

Third Session - Thirty-Eighth Legislature
of the
Legislative Assembly of Manitoba
Standing Committee
on
Legislative Affairs

Chairperson
Mr. Daryl Reid
Constituency of Transcona

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MANITOBA LEGISLATIVE ASSEMBLY
Thirty-Eighth Legislature

Member	Constituency	Political Affiliation
AGLUGUB, Cris	The Maples	N.D.P.
ALLAN, Nancy, Hon.	St. Vital	N.D.P.
ALTEMEYER, Rob	Wolseley	N.D.P.
ASHTON, Steve, Hon.	Thompson	N.D.P.
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CALDWELL, Drew	Brandon East	N.D.P.
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DERKACH, Leonard	Russell	P.C.
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DOER, Gary, Hon.	Concordia	N.D.P.
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DYCK, Peter	Pembina	P.C.
EICHLER, Ralph	Lakeside	P.C.
FAURSCHOU, David	Portage la Prairie	P.C.
GERRARD, Jon, Hon.	River Heights	Lib.
GOERTZEN, Kelvin	Steinbach	P.C.
HAWRANIK, Gerald	Lac du Bonnet	P.C.
HICKES, George, Hon.	Point Douglas	N.D.P.
IRVIN-ROSS, Kerri	Fort Garry	N.D.P.
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JHA, Bidhu	Radisson	N.D.P.
KORZENIOWSKI, Bonnie	St. James	N.D.P.
LAMOUREUX, Kevin	Inkster	Lib.
LATHLIN, Oscar, Hon.	The Pas	N.D.P.
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McGIFFORD, Diane, Hon.	Lord Roberts	N.D.P.
MELNICK, Christine, Hon.	Riel	N.D.P.
MITCHELSON, Bonnie	River East	P.C.
MURRAY, Stuart	Kirkfield Park	P.C.
NEVAKSHONOFF, Tom	Interlake	N.D.P.
OSWALD, Theresa, Hon.	Seine River	N.D.P.
PENNER, Jack	Emerson	P.C.
REID, Daryl	Transcona	N.D.P.
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LEGISLATIVE ASSEMBLY OF MANITOBA
THE STANDING COMMITTEE ON LEGISLATIVE AFFAIRS

Tuesday, June 7, 2005

TIME – 9:30 a.m.

LOCATION – Winnipeg, Manitoba

CHAIRPERSON – Mr. Daryl Reid (Transcona)

**VICE-CHAIRPERSON – Ms. Kerri Irvin-Ross
(Fort Garry)**

ATTENDANCE - 11 QUORUM - 6

Members of the Committee present:

Hon. Messrs. Bjornson, Rondeau, Smith

Mrs. Driedger, Mr. Hawranik, Ms. Irvin-Ross,
Messrs. Loewen, Maguire, Martindale,
Nevakshonoff, Reid,

Substitutions:

Mr. Jennissen for Hon. Mr. Bjornson
Mr. Aglugub for Mr. Nevakshonoff
Mr. Caldwell for Mr. Martindale
Mrs. Mitchelson for Mrs. Driedger
Mr. Eichler for Mr. Hawranik at 10:06 a.m.

APPEARING:

Mr. Leonard Derkach, MLA for Russell

WITNESSES:

Bill 33–The Planning Act

Mr. David Sanders, Private Citizen
Mr. Glen Koroluk, Private Citizen
Mr. Peter Mah, Director of Community
Relations and Sustainable Development,
Manitoba Pork Council
Ms. Lindy Clubb, Wolfe Creek Conservation
Mr. Al Rogosin, Private Citizen
Ms. Glenda Whiteman, Concerned Residents of
Winnipeg
Mr. Andrew Dickson, General Manager,
Manitoba Pork Council

WRITTEN SUBMISSIONS:

Bill 33–The Planning Act

Mr. Kurt Siemens, Manitoba Egg Producers

MATTERS UNDER CONSIDERATION:

Bill 33–The Planning Act

Bill 51–The Labour-Sponsored Investment
Funds Act (Various Acts Amended)

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Committee Substitutions

Mr. Chairperson: Is there unanimous consent of the committee that Mr. Jennissen substitutes for Mr. Bjornson, Mr. Aglugub for Mr. Nevakshonoff, and Mr. Caldwell for Mr. Martindale. *[Agreed]* Thank you.

Mr. John Loewen (Fort Whyte): With unanimous consent of the committee, I would like to make the following membership substitutions effective immediately for the Standing Committee on Legislative Affairs: Mrs. Mitchelson, River East, for Mrs. Driedger, Charleswood.

Mr. Chairperson: Is there unanimous consent of the committee to substitute Mrs. Mitchelson for Mrs. Driedger. *[Agreed]* Thank you.

* * *

Mr. Chairperson: With those substitutions we now have a vacancy for the Vice-Chair position. Are there any nominations for the position of Vice-Chair?

Mr. Gerard Jennissen (Flin Flon): I nominate the Member for Fort Garry, Ms. Irvin-Ross, for that position.

Mr. Chairperson: Ms. Irvin-Ross has been nominated for the position of Vice-Chairperson.

Are there any further nominations?

Seeing no further nominations, Ms. Irvin-Ross is Vice-Chairperson of this committee.

This morning, the committee will be continuing with consideration of the following bills: Bill 33, The

Planning Act; Bill 51, The Labour-Sponsored Investment Funds Act (Various Acts amended).

We do have presenters registered to speak to both bills.

I will read the names of those persons that have registered to speak to these bills.

For Bill 51, The Labour-Sponsored Investment Funds Act (Various Acts Amended), we have registered to speak, Kevin Miller, private citizen.

For Bill 33, The Planning Act, we have David Sanders, private citizen; Glen Koroluk, private citizen; Peter Mah, Manitoba Pork Council; Lindy Clubb, Wolfe Creek Conservation; Al Rogosin, private citizen; Glenda Whiteman, CROW Inc. (Concerned Residents of Winnipeg); Andrew Dickson, Manitoba Pork Council; and Reeve John Holland, R.M. of Springfield.

Those are the names that we have registered to speak to these two bills. If there are any additional members of the public wishing to speak to these two bills, Bill 33 and 51, would you please see the Clerk at the back of the Chamber and we will add your name to the list.

Just a reminder that 20 copies of presentations are required, and if you require assistance with photocopying, please see the Clerk in the Committee Room here and we will assist you with that task.

At last evening's meeting, it had been agreed to hear from out-of-town presenters first.

Is it the will of the committee to proceed with out-of-town presentations? *[Agreed]*

Just as a reminder, that in accordance with our rules, a time limit of 10 minutes has been allotted for presentations and 5 minutes for questions from committee members.

It was also agreed at last evening's meeting that individuals who were called last evening would not be dropped off the list, but would be dropped to the bottom of the list. If the individuals are called for a second time and are not present, then their names will be dropped off the list.

I would also like to inform the committee that a written submission has been received for Bill 33 from Kurt Siemens, Manitoba Egg Producers. Copies of the brief were made for committee members. I believe you may have the copies in front of you from the start of the meeting.

Does this committee grant its consent to have the written submissions appear in the committee transcript? *[Agreed]* Thank you.

We will now proceed with public presentations.

The Chair would like to suggest to the committee, since there are considerable names on the list for Bill 33 and only one individual registered for Bill 51, is it the will of the committee to proceed with Bill 51? *[Agreed]*

Mr. Loewen: It is agreed. I do think that, given the lack of organization of this committee, which apparently is now two committees, and the fact that if you are a presenter and you are attending a normal committee, you would assume that Bill 33 would be done first, and therefore might not arrive at the start, and that presenters for Bill 51 not be dropped off the list if they are not here immediately, and if they come back later, they get an opportunity.

* (09:40)

Hon. Jim Rondeau (Minister of Industry, Economic Development and Mines): Just for clarification, Mr. Chair, does that mean later this morning, later this week, later tonight? I am just asking for clarification from Mr. Loewen.

Mr. Loewen: Yes, we are going to pass the bill, and then we are going to listen to presenters. I mean, it is pretty obvious. If he is here before we get to the bill, we should hear him.

Mr. Chairperson: Is it the will of the committee to hear presenters this morning for the bills, and then, when we have concluded the list, that we will then close the public presentations portion? *Agreed?* *[Agreed]*

I would also like to advise anyone who is in attendance here this morning that is wishing to speak to Bill 48 that the bill has been transferred to the Standing Committee on Human Resources. The meeting is taking place just down the hallway here in

Room 254, and if you wish to make a presentation, please proceed to that room. Thank you.

Bill 51—The Labour-Sponsored Investment Funds Act (Various Acts Amended)

Mr. Chairperson: We will now proceed with public presentations on Bill 51, The Labour-Sponsored Investment Funds Act (Various Acts Amended). On my list we have Kevin Miller, private citizen. Is Kevin Miller in the audience this morning?

We will call for a second time. Kevin Miller, private citizen, for presentations on Bill 51.

Seeing that Mr. Miller is not here, and his name having been called twice, his name will be dropped from the list.

Are there any additional members of the public who wish to make—

My apologies to the committee. I misunderstood the earlier directions.

Mr. John Loewen (Fort Whyte): For clarification, I just wonder that, given the circumstances, if it would be possible to have someone in the Clerk's office perhaps try and contact Mr. Miller by phone and just let him know that we are in this process and he has an opportunity if he avails himself, and if he cannot make it down here, if he has a written submission, that we agree to accept it even if it is late, just so it goes on the record.

Mr. Chairperson: Agreed? *[Agreed]*

Thank you. Then the public presentations portion will be open until we are finished hearing all presentations, as was previously agreed. My apologies to the committee.

Bill 33—The Planning Act

Mr. Chairperson: We will then proceed with Bill 33, The Planning Act. The first individual out-of-town presenter that we have is Al Rogosin. Good morning.

Mr. Al Rogosin (Private Citizen): I am willing to forgo my place. I am not heading back to Brandon. I will go in the regular order.

Mr. Chairperson: Regular order? Thank you, Mr. Rogosin, for your gesture last evening, as well.

The next out-of-town presenter we have listed is Andrew Dickson, Manitoba Pork Council.

Mr. Andrew Dickson (General Manager, Manitoba Pork Council): I apologize. We will wait.

Mr. Chairperson: Thank you. The next individual that we have listed as out-of-town is Reeve John Holland, R.M. of Springfield. Mr. Holland was called last night. This is the second call for Mr. Holland, Reeve John Holland.

Mr. Holland is not here? His name will be dropped from the list.

Proceeding with the regular order call, we have Mr. David Sanders, private citizen.

Good morning, Mr. Sanders.

Mr. David Sanders (Private Citizen): Good morning.

Mr. Chairperson: Welcome. You have a written presentation, sir?

Mr. Sanders: For once, I do not.

Mr. Chairperson: Okay. Then you may proceed when you are ready, sir.

Mr. Sanders: Thank you. Mr. Chair, I am appearing just as a private citizen on this bill this morning. With respect to The Planning Act, I do not propose to go through more than one issue although, for the benefit of the members, I was interested to listen last night to the discussions of the introduction of the provincial land use policies and The Planning Act. Back in 1975, I actually did serve as Chair of the Interdepartmental Planning Board around that time, so I have some familiarity with the origins of this legislation.

With respect to the law itself, my first concern relates to the whole matter of notices of hearing, which, as you have heard, have been adjusted from the existing legislation and, I submit, in the wrong direction. Given the importance of these matters to communities, businesses, the citizens, the neighbours and the rest, I would suggest that the committee might want to review the notice of hearing provisions in this bill, which I suggest are inadequate. For example, section 163, which is a change, suggests that a letter delivered by ordinary mail is assumed to have been received by the person within four days.

Now, this is a marvellous vote of confidence in Canada Post, but one of my other hats where I am concerned with notices of hearings and the like, I would submit that anywhere and, certainly, outside of Winnipeg and the nature of agricultural communities, the notion that four days after something is put in the mail is deemed to be notice, is inadequate, and there is no reason why the legislation for these important matters should not continue to require certified mail proof of service for those reasons for which notice is required.

In general, you will find within the legislation before you that the time frame for most notices is 14 days. That, too, is a short period of time for these issues and for the nature of the communities we are talking about. There is reference to advertising in newspapers, which is good except that there is some confusion as to whether or not there is a newspaper of general distribution within the community. I would think, in this case, it would not be inappropriate that in the event that there is no local weekly, that, perhaps, even to admit that one of the metropolitan dailies would also be an alternative way of providing notification for these issues which go well beyond the other things in the bill, which relate to notice within 100 metres.

Surely, in the rural community, in a farm community, 100 metres is to exclude everybody except for the applicant. I would suggest that you look very hard about the requirement for notification on some of these major issues being given to neighbours who live only within 100 metres of the site; I would submit that there should be certainly a significant difference. For example, when we come to it, the reference to three kilometres referred to the livestock operations is also too little because the science that people refer to certainly would indicate that the effects are felt far beyond three kilometres.

Finally, the reference was made to the posting of signs, 11-by-17-inch signs. If they are visible, fine, but, again particularly keeping in mind the terrain that we are talking about, perhaps that is limited. So I would suggest to the members of the committee it would be worthwhile before you give final reading to this bill to review the notices sections and to question whether or not, in fact, they should be strengthened. I think that would be very important to preventing a lot of grief down the line.

The only other area that I would wish to speak to relates to what is obviously the focus of this bill and

that is the special treatment for livestock operations. I certainly am no expert on this matter, although I have had occasion to represent a number of grain farmers in southwestern Manitoba who have been on the concerned side of the issue because intensive livestock operations were allowed to be developed in close proximity to them and their residences without any opportunity on their part to have a say in the matter and, indeed, without any apparent effort to enforce even the laws that were applicable to those operations. It was necessary for them to go to The Farm Practices Protection Act at their own expense to seek an order for even the minimal provisions to be observed. It does not inspire faith in the operations of the provincial government to lay down the law and enforce it in a manner which preserves the environment and the enjoyment of life, of neighbours, in a way that I think the members of the committee would assume does happen.

With respect to this particular bill, there are a number of sections which still relate specifically with livestock operations, and this is, obviously, a crucial issue, but it is certainly not the only issue in planning in Manitoba. Yet this is given very special treatment in this act, and there are some concerns with it. I would refer you to section 42(2), which on the surface looks fine. The Province is saying to municipalities, "You must have a development plan, and your development plan must deal with the issue of livestock operations, and your choices are, yes, they are permitted, maybe they are permitted, or, no, they are not permitted." Sounds okay, except as we will see, the minute the municipality chooses, or the minister requires them, to declare that livestock operations are possible uses, then, as we will find, the choices and control of the municipality, certainly, is severely restricted thereafter. I can see why some municipalities might choose to indicate that livestock operations would simply not be prepared and I do not think that that is the intention of this government, or necessarily there are municipalities, but if the choices are such as this legislation provides, then maybe that is what they will be trying to do.

* (09:50)

There are particular conditions which are set in section 107 for small operations and in section 111 and beyond for large operations. This is unusual because these are restrictions on conditions. These are restrictions on what the municipality may provide as conditions for these operations. There is provision

for the Technical Review Committee, which is the minister's committee. It is not the municipality's committee.

In particular, I would refer you to section 116 which is dealing with the conditions on large livestock operations. Frankly, the way it is worded, I would be concerned that it gives the municipality the choice of rejecting an application or depending on how you read it, if the Technical Review Committee has determined, in the language of the section, that the operation is all right, it would appear that their choice is no choice at all and that they must approve the application. If that is not the case, if it is intended that the municipality have the choice of rejecting an application which is otherwise approved by the Technical Review Committee, then I would suggest that the language be clarified to make that point very clear, or certainly that the minister would make that position clear on the record at this committee so that when the subsequent course of cases come, the intention of the Legislature is clear.

The concern here is that the conditions that may be placed on livestock operations are, again, severely restricted from the point of view of the municipality and the citizens involved. There is a very peculiar phrase in here, section 116(2) which states, and this is a restriction on the municipal government: "Only the following conditions may be imposed on the approval of an application under this Division, and any condition must be relevant and reasonable." This is very special treatment and this is very strange because members may want to, when they have a chance, refer to The Municipal Act in section 384, in particular. In contrast to that language, 384 states: "No by-law, resolution or proceeding of a council and no resolution or proceeding of a council committee may be challenged on the ground that (a) the by-law is unreasonable or not in the public interest."

So it is not possible to go to court and get the court to overturn a decision of a duly elected municipal council simply because, in the opinion of the applicant or the opponent for that matter, that the by-law is unreasonable or not in the public interest. But, in this legislation, section 116(2), it would appear that the municipal council can only impose conditions on large livestock operations which are relevant and reasonable, which suggests that this provides grounds for an applicant who is objecting to conditions or, indeed, the community who is

objecting to the conditions, to go to court and argue that whatever the council has done is not relevant or reasonable.

I do not think it is the intention of the Legislature that these matters all find their way into court. I can see that happening based on this language and I would suggest you might want to reconsider that. Related to that, if you would refer to section 148, which is an interesting one, where the council wishes to study a matter further because they are considering developing a plan and so on, they may have the ability to withhold development permits to give time for further consideration. This is not an unusual type of arrangement. The City of Winnipeg has certainly had it for a long time. The time limits here are rather short: 60 days initially, a further 125 days if the council is looking at a new plan.

I wonder whether anybody would ever expect a development plan to get approved in this process within 60 days or 125 days, but that is what the law says. The thing that concerns me is at the end, if, in fact, council withholds a permit and then does not succeed in getting a by-law or development plan passed, the act provides for compensation to be paid for damages resulting from the delay by the municipality to the applicant. Very interesting, very unusual in my mind, and something which you ought to consider very carefully whether this does not apply just only to livestock operations. It applies to any development, but whether, in fact, municipalities should be liable for compensation for damages resulting from the delay in fulfilling their duties and responsibilities to make democratic decisions. Certainly this is tilting the table in the direction of the applicant, whoever that applicant may be, who can hold over the council the prospect of suing for damages in the event that they take longer than 60, or 60-plus or 125 days to decide.

Finally, referring to a few sections, sections 187(1) and (2) of the act, which deals with the situation in which a municipality does not have plans in place and, of course, that is still the case, and which states in 187(1) and (2) that unless the municipality has a development plan or its own by-law which deals with livestock operations, then under section 187(1): "a board or council may not impose any restrictions or conditions on (a) the location of a livestock operation; or (b) the number of animal units involved in a livestock operation."

That is, unless the municipality hurries to get a plan in place, they are prevented from proposing restrictions or conditions. I find this very strange. That is 187(1) and (2).

Finally, sections 208 and 209, which are intended to be transitional, deal with if there are no plans in place they provide, again, a special case for livestock operations, small scale and large scale, providing for very limited conditions.

So, when one stands back and looks at this legislation with respect to the livestock operations, the minister may correct me, but it would appear to me as an attempt by the provincial government to establish minimum standards. There is a requirement that the provincial government's regulation to be passed dealing with siting and setbacks be observed everywhere in the province.

There is provision for a technical review committee to review large-scale operations. Now this is a committee whose composition is unclear, but it is appointed by the minister and presumably then is under the control of the minister and has an ability to provide advice that the provincial government, through the minister, feels is necessary, and to the extent to which, if I read the legislation properly, I take it if a technical review committee does not recommend something, then it is not to be approved. So, again, there is an opportunity for the minister, through the technical review committee structure, to provide for some minimum standards.

There are the provincial land use policies, which, again, provide some minimum standards, but only in those cases where development plans do not exist because once the development plan is approved it supersedes the provincial land use policies.

Then, finally, the provincial minister has the ability through approval of the development plans through the various processes, and there is some discussion about how appropriate they are, but in the end the minister, on behalf of the Province, is required to approve the development plans and has an opportunity to again ensure some minimum standard. So, good as far as it goes, but the concern here is that the rest of the legislation seems to place, apart from that, very severe restrictions on local democratic control and the imposition of conditions, requirements which are required or desired by that particular municipality.

In a very real sense it would appear that, while the Province is endeavouring to provide for some minimum standards, the effect of legislation is to make those minimum standards the maximum standards. I question that and I would suggest strongly that perhaps the committee might want to review some of those sections which impose such severe restrictions on what a municipality can do and, at the very least, perhaps leave that open for the proper debate through the process of adopting and approving development plans and zoning by-laws pursuant to them, which would allow for consideration and perhaps in a manner which is not tilted so heavily towards what would appear to be minimum standards for such operations.

So, Mr. Chair, those are the brief comments. As I say, for once I did not provide a written document, but I would refer the committee to those sections and ask that some consideration be given to them before considering clause-by-clause approval of this bill. Thank you.

Mr. Chairperson: Thank you, Mr. Sanders, for your presentation this morning. Questions of the presenter?

Mr. Larry Maguire (Arthur-Virden): Thank you for your presentation, Mr. Sanders. I guess the question that I have I would like to hear some more thoughts from you in regard to the animal unit number that has been used in this bill. It has been moved from 400 to 300 animal unit level. I would like to just, first of all like, hear your thought on that.

* (10:00)

Mr. Sanders: As I understand it, the significance of the animal unit number, whatever that number is, that if the number exceeds that number then approval must be considered a conditional use, whereas if it is less than that number it may be a permitted use, or not, depending on the wishes of the municipal council. That is the significance of the number. I am no expert on the meaning of the numbers, except my understanding is that 300 animal units is a significant sized operation. In my view, the effect on neighbours and communities is such that, if you will, a lower number is a desirable thing for conditional use process. These are very important developments in the community. They are important economically, but they are also certainly important with regard to the environment and the quality of life in that

community and they deserve attention and careful consideration before their approval.

So, on that basis, without knowing the meaning of the 200 or 300 or 400 units, less would probably be more advisable, and particularly given the way the legislation is written to make these operations not subject to the by-laws dealing with noxious odours and the like. All the restrictions that are placed otherwise on them suggest to me that, in that context certainly, the numbers should be lower.

Mr. Maguire: As you are well aware, all of the environmental aspects of these livestock operations, of course, this bill deals with other permits as well, but in relation to livestock, the environmental side of it, of course, is under Conservation where the jurisdiction is for those issues.

The issue that I want to ask you in regard to the animal units is, of course, and you made reference to it, I just wanted to confirm it, that a municipality has the right to make the decision that there be no livestock in that municipality or in that jurisdiction as well, in the go and no goes, where they can be held, where they cannot be, to the point where they may—

Floor Comment: Well, this is important—

Mr. Chairperson: Mr. Sanders.

Mr. Sanders: I am sorry. I apologize. The point I think was made last night that the legislation reads that way, but the municipality, according to this legislation could say that we, for whatever reason, prefer not to have any livestock operations in our municipality and put that in the development plan and propose that to the minister; but the minister, on behalf of the government, provincial government, which also has responsibility for agriculture and economic development, may not agree. Right?

An Honourable Member: Yes.

Mr. Sanders: In that event there may be further public hearings and so on. But in the end the provincial minister is empowered to say this development plan is only approved if it provides for some degree of livestock operations if that is a matter of provincial policy, and accept political responsibility for taking that position, but can do that. So this legislation does not mean the

municipality can necessarily restrict or prevent such operations when they are a municipality. The Province is very much involved in this.

Mr. Chairperson: Mr. Maguire, further questions? Minister Smith.

Hon. Scott Smith (Minister of Intergovernmental Affairs and Trade): Thank you very much, Mr. Sanders, for your presentation. Some of the information you have relayed on back to myself, just for clarification: the Technical Review Committee is not a final decision body by any means. It is just an advisory body to a council or a municipal council. The council takes that in as one of their tools for information to look at. By no means are they obligated to go with that decision of the Technical Review Committee. It is just an advisory body only. The council can take their comments and their information as part of the deliberations for their final decision.

The siting and setbacks, you are quite right, they are minimum standards and regulations that are set out in different departments, but the City or the municipal council has the ability to put whatever standards they believe should be on some of the different proposals. Certainly, they can increase the R.M. minimums, but the local advisory body or the City Council can advise that those distances be further. That is a minimum standard. You are quite right. Local jurisdiction has the ability to set greater distances on some of the proposals.

The 400 to 300 animal units for conditional use, we have heard from a number of presenters that that should be reduced. I heard you say that 300 seems high to you and one thing I just have one question for you. The notice change was from one kilometre to three kilometres. You have mentioned three kilometres may not be far enough. Do you have a distance in mind that you believe that would be efficient?

Mr. Sanders: Not at the moment, because I was thinking in terms of the livestock operations. The effect, certainly, may be felt, physically felt, more than three kilometres away and the research that I had occasion to refer to a couple of years ago studying some examples in the Treherne area indicated that the cloud, if you will, found its way at least three to four miles away. So that is just an indication that the effect is felt beyond that.

There is something, by the way, which is good in this bill which points out that that is distances, whether or not it is within the same municipality, and they point that out. The farmers that I had mentioned happen to reside in one municipality and these operations are just across the border in another municipality. Even if they had notice, they have, of course, no political standing in the neighbouring municipality, which stresses the importance of the role of the provincial government in these matters, in looking to cross-boundary issues which these certainly can be.

It is all, I believe, on the record, Mr. Minister, that these are intended by the Province to be minimum as opposed to the only, or the maximum, standards.

Mr. Chairperson: Any other questions of this presenter? Seeing none. Thank you very much, Mr. Sanders, for your participation this morning.

Committee Substitution

Mr. Chairperson: Mrs. Mitchelson, with a committee substitution.

Mrs. Bonnie Mitchelson (River East): With the unanimous consent of the committee, I would like to make the following membership substitutions, effective immediately, for the Standing Committee on Legislative Affairs: Ralph Eichler, Lakeside, for Gerald Hawranik, Lac du Bonnet

Mr. Chairperson: Is there unanimous consent of the committee that Mr. Eichler be substituted by Mr. Hawranik? *[Agreed]* Thank you.

The next presenter we have on Bill—

Just for clarification, then, Mr. Eichler is substituting on to the committee for Mr. Hawranik.

An Honourable Member: Yes, right.

Mr. Chairperson: If I said it wrong, my apologies.

* * *

Mr. Chairperson: The next presenter we have on Bill 33, The Planning Act, is Glen Koroluk, private citizen.

Good morning, Mr. Koroluk. Do you have a written presentation for committee?

Mr. Glen Koroluk (Private Citizen): Yes, I do, Mr. Chair. I have got pictures, too.

It is just one, the same barn. You could pass them out. I do not have enough, but pictures are good. I hope—

Mr. Chairperson: You may proceed when you are ready, Mr. Koroluk.

Mr. Koroluk: Thank you, Mr. Chair. I hope everyone brought in their scientists this morning for the deliberation on Bill 33.

I just want to talk briefly on Bill 33 in relation to The Environment Act which I am more familiar with. The government has put out a lot of information on Bill 33. They have made a lot of strong claims as to what it is supposed to be doing, and I reviewed the act in entirety, all 123 pages, and I have come to the conclusion that there are some falsehoods that have been put out on Bill 33.

The first claim that the government makes is that it will enhance public participation, but Bill 33 falls well short on enhancing public participation. It stifles it in fact. The reasons why: For one, there is no clause in the act which allows the public to have input into regulation development. Most other pieces of legislation, if you are going to develop a regulation under the act, you have to have that clause. Bill 33 does not have that clause, so I would like to see that in there.

Another reason why it stifles public participation is that section 80 of the old Planning Act has been sort of removed and readjusted. What it is doing is not allowing a citizen the right to go to the courts. I know I have been having a bit of debate with this with the department right now. I would like you to find out exactly the change in that clause and what it is doing in the new act because citizens must have the right to go to court on any infraction on Bill 33.

Another reason why public participation is stifled is that there is no third party or independent body in place to monitor or enforce the new Planning Act, and this is an important issue because, in smaller communities, we sometimes have conflicts of interest. Bill 33 does not really spell out the issues of conflict of interest, and that might become an issue when any municipality or planning district establishes a planning commission.

Another reason why public input is sort of stifled is that the technical review committee process is woefully inadequate. The public is not afforded the right to have input into the process which is a right guaranteed under The Environment Act when environmental assessment is performed. The public does not have the right to gain access to the proposal so you cannot actually get the proposal. The public cannot see it. It cannot be given to them, and that is another right that The Environment Act gives to citizens.

* (10:10)

The Technical Review Committee, as has been mentioned in the past, it is not legislatively defined. It does not have the terms of reference. It does not describe what information is required for a review nor does it define its make-up.

So, you know, it is a black-box process. It avoids public scrutiny and claims to perform a preliminary environmental assessment. Yet, as we can see, the process is far from being an environmental assessment. I mean, I ask the question, if the Province is concerned about clarifying roles between the Province, by assuming total control of the environment, and local communities controlling land use, why is there a quasi-environmental review process in The Planning Act that only provides advice? I mean, you cannot have it both ways. You have got to, you know, do your environmental planning with your environment act and then do your land use planning with your Planning Act. So, you know, we have asked the government this numerous times in the past. I mean, the best solution would be to regulate ILOs, (which are industrial food production systems) under The Environment Act—(this request was made to this government by Environment Canada three years ago)—and call it a class development under the class development regulation.

Right now, and I have passed some pictures around, that big barn you see there with 8000 pigs in it, emitting pollution, is not regulated. It is not a development under The Environment Act. It is ludicrous in this day and age.

But, you know, we have asked the government for this change, and we have been denied numerous times, so what we have now is what we have got in place, which is The Planning Act and the technical

review process. So, if you are going to stick with this process, then you have to make vast improvements to Bill 33 so the technical review process affords the same rights to citizens that are granted under The Environment Act.

As it stands, Bill 33 gives the public and local decision-makers the false security that environmental responsibilities are adequately addressed by the Province and that public participation is enhanced. Bill 33 must include the recognition that land use issues and decisions about land use issues by local decision-makers must necessarily include an environmental component. Local approving authorities must have the latitude to address these environmental considerations in both the up-front planning and be accorded the ability to regulate or prohibit activities upon a site-specific evaluation.

Now, a second claim that this government has been making is that Bill 33 supports open and accountable decision-making. This is another false claim. For example, the minister of the day in charge of Bill 33 gets to override a community's development plan and if the government is supportive of its hog industry, then the minister will restrict those plans that want to be more protective of its environment. We have heard of some of the recent examples last night of some of these restrictions this current government has placed on a community's development plan. There is the south central plan, which reduced the sensitive area from 60 percent of the area to less than 4 percent, the R.M. of Springfield Plan and then the Mountain View Plan, which was mentioned last night.

Bill 33 is also very clear in that any decisions made by the minister or Cabinet are neither accountable nor open. For instance, there is no requirement for the minister to give reasons why a decision has been made and there is no requirement to make the decision publicly known. This oversight can be accomplished by something simple like establishing a public registry and placing information into it so the public has access. That is also a right guaranteed under The Environment Act and the new Water Protection Act.

There are also no clear criteria for a minister to abide by when he or she decides to utilize the municipal board. If the minister of the day supports local decision-making and democracy, then, if controversy exists, rules should be established to

trigger a municipal board review. It should not be dependent on what the minister eats for breakfast in the morning.

Another final note on decision making and accountability is that the old Planning Act placed the onus of proof on a developer when council makes its decision at a conditional use hearing. With Bill 33, the onus of proof has now been removed from the developer. This is a step backwards for ensuring that our environment gets adequately protected. So, I mean, the clause that was good in the old Planning Act, the current Planning Act, is clause 53(7), and that is the decision-making clause, and we want that reinstated in Bill 33 because that is the precautionary principle clause that we have got in Manitoba. That is the only one we have got.

The third claim that Bill 33 is making is that it will link local planning with provincial environmental protection measures and that roles and responsibilities will be clarified. This is another false claim in addition to the comments that I have just given. The linkage of Bill 33 to The Environment Act and the new Water Protection Act appears to be inadequate and maintains a business-as-usual scenario.

We heard last night one presentation that clause 62(1) of Bill 33 instructs development plans to only consider any restrictions placed by section 4 of The Water Protection Act. Well, I have considered a lot of things in my life, but if that is the only linkage there is, I mean, that means nothing. To make this linkage effective, the wording must be changed. It must include, if the government is serious about claims to restrict development in environmentally-sensitive areas and areas that have impaired water quality, clause 62(1) must also include linkage to the community zoning by-law, not just the development plan.

My scepticism is further highlighted by the fact that Bill 33 is very precise as to when communities must prepare their development plan with the livestock policy, and that is January 2008, but has left the time line to develop regulations under The Water Protection Act open-ended. This is both irresponsible and dangerous. Once a community gives the green light for unfettered ILO development, it would be almost impossible for the Province to scale back development once water quality management zones are established and restrictions

are put in place. So if the government was serious about protecting the environment, the sequence of events would dictate that section 4 of The Water Protection Act would take place before a community develops or renews its plan with a livestock operational policy and zoning by-law. You have got to do the water planning first before you start having communities doing its livestock operational policy.

This leads us to another important issue, being that it is evident that the resources (staffing and financial) are woefully inadequate within Water Stewardship and Conservation to carry out the water strategy and develop the regulations necessary to ensure communities do not harm the environment.

We also find it peculiar, that it is unclear as to what happens when Bill 33 and The Water Protection Act conflict. For example, if an area is zoned okay for development, but The Water Protection Act establishes a no-go zone in that same area. There is no overriding clause which sets legislative precedence. As an example, when Bill 33 conflicts with The Conservation Districts Act, it is clear that The Planning Act trumps The Conservation Districts Act.

Also, if the Province is intending to assume more control of environmental issues, why is Bill 33 used as the tool for defining sensitive areas in Manitoba? This definition and authority should fall under The Environment Act and/or Water Protection Act. (The Environment Act already has sensitive areas regulation—MR 126/88). It must be noted, that the current definition of sensitive areas in Bill 33 is also inadequate as it totally disregards the protection of groundwater and aquifers.

The linkage to The Environment Act and, specifically, the livestock manure and mortalities management regulation and the plans to regulate phosphorus (P), instructs communities to continue the over application of P onto farm lands, which will not alleviate the government's desire to rehabilitate Lake Winnipeg. We have also heard that the government intends to re-establish the draft guideline for the concentration of P in surface waters by allowing a higher concentration of P when the standards, objectives and guidelines regulation is developed under The Water Protection Act. This, again, would be a step backwards as this would legally allow more P to enter the surface water system.

Finally, in terms of roles and responsibilities, who is responsible for the air emissions coming off the barn stacks? As it stands now, there are no regulations under *The Environment Act*, which sets limits for H₂S and ammonia being emitted from ILOs. Yet, a standard exists for the oil industry in Manitoba, and objectives are in place for H₂S and ammonia for other industries. In the absence of provincial oversight, Bill 33 recklessly prohibits a community's ability to restrict or regulate air emissions from manure. Bill 33 also restricts the community from using *The Municipal Act* for regulating or restricting air emissions from manure.

So I have got one minute more here. Unfortunately, I have a lot to say here, but I guess an important issue I want to also talk about is the linkage with *The Water Protection Act*. There is also no clause in any of these acts which sets precedence of which piece of the legislation has precedence when there is a conflict. I just also want to say that the fourth claim I want to get to is that Bill 33 is more enabling and less prescriptive and that it enhances flexibility. This is another false claim by the government.

When a community accepts an ILO, there is no flexibility in placing conditions on it, and local decision makers are not allowed to raise the bar for the protection of their citizens' health and environment. Bill 33 is also very prescriptive as to what must be included in a livestock operational policy and what provisions can be contained within a development agreement. So what I am saying here is that the livestock operational policy has to remove its restrictiveness. It has got to be flexible.

As you see near the end here, there are a lot of examples of different things communities can place in their livestock operational policy, as a list of things that would give the industry an indication as to where that community is at with ILOs. It also gives the community the flexibility to do what it wants. This Bill 33 restricts. There are too many restrictions, restrictions on conditions, restrictions as to what can be placed in the livestock operational policy (*these criteria are limited and narrow in scope*) and what provisions can be contained within a development agreement.

This inflexibility and prescriptiveness is, again, a dangerous precedent to set, in light of what we already know about the emissions from these

*facilities and what we must do to exercise the precautionary principle. Bill 33 must either allow a municipality to use the by-law making provisions of *The Municipal Act* or it must allow for flexibility to transpire in the livestock operation policy. Limitations on conditions of approval must also be removed.*

Another option would be to allow a livestock operational policy to include a checklist of possible conditions that may be included for an ILO development.

Examples to include within a livestock operational policy:

- (a) the ability to distinguish between production systems (i.e., compost systems, liquid manure systems) or the ability to ban liquid systems, like the R.M. of Gimli;*
- (b) the ability to limit P application above what the government is proposing;*
- (c) the ability to control toxic emissions from the stacks of the barns (e.g., bio-filters);*
- (d) the ability to treat the waste before it enters the environment (much like we do for human waste) (Just a comment on the recent Lake Winnipeg Stewardship Board recommendations from their interim report. Rec. 16 and 18 are steps backwards as they are promoting the application of untreated human septage and municipal effluent onto fields);*
- (e) the ability to place performance bonds or environmental bonds on these facilities or the ability to include this option within a development agreement. A preliminary estimate developed by Hog Watch (letter to Crocus Fund, October, 2002) suggests that proper decommissioning costs for these ILO facilities could average \$150,000 per operation. We may expect a minimum public support program of \$112 million over the next 15 to 20 year time frame to decommission these facilities;*
- (f) the ability to prescribe the types of manure storages that are acceptable, such as only above-ground storages will be allowed in certain areas with safety features such as berms to capture and contain spills (something that is not a requirement in the LMMMR);*
- (g) a plan for dealing with existing operations that currently operate in areas where no-go zones and water quality management zones will or may be established;*

- (h) *the siting of livestock operations in relation to existing and proposed municipal drainage infrastructure patterns as well as natural drainage patterns;*
- (i) *monitoring requirements of the approving authority, e.g. the requirement that copies of manure management plans, water testing results and air emission testing results be supplied to the local approving authority or an independent body which reports to the local approving authority in order to provide the means for local authorities to enforce and/or assist the Province in enforcing the applicable provisions of the LOP, development agreements, conditional use permits and provincial requirements.*

Mr. Chairperson: Mr. Koroluk, I hesitate to interrupt you, but we are considerably over the time allotted for your presentation.

Mr. Koroluk: Mr. Chair, can I just conclude with my last paragraph here?

Ms. Kerri Irvin-Ross (Fort Garry): I would suggest that the document be included in Hansard in entirety.

Mr. Chairperson: Are you agreeable that the remainder or the entire portion of your presentation appear in our transcript, Hansard proceedings, Mr. Koroluk?

Mr. Koroluk: Yes.

Mr. Chairperson: With the understanding that perhaps a few comments for closing remarks?

Mr. Maguire: I was just going to say it is fine if he wants to read the last paragraph.

* (10:20)

Mr. Koroluk: Thank you, Mr. Chair, and thank you, committee.

So, to conclude, I mean, why are we changing The Planning Act? Some reasons are justifiable. Better up-front planning, modernizing the act, streamlining some aspects of the act, simplifying the language, and having all municipalities plan, are all good reasons to change the legislation.

However, the question has to be asked: Who are we planning for? Bill 33, like Bill 40, is clear in that

the Province has taken more real and meaningful control from local governments and that the hog industry must continue its expansion to meet Maple Leaf's desire to run a second shift at their slaughter house in Brandon. The ironic aspect of Bill 33 is that it affords more protection to untreated liquid manure than it does to citizens. I mean, that is the irony of it. It is incredible. Thank you, Mr. Chair.

Mr. Chairperson: Thank you, Mr. Koroluk, for your presentation. Questions of the presenter?

Mr. Maguire: Mr. Chairman, thank you for your presentation, Mr. Koroluk. You have mentioned an important thing, I think, in regard to Bill 22, The Water Protection Act. The fact that we should know more about the regulations in a bill like that before a bill like this gets passed. That is very difficult given now that Bill 22 has had 12 government amendments and 12 opposition amendments brought into it since it was at committee. Even for the government to bring that many forward itself is a concern. So I just wonder if you have comments around that whole process, if you could elaborate on your comments.

Mr. Koroluk: On Bill 22?

Mr. Maguire: Well, on your comments in regard to not proceeding with Bill 33 until we knew more about where 22 was at.

Mr. Chairperson: Mr. Koroluk, can I stop the proceedings here for a moment, please. The Chair has to be able to indicate to the Hansard folks behind us here the ability to turn on and off your microphones to make sure that we record all of your comments. So if you could just hesitate for a moment to allow the Chair to recognize each of you individually, then it will help the recording. So Mr. Koroluk, please proceed, sir.

Mr. Koroluk: Thank you, Mr. Chair. Yes, to Mr. Maguire's question. I think we should develop the regulations under The Water Protection Act first before we move on to Bill 33 and start to have communities do up-front plans and start to develop livestock operational policies. If the Province is going to take care of the environmental aspects of the land and water, then they have to do it, and then the local communities will know how to better plan, how to use the land better.

Mr. Maguire: Mr. Koroluk, this bill was brought before the Legislature on April 25, after Bill 40 was

killed last fall, after more than a year, probably a year and a half in the planning to get Bill 40 on the table. Do you believe that there has been proper time for this bill to be discussed amongst the farm community because of the timing that was brought in and tabled in the House about the day the farmers decided to go to the field to start seeding? Do you have any comments on that?

Mr. Koroluk: Yes, I do. In fact, I think the timing is unfortunate. I was not happy with the public consultation that occurred after Bill 40 was dropped. There was a lot of promise put out there that there would be more consultation in bringing the new Planning Act. I have noticed that some sectors had that opportunity while others did not, and certainly the citizens out there did not have the opportunity to have more input into Bill 33.

Mr. Chairperson: Mr. Maguire, further questions? Minister Smith.

Mr. Smith: Thank you very much, Mr. Koroluk, for your presentation and bringing forward some issues that are of concern to yourself and others. We have heard, and I believe you were here for a good part of last night, some of the different comments on change from notice provisions from one kilometre to three kilometres. We have had others say that three kilometres has gone too far. Others have said it has not gone far enough. It is one question that if you feel that the distance of notification is sufficient.

We have had a number from reduction of 400 animal units to 300 animal units for conditional use whether you feel that number 300 is too low, or if you believe that number is too high. Then we have had other suggestions where individuals within a three kilometre-radius only be the ones allowed to make presentations at those conditional use hearings, or people who live within the municipality. That number of people suggests that and makes that in their presentations, so I guess I just would like your views on that.

Mr. Koroluk: Well, on the question about making presentations only within three kilometres, well, you are going to have a hard time finding a lot of scientists within three kilometres of a development. I mean, communities' democratic processes are open for anyone who basically lives on this planet so everyone should participate. The one to three kilometres, well, I mean, we have got research done

by the hog industry, funded by the hog industry in Manitoba, that already suggests the plume of the emissions from the stacks of the barn and from the lagoons travels five to six kilometres. We should also have a clause in the act that notifies people who live next to the fields that have the manure spread on, so if they are spreading some other place, a few kilometres away, I mean, the people who live beside that property should also get a notice that their neighbour is putting this untreated liquid manure onto the fields.

The question on animal units, just to give you an idea of size and scope and what 300 or 400 means, a standard finishing barn in Manitoba that has 2000 feeder pigs in it that are being finished off, 2000 pigs crammed under one roof, that is 285 animal units. That does not even meet the 300 animal unit trigger. That is a loophole. So all you have to do is get a permit for your hole in the ground. You do not have to go through any process after that. So the animal unit number should be lowered, but the real issue is it is not the animal units, it is the production system, and the real system that people do not like which impacts the environment and people's health is the liquid manure system. Now having 300 animal units of bison free-ranging is not the same as a pig factory. So the real issue here, Bill 33 puts a restriction on communities to distinguish between production systems and that is a dangerous precedent to set, and as it was pointed out earlier, you know, that is discriminatory.

And the last question, was there another question on that? The one to three, I think I answered that.

Mr. Chairperson: I believe that is it. We are out of time with respect to the presentations here, so I thank you very much for coming out this morning for your presentation, Mr. Koroluk.

The next presenter on the list is Peter Mah, Manitoba Pork Council. Good morning, sir. You have copies of your presentation for distribution? Thank you.

Mr. Peter Mah (Director of Community Relations and Sustainable Development, Manitoba Pork Council): Yes.

Mr. Chairperson: Thank you. You may proceed whenever you are ready.

Mr. Mah: Good morning, Mr. Chairman and members of the committee. My name is Peter Mah

from the Manitoba Pork Council, and it is my pleasure to be here on behalf of Pork Council to speak to Bill 33.

Just to give you a quick idea of the scale of our industry and importance to Manitoba, our membership, pork producers in Manitoba, number in the order of at any given time anywhere between 1300 to 1400 pork producers. The farm gate receipts that we had contributed to the Manitoba economy and to local economies last year, in 2004, was \$941.8 million or \$942 million of farm gate receipts and that, roughly, is about 25 percent of all agricultural production, whether it is land base or whether it is livestock in all of Manitoba.

* (10:30)

That contributes significant jobs and returns back to the community. I know that the livestock issue has been an issue that has been brought to bear over a considerable number of years, and it is our opinion that Bill 33 is long overdue. It certainly was. Following the report filed in December of 2000 to the Manitoba government from the livestock review panel, we believe there has been extensive consultation through the AMM and KAP. Commodity groups and members of the public had numerous opportunities, and we think that quite clearly it is time to move on. We are pleased to see, as well, and really it was quite a surprise to us, that Bill 33 came out after the heels of Bill 40 being pulled that was much more comprehensive.

We do support, generally, Bill 33 for quite a number of good reasons. In particular, we support the mandatory local land use planning by all municipalities, either on their own or within a planning district. We think that it makes darn good sense for communities to plan within their own land base to determine, within their goals and objectives and their opportunities and constraints, both the social, the economic and the environmental perspectives for the community, within an established framework. That framework, I believe, would be set by Bill 33.

We also support the elimination of The Municipal Act, that is, the nuisance by-laws which we see across a number of municipalities that currently regulate intensive livestock operations in order to remove the amount of duplication and confusion that various sets of rules and regulations apply throughout the province.

We support the integration of land use planning and water resource planning to facilitate planned, sustainable land use and development. We think it makes darn good sense again to ensure that planning is comprehensive, that it integrates both the soil and the water and land use together.

We support the requirement for all municipalities to carefully plan for sustainable livestock development within a local livestock operations policy and zoning framework that will balance we believe the communities' social, economic and environmental objectives.

We support the expanded opportunities in public participation in a rational plan-making and development process if it is going to be meaningful, and that is a proviso. If, in fact, public participation would move an arena of emotional debate at the local level, which is very fractious and divisive, then we wonder if there are any pluses for local government, for the community and for government in general.

We support the development of regional or inter-municipal planning and development strategies for such matters as transportation, drainage, infrastructure servicing, community facilities, resource conservation, economic development. A lot of these matters transcend municipal boundaries, and local elected leaders in communities need to be able to plan rationally those kinds of systems.

We think, as well, it has been high time that The Planning Act moves towards streamlining a number of separate planning processes and procedures. The idea of combining multiple hearings for the same development is a very good idea. Clarification of local land use jurisdiction for municipalities under The Planning Act, we know is something which the Association of Manitoba Municipalities has been advocating for some time. We think that is very good. We also feel, as well, that it is very good that the bill also clarifies the overriding provincial jurisdiction for the environment, both under The Environment Act, which is the principal piece of legislation protecting the environment, and the proposed Water Protection Act. That would, in essence, eliminate duplication, confusion and, at times, conflicting provincial and municipal regulations, and I will show you later in the presentation where that has, in fact, occurred.

We believe all of these features in Bill 33 are important improvements to the current Planning

Act. We would encourage government to proceed expeditiously to adopt Bill 33 subject to a few amendments. We believe that the few amendments will, in fact, improve the proposed planning legislation, and our focus, from this point on, will be primarily in the area of the livestock planning and development review process.

We believe that amendments are needed because notwithstanding that Bill 33 would set in place a much-needed, up-front planning framework that will consider, as I mentioned before, community goals and objectives and link land and water planning. We believe, however, that it will enshrine in legislation some of the flaws and many of the flaws of the existing, divisive and fractious conditional use process, as well as introduce some new inequities in the local decision-making process for livestock development before local councils. This is of major concern to producers, also a major concern to communities and a major concern, I can assure you, to local government.

Now we believe that this can be corrected by adopting a few amendments. So, taken as a whole, we believe the changes which I am about to explain will increase public accountability in the decision-making process, will clarify and establish clear decision-making criteria for local authorities based on a solid foundation of up-front community land use planning, and three, to better ensure a fair and rational public hearing process before local council, or the applicable municipal authority whether it is a planning commission or whether it is a planning district board.

So, in particular, I have got eight amendments. Basically, the way I have structured this, Mr. Chair, is that we have a short explanation and then we comment on our position or recommendations on each of those factors. Particularly under (1) under Bill 33, an elected council could prohibit or unduly restrict livestock development in the whole municipality that we believe would close future options for existing and future farmers. The question we would have for the committee is where is the provincial interest to protect agriculture and agricultural land in accordance with the provincial land use policies, and in particular, policy No. 2 dealing with agriculture.

We believe that the current provincial land use policies are outdated and inadequate. We recommend that regulation 364/87 be updated as soon as

possible. This is essential to provide an improved and strengthened public policy framework for the development of updated local plans pursuant to Bill 33.

Under 2, subsection (a) of subsection 107(1) and subsection (a) of subsection 116(2), they are again relative to conditional use livestock, as well as the large livestock operations. There is reference to that council may include as a condition of approval, I quote, "a measure to ensure the conformity with the applicable provisions of a development plan and zoning by-law." We believe that this is too open-ended and too broad.

We believe that if this is enshrined in legislation, that it would open the door for a council to require things like a performance bond from a producer, half a million dollars or whatever that would tie up equity needlessly, when in fact, council can revoke a conditional-use order if, in fact, the conditions are not met. They already have that power and so a performance bond is not only redundant but also costly. There is also, with respect to the R.M. of Shoal Lake, where they are trying to pass on costs for monitoring enforcement onto producers, there are implications with respect to retaining confidentiality for an environmental farm plan which many farms are moving towards.

We feel, first of all, that this particular section should be deleted from the by-law. I will not go through all of those, but there are many, many areas within Bill 33 where councils can look towards an extensive list of conditions on a development. For instance, under section 107, including covers for mineral storage, shelter belts, a development agreement to address matters that include timing, construction, traffic-control devices, fencing, landscaping, shelter belts, sight drainage to service to the livestock operation and payment of monies to the municipality to construct such works. There are, in fact, a number of prescriptive conditions that councils can choose in dealing with an application.

The conditional-use process on No. 3, we believe, is flawed. We were quite surprised that Bill 33 would bring that back in because we know what has happened at local councils. We believe that there are two sections in particular where Bill 33 would ask councils to make very subjective tests, or determinations on whether it should approve an application or not. That is under section 106(1)(b)(i),

(ii), and 116(1)(b)(ii). After that, there are two phrases; that they have to do a test to ensure that it is "compatible with the general nature of the surrounding area" and not "detrimental to the health or general welfare of people living or working in the area, or negatively affecting other properties and potential development in the surrounding area."

I would suggest to the committee that if you do the up-front planning properly, that you are identifying areas where livestock can be permitted. You are looking at soil, land, water and land use that, in fact, you are identifying areas that generally are compatible and conversely areas that are not compatible for livestock development.

*(10:40)

I am going to abbreviate this here. Our position, page 3, is that the general public will have an expanded opportunity for input on establishing local livestock operations policies in the development plan and local livestock regulations in the zoning by-law. We believe that under section 115 of Bill 33 should be amended to read "at the hearing, the border council must receive representations from a person or authorities with land or development within the three-kilometre radius of opposed livestock development site."

We say three kilometres because we are already moving from before; it used to be 100 metres, then to two kilometres, now to three kilometres, and that three kilometres in and around that proposed site would encompass 28 square kilometres of land in and around that proposed site, far more land than we feel is actually needed but, nevertheless, is in the legislation.

We believe that only elected municipal officials should hear and make decisions on livestock operation applications. Again, specifically, planning commissions in the act, if provided by by-law, a council could or enable them to hear a livestock application. We believe that is a function for elected officials who are duly accounted to the electorate.

So we have added some clauses in there under the yellow section 114(1) where certain phrases can be deleted and replaced.

We believe that there is a need for final approval for an appeal process, particularly when there is

an application that meets all of the provincial regulations and requirements, meets all of the development plan requirements, meets all of the zoning requirements. The Technical Review Committee says from a scientific point of view that that is fine. The risk can be mitigated and should the application then be turned down on the basis of the two subjective tests of compatibility and so on, we believe that that instance, those situations should go to the Manitoba Municipal Board for appeal.

Mr. Chairperson: Mr. Mah, thank you very much. Your time has elapsed.

Is there will of the committee to have the entire presentation appear in the transcripts of these committee proceedings? *[Agreed]* Thank you.

Questions of the presenter?

Mr. Ralph Eichler (Lakeside): Thank you, Mr. Mah, for your presentation.

Your industry has a very competitive nature to it. Based upon the volumes, has your organization studied the cost that is going to have to be passed on? Last night, we heard in particular from the administrators with respect to the extra costs that are going to be imposed. Have you looked at that and what impact it is going to have on your industry?

Mr. Mah: Yes, we have. We have looked at it generally, because each particular proposal, if you will, or existing development out there is unique, but overall we find that the dearth of regulations that are coming down on livestock producers in general are creating very much a difficulty and hardship for them. Every new cost, every new regulation requires a new due diligence and we are finding that, in fact, many producers either are being forced to get larger to be able to support the new regime of regulations or, in fact, go out of business. So it is a very severe problem for a lot of producers.

Mr. Eichler: Based on that answer, then, in your opening comments you acted as if it was a surprise to you that this bill was being brought back so soon. Do you feel that there has been ample time to make the recommendations to government and committee on behalf of your organization to make sure that we do our due diligence in respect to this bill?

Mr. Mah: Yes, I thank the member for the question.

Point of clarification: My surprise in Bill 33 was in relation to the fact that the conditional use process has been brought back into legislation. Bill 40 was going to move towards the development of a new livestock review and approval process, one which we believe was going to balance not only the provincial interests, industry's interests, but local communities' interests and create an open and rational forum for decision making.

We find that the conditional-use process, again, is a surprise coming back in. Largely, what it does, it sets in place the scenario where people who are well beyond an area of direct influence of a proposal can come in and try and emotionally charge up debate, try to unduly influence councils, in some cases intimidate councils, to the point where they would then use those two subjective tests of compatibility and detrimental health and so on to try and turn down an application. We think that this legislation, unless the amendments that we have proposed will create continued hardship for local councils and producers, we think there are a number of safeguards that we have recommended that would balance the decision-making system.

Mr. Eichler: Would you please answer the last part of the question, though? Do you feel that there has been ample time for discussion and preparation of the bill with the various organizations? Not in particular just yours, but we know how your organization has been affected, but do you feel there has been ample time?

Mr. Mah: I do know that there has been consultation with KAP and AMM and a number of commodity groups. I know that the bill has been out for review and the process here allows for public debate to come forward. We think that it is high time to move forward. The most contentious issues, apparently, with respect to Bill 33, as we have heard over the last day or so, seem to be in and around the livestock issues, quite polarized. I do not think that we are going to find legislation that everybody is going to be happy with. I just think there is a need to move on.

Mr. Maguire: Thank you, Mr. Mah, for your presentation.

I would just like to ask a question in regard to the comments around section 116(2), Conditions on livestock operations, in particular, the "relevant and

"reasonable aspect. You have given some indication about your concern in those areas around conditional use, but you have a recommendation that this section be deleted. I guess I am wondering, is it the word "measure" that you are most concerned about, or is it "conditions"? Can you just give me some explanation as to the differences between measures and conditions in your mind, or if there is any?

Mr. Mah: Our concern with respect to 116(2)(a) is with respect to the whole phrase. Perhaps I will just read it. It says, this allows a condition to be placed, or any condition or measure "to ensure conformity with the applicable provisions of the development plan by-law, the zoning by-law and any secondary plan."

I would suggest to council that what you have here is really an open-door policy for the community to come back to council and try to pressure councils to put in all kinds of conditions that would, in fact, the bottom line is, what this statement is saying, you cannot approve a development in any case, unless it conforms with a development plan. If you look at the previous section under Decision 116(1), in particular (C), it says that council cannot approve the application unless certain things are done, (C) says that the application must be "generally consistent with the applicable provisions of the development plan . . . the zoning by-law and any secondary plan by-law." That is already a threshold or test that must be met. We do not see the need for 116(2)(a), which, while it is in there and is redundant, would allow for any/all other conditions over and above the ones that are prescribed within the body of Bill 33.

I have already mentioned to the committee that there are, in fact, all kinds of other conditions placed, that can be placed in this legislation, by council on the applicant. We have to, also, recognize that this Bill 33, The Planning Act is not singular in its ability to provide guidance to municipalities and to protect the environment and public interest. There is already The Public Health Act, The Farm Practice Protection Act, The Pesticides and Fertilizer Control Act, The Environment Act, The Water Protection Act, The Water Rights Act, and we can go on.

So people would look at this within a narrow point of view, saying we are going to provide everything here. But, in fact, government has, through its legislation, already provided considerable protections to the public interest.

Mr. Chairperson: Mr. Maguire, we are almost out of time. Minister Smith had one short question, so we will let the minister conclude, please.

Mr. Smith: Thank you very much, Mr. Mah, for your presentation and ongoing correspondence information with the department. I appreciated it through the consultation process. The one question I did have and it has been reoccurring over and over, and you mention it in your presentation, was the distance, going one kilometre, two kilometres and now the radius being two kilometres, twelve point five kilometre radius, now three kilometres, twenty-eight, which is fairly substantial. When you look at those numbers, do you have a distance in mind? I have heard anywhere from eight kilometres down to a hundred yards. It is now going to three kilometres. Is there something you can suggest?

* (10:50)

Mr. Mah: Thank you very much, minister. We are finding, first of all, that there needs to be a balance between notice and due process. In fact, the idea of a conditional use is to ensure that the people most directly affected by a proposed development would be able to be notified and appear before the hearing. We find it very difficult to understand why you would need to go beyond two kilometres, let alone three kilometres. If you are looking at 12.5 square kilometres around a proposed site now moving to 28, that is a very significant area. In fact, I would suggest to you that there are going to be a lot of areas where, for the municipalities, they will have an increasingly difficult time in notifying everybody within the three-kilometre area.

Mr. Chairperson: Thank you very much, Mr. Mah, for your presentation this morning.

Next presenter we have on our list is Lindy Clubb, Wolfe Creek Conservation.

Ms. Lindy Clubb (Wolfe Creek Conservation): Good morning, ladies and gentleman.

Mr. Chairperson: Good morning. Do you have a written presentation?

Ms. Clubb: I do not.

Mr. Chairperson: Then please proceed when you are ready.

Ms. Clubb: Thank you. I am a citizen expert in wood, water and waste, and I am the spokesperson for the Wolfe Creek Conservation group. I am also a part-time resident of the Strathclair municipality in southwest Manitoba in the Riding Mountain escarpment area.

To me and the 20 local landowners and small-business owners who formed our group, Bill 33 is not land use, it is about land abuse. I am not here to talk about money. I am not here to talk about statistics. I am here to talk about a flawed process which your piece of legislation as proposed will only make worse for us.

We participated in a conditional-use hearing for a hog barn on the Menzie road in the Strathclair municipality where water flows clean from Riding Mountain National Park and pours down the escarpment area and fills all the aquifers and the underground areas, the wells and streams and rivers and lakes that we all love in the area. We did not think it was a good place for a hog barn, and it was not. All we had was the conditional use hearing process to go to.

We went to the conditional-use hearing process as best we could, as citizens armed with information, having spoken to experts. But most of all we talked to each other. What the local monitoring people of the Technical Review Committee in Brandon—it was one person at the time. It has since been raised to two, or I think one and a half positions. What they did not know was the spread acres that were proposed in this hog barn were close to a little intermittent creek called Wolfe Creek. Wolfe Creek ran into the South Saskatchewan River. The South Saskatchewan River has been the recipient of a great deal of money, time, and attention through agricultural existing programs and the local conservation district.

So, if the hog barn had gone into place and the sewage—it is not manure, it is sewage—had gone into the water and contaminated the river, it would have cost us so much more, because it would have eliminated the programs that we have already invested in, in the area. The Technical Review Committee did not know that because they did not live there.

I have heard a lot of really good presentations, talking about how people feel when they live there,

and I was wondering if this piece of legislation is so good, if you would not mind applying it to the grounds of the Legislature so that we can have an intensive livestock operation based on the grounds of the Legislature. You can look around and maybe get the flower gardens and the nice fountain out there put in as a sensitive area, and we would not allow hog waste to go into that, and if you would like to apply this piece of legislation to your own piece of land and property here and see how it works.

If you did not like it, there would not be a whole lot of people to talk to you about it, would there, according to this piece of legislation. And if you did not like it and you wanted to protest, you could not go to a court of law, which, in my mind, as a citizen of Canada, thank God, we live here, no wars, clean water, clean air, it is a wonderful place to live, but we are polluting it and sometimes we only have recourse in a court of law. We would not have that, even though you have a lot of judges and dignitaries sitting in this building.

Pretty soon your water would get contaminated. Maybe we should stick the pipe, instead of putting it into Lake of the Woods, we could stick it out there where the waste is going to go or into that river, which is being called the colon of Manitoba.

You are leaving it up to volunteers like me and the 20 people in this group to safeguard the water while you sit and talk about numbers. I watched you last night. I was here last night. Even though I am very tired and have been out-of-doors for five days. That is why I am a little grubby. Sorry. You guys were talking to each other. You asked some very good questions, but they were technical questions because you do not know the land that we live with and love, garden.

The century farms of the people that I dealt with at Wolfe Creek Conservation, I did not know them until we got together to fight and oppose something that was going to contaminate our land and water. Six families were prepared to move if this hog barn had gone in. So one hog barn equated to six families, some of whom had been there for more than 100 years. This piece of legislation will slick the way for those hog barns to come in. You cannot deny that.

Do it yourselves, then. If you are going to apply this piece of legislation to us who live on the land

and are there, then start with here, and do it on the grounds of the Legislature. Then you come back to me and tell me it is a good piece of legislation.

I have been out in communities all over Manitoba responding to calls from people who are concerned about what is going on in their area. The most recent was Bifrost municipality on the shores of Lake Winnipeg.

Lake Winnipeg is in trouble. We are a national disgrace for the way we have treated Lake Winnipeg. We can heal it. It starts with what I put down my drain, always organic, always biodegradable, which is probably more than most of the people in this room can say. I live by the principles. My brother says I am the most earnest person he ever met.

This lake is in trouble. We can help it, but the people in the Bifrost municipality have taken the current Planning Act and they are trying to adjust it to stop more hog barns from coming into their area. The reason they are trying to stop it is because there is a loophole with that 300-animal unit. That 300 animal unit can be 300 pregnant sows, which is a heck of a lot more than 300 animal units. I mean, it is a disguise for too much in one spot.

What industry has done is subdivided the property on the farms that they have hired people to loan to them, and the fresh water that they are getting for free, unmonitored to use in raising these animals that contribute filth to our land and to our water.

It is awful what is going on there. The Bifrost people had their hands in the air. They did not know what to do. Their municipal council is now looking at legislation. They do not know anything about The Planning Act. The seven farmers that I spoke to with the callused hands and the dirt under their nails did not know what you guys were doing. They were not asked, and they do not know how to come here and talk to you today.

The frogs, the migratory birds, the fish, what do you think they would have to say about this legislation. We cannot ask them, can we? But you guys can look at the numbers and you can look at the figures and the dollar figures for, you know, how many people are employed. That does not give rise to the life that is in our rivers and in our water that this piece of legislation is going to affect.

I mean, the loophole is we have got 300 animal units going up on 80 acres, 4 to a farm in the Bifrost municipality. That is how industry looks for the weakness in legislation, and this legislation is weak.

I would really appreciate, as a part-time resident of Strathclair municipality deeply devoted to keeping the water that comes from this wonderful park clean as it moves downstream and hits farms like Ruth Pryzner's, I would really like for you people to help us keep that water clean and keep that land clean.

This legislation is flawed. It is not going to help me at all. It is not going to help the people in the Bifrost municipality. It is not going to help the small organisms like caddis flies that live in the water, that provide food to fish, that in turn provides an industry and just as many jobs as you are looking to protect with the ILOs.

Enough, we have enough in the province. Stop it. You people can do that. Stop talking to each other. Start listening to what is being said here. Thank you for paying attention this morning. There were some excellent, really, really excellent presentations here by people who live on the land. You guys do not.

* (11:00)

You want to come out and see my farmhouse? You want to come out and talk to the people at Wolfe Creek? I invite you to do so. I will give you tea. I will give you stew. I will give you clean, fresh water, which I am interested in having, not only for myself, but for my daughter and for all seven generations to come.

This is abuse, gentlemen and ladies. Do not do it. Go back to the table and start working on it and before you do anything, please talk to people like me who are on the land. Thanks.

Mr. Chairperson: Thank you very much for your presentation. There may be questions from members of the committee.

Mr. Maguire: In regard to your presentation, some of the concerns around waste, I know we all need to make sure we take a look at them. One of the things that was in the paper yesterday was the dumping of human waste into the Red River out of the city at the pumping station break. A few years back, 57 Olympic pools of human waste per day were going

into the Red River directly. Can you make comment on that? I mean, you did not refer to human waste at all there.

Mr. Chairperson: Ms. Clubb, I have to recognize you first to have your microphone turned on by the Hansard folks. So please proceed now.

Ms. Clubb: Have you recognized me?

Mr. Chairperson: Yes.

Ms. Clubb: Okay. That was a disgraceful thing that happened. It was an accident and we are getting sued for it in a court of law in the city of Winnipeg. And may I remind you that this piece of legislation does not allow us the recourse or the Department of Fisheries and Oceans to sue anybody in land use that will happen in the future if this goes through. So, you know, thank you to the Department of Fisheries and Oceans for addressing the issue of sewage for the city of Winnipeg.

I personally, for the last 12 years as a homeowner here, have not turned on my taps when it is raining like this outside because I know my sewage goes straight into the river and thereby into Lake Winnipeg. So, as a homeowner, I do not do it. If my neighbours all did the same thing, that would be great. And if we invested in uncombining the current combined sewer and water system and addressed our storm water, and there are great measures and a really growing, vital industry in the U.S. doing exactly that, then we would be keeping what is in that sewage from hitting our rivers and hitting our lakes. I know you guys love the lake. We all do.

Mr. Maguire: If you could comment, if you would, in regard to the timing of this. I asked others, that this bill came in on the April 25, of course, it was a similar bill to what was killed last fall. There were 82 presenters to speak to this bill last fall and I noted that you were feeling there should be some more consultation on it. Can you just provide us with your thoughts in regard to whether there was enough time, given the time of year and the date that this bill was brought in?

Ms. Clubb: The fact that the seven farmers that I went out with, the calloused hands that I was talking about, in Bifrost municipality, the fact that they did not know about this is quite telling. I would ask you

if you feel you have done enough public consultation if the average farmer in Manitoba, contributing to our economic development in Manitoba in a vital way, if they do not know, I mean, who does know? I would turn that question back and ask you if you feel it is sufficient if those men do not know, and if the 20 members of Wolfe Creek Conservation did not know. Obviously, that is not adequate, and I would ask you to address that, because it is your responsibility. And you have been asking very good questions, by the way, that is a personal notation. Anyone else?

Mr. Smith: Thanks very much, Ms. Clubb, for your presentation. Your concern for the environment is pretty commendable. Certainly, that is what this act sets out to try to accomplish. Certainly, your comments regarding some of the tools or the ability for citizens to project their feelings to their local decision-makers is something that we have tried to incorporate and strengthen in this act.

As you read through it, you may have noticed the councils will have the right to appoint a planning commission. The planning commission, certainly, can give recommendations back to their councillors. I believe that that will strengthen some of the local presentation and some of the issues that you have talked about, people knowing their municipality, knowing their areas and bringing those issues forward.

To maintain the conditional-use process as well, for people to have anything over 300 animal units will have to be a public conditional-use process. Some have suggested that is not something that should be brought back in a conditional-use process. I guess I would like to know your feeling on that. And then, as well, the citizens, in the end, in any operation, in any livestock operation, or any development of any type, the local autonomy is still left with the decision makers within a local jurisdiction, and some are suggesting that that should be appealable, regardless of the reasons that those decision makers have made that suggestion or give written reasons for those suggestions.

The act does allow the autonomy for the local decision makers as presently drafted to have the autonomy to give reasons, to listen to the public within that municipality, and have them make the decision, as opposed to having it appealed to the Province or others.

I guess I wonder, in your feelings on that, do you feel that the local decision maker should have the final say on a decision, whether it is philosophical or whether it is scientific,

Ms. Clubb: I am not certain how to answer that. First of all, it was a very long question, and I like "yes" and "nos," but I cannot give it on this one. I can tell you our experience and let you make up your own minds because I am a big one for giving information and then letting people make up their own minds about it based on the information they get. That is why I do not trust the planning commissions and the other authorities that you were speaking about that will be responsible ultimately for the decisions that affect our lives on the ground and around the lakes.

In my opinion, the information that comes their way is not local-based knowledge. It is the equivalent of tact, where we do not go out and ask the native people, even though after years of talking about it, the local knowledge has been seen as having the equivalent of scientific knowledge.

So, furthermore, with the information that comes in to the local councils and yes, sometimes it is passionate and everything else. I was at a conference recently where a Dr. James Karr of Washington State told us that if we look at biota like fish and benthos instead of chemical parameters the rates of the pictures of water across America go from fair to poor. So it really depends on what we look at. He said, "classical impact measurements are bureaucratic achievements and count commodity productions like natural bank accounts. The data that we have extensively collected so far is not meaningful without an assessment of living things," which is why I mentioned living things this morning. Are councils going to take into account living things? No, they are not because 99 percent of our decision-making is made for economic reasons, and we get 1 percent left over to work with for the environment.

Local councils are no different. When the six people in my municipality got up and said they would move if this one economic development came in on the Menzie road, the council said, "Go ahead. This is economic development. Get out of the way. This is a farming community and this is farming, so move."

One of the families alone was bringing \$85,000 a year into that community, into that municipality, through an organic honey operation. They branched out to candles and healing creams. They have road traffic. They are in a couple of stores across Manitoba and do a thriving mail-order business. They do it from 10 acres of land. They have four children, all of whom are award winners in their school. They go everywhere. They are extremely admired and written about quite often because not very many people can make a living off 10 acres of land. The municipal councillors laughed at them, told them to leave for the hog barn. So I do not trust the municipal councils. But, in the end, that is just about all we have got, and I would rather talk to them than talk to people who are sitting in a room and do not know the area.

So it was a very long answer. I am sorry.

Mr. Chairperson: Thank you for your presentation here this morning.

Ms. Clubb: You are very welcome. Thank you for the work you are doing.

Mr. Chairperson: Next presenter we have on our list is Al Rogosin. Good morning, sir. Thank you for your patience last evening and for agreeing to allow others to present ahead of you. Do you have a copy, a written presentation?

Mr. Al Rogosin (Private Citizen): I do not. A lot of this was written late Saturday night when we first got word that these hearings were—

Mr. Chairperson: Then you may proceed when you are ready.

* (11:10)

Mr. Rogosin: Yes, I will make that available to you later. I thank you for the privilege of presenting my views.

My name is Al Rogosin. I am a semi-retired botany professor at Brandon University. My interest in this bill is chiefly on the way in which it has an implication for environmental issues. My own area of specialization and interest is in plant ecology. Ecology, of course, environment is half of the equation, the relation between living organisms and their environment.

A great deal of my notes on what I have to say has been covered by previous speakers. So this may be a review to some extent. To start at the end, a general conclusion, in case time does not permit me to arrive there, I feel that Bill 33 does not seriously address the environmental impacts that are involved in the operation of largely the livestock industry. I think the details of that, that is, the way in which the environmental parameters are affected, were given very concisely by Mr. Koroluk in his presentation.

The issue of water quality, to me, is central. The government has announced water stewardship measures which it has assured us will take care of these problems. I do not see that the provisions of this bill will accomplish the aims which I think are admirable of the Water Stewardship initiative.

Another question that has come up, it has come up quite often in this forum, was the question of local autonomy, at least within the general parameters of what the municipalities can do of making their own decisions about the type of farming they will permit and the parameters of the impact on the water and so forth. I am very sympathetic to the idea of local autonomy, but there is a caveat in there.

I think we have to recognize that we, in general, and in the municipalities and in our farming operations are part of a larger system. What we do and put into the water affects our neighbours downstream just as what our neighbours upstream do and put into the water affects us. Ultimately, in all of southern Manitoba, maybe a couple of exceptions, everything that everyone does that makes its way into the water ends up in Lake Winnipeg. As we have seen, Lake Winnipeg turns green with growth of certain kinds of algae, which has an impact on our other a-little-more-distant neighbours, the fishermen who are trying to make a living there. So I think the question of local autonomy has to be modified to recognize other elements in that system. We are not alone. I think that is a very important concept.

Also, again, with the question of expertise, local people do know about what is happening on the land and where the water runs and so forth. But they may not necessarily know the details which a scientist, a qualified scientist may have to analyze what is there or to analyze what the effects are on the whole system, how what is done here is contributing to greater problems in Lake Winnipeg. That qualified scientist may come from anywhere. As Glen Koroluk

mentioned, you are not necessarily going to find such people within three kilometres.

Some of the problems, specific problems with the bill that I want to mention, one is the, to me, glaring ambiguity in the statement regarding council approval, regarding what is relevant and reasonable. I am sure that the people who drew up this bill, you know, they are bureaucrats and lawyers and politicians and others who know how to use words. Whether a thing is relevant or reasonable depends upon who is speaking. If you are producing hogs, for example, what is reasonable and relevant to you may not be so to an environmentalist. To a person concerned about water quality, what is reasonable and relevant may be much different from a producer. So this is a relative term. It is very ambiguous, and I wonder why. I am sure they must know that that was ambiguous.

I feel that the lack of distinction between, say large and small operations is also very significant. I cannot give you a number about, you know, whether 300 animal units is adequate or too much or too little. I think, certainly, it is plenty. I do not necessarily think that 275 animal units is safe, you know, in terms of the environment. If we go to, say, big operations and much smaller operations, and putting them all under the same legislative conditions is like, say, comparing bicycles and a Mack truck, maybe in saying they all have to observe the same sort of regulations. I think it fails to recognize that difference.

Also, there is another extremely important difference between large-scale pig operations and smaller, more or less traditional family farm operations. It is not only in the numbers of animals and concentration of animals that they are dealing with, but also in the kinds of products they produce. With the big operations, it is based on the liquid slurry manure. With the smaller operations, I think in general, it is straw and compost and the impacts of these two kinds of output are very different in terms of the ease of runoff, in terms of ease of penetration of soil, in terms of the materials they contain.

With the liquid slurry, there is a different biochemistry operating. You are getting different products in that environment. You are getting products such as ammonia and hydrogen sulphide, which is a very objectionable gas. You get different, you might say more benign products with the

composting system and the benefits of composting have been realized for, I guess, hundreds or thousands of years and it is still a good system. That also can be abused, but in general, the straw and composting system is to my mind much preferable.

Other things with the liquid slurry system, it will contain the antibiotics which are a part of the feed that is provided to the pigs which is necessary for reducing disease. But the antibiotics are a factor in the development of bacteria which are resistant to antibiotics which is a huge problem. They may contain hormones which are involved for growth promotion. They may contain certain parasites, heavy metals and so forth, so there are toxicity issues there also.

The bill provides for, it mentions covers for the lagoons and shelter belts which I think are good. They do not mention the fumes that come from the stacks and these fumes may contain, do contain, ammonia and the hydrogen sulphide. I think that the alternative is straw and composting systems which is probably regarded as not economical.

* (11:20)

I think, with respect to the adequacy of the technical review committee process, there have been flaws that have arisen in the process. I think, not just for technical review, but we only have to look at where a lot of the existing operations occur.

Some of them are occurring in areas with high water tables, in almost marshy areas. Some occur on the banks or near streams or waterways. Some occur, and to me this is unforgivable—and that is an emotional term, but I give way to emotion sometimes—on or directly over aquifers and particularly what are called "open aquifers," like the Assiniboine Delta or the Carberry sand hills, a great pile of sand. Any precipitation or moisture that falls, if it is not taken up by plant roots, it goes the way all water goes, down, in response to gravity, gets into the aquifer. Yet we have operations there or in the Interlake area, underlain by limestone, quite close to the surface. It has fractures in it. Any solution can go directly into these and into the aquifer.

To me, this is gross negligence, I think, on the part of the permission of all the governments that have had a part in this, Conservatives and NDP. I do not know, the Liberals have not had a chance at it but

I am not holding my breath. There are questions about problems. In some cases—

Mr. Chairperson: Mr. Rogosin, the time has elapsed, sir.

Mr. Rogosin: Okay, I will—

Mr. Chairperson: Perhaps during questions, you will have a chance to further elaborate on your points, if you would not mind.

Madam Vice-Chairperson in the Chair

Mr. Smith: Thank you very much, Professor Rogosin. I have appreciated your knowledge and recommendations over the last few conversations we have had, gaining some of your knowledge, quite frankly, and some of your different positions from others I have heard.

Certainly, it sets out on the front end, as you have read, clear principles for planning and land use and for the protection of water. Obviously, others have asked the question today, whether or not those cross-references should be allowed between municipal development plans. We will now have to consider any regulations such as a water quality management zone or watershed-management plan. You had mentioned different types of soils and things like that so the mapping that will come out of that in The Water Protection Act, to have to interrelate to that on the up-front planning when doing any of the land use planning and developing. Although that does link that to water, it also links to conservation, it also links to agriculture, fertilizers and manure management. That has to be taken into account on the up-front planning. It has to be brought in front of citizens in a community, and that report comes to us, obviously, for approval. But that has changed. That is new. That is something that has to be taken into consideration.

We have left the autonomy. Certainly, we have a minimum and we have delineated and clearly set what the provincial regulations are. It has to be a minimum to be set, siting and setbacks. For instance, in that area we have a minimum that we have, and municipalities, for whatever the anomaly may be in that municipality, have the ability to increase those distances. Others have suggested that there should not be a minimum; we should actually set what the maximum is at that municipality, the autonomy that

they would have on that. What is your feeling on that?

Mr. Rogosin: I feel it is useful to have some criteria to follow, but I think that communities, and this is where I think local autonomy should be respected. They should be permitted if they want a higher standard than what is permitted by provincial legislation. If they want to live with better conditions, in terms of the effect on water and so forth, I think they should be permitted to do that.

That is my answer. In regard to that, I would like to see more local autonomy, particularly to improve the situation because now the water scientists have told us that the situation on our rivers and in Lake Winnipeg is really bad. Just as an example, with respect to phosphorous, I have been told by people investigating this that the phosphorous, even if we were to cut out adding manure and phosphorous to the system, it would take many years to use up the phosphorous which is already in the silt.

Madam Vice-Chairperson: Thank you, Mr. Rogosin. We have some more questions.

Mr. Eichler: Thank you, and just a quick question for you. First of all, your hospitality last night, or your generosity, for coming back this morning, we certainly do appreciate that with the number of presenters we had.

Just in response to municipal council having final authority, do you feel where that is where the authority needs to be, based upon the information that you have received and in your past experiences?

Mr. Rogosin: I think that as long as the parameters are set up, that is, know what is permitted in terms of the output of the manure and this sort of thing, if they operate within that or better than that. The other thing, and I have heard numerous remarks about this, is that sometimes, although these are people democratically elected, democratic procedures are not always followed. I know sometimes that conditional use hearings, sometimes you can almost see some of the councillors waiting until you are done and they will go on with whatever, so it varies with the conscientiousness there. I think it has to be balanced by outside knowledge, scientific knowledge, and I think that you have to look even beyond the technical review committees in terms of

the people who are expert in certain areas. It may happen not to exist on particular PRC. I am sorry I cannot give a more definite answer. You have to weigh the situation.

Madam Vice-Chairperson: Thank you very much, Mr. Rogosin. Time is expired now for your presentation and questions.

I would like to call the next presenter, please. Glenda Whiteman, CROW Inc. (Concerned Residents of Winnipeg).

Do you have a prepared presentation for us?

Ms. Glenda Whiteman (Concerned Residents of Winnipeg Inc.): Yes, I do.

Madam Vice-Chairperson: Okay, thank you.

Ms. Whiteman: Although you are going to see that it says I do not. I really do. I wanted to save paper.

Madam Vice-Chairperson: Thank you very much. You can begin as soon as you are ready, please.

Ms. Whiteman: As you will see on there, it says that I have no copy for you, but because I wanted to get this into the record, and into the Hansard, I decided to copy it after all. So anybody here or anyone who is interested can still find it on the Web site.

Anyway, good morning to the committee members. Thank you for hearing my presentation today on behalf of Concerned Residents of Winnipeg Incorporated. We are also known as CROW Inc. My name is Glenda Whiteman. As well as representing CROW Inc. this morning, I want you to know that I have also recently purchased property in the R.M. of Bifrost, so I was particularly interested to listen to Lindy Clubb this morning talking about the threats that I may have to face when I move there. You see, I am chemically sensitive. This is not in this report. You will not find this written down. I made inquiries before I purchased the property about hog barns because I was very concerned about it, obviously, for my health. My children and my grandchildren also live in an area affected by hog barns, so although I am here representing CROW Inc., I have very personal feelings on this issue, even though I live in Winnipeg.

As I said, you can find our presentation on the web at crowinc.org and it is called *You Can't Have It Both Ways*.

* (11:30)

This government wants us to believe it is serious about protecting water quality. Manitoba is the first province to have a Department of Water Stewardship and a Water Protection Act, and that is a good thing. This government wants to be seen as leaders in environmental advocacy, fighting to protect Lake Winnipeg from our American neighbours, and I am showing this from the paper, "Manitoba Praised for Fight Against Devil's Lake" recently in the paper.

This government wants to be seen as leaders in empowering the public to assist in the clean up of Lake Winnipeg. It is a key component of the mandate of both the Water Stewardship board, this is called our collective responsibility, and it is also a key component of the new government's water mandate. Last night I had the little brochure with the pretty little girl that Fred Tait spoke to about on the cover of the water thing, but I see it is missing now. Anyway, here are some recent ads that have accompanied that also in the *Free Press* recently.

This government challenges farmers, municipalities, homeowners, cottage owners and industry to participate in the restoration of Lake Winnipeg. You challenge all of us to properly dispose of waste, especially hazardous waste, to reduce water usage, to limit fertilizer and pesticide use, especially within 30 metres of waterways, to repair potential leaks to prevent contamination and to put pet waste in the trash, not on the grass, where it can contaminate surface or ground water, pet waste.

Is it a bad thing that the government wants to place the onus on us to protect our water resources? No. It is fine and it is right. You are right to enlist our opinion, advice, assistance and financial support to protect the lake. It belongs to all of us and we are all responsible for both the condition it is currently under and the condition it will be under in the future. Doing nothing is not an option, this government tells us. Okay. Let us do something. Let us all work together to clean it up. That is great.

However, if this government wants the public to live up to our shared responsibility, it will have to lead by example. If this government wants our opinions for the Water Stewardship board, it had better be prepared to listen to our opinions about intensive livestock operations. You are not going to fool anybody. Changing the name of this legislation from Bill 40 to Bill 33 does not hide what you

are attempting to do. Demands for public participation in the planning process are not going to go away. The people of Manitoba do not profit from mass-produced livestock being exported out of this province and out of this country. The people of Manitoba do not want intensive livestock operations in their backyards. Human health, environmental health and water quality must become priorities over industry pressure to expand ILOs in Manitoba.

You cannot have it both ways. Expect us to do our part, fine, but do your part, too. Prove to us that you mean what you say. As a parent, I learned that "Do as I say, not as I do" never worked. This government needs to walk the talk. Start using compost instead of fertilizer on all Crown property. Stop using pesticides within 30 metres of waterways or, better yet, altogether. Finally, prove to us that you really care about public concern over the quality of our water by coming up with a planning act that includes meaningful public participation because, one way or another, we will be heard. Thank you.

Madam Vice-Chairperson: Thank you, Ms. Whiteman. Are there any questions? Mr. Maguire, please.

Mr. Maguire: Thank you very much for your presentation. I just have a few questions here in regard to clarity in regard to this bill. One of the questions that has been asked of many is this: Do you feel that municipalities in this particular bill should have the final say in land use, and that the Province should have the final say on environmental impact?

Ms. Whiteman: Given its track record on environmental impacts, I would have to say no. We have heard from a number of people up here presenting that the people in the area know best what is happening in the area. We have had numerous examples where this government has not protected our environment, so I would have to say no.

Mr. Maguire: I note with interest that you have made the comment that people in Manitoba do not profit from mass-produced livestock being exported out of this province. I am assuming then that your concern there is that these livestock numbers would be better if we could process them here in Manitoba.

Ms. Whiteman: Processing here in Manitoba would be fine, but producing sick animals, sick land, sick water and sick air for the purpose of exporting

something out of the country is very counter-productive for the people of Manitoba. We are left with the pollution and it is not fair.

I just came from a legal workshop this morning and I have to go back to it now. I was actually surprised to learn that it is not fair, it can be grounds for legal action. It is not fair for you to be making the people of Manitoba sick or for hog producers to be making the people of Manitoba sick so that they can profit.

I wonder, I would really like to know, and maybe some of these presenters might know how many people who own, there is a very small number we heard it yesterday, I am sorry, I do not remember it, but a very small number of people who are actually profiting from these ILOs, 150?

Floor Comment: 115.

Ms. Whiteman: 115, how many of them, actually, do they all live in Manitoba? But 115, how many people do we have in Manitoba? We have a bill, an act here that is protecting the interests of a few people, very few people, and, in the meanwhile, the rest of us are at risk. It is not fair.

Mr. Smith: Just quickly, thank you very much for your presentation. It is certainly very thoughtful. I could not agree with you more in some of your points. Certainly, doing nothing is not an option. This legislation was last developed and changed in 1975. There has been a lot changed since then, I am sure you would agree. This is really the first complete revision of The Planning Act in 30 years.

The cross-reference to the different departments within The Planning Act and up-front planning is what the attempt is in this legislation. Certainly, it is a piece for protection of the environment and up-front water planning. With the water quality management zones, it will be brought forward in The Water Protection Act to be cross-referenced as mandatory to be considered in your up-front planning and land use. Also, the other bills it will adhere to will be, certainly, bills in agriculture. It will be mandatory to look at bills in Conservation, and all regulations that we have in the up-front planning.

You mention some of the shared responsibility for citizens and people to have the public input. That will be done by citizens within a municipality and

everybody to have that say in the development of their land use planning. That is part of what this bill does. I agree with you 100 percent that we do need to do more protecting our water and protecting our environment. I believe this bill goes a long way in doing that.

Madam Vice-Chairperson: Ms. Whiteman, very briefly.

Ms. Whiteman: Thank you for your comments. I am sorry that I cannot agree with you that this bill protects us and provides us with the opportunity for input. You have heard from many, many people that this is going to reduce the public's opportunity for input, and that is my biggest concern.

But I am also glad that you brought up the point about up-front planning because I think this is something that has been missed in this argument up till now. Up-front planning is a very good idea. It is a good idea to look forward. It is a good idea to look at all of your departments and combine all the information that you have about a given region, but you cannot know everything. I do not think that it is a good idea to set in stone a decision and then say that you cannot come back and look at this decision again later if more information comes to light. Not every municipality has all that information now up front, so it is not fair to limit their ability to change their decision in the future.

* (11:40)

Madam Vice-Chairperson: Mr. Maguire, very briefly.

Mr. Maguire: Well, I just wanted to say as well that I respect your answer in regard to the export of animals out of Manitoba. We had a presentation this morning that indicated there was some 25 percent of agricultural income in Manitoba comes from the area around hogs and that sort of thing in Manitoba. So it may be some differences of opinion that you have in regard to how they should be raised, but can you just clarify that for us, that that is your major concern, or that is it there is livestock in Manitoba at all?

Ms. Whiteman: You are asking me what my major concern is. Is that correct?

Mr. Maguire: You indicated that there was a concern about the export of animals out of the province, and that of course the land and air and the

water were major concerns, and I am wondering if you can indicate to us if it is the mechanism that livestock has raised or the ability that this bill gives for some municipalities to have go and no-go zones, if you will, areas where livestock can be developed as well as those areas where they are perhaps more sensitive that their zoning by-law will prohibit livestock. Do you see that as a good thing or are you concerned that there be livestock period being able to be developed in Manitoba?

Madam Vice-Chairperson: Ms. Whiteman, I will give you an opportunity to answer, but you must be very brief. Your time has expired.

Ms. Whiteman: I understand. It is a complex question, but I will try to do it briefly. My biggest concern is that animals are being raised in such a way that they are a threat to public health.

Madam Vice-Chairperson: Thank you very much for your presentation.

I will call the next presenter. Mr. Andrew Dickson. Thank you, Mr. Dickson. Do you have a presentation prepared to distribute?

Mr. Andrew Dickson (General Manager, Manitoba Pork Council): No. I have some oral comments I would like to make.

Madam Vice-Chairperson: All right. Please begin.

Mr. Dickson: Thank you, Madam Chair and committee members. Just a little bit of background. I was a provincial civil servant for 30 years with the Department of Agriculture. I was very much involved in the expansion of the livestock industry in the past 20 years in the eastern side of the province. I probably chaired over 200 Technical Review Committee reports. I have attended over 100 conditional-use hearings on livestock developments. I have attended innumerable meetings with municipal councillors dealing with livestock developments and with local people and to help manage and deliver various extension programs to try and educate the general public on how we can manage this expansion in the livestock industry that meets the needs of both communities, the farming industry and the greater needs of the province as a whole.

Bill 33 needs to be seen in some sort of context. The Planning Act was originally a major effort by

the Province to try and bring some order to the whole issue of how we guide developments in the province. There was a major effort in 1975 by the Province to try and devolve away some of its authority onto municipalities to try and encourage more local participation in the economic and social development of their communities.

We should need to remember what these social and economic communities are. These are along administrative divisions set up by the Victorian planners who set up this province over a hundred years ago. This was when men rode around on horses with top hats. They would recognize the current municipal government structure in Manitoba in many of the ways it does business. Their intention was to have a province of five million people, so that has not happened. We have administrative structures in rural areas that are faced with huge modern technical issues in terms of economic development, and it is a priority of the Province to play a key role in helping those municipalities with these types of developments in terms of making sure that they minimize their impact on the environment.

I think we have come a long ways. Ten years ago maybe half the municipalities in the province were in planning districts. Now most of them are in planning districts. That is a long way to come. Half of these municipalities are going through a process which they do not have a lot of experience with and are learning how to do economic and social development in their communities in developing the sort of social structures within their communities and how to do this development. It is critical to the Province to provide guidance to these municipalities through things like the provincial land use policies and how to do that development.

The issue today is about livestock policies. There will be further policies that need to be developed to bring the current planning process into the 21st century. I commend the government on trying to do this. This is a major step forward. We have been talking about this livestock policy issue since the Stewardship Panel report came out five years ago. There have been innumerable consultations with the general public and with the various stakeholders in this to come up with an appropriate response on how to separate out this issue of the environmental issues and good sound land use planning.

Farm practices have changed as well, and we have set out various things like the Farm Practices Protection Board over the years to help ensure that we can deal with things like odour issues. Farmers, themselves, through educational processes, have learned how to adapt new technologies onto their farms to the point now, for example, with liquid manure, these systems now account for 80 percent of the application of manure. Soil will absorb the manure if it is applied at agronomic rates, the same way we apply artificial fertilizers in soil. In the last three years, the hog industry alone has been able to reduce its phosphate emissions from feed into the manure by 39 percent by just changing the way it composes its feed.

At conditional-use hearings, we have seen some of these technologies being proposed, but within a very controversial environment. These conditional-use hearings were essentially set up initially to bring neighbours together on a particular development to come up with some resolution of some small problems, but the intent was that development would proceed because it would be based on an appropriate use for that land that had already been developed in the land use policy that had been adapted by the municipality.

These meetings were full of acrimony. There were recriminations. We have seen wild accusations, less than truthful statements of facts, participation by non-community members, yelling matches, intimidation, and rudeness. I have seen people leave the room in tears because they had been accused of trying to pollute the water that would affect the babies in their community. We have had to call police officers to these meetings to restore order. We have had death threats made against councillors. We have had sabotage of barns. We have seen cutting of barbed wire and cattle getting out because the councillors have taken certain positions on things, and so on. These are not simple hearing processes. There is a lot of controversy in these small communities on how to handle these issues.

We need to also look at the political context in which these decisions are being made by municipalities. Many of these municipalities have 1000 to 2000 citizens. A group of 40 people showing up at a meeting is a major controversy in terms of how to handle that politically in these small communities. When the turnout at elections is relatively small, 40 people being against you can

mean you would not get re-elected. Councillors pay attention to that.

So the problem we now have is how do we protect the interest of the minority. In many cases in rural Manitoba farmers are in a minority in their communities. We should try to return to the original purpose of the conditional use in that it should be to set the conditions on that particular development, and not that we should need to revamp our whole land use policy, that a major effort had been made by the community prior to these conditional use hearings to come up with, and that had been agreed on by the Province.

Two final points I would like to make, one is environmental issues for municipalities. It would be critical for them, and they have repeated this over the years, to have some staff from the Department of Conservation who could come out, explain The Environment Act, its regulations, their enforcement procedures and give them some examples of the actions they have taken locally. This would help in the education process for the community. Most people want to hear that the Province is playing an active role in their community in terms of ensuring the protection of the environment. We know the staff is doing that, but we need to have a more public approach taken at these conditional use hearings. I know they are swamped with work. I know they are understaffed, but maybe we could try to find one or two staff that has the ability to talk at these sorts of meetings to present the facts as they stand.

* (11:50)

On a point of clarification in one of the other presentations, there are 1305 hog farms in Manitoba on the Manitoba Pork Council's quality assurance program. We have 809 farms which represent 80 percent of the production, and there is something like 10 000 to 12 000 people engaged directly in hog production and its processing in the province. This is not a small industry. Yet it acts globally, but it tries to think locally. These systems are driven by the barns that are in place on these small communities.

Those are a few passionate remarks from somebody who has been around and probably has 10 years left before I am put out to pasture.

Madam Vice-Chairperson: Thank you very much, Mr. Dickson.

Mr. Eichler: Thank you, Mr. Dickson, for your presentation. I know you have a vast array of knowledge that I know that we as a committee need to try and take advantage of some of that experience and your background.

I just have a question with respect to the appeal process. I know your involvement with the land use and with the TRC and the number of presentations and hearings you have sat in on, but could you just tell us a little bit about what you see the appeal process, how we could make that a little more user friendly?

Mr. Dickson: My feeling over the years was that there should be a venue through which a proponent of an operation, if they have been declined by the municipality, that the municipality is obliged to give some form of written reason back to that proponent as to why they have turned that proposal down. If the reasons for turning down are not valid, there should be some authority which would bring sober second thought to the process. Not that the local municipality could not have the final decision on the issue, but we need to take it out of those contentious hearing processes to where there is a more rational approach taken and we can reduce the level of emotion that is involved in these things.

Mr. Eichler: With your experience with the TRC, do you think that the role of TRC would, if they were still involved to their level, that it would probably do away with somewhat of the appeal process? Do you think that might kind of solve some of the problems?

Mr. Dickson: The TRC process has evolved since we first started these things in 1993. The first reports that we did were up to four or five pages long. The current ones are up at 26 pages long where there is a lot of detail in there about how this proposal meets the various issues dealing with environment, soil and water issues, local planning issues and so forth.

The aim is to provide some technical information to the council so that they can assess this thing in some sort of scientific light, recognizing the fact there is a second level of approval that goes on by the Department of Conservation in terms of licensing these facilities for things like manure storage and for the application of manure on fields. We need to explain that process better to people. Now whether there needs to be a public involvement

in the approval process that Conservation goes through is another issue.

Mr. Maguire: I appreciate the experience you bring to the discussion here, Mr. Dixon. You indicated you were at some 200 conditional use hearings that you have been at.

Mr. Dickson: I have prepared about 200 Technical Review Committee reports and I have attended over 100 conditional use hearings on livestock developments.

Mr. Maguire: Madam Chair, you referred to the livestock stewardship work that had been done some five years ago, and I know that this bill had come forward last fall. I am sure you were watching Bill 40, The Planning Act changes that were in that particular bill. Do you feel that other than the addition of the conditional use in some of the areas around other buildings that this bill is an improvement from Bill 40?

Mr. Dickson: I think there are additional features added to this bill that should make the ability to move forward on approving the appropriate siting of livestock operations that were not in the original bill. I think some proposals have been made to make some amendments to the current bill that would enhance that, but the key thing is we need to move forward on this.

Mr. Maguire: Thank you. Your experience on Technical Review Committee I think is quite valuable. It is one of the areas that I have concern in as well. Can you just give me an indication of the make-up of the technical review committees in the past, and whether you think they should be continued like that?

Mr. Dickson: I come from a biased point of view on these things because I helped write the terms of reference for the original technical review committees. But my feeling was that it is important that we have the departments of Agriculture, Food and Rural Initiatives, Conservation, Intergovernmental Affairs, we also need to have Water Stewardship involved, and from time to time we would bring in expertise from other departments such as the Department of Health, for example, if we had to get the advice of the Chief Medical Officer for environment and so forth.

But that committee I chaired because I thought it was important that we make sure that the agriculture issues are properly dealt with and, at the same time, ensuring there is a balance between the various departments in terms of the information we are trying to give to the council on the matter at hand.

Mr. Smith: Thanks for your presentation, Andrew. Your knowledge is pretty extensive, obviously you have been around this for a lot of years. What you are telling us and what I am hearing from you is a balance and to strike that balance and how we achieve that and get there through local autonomy in some cases of decision making, however, based on science and other issues.

Mr. Chairperson in the Chair

One thing that has come to my attention numerous times and just, with your experience, if I could get a comment, is that the Technical Review Committee, by some, is looked at as a rubber stamp on what they are supposed to do and what they are supposed to say and what they are supposed to come back with on the report from others. I do not believe that is the case whatsoever; however, if I could get your comment on that.

Certainly, you have mentioned, when a council does make a decision, to look at having a written report on their decisions or reasonings for that. Do you believe, as well, the reversal of that? If, in fact, a council gives a decision for approval, that they should also go the other way, to every decision that they do approve that all opponents to that should have a written decision for reasonings why?

Mr. Dickson: On the first issue, the TRC reports are not rubber stamps. Those staff went out in the field, looked at the site, did a lot of groundwork walking out there. We will get a lot of feedback from the local community about a particular operation. We get letters, phone calls, councillors would give us feedback, we would investigate any issue brought up by council or by local citizens and provide some feedback in terms of the content of the report. There were lots of times when we went to the proponent and said, "This is not a good proposal. You need to do some changes to this thing. Let's move forward on a revised project, and we will bring that to the attention of council that we are actually reviewing your revised project."

The council hearing process was always an initial first step. After we give the technical review report to council, we are more than happy to go back and review other issues. We were never hung up on size. If somebody wanted to do a technical review on an operation that is 50 animal units, we did them. If they were 1500 animal units, we did them. The 300, 400 cut-off point was an administrative thing just to simplify the process of making sure they happen at some point or other.

Two, on the approval, my thing is always we should have some written response either for or against a proposal. People should not just have yes or no. There should be some discussion as to why we approved it or why we did not approve it.

* (12:00)

Mr. Chairperson: Thank you very much, Mr. Dickson, for your presentation.

For information of committee members, it had been requested, I believe, by Mr. Loewen earlier this morning that the Clerk's office contact Mr. Kevin Miller regarding a presentation. Mr. Miller, apparently, has indicated that he is no longer interested in presenting to this committee and he has no written presentation to present to the committee, so Mr. Miller's name on Bill 51 will be stricken from the list of presenters.

That concludes the list of presenters that I have before me with respect to Bill 33. Are there any members of the public here today, this morning, that wish to make a presentation on either Bill 33 or Bill 51? Would you please signify by raising your hand?

Second call, any individual members of the public wishing to present on bills 33 and 51? Seeing none then, we will conclude that public presentations on bills 51 and 33 are closed.

* * *

Mr. Leonard Derkach (Russell): Mr. Chair, after consulting with the Government House Leader (Mr. Mackintosh), I know that committees are open, but I would request that this committee adjourn at 12:30. I know we need agreement of this committee, but I request that the committee consider the advisability of adjourning at 12:30.

Mr. Chairperson: It has been recommended or suggested that this committee sit until 12:30, I would imagine with a minor amount of flexibility of that. If we happen to be in the middle of a certain procedure, the committee will rise at that point and then come back in the later sitting that has been scheduled.

Mr. Smith: Thanks, not to propose to the suggestion, however, if we are very close in one of the bills, can we re-evaluate at 12:30 to see whether the committee would like to continue and possibly finish off a piece of work that we are doing at that time?

Hon. Jim Rondeau (Minister of Industry, Economic Development and Mines): I agree that we should look at it at 12:30, just in case we are a few minutes off, but, maybe it might be the will of the committee to move Bill 51 first because it would be shorter in the clause by clause, rather than Bill 33 which would take a long time in the clause by clause.

Mr. Derkach: Mr. Chair, to that, our critic for that area is currently tied up and is not available. I am wondering whether we might consider leaving that one until he is available.

Mr. Chairperson: Is there a willingness of the committee, then, to consider Bill 33 until such time, if we conclude that until such time as the critic is available?

Mr. Rondeau: Just as a point of clarification, that would mean that the 6:30 meeting would be getting back at 6:30 and doing the clause by clause on Bill 51 then?

Mr. Derkach: Mr. Chair, whenever the committee reconvenes, we would ensure that the critic would be available to do that at that time.

Mr. Chairperson: Then there is agreement that the committee will proceed with clause-by-clause dealing with Bill 33 at this time. We will review it to see how we process or proceed with respect to this bill.

Bill 33—The Planning Act

Mr. Chairperson: Okay, Bill 33, The Planning Act. Does the minister responsible for Bill 33 have an opening statement?

Hon. Scott Smith (Minister of Intergovernmental Affairs and Trade): Mr. Chair, just briefly, quickly, we have had a great deal of discussion over the last period of six months, certainly have been deeply engaged in The Planning Act and certainly the modernization and to reflect changes in practices we have seen since this act was introduced some 30 years ago.

The Planning Act, certainly, has had extensive changes, specifically in 29 to 30 separate areas within The Planning Act. Really, the better up-front planning certainly is something that has been touched on many times in this committee and spoken to. The Planning Act certainly does allow for local input into that decision making and the new tools in regional strategy in secondary plans and planning commissions, will give new tools to municipalities for their local autonomy and decision making. The cross-reference to the water bill that will be coming forward, certainly it is something that is referenced in land use planning in a meaningful way, an up-front consideration for that planning.

The decisions that we are basing this act on have been reflected very, very well in a lot of the committee representations and presentations we have had here with us today. We have heard just a short while ago from Mr. Dickson that a balance is something that we need to strike. Obviously, there have been different ends of the process from people making presentations here today, and we believe that we have struck an excellent balance for regulatory requirements being identified to municipalities to identify the autonomy for municipalities in their decision making and, certainly, for environmental protection and up-front planning.

With those few brief comments, I would, certainly, know that everyone here had listened intently to the presentations and has studied this bill in detail. So I am looking forward to moving ahead clause by clause.

Mr. Chairperson: We thank the honourable minister for the opening statement.

Does the critic for the official opposition have an opening statement?

Mr. Larry Maguire (Arthur-Virden): Absolutely, Mr. Chair. I know this has been a bill that has just come forward on April 25 to be dealt with. The

minister has brought Bill 33 in. I have a few comments in regard to the bill.

Very clearly, municipalities in Manitoba have for a long time wanted to have land use decisions made in their jurisdictions. While many of the presenters in the industry have come forward with recommendations for change or for some amendments to this bill, I encourage the minister to look at those. He indicated that there may be some, I think in his comments, and that they would be willing to bring forward. I do not know if he has those to come forward here in clause by clause or not, but I assume that is when he would bring them forward, if he has any.

I would also like to say that municipalities for the meetings that I have attended have indicated that they would like to have environmental issues and enforcement dealt with by the Province. I think that the Province has a role in being able to which, of course, that jurisdiction falls under the Department of Conservation at this particular time.

I think we also heard from a number of speakers who indicated they wanted to have some more co-ordination between the Department of Conservation and the Department of Intergovernmental Affairs. I would say that you would have to include the Department of Agriculture and Rural Initiatives in that area because, of course, a lot of the development issues that we are talking about here in the livestock industry, certainly directly impact the agricultural economy of Manitoba.

I noted with interest that the Deputy Premier, the Minister of Agriculture (Ms. Wowchuk), was here in committee last night to hear some of these concerns as well. So I urge the government, if they pass this bill, to move forward with the integration of some further issues around co-ordination of these efforts. I think it was pertinent to hear from some of the latter presentations that we could use some definition in regard to the public hearings that would be going on. Pardon me, Mr. Chair, I was so used to calling for a public inquiry there on some other issues, that I almost had one on Bill 33 as well, but I will not do that.

We wanted to raise the issue of making sure that, I think, when people come to make presentations in the country on these kinds of developmental proposals, that they would like answers to some of

the questions and concerns that they have around environmental issues. I know that the government has the role of being the person, or the entity that is responsible for the enforcement on that side of things. So I urge the government to, wherever they can, answer these questions. Perhaps they can do it through farm practices, through manure management, mortalities act areas.

I think that our land use in Manitoba is one of the key, one of the most important things we can do in our industries. I do not know of any farmers that I have met who purposely or definitively do things that would endanger their livelihood which they would be doing if they were to impose issues of degradation upon their land or dealing with their water or air because, of course, those citizens depend on the water from their wells to drink and for feeding their livestock, for growing the crops and feeding their families that they utilize it for.

*(12:10)

Of course, air is a pristine quality as well. We have got a water bill before us in this Legislature, as well, that I think would be pertinent to know more about that bill in regard to some of the regulations and intent of the government in that bill. The same as Bill 33 is a legislation that we would like to know more regulation and intent about as well, Mr. Chairman.

I want to say that we have heard from a number of presentations that have indicated that we need to look very closely at Bill 22 and Bill 33 for their interaction in regard to how we proceed with programs in Manitoba, and I think before we come down with hard and fast rules as to how these will happen.

But I think it is very important that we move forward because there is an industry waiting to know where they can go and what they need to do to have development, to get development. There may be plans out there today that are being impacted by waiting for the results of this. I would encourage the government. I hope at least that any development projects that are out there are being moved ahead as we speak and not being dragged out and held up because of this bill because that impedes the economy of Manitoba as well as making sure that the proper use is taken up with the environmental aspects of making sure that we have clean water,

have proper use of our land and make the best use of the resources that we have in Manitoba for the benefit of all citizens.

We have a number of integrated areas. There is Lake Winnipeg, Lake Manitoba, impact studies that the government will have to take into consideration in regard to conservation. There are other areas that do not deal as directly with this particular planning act, but all of them together, you know, are putting a lot of focus on the individual farmer, if you will, never mind the discussions about the larger operations, but impacting individual farmers from being able to move forward for their families on their own farms, and I bring into question or just raise the issue and concern about the grandfathering of some of these types of programs for existing livestock operations. If there are, in fact, areas that are in what will become designated as an area of, say, less approval to have a livestock operation on, I think there is a concern about the valuation of property in regard to this act in the future and the impacts it has because we all have the best intentions to farming all our lives, Mr. Chair.

I was probably one of them as a farm leader and a farmer myself. I had no intention of selling my farm, but I did in 2002, and it had a lot to do with the fact that I had neighbours with young families who did want to farm in that area, and my family was in other industries, and so those kinds of circumstances do arise. When these particular circumstances happen on land that has been designated as, if you will for want of a better term, a no-go zone and the by-laws that will be coming together and the zoning by-laws that a municipal or planning area will develop, then I think we need to be very careful with the way we impact their livelihoods and the valuation of the property that they may put up for sale. I would not want to see us do anything to diminish their valuation of that because, of course, some of them may be using it for a retirement in that area or for an opportunity of evaluations for their family to take it over, Mr. Chair.

So, with those few words, I think that there are a lot of things that could be said about this bill. I have to put on the record as well that I was most disappointed last fall when Bill 40 was killed because there were 83 people to speak to that bill, and as many of the speakers here have indicated, the minister's reasons for killing that bill at that time were so that he could hear more consultations, that

he have more time to develop a more clear package, but I guess that speaks to the fact that he felt that the predecessor's bill, as previous minister in that department, did not do a good job of that area, and so I note with interest that it seems to be a parallel to the minister in charge of that area before him with some other issues that he has to deal with today as well in regard to the Crocus Fund, Mr. Chair.

I would like to say that I think it is an important issue that we look at dealing with as we move forward, and the fact that we have now had some 20 presentations in regard to Bill 33 brought in on April 25 to try to move this forward in this session. The government knows full well that the farmers are trying to put their seeding in the ground. To deal with this in the fall would have been the time to do it. I know that the minister has said that we need to move it forward.

With a few proper amendments and some additions to that bill last fall, we probably could have moved Bill 40 through. Obviously, there were concerns, but he has brought forward those additions in Bill 33, so it would have been an opportunity to have done it then. And then if he felt that the bill needed to be enhanced, modernized, brought forward because his predecessor did not do that, did not do a good enough job of it, then we could have done it either in this spring session or next fall, and those amendments could have been made as well. So I just wanted to leave that, Mr. Chair, if I could. With those few comments, I would look forward to the clause by clause.

Mr. Chairperson: We thank the critic of the Official Opposition for the opening statement. During the consideration of a bill, the table of contents, the enacting clause and the title are postponed until all other clauses have been considered in their proper order. Due to the length of this bill and the number of clauses, if there is agreement from the committee, the Chair will call clauses in blocks that conform to the 16 parts of the bill, with the understanding that we will stop at any particular clause or clauses where members may have comments, questions or amendments to propose. Is that agreed? *[Agreed]*

Part 1, pages 1 to 6. Shall clauses 1 through 3 pass? Do you wish to have it broken into individual clauses, Mr. Maguire?

Mr. Maguire: No, I think I am on No.1.

Mr. Chairperson: Okay.

Mr. Maguire: Mr. Chair, I note that this is the area of definitions and section 1(c), I believe it is under 1(1)(c). I just wanted to bring up the issue of sensitive lands just to make a note on it, that sensitive lands in this definition includes "(a) land that is susceptible to flooding, permafrost, erosion or that has unstable slopes or poor drainage;" and specific areas are "(b) areas of special significance for animal, bird or plant life, including wetlands, forests and nesting areas;" and (c) is "land on which any development is likely to harm ecological diversity."

I want to go back to the (a) part of that, Mr. Chair, and just say that, you know, as we look outside and the rain keeps coming down, maybe we need a clearer definition of the word "flooding." There is a concern here in regard to land basins, I think, that may be understood in the Department of Conservation under environment, but I just wanted it noted because it has been brought to my attention by citizens out in the country, and certainly we have some abnormal circumstances at times.

Mr. Chairperson: Noted.

Mr. Smith: Noted.

Mr. Chairperson: Clause 1 to 3—pass; part 2, pages 7 to 11, clauses 4 through 12—pass. Part 3, pages 12 to 26, clauses 13 through 39.

Mr. Maguire: Just a comment in regard to planning districts, Mr. Chair. I know that we looked at the opportunities here to move forward with planning districts. I know it has been raised in the country as well that, while many jurisdictions, municipalities and towns are working together today to come together in planning districts, they were wondering if it was the government's intention to use this as a carrot towards further amalgamations of municipal districts, and I just wondered if the minister could comment on that.

Mr. Smith: I would not put it as a carrot, as the member has put it. Certainly, we do encourage districts to work in more efficient and effective ways. We find that planning districts in fact do that, many of the planning districts' decision making reflecting what is going on in each neighbouring municipality. There is nothing but positive planning and dealing with your neighbours in a constructive way, is the intent of it.

* (12:20)

Mr. Chairperson: Committee ready to proceed. Clauses 13 to 39—pass; part 4, pages 26 to 36, clauses 40 through 67—pass; part 5, pages 37 to 52, clauses 68 through 93—pass; part 6, pages 53 to 56, clauses 94 through 102—pass.

Mr. Maguire: That takes us up to 102?

Mr. Chairperson: Yes.

Mr. Maguire: Okay. That is fine.

Mr. Chairperson: Part 7, pages 57 to 65, shall clauses 103 through 118 pass?

Mr. Maguire: Mr. Chairman, I note with some interest here that the notice of the hearing, I am looking at dates and times here in regard to the notice of hearing date, and 114(2), and the distances in regard to this has been changed. I know that it was brought to our attention this morning that, well, of course, it was not so much about the timing, but in 114(2) that every landowner or every owner of the property located within three kilometres of the site of the proposed livestock operations, even if the property is located outside the boundary of the planning district or municipality, I wonder if the minister could provide us with the intent of the moving outside of the boundaries of the planning district.

Mr. Smith: As the member heard from a lot of people that made presentations here today, obviously some of these developments have an outreaching effect for people not only close but, certainly, in large expansion in neighbouring municipalities as well. It outreaches, at times, stretches, and, as we have heard here, some folks had suggested, in fact, that three kilometres was nowhere near efficient to look at. We heard others say that two kilometres was where it should have been left and others say that it actually should have been reduced. The three kilometres, certainly, does notify a greater distance in neighbours of some of the developments.

Certainly, as we heard from some of the presenters, that balance is what we are looking for. We believe this is a balance that has better outreaching effects for people that are affected by these developments, and certainly whether it be eight kilometres or whether it be one kilometre, certainly,

there has not been a balance on that in our presentations. This is something we have heard, certainly, in the last period of time, that two kilometres was not enough. Three kilometres in neighbouring municipalities, obviously, when you have a neighbour just over the line, that even 100 yards within a municipality needs to be notified. That is only good development planning and, certainly, we believe that that is the correct way to go.

Mr. Chairperson: Committee is ready to proceed?

Shall clauses 103 through 118 pass?

Mr. Maguire: Just a quick question in regard to section 116(2).

Mr. Chairperson: Is there leave of the committee to revert to clause 116(2)?

Some Honourable Members: Leave.

Mr. Maguire: I apologize, Mr. Chair. I guess others may have passed it, and I passed over it. I had not said leave yet on it, but I thank you for allowing leave to discuss it.

Were there any other conditions that the government had looked at in regard to requiring reduction of odours for livestock operations under 116(2)(c) besides "covers on manure storage facilities" or "requiring shelter belts to be established"?

Mr. Smith: Thank you very much for the member's question.

There are other considerations that we looked at. Certainly, one of them was the injection issue, where it will be dealt with under the farm practices act, and obviously that is something that we believe should continue.

Mr. Maguire: Then I have a question in regard to the technical review committees. It may be under 114 with the report, but the make-up of the Technical Review Committee, we talked about here at the end of the presentations today and others have brought forward the issues. I spoke to the minister around this before. Can he indicate to me whether the issues that he and I had talked about will be coming forward on regard to the Technical Review Committee? The chair, does he have any

amendments with this session or will he be bringing those at report stage?

Mr. Smith: There will be no changes to the policy that we have right now. The chair is in Agriculture and that will remain.

Mr. Chairperson: Is the committee ready to proceed?

Okay, part 8, pages 66 through 86, clauses 119 through 146—pass; part 9, pages 87 to 90; clauses 147 through 151—pass; part 10, pages 91 to 94, clauses 152 through 162—pass; part 11, pages 95 to page 101, clauses 163 through 174—pass; part 12, pages 102 to 106, clauses 175 through 183—pass. Part 13, pages 107 to 111, shall clauses 184 to 193 pass?

Mr. Maguire: I just wonder under these miscellaneous provisions in Part 13 if the minister could elaborate in regard to clause 185 Third reading deadline does not apply. I am assuming that that is part of The Municipal Act that he is bringing that forward.

Mr. Smith: I would like to thank the member for this technical question. There is a clause in the municipal by-law that automatically causes a by-law to expire after a two-year period if it is not passed.

Mr. Chairperson: Ready? Is the committee ready to proceed?

Clauses 184 through 193—pass; part 14, pages 112 to 120, clauses 194 through 211—pass; part 15, pages 121 to 122, clauses 212 through 217—pass. Part 16, page 123, shall clauses 218 through 220 pass?

Mr. Maguire: Mr. Chair, in regard to section 220(1), I know that the government perhaps needs more time in regard to section 117, or 217, pardon me, which is The Water Protection Act. Can the minister indicate to us, because there has been considerable amount of discussion around the regulations dealing with The Water Protection Act, when they would be planning on bringing those regulations forward.

Mr. Smith: Thanks very much. Obviously, asking about another bill in another ministry, but certainly, I know the Minister of Water Stewardship (Mr. Ashton) had said it should be coming forward for

consultation and regulations for that bill some time this summer or shortly. Certainly, once regulations come into force, they will be, obviously, enacted immediately into this act.

Mr. Maguire: Well, the only supplementary I have to that is I would hope there had been more clarity. If The Water Protection Act was already there and we knew what it was, it would be an issue that you could probably move forward with because it would be something concrete for you to get your hands on and read and look at, and the citizens of Manitoba would be the same. But, because we have a Water Protection Act that is not passed, and I know that is why you are calling for an extension, except section 217, I would hope that the minister would continue extremely close consultation with the Minister of Water Stewardship, and that he might have known what that bill had in it before they moved this one along as much as they have.

To put such a major part of a bill forward with the ambiguity hanging over citizens of Manitoba who still do not know, even if this bill is through, whether they are meeting the guidelines that this bill is going to provide because they will not know what is in The Water Protection Act. So that is why I urge the minister, as was done last fall by the members that came to committee on Bill 40, that those regulations around The Water Protection Act be brought forward as quickly as they can. Thank you.

Mr. Smith: Thanks, I appreciate the member's advice.

Mr. Chairperson: Is the committee ready to proceed?

Clauses 218 through 220—pass; table of contents—pass; enacting clause—pass; title—pass. Shall the bill be reported?

Mr. Eichler: Mr. Chairman, I have been very patient. I have been on several committees now where we have had presentations being brought forward, and I just want to express my disappointment in this government in the lack of regard for the presentations that have been made. There have been a number of suggestions brought forward with respect to this particular bill. I have seen no amendments being brought forward, and, just for the record, I would like the minister to sit back and have a look. The process that we go through here, as

members of the committee and listen to the presentations, I just question whether or not the government really wants to listen to the presentations that have been brought forward. Having said that, again, I just want to reiterate the disappointment I see in the minister and this government in the lack of respect they show for the presentations being put forward.

Mr. Chairperson: Shall the bill be reported?

Some Honourable Members: Agreed.

Mr. Chairperson: It is agreed that the bill will be reported.

Can I ask that the committee members leave their copies of the bills on the table, especially for the bill that has yet to be dealt with, which is Bill 51.

Just a reminder for committee members that we will be meeting again this evening at 6:30 p.m. to continue with clause-by-clause consideration of Bill 51.

The hour being 12:35 p.m., what is the will of the committee?

Some Honourable Members: Rise.

Mr. Chairperson: Committee rise.

COMMITTEE ROSE AT: 12:35 p.m.

WRITTEN SUBMISSIONS PRESENTED BUT NOT READ

Re: Bill 33

Dear Sir/Madam

I am writing on behalf of MEP to provide our comments with respect to Bill 33—The Planning Act.

MEP is generally supportive of Bill 33 and encouraged by the direction of many of the changes introduced, such as:

- Municipalities will only be able to specify conditions of approval and terms of development agreement specified in The Planning Act.
- Use of The Municipal Act to regulate the siting of Intensive Livestock Operations will be

eliminated. Local livestock planning will be done under The Planning Act.

- The Province assumes responsibility to regulate manure storage, handling and disposal under The Environment Act (Manure & Mortalities Regulation) therefore eliminating the duplication and confusion of having different municipal manure regulations. Municipalities may require the establishment of shelterbelts or covers on manure storage.
- Municipalities must adopt development plans within two years of the effective date of the Act and zoning by-laws one year after that.

There are, however, provisions that could be improved to provide increased accountability and transparency and clearer decision criteria; the objective of which would be growth of sustainable agriculture and rural communities. Our comments and questions are as follows:

- We believe it is extremely important that the Provincial Land Use Policy #2 (Agriculture Policy) be updated and strengthened in conjunction with Bill 33 in order to provide a clear and consistent framework for municipal livestock policy and standards. Consultation with the agriculture sector during this process will be important.
- It is not clear why the conditional-use process for livestock applications of 300 or more AU has been retained, even if the application is proposed for an area designated for livestock development. Public input will have been sought and provided during consideration of the development plan. We are concerned that retention of the hearing process for the applications of 300 or more AU, including the enhanced public notice requirements will maintain the emotional and divisive process that seems to have been the predominant experience.
- If the conditional-use process is to be retained, we believe that elected officials (rather than appointed citizen members) should hear and make decisions respecting applications. Elected officials, unlike citizen members are accountable to the voting public.
- We are concerned that there is no right of appeal on a livestock application and further that

Council is not required to provide its reasons for denial in writing. A proposal which has achieved a favourable evaluation by a technical review committee may be denied by Council on grounds of; compatibility, a perception of detriment to health, safety and general welfare or an expectation of negative effects on properties or other developments. Decisions which depart from the TRC's science-based risk assessment to a more subjective approach should be required in writing. Failure to do so limits transparency and accountability. There must also be an appeal process to an independent administrative body such as the Municipal Board in the event a proposal meets all the required criteria, has a positive TRC evaluation and yet is declined by Council.

- We suggest that Bill 33 include a transitional provision to ensure the new Planning Act prevails over all existing local by-laws dealing with environmental issues related to livestock.

Currently there are numerous by-laws under The Municipal Act which regulate livestock development and by-laws under the existing Planning Act that regulate manure. These should be considered null and void once Bill 33 receives Royal Assent.

Thank you for the opportunity to provide our comments respecting Bill 33. We believe it is imperative for the new Planning Act to provide the necessary framework to assure the transparency, consistency and accountability required for long-term decision making in the best interest of our rural communities and agricultural sector.

Yours truly,

Kurt Siemens
Chair
Manitoba Egg Producers

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