrs. Stefanson: Well, thank you very much, and welcome to your position.

And I just wanted to—now that we're—you just mentioned section 4, so maybe we'll start there. On page 30 of the report, it says that the objective was to determine whether the Department of Conservation has—had adequate monitoring procedures to ensure compliance by government entities, municipalities and industry. And it came to the conclusion—was that—the conclusion was that policies and procedures were not sufficient in this area.

Could you comment on that and update us as to where you're at?

Mr. Meier: Thank you. The OAG recommendations for the management of contaminated sites included improved policy and procedures to guide program management, better processes for review, and approval of remedial action plans and enhanced communication.

Many of these recommendations are consistent with current policy and procedures. Improvements have focussed on enhanced information management and better communications, and I'm pleased to report that most of these recommendations have been implemented and that significant progress has been made on the remainder.

The department is also initiating a review of The Contaminated Sites Remediation Act as a result.

Mrs. Stefanson: I just ask the Auditor for her comments as to what she is aware of in terms of whether or not she's satisfied with the fact that the department is complying in this area.

Ms. Bellringer: We—yeah—we haven't conducted any follow-up yet, and so any of our recommendations in that area—I mean, other than what you're hearing from the department, we haven't gone in and checked anything yet.

Mrs. Stefanson: Right, and I recognize that there should be follow-up. There is follow-up by your department every three years. Is that being done this year, then, given that this report was from 2007, or is that for next year?

Ms. Bellringer: We would do it this year, and you'll receive it in January '11.

Mrs. Stefanson: And just in section 5, on page 56 of the report, it says that the objective was to determine whether the department was adequately licensing, permitting and monitoring landfills to ensure compliance by landfill owners and operators with The Environment Act, the Waste Disposal Grounds regulations of The Environment Act.

The conclusion was that procedures did not ensure compliance. Legislation did not adequately address the risks, liabilities and due diligence associated with the landfills. Policies and procedures were not sufficient, and the requirement to license landfills was not consistent for landfills of similar risk.

Could the department just give us an update on that?

Mr. Meier: Landfills operate under the waste disposal grounds regulation pursuant to The Environment Act, and the audit recommends a review of the department's waste disposal program and regulation, including a reassessment of the licensing of landfills.

The OAG recommendations in the Final Report of the Manitoba Regional Waste Management Task Force are providing the thrust and direction for the department's review and strengthening of solid waste management in the province. An internal review of the waste disposal grounds regulation is nearing completion. The proposed amendments will expand the regulation to better address the range of waste management facilities, including landfills, transfer stations, composting facilities and construction and demolition disposal sites. The department will engage the public, municipalities and industry stakeholders in consultation on these potential amendments.

Ms. Bellringer: Sorry, I just wanted to make a correction for Ms. Stefanson, because this was later in the year in '07; it actually misses the cutoff for this—for the 2010 follow-up report. So it's not until next year's.

An Honourable Member: Okay. Thank you.

Ms. Braun: Back to section 4 on page 30, how does government determine which sites are remediated?

Mr. Chairperson: I'm sorry, Ms. Braun, could you repeat your question, please, because I don't believe the mike picked it up.

Ms. Braun: How does the government determine which sites are remediated?

Mr. Meier: They're determined by a site assessment report done by the reporting entity and then the remedial action plan as well.

Mr. Martindale: Could you tell me if, in addition to the numerous recommendations regarding the government and the government's responsibility and

legislative mandate, if the—what the role and responsibility is of the private sector?

Mr. Meier: The principle that we use is a polluter pay principle, so it's the responsibility of the party that does the impact of the site as—and that's a determination of responsibility.

Mrs. Stefanson: Yes, just back—and I know we have talked about this previously, and I just—wondering if you could give us an update.

When I asked questions about this in the Public Accounts Committee last time there was discussion about the fact that there were 19 vacancies. Nineteen of the 68 positions within the Manitoba Conservation that deal specifically with overseeing environmental programs were, in fact, vacant at the time, and it's about a 28 percent vacancy rate.

Could you just indicate where we're at? Are we still—are those positions still vacant? Have they been filled, or can you indicate where you're at with that?

Mr. Meier: I don't have the actual numbers. I know 19 was mentioned last time and I can provide that. But we have filled positions over the last year, but recruitment continues to be a challenge for us overall. But we are planning on making progress and making some progress.

Mrs. Stefanson: If you don't have those numbers here now, could you let me know what the numbers are?

Floor Comment: Yes.

Mrs. Stefanson: Thank you. I just had a question, on page 106 of the Auditor General's report, under section 9, the comments of officials, it indicates that an Interdepartmental Committee for Tracked Sites—says it's chaired by, I think, Infrastructure and Transportation, so I'm not sure if you can answer this or not, but this has been established to co-ordinate government efforts for the assessment and remediation of government owned sites or sites for which government may become responsible.

Could the deputy minister please indicate who currently sits on this interdepartmental committee?

* (19:30)

Mr. Meier: The committee is still chaired by MIT, Transportation. Membership includes Conservation, industry, Energy and Mines, the Department of Health and Finance, it's a part of it as well. And it's really made up of those that, those entities that may

have environmental liabilities through their government operations.

Mrs. Stefanson: Can the deputy minister just indicate when the committee last met, and what actions has the committee taken to address some of the concerns within the Auditor General's report?

Mr. Meier: The committee met last in April, and with regards to the actions related to the committee, the committee operates on a—sort of a co-ordinating, facilitating function. So what it does is it assists the departments in moving forward on 'remediating' those environmental liabilities of those sites that they have inside of their departments as a responsibility.

Mrs. Stefanson: And, again, on the same page 106 of the AG's report, it's stated that Manitoba Conservation is contracting with an external consultant to provide project management services for site assessments necessary to confirm the value of book liabilities by the March 2009 deadline.

Could the deputy minister indicate who the external consultant contracted to do this work is, and what it—how much that—what is the cost of that? How much is that person being paid?

Mr. Meier: The consultant was AMEC, A-M-E-C Earth and Environmental. The cost of the contract was 300,000, and it was complete in March 2009.

Mrs. Stefanson: How many contaminated sites has the government inventoried in the province? Is there a breakdown of these numbers by categories as to whether they're petroleum sites or spills, or et cetera?

Could—I'm not sure if you have that information here.

Mr. Meier: Just for clarity. Is it government sites you're talking about, or is it total contaminated sites inside of the province?

Mrs. Stefanson: It would be total. Total, yes.

Mr. Meier: We have 1,800 files on contaminated sites, and most of those are petroleum hydrocarbon contaminants associated with that. The breakdown's a little bit more accurate for the actual Department of Conservation. But the details on overall ones, we don't have those breakdowns with us or available.

Mrs. Stefanson: Oh, sorry. Did you say you could get those for us?

Mr. Meier: Certainly, for the Department of Conservation's we can. On the other 1,800, I'm not sure we can, though.

Mrs. Stefanson: No, that's fine. And just how many—I guess I just wanted an indication of how many of those sites would pose an immediate threat to either, you know, to health or the environment, and how these situations are being dealt with by the department.

Mr. Meier: Eight sites in total have been designated under the act. Six of those remain designated under the act, and that designation indicates that there is a risk to human health.

Mrs. Stefanson: And how is the department dealing with those right now? What is the action plan to deal with that—with those situations?

Mr. Meier: The department's role is regulatory under the act, so to work with the owner of the site on clean-up. An example that we can give is the IKO site, which is off, I believe, Archibald, and they've been working on cleaning up that site. It's still designated, but we oversee from a regulatory perspective the work on those contaminated sites.

Mr. Tom Nevakshonoff (Interlake): At the risk of being repetitive, I'm a rural MLA. I have some contaminated sites in my constituency. And I won't identify any specifics, but I'm just wondering—in case, say, an owner of a piece of property goes bankrupt or just reneges on his taxes, walks away from it. Then, is it the municipality that takes over responsibility for sites such as this, and is it incumbent upon them to orchestrate the clean-up? What's—who takes responsibility at that point?

Mr. Meier: If a municipality receives a contaminated site through a tax sale, the act is specific in excluding the responsibility being the municipality and that the Province takes over that responsibility for the site and books it as a liability.

Mr. Nevakshonoff: So, if an owner of, say, an old gas station with leaky tanks in the ground just walks away from it, then it becomes the responsibility of the Province to remediate that site and bear the cost? Just for clarification.

Mr. Meier: Just to be clear, if there is a responsible party, our goal is to have the responsible party responsible for the clean-up of that site. We also have provisions for cost recovery if we do the clean-up and we pursue a party that is responsible for that site.

Mr. Nevakshonoff: Thank you.

Mrs. Myrna Driedger (Charleswood): I just wanted to follow up on a question that my colleague

was asking about vacancies in Manitoba Conservation, that at the time the Auditor General's report came out there were 19 of 68 positions that were vacant, specifically positions that were dealing with overseeing environmental programs. The deputy had indicated that there was some difficulty in filling these positions. Is there any sense of what was the cause of filling these vacancies, or were you able to pinpoint anything specifically?

* (19:40)

Mr. Meier: There's two issues associated with that, and one of them is that, you know, with succession planning there's that retirement bubble. We had many of our civil servants that were at, sort of, the end of their careers, so we were hiring people, but they tend to be retiring a little bit quicker than we're hiring them in certain situations. And the other thing is that we are looking for very specialized environment officers on these files as well. So recruitment for those specialized skills, and stuff like that, is—you know, it's not like a normal recruitment, and stuff like that. So it's those two factors combined.

Mrs. Driedger: Considering that these positions deal with matters like PCBs, hazardous waste, and the dangerous goods and contaminated site programs, when you have a vacancy rate, you know, in the instance of, you know, 19 short out of 68, which is fairly significant, what happens then to your oversight? Are you able to still fully and capably provide oversight of those particular programs when you have such a shortage, or how do you manage that?

Mr. Meier: The department, in many different areas, has succession planning in place. So what we do is we ensure that the knowledge, before it leaves, is transferred on to those new employees as they're recruited. So with plans like that in place we—you know, we ensure that we have the oversight ability and it continues to be there. So it's not a fact that we're not hiring, we are. As I said before, it's the transferring the knowledge and the recruitment of, sort of, new professionals in those fields. So that's how we ensure that oversight continues.

Mrs. Driedger: But could the deputy explain that when you have these vacancies, you're then working with lesser numbers of people. How do you actually, you know, fulfil your workload? Are people working overtime or how do you ensure that all of these contaminated sites are properly inspected or

followed, or whatever it is you do when you're working with such a high vacancy rate?

And I guess my concern would be, does something fall through the cracks, then, when you've got such a high vacancy rate?

Mr. Meier: You know, the vacancy rate's made up of environment officers, but there's also administrative staff and other positions in there. So I mean, it may seem that there's 19, you know, positions specifically related to those critical functions you say, but, I mean, we do look at our recruitments and ensure that the critical functions for the oversight and, you know, the protection of human health, and those type of things, those are critical positions that we work on through our succession plan to make sure they're in place so that we can have those oversight rules as we move forward.

Mr. Chairperson: Seeing no other questions, I would like to thank the deputy, assistant deputy and the minister.

I would now like to call the Deputy Minister and the Minister of Local Government, please.

I'd like to welcome the Minister and Deputy Minister of Local Government.

Madam Deputy Minister, do you have an opening statement?

Ms. Linda McFadyen (Deputy Minister of Local Government): I do.

Mr. Chairperson: Thank you.

Ms. McFadyen: Sure. I'd like to start by introducing my staff. This is Denise Carlyle who is the director of Municipal Finance and Advisory Services with the department.

Mr. Chairperson: Mr. Minister, I saw you had your hand up. I'm sorry to interrupt you, Madam Deputy Minister. Was there something you wanted to—

Hon. Ron Lemieux (Minister of Local Government): All I was going to do, Mr. Chair, was just introduce the staff. That's all. And my deputy's done that.

Mr. Chairperson: Okay. Thank you very much. Ms. McFadyen, proceed.

Ms. McFadyen: I'd like to thank the committee for the opportunity to provide an update on this report which was issued by the Auditor General's office in

October of 2007. As you know, it included 76 recommendations, three of which were actually directed at the Department of Local Government, Intergovernmental Affairs at the time. All three of those related to municipal management of contaminated sites and landfills and the financial reporting of the associated environmental liabilities.

The recommendations required the department to communicate to municipalities the requirement to report; to report environmental liabilities, including landfills in audited financial statements, and required them—the municipalities to quantify and to report and disclose those liabilities for landfill closure and post-closure costs.

The department supports the Auditor General's recommendations. In 2006, the department, in partnership with the Association of Manitoba Municipalities, began a joint project to support the municipal adoption of generally accepted accounting practices, PSAB, for the fiscal year starting January 1, 2009.

One of the major PSAB implementation issues that needed to be addressed was the reporting requirements for environmental liabilities including landfills, and I'm pleased to report that the plan outlined by the department in the Auditor General's report has been implemented. The plan outlined the steps and the time frames necessary for municipalities to comply with PSAB generally accepted accounting principles for fiscal year 2009.

To specifically address reporting requirements on—for environmental liabilities and landfill liabilities, a nine-person working group was formed, including representation from the municipal administrators, environmental experts, municipal auditors, and our own project manager for public sector accounting board principles. The working group addressed the recognition of the obligating event that results in a liability for the municipality, the measurement of that liability as well as the financial reporting and disclosure requirements for environmental liabilities under PSAB.

The working group prepared a manual which was released in the spring of 2008. The release of this manual was supported with 20 one-day training sessions conducted in six different communities to over 350 registrants in the summer of 2008, and those training sessions have continued into 2009. Registrants included the CAOs, their finance staff, and municipal auditors.

Many municipalities have landfills and thus will be required to report liabilities for landfill closure and post-closure costs in accordance with the directive. It is the audit professional's responsibility to ensure that the municipal landfill liability is properly quantified, recorded, and disclosed in the audited financial statements.

Recently, PSAB has issued new recommendations on reporting environmental liabilities, and even though these new standards do not come into effect until fiscal year 2013 for municipalities, the department is encouraging their early adoption. These new requirements were included in the departmental training sessions in 2009 as information became available.

In conclusion, the department has taken steps to inform municipalities and their auditors of the requirement to report liabilities for remediation costs and landfill closure and post-closure costs. We've had training sessions helping to teach municipalities how to measure and quantify environmental landfill liabilities and how to disclose environmental and landfill liabilities in accordance with the public sector accounting standards. We are waiting right now, the audited financial–municipal financial statements for the year ended December 31, 2009, which must be submitted to the department by June 30 of this year.

The 2009 financial statements are the first set of municipal financial statements to be prepared fully in accordance with PSAB, including the reporting of environmental liabilities and landfills, and the department will review the municipalities' compliance with PSAB and determine whether further action is required at that point.

I'd be pleased to answer any questions.

Mr. Chairperson: Thank you very much. The floor is now open for questions. Seeing no questions, I thank you for your opening statement and your concluding statement, and this concludes this report, I suppose. Thank you so much.

* (19:50)

Auditor General's Report–Audit of the Province's Management of Contaminated Sites and Landfills, dated October 2007–pass.

We now move on to the Special Audit: Rural Municipality of La Broquerie, dated March 2008.

I would ask the minister and the deputy minister responsible to come forward, please.

Before we begin, I would like to address an issue before the committee. The committee Chair, Vice-Chair and committee members received a letter from the CAO of the La Broquerie municipality, namely Lori Wood, with regard to some of the issues as they relate to the municipality of La Broquerie. I would just like to indicate that this letter has been received and has been circulated to all members of the committee and will be filed as information that is dealt with in relation to this particular report. So I'm tabling this letter.

I would also like to indicate that the Clerk of Committees has also received a request from Ms. Lori Wood to appear before the committee, but that is not the practice of our committee and, therefore, we do not accept either oral or verbal presentations. But this letter will be, in fact, not only tabled for this committee's consideration but will be part of the file of this report. Thank you.

I'm just going to go through the formality here and ask the deputy minister whether she has any other—or pardon me, the Auditor General, whether she has any additional comments to make with regard to this report.

Ms. Bellringer: No, Mr. Chair, I do not.

Mr. Chairperson: Thank you very much. I will now ask the Deputy Minister of Local Government whether she has any additional comments to make with regard to this report, in that we've had opening statements on this report previously.

Ms. McFadyen: I would like to take a moment to introduce my staff if I could.

Mr. Chairperson: Yes.

Ms. McFadyen: I have with me, Laurie Davidson, who's the ADM responsible for Municipal Support Services; Denise Carlyle again; and Lynne Nesbitt, who is the head of our Policy and Legislation unit in Municipal Advisory Services.

Mr. Chairperson: Thank you.

The floor is now open for questions.

Mr. Blaine Pedersen (Carman): The last time we met in this committee, April 29th, 2009, I did ask some questions of the deputy minister and one of them was when did the department first become aware of problems in the R.M. of La Broquerie, and your answer was there was a chronological timeline.

But we never did get that timeline. Do you have that timeline available for us now?

Ms. McFadyen: I do. Would you like me to walk you through it? All right?

Mr. Pedersen: Yes.

Ms. McFadyen: The first formal contact was on May 2nd, 2005, when the reeve contacted a Municipal Services officer citing concerns about conflicts with other R.M. council members and administration and requested a provincial audit be undertaken. The department officials, the MSO and the ADM, spoke with the reeve, Councillor Goertzen and the other—and the CAO, and encouraged them to resolve the situation together, suggested mediation would be good—a good option.

The department researched the mediation option, spoke with Mediation Services about supporting the municipalities. Department officials also met with the citizens' coalition on more than one occasion. May 12th, we met with five citizens from the coalition group to discuss concerns they had with regard to a capital project's spending and borrowing for three projects. The department encouraged citizens to express their concerns to council, and we took them through the procedures in the act.

Later in May, the department officials reviewed the R.M.'s 2005 financial plan and found that borrowing for three capital projects wasn't included. Department officials advised the CAO that to address a deficiency, the public hearing was required and that no work could begin on those capital projects until that public hearing.

I also have a chronology of the entire—of all the contacts and all of the issues that we had with the municipality, beginning back in 2002, continuing to this day.

Mr. Pedersen: Could you just table that for the committee then for distribution? Would that be all right, Mr. Chairman, if that's how it should be done?

Ms. McFadyen: Okay, I can do that.

Mr. Chairperson: Just for clarification, Ms. McFadyen, if you provide just one copy for the clerk, the clerk will then distribute the information.

Floor Comment: Mine has notes on it, so I would have to bring a clean copy for the clerk to distribute.

Mr. Chairperson: You can e-mail it over to the Clerk's office, and it'll be distributed. Thank you.

Floor Comment: Certainly.

Mr. Pedersen: Mr. Chairperson, when we were dealing with this audit just over a year ago, there was some substantial deficits recorded: 2002; a very small one, 2005; and again, a large one in 2006. Has the department been monitoring, auditing the—not necessarily auditing but at least monitoring the financial statements from La Broquerie municipality? It would be for 2007, '08 and '09.

Ms. McFadyen: Yes, the department has continued to monitor the municipality. In 2008—or in 2007 the municipality tabled a surplus. Advised of the surplus in 2008; in 2009 they tabled a balanced budget. Of course, we don't have the 2009 audited financial statements at this point.

So our legislation is quite similar to municipal legislation across Canada. It requires all municipalities to have a balanced—to table a balanced budget or a balanced financial plan. However, the act does recognize that there is a possibility, or there may be circumstances in which a municipality may need or want to budget for a deficit. A municipality may want to undertake a major expenditure for which they don't want to borrow but want to tax for this expenditure over a two- or three-year period. This would result in a budget deficit for that year with a plan to tax for the deficit in the following year.

As such, the act requires the minister's written approval. So, if a municipality wants to do that, they have to submit that for approval. And the minister can set conditions on how that deficit will be recovered. The act also contemplates that there are circumstances under which municipalities may incur a deficit in midyear. So they may have a deficit during the year. Unforeseen expenditures, unavoidable cost overruns are some of the reasons that a municipality may end up in a deficit position.

Municipalities can only incur an operating deficit with the approval of the minister. So under the legislation, in section 165, a council must immediately advise the minister in writing if they believe that they will incur an operating budget deficit during the year. They can only incur the deficit with the minister's approval, and the minister can approve the deficit with any conditions.

Unless notified by the municipality early, it would be approximately a year before the department would receive the unaudited financial statements. So it's the beginning of the next year that we would get the unaudited financial statements and becomes aware of the deficit in midyear budget. However, we

encourage municipalities, if they see, for example, during last year's flooding, municipalities had unanticipated expenditures, and we would encourage them to let us know about that as soon as possible.

* (20:00)

Mr. Pedersen: Mr. Chairperson, through you, given the rather rocky road that La Broquerie municipality went through, coming up and requiring the audit from the Auditor General, is there any special ongoing surveillance or communications of any type of nature that you're doing with La Broquerie municipality on an ongoing basis, given the history that they have and trying to make sure that they do not come back into the trouble that they had before?

Ms. McFadyen: As a result of the audit, the department has put in place a much more formalized monitoring of municipalities, and that would include La Broquerie. And, obviously, with La Broquerie, we would be watching to make sure that they meet those legislated timelines, that their—that issues are being dealt with.

So we've actually monitored 2007, 2008, 2009, making sure that all municipalities are submitting their financial plans and their tax levies within the legislated period of time, that municipalities are ensuring that their audited financial statements are coming in on time and that we're dealing with any issues that we would identify.

In addition to that, our municipal finance officer is actually doing a more substantive analysis on those audited financial statements so that we've got some triggers that require us to—or that require a more in-depth analysis of the financial statements when they're coming through.

Over 80 percent of their—of municipalities are submitting their statements within a month of their time frame. So it's a few municipalities that are late.

La Broquerie, actually, I believe, has been—let me see here. They've been a little bit late in—and I'm talking within weeks of—submitting their financial plans. They have been somewhat late in submitting their audited statements, and we followed up with that immediately to make sure that they're coming in.

And, in 2009, in fact, the municipality is improving. They filed their financial plan on time. They filed their tax levy by-law four days early. They provided the name of the Auditor last year to the minister ten days early. Their unaudited financial statements came in two days late, and to—at this point

in the year we have not had any requests from the municipality to deal with an in-year deficit. And of course, their audited financial statements will come in on June 30th.

Mr. Pedersen: Just for clarification: That last part you were just telling me about, was that all municipalities or just La Broquerie?

Ms. McFadyen: It's all municipalities. We have improved the monitoring system for all municipalities. We've developed spreadsheets so that we can systematically keep track of these things and that all staff can share them across the department, so that we've got a much more systematic way of keeping. We always did these things, but we've become much more systematic, as a result of the audit, in keeping track of those so that things are not moving out of hand.

Mr. Pedersen: One of the other issues that we discussed the last time we were at this committee about La Broquerie was conflict of interest, and there was some issues about filing conflict of interest reports. Is—and again, I'll—specifically to La Broquerie, is their conflict of interest reports filed properly? And then perhaps you can touch on other—all municipalities, then, in terms—because we know there's been change in legislation in terms of conflict of interest.

Ms. McFadyen: Find the right page.

The Municipal Conflict of Interest Act is a long-standing act. As you know, it's been in place since the 1980s, and the act contains very specific rules for disclosure of financial interests and for members to not vote on matters where they have a financial interest.

One of the key requirements of council members is to annually file their statement of assets and interests. And the consequences of breaking those rules is quite significant. If that's reported that they have not filed their conflict of interest statement, they can be—if it goes to the court—they can be disqualified from council.

The department expects that municipalities will follow the law. That's an expectation. These are mature municipalities and they—we expect them to follow the law. The act places the obligation for compliance with the requirements on the members of council, as it is with MLAs. Citizens and the courts play a key oversight role in ensuring that council members follow the rules. And, in fact, I would say that local citizens are probably the best placed to

actually know for—to actually know the circumstances at the local level.

Citizens or council can apply to the court to challenge whether a member has a conflict of interest, and only a court can determine if that conflict of interest exists. That's not our determination; it's a determination by the court.

In October of 2009 the Legislature passed Bill 35, The Municipal Conflict of Interest and Campaign Financing Act. We amended the act to provide that statements of assets and interest, which were—which are filed annually, must be available for public inspection. So that was a big change. The actual statements state exactly the same, but they now are available—they must be available for public inspection. And as a result of this amendment, local citizens can now confirm that all statements have been filed as required under the act, and they can assess whether they believe that a conflict of interest actually exists.

The department, in its capacity-building role, provides education and training to elect a non-official—a long-elected official to assist them to understand the importance of council accountability and transparent decision making, the obligations of council members under The Municipal Conflict of Interest Act, and make sure that they understand them.

So we've done seminars on this. We've actually gone out and worked with the—at the municipal officials' seminars. We've provided very clear questions and answers on our Web site so that municipalities can go in. We've given training to the CAO so that they actually have that as well. As I said, it's the—it's our expectation that members of council will follow the law, and the act actually places the obligation that way, but I believe that this change to the act actually is a solid change because a local citizen can now go in and see them. That was one of the key findings, I think, in the Auditor's report, that the local citizen had no opportunity to actually look at that statement of interest. The CAO would look at it and say, yes or no, there was a conflict. Now the citizen has a chance to actually assess that for themselves.

Mr. Martindale: Can you tell me how the conflict of interest guidelines regarding municipalities compares with other jurisdictions and the provincial government?

Ms. McFadyen: Conflict of interest guidelines are—they mirror the ones that are in place for MLAs and they are consistent with what is in place in other jurisdictions as well.

Mr. Martindale: You mentioned the education and training that goes to staff. I'm wondering if there's any sort of similar process for making citizens aware of the obligations of municipalities.

Ms. McFadyen: As I've said, the department has very detailed information on its Web site around the conflict of interest statements, and that's available to the public. As well, if a member of the public is—calls in to one of our MSOs or into the department, we will take them through the entire steps so that they actually can understand what those requirements are and what their obligations are.

*(20:10)

Mr. Cliff Graydon (Emerson): The Auditor General made a number of recommendations in relation to the R.M. of La Broquerie. Could you tell us if they've all been implemented or if there's—and resolved—or are there still some, a work in progress, or what the status of that is?

Ms. McFadyen: Excuse me. Are you asking me whether the R.M. of La Broquerie has actually implemented the recommendations that were put in place for the R.M.? Or are you asking me if the recommendations for the department have been implemented?

Mr. Graydon: The recommendations by the Auditor General in relation to the R.M. of La Broquerie.

Ms. McFadyen: I think it's—actually, I'm not sure whether we have that with us, but we were provided with a report from the R.M. to ensure that they had their conflict of interest statements in place. We have confirmed that the conflict of interest statements for—or conflict of interest guidelines, policies for staff, have been actually put in place in all municipalities, including La Broquerie.

I also believe that the R.M. of La Broquerie has updated the Auditor General—that they'd put the internal controls in place that were required under the act.

Mr. Graydon: If all the recommendations—if you could give me that in writing just to back up. You said maybe you didn't have it all here tonight. So, if you could give that to me in writing or later provide the Clerk with that, we'd certainly appreciate that.

Ms. McFadyen: I will undertake to do that.

Mr. Graydon: And, possibly, at the same time, if they haven't—if all the recommendations haven't been fully addressed, has the R.M. provided a time frame that they would be meeting these recommendations?

Ms. McFadyen: My understanding is that the R.M. of La Broquerie is required to report that to the Auditor General.

Mr. Graydon: Has the R.M. of La Broquerie reported to you then?

Ms. McFadyen: They've reported to the Auditor General. They provided a progress report to the Auditor General.

Mr. Graydon: The R.M. of La Broquerie—have they provided a—timelines to implement the recommendations that were put forth by you, Madam Auditor General?

Ms. Bellringer: Okay. So I'm afraid I'm going to have a long answer to that question.

We aren't treating this audit any differently than any of our other audits. So, in terms of follow-up, it's our standard follow-up process, three years from the release of the date of the report, we'll be following it up as we do with all of our others.

The complication is—and just to make it clear on the record, the R.M. doesn't obviously report to us. And so, you know, any correspondence between them and us, they have provided us with certain pieces of information, but not as part of a formal follow-up. They just provided it to us. We haven't used it to do any kind of follow-up on the recommendations in this report.

I just—I think, what gets, sort of, left open is—and, therefore, how do we get—how do you get, as a Legislature, an appropriate follow-up on where things are at today?

Mr. Graydon: Thank you for that, and that would be my question: How do I go about getting that follow-up?

Ms. Bellringer: And this is where the—you know, the long answer is. It's all part of the accountability framework that is something the Legislature has to establish.

Now, in terms of, you know, the fact that we went in and did an audit means that we will follow-up that particular audit. So, at the end of the three years, we'll be following it up.

The relationship between—normally, when we're doing an audit, it's either a department or a Crown corporation, or even a grant recipient that has a direct relationship with a government department. And so, in that three-year period, from the time of our audit until we go and do that follow-up, that ministry will be doing all of the appropriate follow-up.

In the case of a municipality, you run into the combined accountability between the ministers responsible for The Municipal Act, but you still have an elected body out in the municipality who are responsible for the day-to-day operations of that municipality, and they don't have a day-to-day working connection to the Legislature.

So there—you know, there's no answer. I don't have a magic answer for you on that other than, certainly, we would take into consideration a more rapid follow-up if that would be of any assistance to the Legislature if we were requested to do so.

Mr. Graydon: I have a question, then, for the deputy minister.

What type of follow-up does the—your department do?

Ms. McFadyen: On what?

An Honourable Member: On the recommendations—

Mr. Chairperson: I'm sorry, Mr. Graydon.

Mr. Graydon: On—excuse me, Mr. Chair. On the recommendations that the audit puts—Auditor puts forward. What type of follow-up do you do then?

Ms. McFadyen: Of course, our main focus is the recommendations that the Auditor General has given to us, and that's what we are focussed on, is the recommendations for the department.

Having said that, however, the—we do provide reports, or we do follow the Auditor's reports to ensure that—or to see whether or not the R.M.—I can give you an example. For example, the procedures by-law that wasn't in place has been put in place. Those things that fall within our purview we are making sure that the R.M. is following up on those: the conflicts of interest for staff, the conflicts of interest guidelines for the municipal councillors, and those kinds of things. The filing of proper financial statements, we are following up on those.

Mr. Graydon: Madam Deputy Minister, then, and I may have missed it in your answer, but the department, in consultation with municipalities and

external auditors, review the supplementary audit report requirements to ensure that the appropriate information and assurances about the administration and operations of municipalities are provided, and that was the No. 4 recommendations by the Auditor General.

Has that one been followed up on, and can you give us a brief overview of what that would have entailed?

Ms. McFadyen: Okay. So you're asking about the status of recommendation No. 4, which is the review of the supplementary audit requirements, correct?

The department has completed a review of the issues around the supplementary audit reports and the options available to change the report. The review included a survey of other provinces, a review of the process put in place by the Department of Education for school board audits, and a review of the new auditing standards for auditors, including the effect of these standards.

A preliminary plan with proposed implementation timelines has been developed. However, the plan has not been implemented in 2009 because there were several major initiatives being undertaken in partnership with the municipalities and the timing of implementing new reporting requirements for the supplementary audit report were considered.

Municipalities have been working very hard for the last three years to implement the Public Sector Accounting Board accounting and reporting standards for the fiscal year ending December 31st, 2009. And I think that I talked—I spoke to those recently. There's been a significant amount of work done with municipalities, a lot of training around that. And some of those issues will begin to—they improved the reporting of municipalities, although we haven't gotten to the supplementary reporting thing.

So, at the same time, municipalities have also been required over the last couple of years to do considerably more reporting on outcomes related to projects undertaken under the federal gas tax funds, and those funds are absolutely dependent on getting those reports in a timely fashion. If the reports don't come in on time, the funds are not transferred from the federal government.

* (20:20)

So we've been working very hard on all of those issues. We're ready to move; now that we've got the PSAB stuff dealt with, we're ready to move forward with this committee.

So we haven't yet established the committee to actually review the supplementary reports. We've got a plan in place for how to do that. But the committee will include representatives from municipalities and from external municipal auditors that's—to actually undertake that review with us, and the committee will be asked to examine the results of our preliminary review and to make recommendations regarding the relationship of the supplementary report and the risks and controls.

So what we have found over the last year, particularly with the implementation of the new public sector accounting standards, that there's a considerable amount of work that is being asked of auditors, and this is going to actually require incurring significantly more costs, I think, to municipalities.

So we're working with the audit community and with the municipalities to find the right balance around that to make sure that we're—our supplementary reports are actually giving us the information that we need so that we can identify risk in a timely way.

Mr. Graydon: Having said all of that, can you give us a time frame for this review and the implementation of the supplementary audit report? From the sounds of things, it's a fairly lengthy process, but, again, we've had quite a bit of time. So I'm just wondering if you have a time frame for it, because I believe it is very important to your department, as well as to the—to all of the municipalities for different reasons, so.

Ms. McFadyen: Certainly, I would agree with you that this is an important project. As I said, we have focussed on the Public Sector Accounting Board standards to bring that up to speed. With those new auditing standards in place, we'll—we expect that recommendations will be in time for municipalities to appoint their Auditor for the 2012 year. Given the magnitude of the changes that are occurring in the municipal system due to PSAB, the related audit requirements, we really think that we need to look at the supplementary audit in the context of all of those new auditing standards, which are continuing to change and evolve as well.

Mr. Graydon: Would the deputy minister say that the R.M. of La Broquerie is now running quite smoothly?

Ms. McFadyen: Certainly, we are aware that there continues to be conflict at the R.M. of La Broquerie. As I have indicated to you, though, we have been monitoring their financial reports and those pieces that we have specific legislated requirements around. Are they filing their financial plans on time? Are they filing balanced budgets? Are they incurring midyear deficits? Those kinds of things. Do they have a procedures by-law in place? Do they have a conflict of interest policy for their senior staff? Those are the things that we are monitoring.

We also are aware that the Ombudsman is investigating, and that is as it should be under the act. When the act was changed in 1997, it reduced the oversight role of the department, but it increased the oversight role or extended the oversight role of external agencies. So, for example, the Ombudsman was given the power to investigate complaints in the—in two municipalities, and I'm aware that the Ombudsman is actually undergoing complaints there in La Broquerie.

We extended or we increased the opportunities for public input from the general public so that citizens have more input and more opportunity to see what's going on in the municipality and to actually report on that as well.

The FIPPA legislation was extended to municipalities as well so that more information was available to citizens.

Mr. Graydon: So could you expand on how you have encouraged the residents and ratepayers of municipalities to become involved? Could you give us an explanation of that?

Ms. McFadyen: I'm looking for the changes that—the third changes to the act that expanded the role of the citizens.

So, for example, one of the things that happened is that municipalities are now required to have a public hearing when they're tabling their financial plans. So that gives the opportunity and that has to—that citizens are given public notice and they are given the opportunity to appear at council to actually hear what's going on with the council plan. So we do that.

The other ways that we tend to—that we have done that is that we have significantly improved our

Web site so that there's more information for citizens on the Web site and there's contact information for—to talk to the department. Our MSOs actually spend a lot of time speaking to citizens when they call in, and we'll take them through the pieces of the act and give them their—let them know what their obligations or their opportunities are to participate. And certainly that was done in the case of the La Broquerie situation where we sat down and encouraged meetings with the municipality, encouraged meetings with the municipality's Auditor and the department to sort of walk people through their concerns.

Mr. Graydon: So what responsibility would the department have if a citizen were to call you with an issue about the municipality? What responsibility do you have then?

Ms. McFadyen: I think our main responsibility is to provide them with the information that they need. We do not have investigative powers in the department so we cannot walk in and start investigating in a municipality. That's not in the act. However, we can let them know what those opportunities are. We can actually provide them with the information on municipal processes, how they can participate in municipal decision making. We may direct citizens to an appropriate authority. They—pardon me, our MSOs routinely provide citizens with information on the roles played by other bodies to protect third-party interest, the Ombudsman, the OAG, the Municipal Board and the Public Utilities Board.

Our MSOs are connected to an electronic system designed to record and track all inquiries that are made into the department. And, again, this is as a result of the audit. We are doing this in a much more systematic way. We have a common spreadsheet or a common database so that every time a citizen calls in that's logged. The time, the issue is put in, and the advice that was given by the MSO is actually put into that database. So we have a way now of actually going back and saying we've received three or four calls from this citizen. We need to actually sit down and talk to the CAO. We need to talk to the municipality. These aren't obligations in the act but these are things that the department does on a regular basis. We regularly will bring complaints to the attention of the CAO and to the reeve and to the council where that's appropriate as well.

Mr. Graydon: Having said that, have you had any complaints over the last year from people in the

R.M. of La Broquerie about the actions of the council?

Ms. McFadyen: We're talking 2008-2009—we have had contact with the former CAO and also with the current CAO.

Just looking here. We had not had contact from other citizens in La Broquerie with complaints according to this in the last year.

*(20:30)

Mr. Graydon: Can you share with us whether this was a one-sided contact or was it a meeting type of contact? Did you participate in a meeting with anyone from the R.M. of La Broquerie?

Ms. McFadyen: We did—excuse me, we did, in fact, have at least one meeting with the former CAO of La Broquerie.

Mr. Graydon: And could you share with us what transpired—or could you share with us the date of that contact?

Ms. McFadyen: We're just looking for that now. The date of it was June 18, 2009.

Mr. Graydon: Can you share with us what transpired in that meeting?

Ms. McFadyen: We raised a number of issues that were responded to by the staff.

Mr. Graydon: Can you share with us what those issues were?

Ms. McFadyen: I don't believe that I have the specifics on those issues here.

Mr. Graydon: Can you share with us how the staff dealt with them?

Ms. McFadyen: Okay, I'm told that the CAO at that time raised a number of issues that were discussed with the department and we talked about those issues, but she also indicated at that time that she was bringing all of those issues to the Auditor General at that time, which was the appropriate way to be dealing with those allegations that were being made at the time.

Mr. Graydon: Why would you suggest that it was the audit? The proper thing was to go to the Auditor General. Was it the type of allegation? Could you explain that?

Ms. McFadyen: She was raising concerns around conflict of interest, around misuse of funds. As I've said to the committee, the department does not have

investigative powers. However, the Ombudsman has investigative powers and the OAG has investigative power. So that is the appropriate avenue for dealing with those kinds of issues.

Mr. Graydon: Madam Auditor General, can you tell us when you had first contact with this individual?

Ms. Bellringer: I actually can't answer that question, but if I could—can I step back first and I'll get into more about why I can't.

Yes, we do have investigative powers. But our act has absolutely no complaint mechanism in it on any issue. All of the audits we do are systemic in nature. We choose them based on overall risk right across the entire government reporting entity and into including grant recipients and municipalities.

And, as you know, in July of each year, we issue a list of those audits we've selected. We can be requested to do an audit by the Minister of Finance (Ms. Wowchuk), by Cabinet or by the Public Accounts Committee, and as long as it doesn't interfere with the work of our office, we undertake those special audits. Those are the only mechanisms, so it's either through that special audit in section 16 of our act or it's through our own choice.

When citizens come to us, we log all the information that they bring to us. Even if an individual member of the Legislative Assembly comes to us, we log that information as well. And when we do our annual plan we take it into account. We actually guarantee anybody coming to us with anonymity.

And what we do is, I mean, we are into a bit of a loop here that's got to get broken because what we do is actually exactly what the department does. We send them back to the department because we say it's the minister's responsibility to take care of any issues that may come to us.

There are complaint mechanisms within the Ombudsman's act, so—and I don't want to speak to those specifics. I'm not that familiar with them. But I know, definitely, a complaint going to the Ombudsman must be dealt with which is quite a different mechanism. And so our access and our powers are certainly there, but what is it that we use them to do is quite different.

Mr. Graydon: I want to ask the deputy minister: Because of the seriousness of the allegations that were brought forward to her and because of the situation that existed in the R.M. of La Broquerie in

the past, did the department feel that there was an obligation to look at the act and look at the powers that the minister has and exercise those powers?

Ms. McFadyen: The act has very specific places where the minister can actually intervene or take in–take over the affairs of the municipality. They're very specific.

One of those in section 128: If a CAO gives notice to the council under the clause that money is not being lawfully used and that—and the council does not rectify it, then the minister has—this is serious misuse of municipal funds.

* (20:40)

If they don't appoint an auditor, the—then the minister can go in and appoint an auditor to carry out that audit. If the auditor's report indicates that there is immediate action and this is a—serious financial difficulties, this is where the—where a municipality has serious financial difficulties. And really that's what the act is structured around is the minister's ability to go in and actually take over a municipality and to bring in a third-party audit, have to do with serious financial difficulties. This municipality continues to have clean audits.

Mr. Graydon: I'm not sure that I understand the act clearly. But if the act, in my estimation, if the minister knows that there has been an issue and the allegations are there that the issue is continuing, I think it says that the minister has the ability to pass a regulation to deal with that. I may be wrong. You can correct me if I'm wrong.

Ms. McFadyen: The act has no such authorities in it.

An Honourable Member: So it doesn't say that in 417(3)?

Mr. Chairperson: Mr. Graydon, I'm sorry, you want to repeat that?

Mr. Graydon: So it doesn't say that in 417(3)?

Ms. McFadyen: The minister cannot pass regulations that are not actually laid out. You can't pass a regulation that exceeds the power or authority that's in the act. So if there is not authority within an act to do a certain thing, you can't pass a regulation that gives you greater levels of authority. So the regulatory powers that are in here relate to the things that the department has authority to deal with at this time. Changes would have to be made to the legislation to actually change the basic—the

understanding—the underlying authorities that are there.

Mr. Graydon: That might well be. What I'm reading is also in 417(1), says the Lieutenant-Governor-in-Council may make 'resolutions'—regulations (a) respecting any matter that the minister considers is not provided for or is not sufficiently provided for in this Act.

Ms. McFadyen: When you take a single clause out of context, it actually is difficult to sort of give it the meaning. You—my understanding of legislation is that you cannot, by regulation, increase the amount of authority that is actually not provided—or to give authority that is not actually provided for within the act. You can move to actually—regulations are around implementation of certain authorities. So I would have to go back to Leg Counsel and have that discussion, but that's my understanding of legislation.

Mr. Graydon: Thank you for that. Then I guess the question is, is the Auditor General prepared to do another audit on the R.M. of La Broquerie in light of the information that has come forward?

Ms. Bellringer: Even if we did, I'm seeing a gap in the framework. Some—like, if we were to do another audit and provide you with more information, I'm still unsure as to where that information is going to go in the legislative framework. And I'm actually hesitating to say whether we would or would not do—I mean, if we were requested to do one, we would give it serious—we would be—actually, if PAC were to ask us to do one, we would have no reason other than to do so. If it was just something to consider doing, I actually, probably would not stop something else we're doing to go back into La Broquerie until I understood where the information was going to get used.

Mr. Graydon: Well, Mr. Chairman, at this point, there doesn't seem to be enough information—after receiving this letter of May 10th, there doesn't seem to be enough information on the table tonight in order to make a decision going forward. We need to have the total amount of information, and it's obviously the ball bounces from the Auditor General to the deputy and it bounces back. It's a difficult situation that we're in to make a decision. There's information that's missing, and I know that if I ask direct questions, what the answer will be. So we can't make a decision on this report tonight without more information. I don't know how we go about getting it.

Mr. Chairperson: Thank you, Mr. Graydon. I will intercede at this point because I've been listening carefully to the responses, and, yes, I think that is a point. I have been hearing incomplete answers and answers shuffled over from one—from the Auditor to the—or the department to the Auditor, and nobody seems to understand who has the responsibility here. So that's going to have to be sorted out.

PAC has a responsibility to the public to ensure that, when an Auditor's report is done, that we give it proper scrutiny and that is PAC's mandate. So I'm going to ask whether or not there can be some clarification, either from the Auditor General or from the deputy, in terms of where some of this information has to come from in order for PAC to be able to do its due diligence on this report.

Ms. Bellringer: Mr. Chair, if I could just add, I just—the comment that something's bouncing from me or, you know, like bouncing off me or, you know, that somehow, I am not providing information I have a responsibility to provide. I have to take exception to that.

The Rural Municipality of La Broquerie, or any of the other 199 municipalities in Manitoba, are not accountable to the Auditor General of Manitoba. They are accountable in the way that they are created by the Legislature of Manitoba to the Legislature of Manitoba. And that accountability framework is also not a responsibility of the Auditor General of Manitoba. But I would say that the Legislature of Manitoba has not completed its job of getting a complete legislative framework in place that provides the correct information to the correct parties in order to get their jobs done.

So I would agree with the comment that you don't have the information you need to complete your job. I would also agree that that information required to understand what that complete framework is, is not at this table tonight and it should be acquired. I would be pleased to assist in the process, but it's not my responsibility to lead that.

Mr. Chairperson: I would thank the Auditor General for that comment, and she's absolutely correct: it is not her responsibility. But the PAC committee's responsibility is to get that information, either through the department or have that information provided for the committee, so that it can complete its role in due diligence on this particular report.

And I think I'm sensing some frustration from the PAC members in that we are not getting that information. So I'm going to ask the committee here and those present to, perhaps, if we are going to go back and get that information, to do that and then to re-assemble this committee to be able to complete this report, because this report is now before this committee for the second time at least and we don't seem to be making a lot of progress.

So, as Chair, I'm going to just request that, perhaps, if we can continue in other areas of the report, and have those sections that we haven't had complete answers for undertaken by the department, or whoever was responsible, to ensure that that information can come back to this committee in its completed form.

* (20:50)

So I have a list here of people who want to ask questions, but I think your note as a serious one, Mr. Graydon, and one that we will have to somehow get to the bottom of.

An Honourable Member: I have one short question.

Mr. Chairperson: So okay, carry on, Mr. Graydon.

Mr. Graydon: I then just ask the deputy minister, because there was a death threat to one of the councillors, was that reported to the police?

Ms. McFadyen: We have referred these to the RCMP.

Mr. Graydon: Thank you for that.

Mr. Chairperson: Mr. Pedersen next.

Mr. Pedersen: No, I'll defer, Mr. Chairperson. It was, the answer came up in other questions and answers. So I'm good.

Mr. Stuart Briese (Ste. Rose): I'll defer, too. I was going on that same line of questioning that Mr. Graydon was on.

Mr. Chairperson: I have no other members on my list.

Mrs. Driedger: I guess I would just to like to ask, in terms of the letter that was made known to the department. What exactly has the department done with the letter that was brought forward by Lori Wood, with all of her allegations and concerns? What specific action has the department taken regards to that letter?

Ms. McFadyen: The department has referred the letter in question, at the request of the minister, to the RCMP. We've also passed the letter to the Ombudsman, because the Ombudsman is engaged in an investigation there right now.

Mrs. Stefanson: I defer.

Mr. Graydon: Could the deputy minister tell me if there's any action that can be taken? If there has—fraud has been proven by a CAO or a councillor, is there any action that can be taken by the department?

Ms. McFadyen: If fraud has been proven, that would be referred to the RCMP. And, in fact, if serious allegations of fraud are referred to the RCMP for investigation.

Mrs. Stefanson: So just with respect to this letter that has been given to the members of this committee—to the Chair and the Vice-Chair and the members of the committee and, I believe, the minister, what exact actions have been taken, then, to deal with the allegations in this letter, and has there been any contact with Ms. Wood subsequent to receiving this or any follow-up from the department with respect to this?

Ms. McFadyen: The letter was immediately referred to the RCMP and to the Ombudsman, as I explained, and I cannot comment on that further.

Mrs. Stefanson: No, I think, I mean, given the fact that there are, I mean, we have seen a copy of this letter. There are serious allegations within this. There are also other issues that are being followed up by the Ombudsman, I guess, now.

There are also issues in here that are also a part of this report and recommendations that are made within this report of the Auditor General that, obviously, have not been followed up on and—or could not, may not have been followed up on. And so it's very difficult for us to ask questions around this in terms of what has been implemented and what has not been implemented.

And, in fairness, I understand that you cannot answer for those in the municipality, and, unfortunately, we're in a situation, a Public Accounts Committee, where we cannot call those people as witnesses to this. And, hopefully, we'll be moving forward in a direction where, at some point, we'll be able to do that, because it is unfair. We recognize that for the deputy minister to have to respond to questions that clearly should be directed to members, to witnesses from the municipalities—we recognize

that. But it's very difficult, I think for us; and my colleague has already stated this, and others have stated this: it's difficult for us to do our job if we can't ask all the appropriate questions.

And, specific to this letter, I believe that there are more questions that we should be able to ask with respect to the recommendations, but we can't then go forward with asking those questions if now this has been referred on to the RCMP. So it makes it very difficult for us to be able to pass a report like this tonight when there's still so many questions remaining and outstanding with respect to this report.

So that's just, Mr. Chairperson, a comment that I would make at this stage, and I think it's very difficult for, certainly, us, as committee members, to pass a report that—clearly we see that there are recommendations that still need to be implemented and have not been. And, unfortunately, we can't get the rest of those answers here tonight.

So, you know, I thank the deputy minister for being here and answering the questions that have been there so far, but, unfortunately, I don't think we'll be able to pass this report tonight, Mr. Chairperson.

Mr. Graydon: Madam Deputy Minister, at the last PAC meeting, you explained the process for complaints as follows: But when complaints come in, we take them seriously. We certainly have discussions. They're documented. If the MSO feels it's warranted, the MSO will speak to the senior staff. Senior staff go out and talk to the CAOs all the time if we're having to raise those issues with them and to get an explanation and try to understand what's actually going on. We talk to the Association of Manitoba Municipalities around these things as well.

Could I ask what transpired after the July and August and further—June and July and August meetings that you had, or information that you got? Did you, then, go out and talk to the CAO or did you talk to the reeve, or did you talk to the councillors at the time?

Ms. McFadyen: Within a couple of weeks of the meeting that we had, the complaints were officially referred to the Ombudsman. So the Ombudsman is undertaking an investigation that is still ongoing.

Mr. Graydon: Does that, then, limit you from talking to the CAO?

Ms. McFadyen: The MSOs have continued to talk to the administrative staff that at—that is now in place

and also to the consultant that was brought in to work with the municipality to get the procedures in place. So, for example, in July of 2009, we recommended the recruitment of professional expertise, a retired CAO. There's a couple of them that we put in to ensure that administrative processes, financial controls, and reporting, including PSAP compliance, are in place. So they are once again working with the municipality. They worked previous to Ms. Wood coming on as CAO and they are working with the municipality again now.

Mr. Graydon: Well, I thank you for that, and I understand that if a private individual calls and you can recommend that he goes to—or direct him to Web sites and so on, but if it's a CAO that calls, then do you talk to the reeve as well if there's allegations that there's been some wrongdoing? Do you then as well check with the reeve or the council to find out if those allegations have any merit?

Ms. McFadyen: The MSO spoke to the CAO and looked at those—the allegations that were made around the conflict kinds of situations. We talked about, as I said, we talked about the recruitment of professional advice to help them ensure that those

procedures are in place to continue to do that, and as I said, the Ombudsman has now moved in for—to do a more thorough investigation, although that—

Mr. Chairperson: Okay, the hour being 9 o'clock—before we adjourn, though, there was a comment that the Auditor General wanted to make.

Ms. Bellringer: And I assure you, Mr. Chair, I didn't save this to the end, so you couldn't ask me further questions about it.

I'm—actually it's something you—I just want to assure the members when we do get issues brought to us, we do take them seriously, and sometimes we do start an audit before we put our annual operations report together. And, in fact, we did choose to go into a different R.M. this year, and we're in the process of doing an investigation at the moment at the R.M. of St. Laurent.

Mr. Chairperson: Thank you. The hour being 9 o'clock, what is the will of the committee?

Some Honourable Members: Committee rise.

Mr. Chairperson: Committee rise. Thank you.

COMMITTEE ROSE AT: 9:01 p.m.

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