



Legislative Assembly of Alberta

The 30th Legislature
Second Session

Select Special
Democratic Accountability
Committee

Friday, October 30, 2020
8 a.m.

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Select Special Democratic Accountability Committee

Schow, Joseph R., Cardston-Siksika (UCP), Chair
Horner, Nate S., Drumheller-Stettler (UCP), Deputy Chair

Ceci, Joe, Calgary-Buffalo (NDP)
Dang, Thomas, Edmonton-South (NDP)
Feehan, Richard, Edmonton-Rutherford (NDP)*
Fir, Tanya, Calgary-Peigan (UCP)
Goodridge, Laila, Fort McMurray-Lac La Biche (UCP)
Nixon, Jeremy P., Calgary-Klein (UCP)
Pancholi, Rakhi, Edmonton-Whitemud (NDP)
Rutherford, Brad, Leduc-Beaumont (UCP)
Sigurdson, R.J., Highwood (UCP)
Smith, Mark W., Drayton Valley-Devon (UCP)
Sweet, Heather, Edmonton-Manning (NDP)
Turton, Searle, Spruce Grove-Stony Plain (UCP)**

* substitution for Heather Sweet

** substitution for Jeremy Nixon

Office of the Chief Electoral Officer Participants

Glen Resler	Chief Electoral Officer, Election Commissioner
Pamela Renwick	Director, Operations and Communications
Drew Westwater	Deputy Chief Electoral Officer

Support Staff

Shannon Dean, QC	Clerk
Stephanie LeBlanc	Clerk Assistant and Senior Parliamentary Counsel
Teri Cherkewich	Law Clerk
Trafton Koenig	Senior Parliamentary Counsel
Philip Massolin	Clerk of Committees and Research Services
Sarah Amato	Research Officer
Nancy Robert	Research Officer
Jody Rempel	Committee Clerk
Aaron Roth	Committee Clerk
Rhonda Sorensen	Manager of Corporate Communications
Jeanette Dotimas	Communications Consultant
Tracey Sales	Communications Consultant
Janet Schwegel	Director of Parliamentary Programs
Amanda LeBlanc	Deputy Editor of <i>Alberta Hansard</i>

Standing Committee on Democratic Accountability

Participants

Ministry of Justice and Solicitor General

Clara Cerminara, Barrister and Solicitor, Legislative Reform

Kelly Hillier, Barrister and Solicitor, Legislative Reform

8 a.m.

Friday, October 30, 2020

[Mr. Schow in the chair]

The Chair: Good morning, everybody. I'd like to call this meeting to order and welcome members and staff in attendance to this meeting of the Select Special Democratic Accountability Committee.

My name is Joseph Schow. I am the MLA for Cardston-Siksika and chair of this committee. I'm going to have members joining the committee at the table introduce themselves for the record, starting to my right.

Mr. Horner: Good morning. Nate Horner, Drumheller-Stettler.

Mr. Rutherford: Brad Rutherford, Leduc-Beaumont.

Mr. Turton: Good morning. Searle Turton, MLA for Spruce Grove-Stony Plain.

Ms Fir: Tanya Fir, Calgary-Peigan.

Mr. Smith: Good morning. Mark Smith, Drayton Valley-Devon.

Ms Goodridge: Good morning. Laila Goodridge, Fort McMurray-Lac La Biche.

Ms Cerminara: Good morning. Clara Cerminara, barrister and solicitor with Justice and Solicitor General and here on recall.

Ms Hillier: Kelly Hillier, barrister and solicitor, Justice and Solicitor General.

Mr. Resler: Glen Resler, Chief Electoral Officer, Elections Alberta.

Ms Renwick: Pamela Renwick, director of operations and communications, Elections Alberta.

Mr. Westwater: Good morning. Drew Westwater, Deputy Chief Electoral Officer, Elections Alberta.

Mr. Dang: Good morning. Thomas Dang, Edmonton-South.

Mr. Feehan: Good morning. Richard Feehan, Edmonton-Rutherford, substituting for Heather Sweet, Edmonton-Manning.

Ms Pancholi: Good morning. Rakhi Pancholi, Edmonton-Whitemud.

Dr. Massolin: Good morning. Philip Massolin, clerk of committees and research services.

Ms Robert: Good morning. Nancy Robert, research officer with the Legislative Assembly Office.

Mr. Roth: Good morning. Aaron Roth, committee clerk.

The Chair: Thank you.

We'll go to members on the phone, starting with the opposition caucus. Any members joining us by phone? I see Mr. Ceci.

Member Ceci: Hi. Thanks. Joe Ceci, Calgary-Buffalo.

The Chair: And also from the government caucus.

Mr. Sigurdson: Hi. Good morning. R.J. Sigurdson, Highwood.

The Chair: Thank you, Mr. Ceci and Mr. Sigurdson.

There is no one else joining us on the phone at the moment?

I will note two substitutions today. Mr. Turton is substituting for Mr. Nixon, and Mr. Feehan, as he had mentioned, is for Ms Sweet.

Pursuant to the August 24, 2020, memo from the hon. Speaker Cooper I'd like to remind everyone that outside of those who have an exemption, those observing the proceedings of the Assembly or its committees are required to wear face coverings based on the recommendations from the chief medical officer of health. Regarding physical distancing, attendees at today's meeting are reminded to leave the appropriate distance between themselves and other meeting participants.

Please note that microphones are operated by *Hansard*. Committee proceedings are being live streamed on the Internet and broadcast on Alberta Assembly TV. Please set your cellphones and other devices to silent for the duration of the meeting.

We will now go on to item 2, to approve the agenda. Our first item of business is to approve the agenda. Does anyone have any changes to make?

Seeing none, can I get someone to move a motion to approve the agenda? I see Mr. Turton move that the agenda for the October 30, 2020, meeting of the Select Special Democratic Accountability Committee be adopted as distributed. All those in favour, please say aye. Any opposed, please say no. That motion is carried.

Item 3(a), deliberations and recommendations. As we continue our deliberations on recall, I will remind members that we are considering the recommendations that we would like to include in a report to the Assembly. I will now open the floor to continue deliberations. The committee adjourned yesterday, October 29, 2020, during the debate of motion 93 while Mr. Dang was speaking.

Mr. Dang, if you would like to continue your remarks. Or if you've concluded them, let me know.

Mr. Dang: Thank you, Mr. Chair. I'm just reviewing the motion here. I don't think that there was anything significant that I had concerns with yesterday. I think we were just running a little bit short on time, so I think that with any luck we'll be able to proceed promptly.

The Chair: Okay. We are on motion 93. Is there anyone from the government caucus who would like to add to this conversation?

Hearing none, I'm prepared to call the question on motion 93 moved by Mr. Nixon yesterday. All those in favour, please say aye. Any opposed, please say no.

That motion is carried.

Okay. That was a motion moved by the government caucus. We are now on to motions from the opposition caucus. Mr. Dang.

Mr. Dang: Thank you, Mr. Chair. At this time I'd like to move motion 41. I would move that

the Select Special Democratic Accountability Committee recommend that recall legislation be enacted that adopts Elections Alberta's recommendations referenced in the submission dated September 28, 2020, in respect of the role of observers in the recall petition process.

The Chair: That motion is on the screen. Do you want to expand upon your rationale behind that motion?

Mr. Dang: Sure. Thank you, Mr. Chair. I think that Mr. Resler and Elections Alberta gave some pretty good recommendations in terms of how we should be proceeding in the administrative process, and I believe that, barring any objections from the government, it would be the best way to move forward at this time.

The Chair: Thank you, Mr. Dang.

Anyone from the government caucus?

Hearing none, anyone from the opposition caucus who'd like to speak on this?

Okay. I'm prepared to call the question on motion 41. All those in favour of the motion, please say aye. Any opposed, please say no. Okay.

That motion is defeated.

We'll now move on to a motion coming from the government caucus. Yes, Mr. Horner.

Mr. Horner: Thank you, Chair. I'd like to move motion 99 – I'll read it in – that

the Select Special Democratic Accountability Committee recommend that recall legislation be enacted that establishes requirements in respect of the following, following a successful recall petition: (a) the Chief Electoral Officer must hold a recall election in the electoral division of the Member of the Legislative Assembly who is the subject of the successful recall petition in which electors, by secret ballot, vote on whether to recall the member, and (b) if a simple majority of voters in a recall election vote in favour of recalling a Member of the Legislative Assembly, that member's seat is considered vacant and a subsequent by-election is held in accordance with the Election Act.

The Chair: That motion is on the screen. Do you want to elaborate on that?

Mr. Horner: Yeah. I think that with a lot of the stakeholders we listened to, one of the concerns and feelings of where the B.C. system was lacking was that a minority of eligible voters in your riding could force an MLA to vacate their seat. The feeling was that that successful petition should then lead to the recall election without that step, so adding another step in the process: it's an additional step and, with a secret ballot, should fix a lot of problems, I believe.

The Chair: Ms Pancholi or Mr. Dang. I'll let you decide.

Ms Pancholi: I'll go ahead.

The Chair: Please go ahead, Ms Pancholi.

Ms Pancholi: Thank you, Mr. Chair. I'd like a little bit of clarification if I can from the government members bringing this forward because, as I understand it, this is a significant additional step added on to what the B.C. process is. If we go through what we've kind of agreed to so far with respect to the motions and the process, we've already talked about the fact that recall cannot begin within the first 18 months after a general election, and then I believe we agreed to an amended motion where it couldn't be started within the six months prior to an upcoming election. So that's two years out of a four-year period in which you cannot initiate a recall election.

Then we spoke against the high threshold yesterday of 40 per cent of eligible voters to initiate the recall process by signing a petition because we believe that threshold was quite high and would be difficult to attain in many jurisdictions and would inevitably result in the recall process being ineffective and inapplicable in many areas.

Now what we see is an additional step being added to what was in the B.C. model. We heard presentations and submissions from a number of individuals who talked about that B.C. itself hasn't actually had any successful recall elections to date. Twelve, I believe, have been initiated. One resulted in somebody resigning but not because of the petition being successful, so to date that

process hasn't actually resulted in any recall in B.C. It's a difficult process.

Now I hear the government members bringing forward an additional step which would require not only 40 per cent of eligible electors to sign a petition but then a recall election, which of course would take a significant amount of time to organize – Elections Alberta would have to organize that – and then another by-election. All would have to be completed, of course, before the six months prior to the next general election. It seems to me that the government members are seeming to actually make the recall process as difficult, as unattainable as possible. There would literally have to be 40 per cent of voters, then a successful recall election, then a successful by-election before an MLA would be recalled. We've already indicated that 40 per cent is high. That is sometimes higher than voter turnout in some jurisdictions, in some ridings. So it seems to me that the government members are recommending putting a recall process in place that would actually very rarely, if ever, be effective.

8:10

I am concerned that if the process and the reason we are here today is to be responsive to citizens and respond to and make sure that elected officials are accountable to their electorate, we actually will be putting a process, according to the government, in place that is in show only. It would be virtually impossible for it to ever be successful. So I'd like to hear some rationale as to why that additional step is being added beyond the B.C. model.

The Chair: Thank you, Ms Pancholi.

Anyone from the government side like to speak? Mr. Smith.

Mr. Smith: Thank you. I realize this is a departure from British Columbia. We know that with recall there is always a balance between trying to make it so that it reflects the will of the people and that recall is where the people want to go. But we also have to respect, I believe personally, that when you're elected, you are elected by the will of the people through a secret ballot. I think that before you can or you should recall an individual, it should be done through a secret ballot as well, through the will of the people through a secret ballot. You're elected that way, and I think that there's a significant amount of wisdom in not just simply allowing a petition but allowing a ballot of the people that is secret so that you are clear on the will of the people that way. That's how you are elected, and I believe that's how you should probably be recalled.

The Chair: Thank you.

Mr. Dang.

Mr. Dang: Thank you, Mr. Chair. I have to really echo some of the comments that my colleague Ms Pancholi already made, but I'd like to focus in on something that Mr. Horner specifically said in his introductory remarks. He said that we actually heard in submissions that this was preferred over the B.C. model, that this was preferred over the model used in other jurisdictions, and that this was something that would be an additional accountability measure.

I'm actually reviewing the summary submissions, and I can't identify anywhere we heard that, so if Mr. Horner could perhaps specify the submission that he's talking about. Indeed, one of the experts we heard from, Mr. Duane Bratt – I believe it's on page 10 of the summary doc – actually says that the option of a petition to trigger a by-election is preferred to the more expensive option of holding "a special recall election, then a subsequent by-election depending on the result." I mean, actually, it's contrary to what you just told this committee, that you heard that this was the preferred method.

Mr. Horner: Thank you, MLA Dang. I don't have it in front of me. I believe the stakeholder was Mr. Marciano, who was quite passionate that he believed that this was a great addition to the process for many of the reasons that MLA Smith echoed previous.

I would just add that another area where we've strayed from the B.C. model is that we've added another 50 per cent in time to the petition-gathering window, so theoretically a lot more petitions could be successful. For those reasons, we need to make sure that if an MLA is going to vacate their seat, it's done by the people through a secret ballot. That's the intent behind this motion.

The Chair: Mr. Dang.

Mr. Dang: Thank you, Mr. Chair. I have a question for Elections Alberta and Mr. Resler. We've had a number of by-elections here in Alberta over the last five or six years. I'm wondering: perhaps could you explain the average cost of a by-election and how much the process administratively is a burden for the office? Perhaps as a supplemental to that, could you maybe also explain the difficulty in administering essentially two by-elections for every by-election it would have?

Mr. Resler: Looking at the cost of the by-election, by-elections will differ depending on the electoral division, urban/rural, advertising costs. We usually test different processes during a by-election. So you're looking at \$300,000 to \$400,000 for a by-election. With option (a) in the motion – I don't know how it'll be written – whether there's a potential for a lower cost by-election such as a mail-in ballot versus in person, maybe that's an option. Obviously, there is a significant amount of work involved with a by-election. Depending on the timing, we do not have returning officers on a continuous basis compared to, say, Elections Canada, where they're continuous, so we may or may not have returning officers in place during that time frame. You know, how much lead time do we have? Is a by-election triggered within 90 days, depending on how that portion is written?

On the other side of it, when we look at the Elections BC model, one of their recommendations to their committee was to break it out similar to this. Recommendation 3 of their report does talk about splitting it into this process, just to give you that for reference, too.

The Chair: I will ask if there's anyone on the government side who would like to respond before I go Mr. Feehan.

Mr. Feehan: I guess I just want to express my concern that we simply have a repetitive process here. Essentially, you're setting up a likelihood that people will be in the voting booth four times in four years if this process goes the way that you have indicated, because you're putting in this extra step. The need for, you know, a secret vote is quite appropriate, but that is exactly what the by-election will provide. If the person is recalled, then there is an election that is put into place – it's called a by-election – and people will have a chance to either reinstate or to remove the person. We actually literally have the step covered, that you have. It's a redundancy and at fairly extreme levels of cost, I think, and also the danger of bringing our citizens to the place of weariness over having elections that literally run, at this pattern you've set up, every single year for four years.

I think that that's problematic, and I think that we should respect the fact that a by-election already is a secret ballot. To simply duplicate that is obviously an attempt to undermine your own legislation, which you've done for the fourth time since I've been here in my short time substituting on this committee. I'm a bit confused as to what the government's intention is with this recall legislation other than perhaps to use it as a dogma, but they certainly

aren't working toward ensuring that these processes function in a good manner and that they reflect the will of the people.

Thank you.

The Chair: Thank you, Mr. Feehan.

Would anybody else like to add to this conversation? I see Mr. Dang and then Ms Pancholi.

Mr. Dang: Thank you, Mr. Chair. I'm still very concerned with Mr. Horner's prepared comments because I'm very concerned that a member would come prepared with comments and not do his research. I have from *Hansard* Mr. Marciano's actual submission.

On the separate issue of recall, I believe we should have recall in Alberta. I think it's simple enough to start with the B.C. law and run with it for a few years. About the only change that I would make off the B.C. law is extending the signature period from 60 days to 90 days.

That's the only change Mr. Marciano recommended.

I'm very concerned that Mr. Horner would come here and present that we heard submissions that we should have this duplicated step, as my colleague Mr. Feehan just said. As we heard, it may actually double the cost of a by-election. The government appears to have done none of their homework on why this should exist other than I think that they're scared of being recalled and that they are worried that they need to bring in additional measures to make it more difficult to have recall. It's very alarming that the government wouldn't actually do their homework and present a reasonable argument on why they want to bring in this ridiculous two-step process that isn't seen anywhere else that we've heard of.

The Chair: Sure.

Mr. Horner: Thank you for that, MLA Dang. I don't have *Hansard* in front of me, but I quite clearly remember that from the stakeholder presentations. I'll look into it. That wasn't a prepared comment, like you said, and I do believe that this follows the intent of some things that we heard during the stakeholder presentations.

Ms Pancholi: I have nothing further.

8:20

The Chair: All right. Sounds like we've heard from all of those who'd like to add to this conversation. I'm prepared to call the question on motion 99, moved by Mr. Horner. All those in favour, please say aye. Any opposed . . . [interjection] We're getting ahead of ourselves. All those opposed, please say no. That motion is defeated, or rather I guess we'll want a recorded vote, Mr. Feehan, I suspect.

Mr. Feehan: I do.

The Chair: Yes, of course.

Mr. Feehan: You said that it's defeated, but it's not.

The Chair: Yeah. That's why I apologized.

Mr. Feehan: Oh. Okay. Sorry.

The Chair: I got ahead of myself, like the rest of us did here this morning.

A recorded vote has been requested by Mr. Feehan. All those in favour of the motion, please raise your hand: Mr. Horner, Mr. Rutherford, Mr. Turton, Ms Fir, Mr. Smith, Ms Goodridge. We'll go to the members on the phone in just a moment. All those opposed here at the table, please raise your hand: Ms Pancholi, Mr. Feehan,

Mr. Dang. If you were opposed to the motion, on the phone – Mr. Ceci, how do you vote?

Member Ceci: Yes. I'm opposed.

The Chair: Okay. Mr. Sigurdson, how do you vote?

Mr. Sigurdson: Aye.

The Chair: Okay.

Mr. Roth: Mr. Chair, total for the motion, seven; total against, four.

The Chair: Thank you, Mr. Roth.
That motion is carried.

We are now on opposition motions. I will make a note, though, that given that motion 99 passed, it does make motion 44 redundant and out of order. Remaining on item 6 is motion 45 and motion 98.

Mr. Dang: Thank you, Mr. Chair. I was just about to ask that. In that case, I would like to move motion 45, where I move that the Select Special Democratic Accountability Committee recommend that recall legislation be enacted that clarifies that an individual who was, as a Member of the Legislative Assembly, the subject of a recall petition that was successful may be a candidate in the by-election held immediately after the determination that the recall petition was successful.

I think that this clarifies that members should be allowed to run for a by-election even if they were recalled. It's something that they should be able to put to the voters again and say that they think they deserve a second chance. I think that this is something that's available in all other jurisdictions that we reviewed with recall and would be reasonable. I believe it was actually recommended by most of our expert panel as well.

Ms Goodridge: I think this is a very good idea, and I will urge everyone to support it.

The Chair: Thank you.

Any other further comments?

Hearing none, I am prepared to call the question on motion 45, moved by Mr. Dang. All those in favour of the motion, both in person and on the phone, please say aye. Any opposed, please say no.

That motion is carried.

Ms Goodridge.

Ms Goodridge: Thank you, Mr. Chair. I would like to at this time move motion 98, that

the Select Special Democratic Accountability Committee recommend that recall legislation be enacted that provides that the Chief Electoral Officer will determine whether a recall petition is successful.

The Chair: Go ahead.

Ms Goodridge: All right. Well, I believe that the CEO should be responsible for reviewing the petitions and determining if they are indeed successful. I think it's a relatively clear motion.

The Chair: Any further comments from the opposition side?

Hearing none, I'm prepared to call the question on motion 98, moved by Ms Goodridge. All those in favour, on the phone and in person, please say aye. Any opposed, please say no.

That motion is carried.

That does conclude section 6, other administrative matters and next steps after a successful recall petition.

We now move on to the final section of the recall portion of this meeting, application of recall to municipalities and school boards. The previous motion was moved by Ms Goodridge, so we will now go to the opposition side. There are two motions available here. They are motions 50 and 88.

Member Ceci: Yes. Mr. Chair, I'm going to move that the Select Special Democratic Accountability Committee recommend that recall legislation not be enacted for the purpose of recalling municipal elected officials or school board trustees. That's the motion. Is it up on the screen?

The Chair: Yeah. It's up now, Mr. Ceci. You can go ahead.

Member Ceci: Thank you. There are currently mechanisms in the MGA to address both of these elected positions: councillors across the province, mayors, reeves, and school board trustees, both as a board and individually as trustees.

I would argue that there are already – and from the submissions we heard from people, I can remember several saying that you don't need to do anything for these two orders of government because you already have mechanisms in place. The current government and the example of a city councillor here in Calgary: Joe Magliocca has been allowed to continue in his seat even though many people in Calgary have pushed the former Minister of Municipal Affairs to address this through the MGA, and he chose not to. The current Minister of Municipal Affairs did the same thing as the previous minister in terms of sending a letter to the city of Calgary saying, you know: I'm not going to move on this official. Their own desires not to take action don't mean that there is not an ability to remove people that have lost the favour of many in the municipality.

With regard to school board trustees individually, if they break the codes of ethics of their school boards, they can be removed individually, and we have seen former Minister Lyle Oberg remove a whole board, a public board, in Calgary when he was a minister. There are abilities in the MGA already to address councillors and trustees who have lost favour or have acted unethically, as both of my examples show. I would hope members of our committee, the Select Special Democratic Accountability Committee, allow this MGA to continue working.

Lastly, I didn't mention that the submissions from the association presidents, both Mr. Kemmere and Mr. Morishita, said, you know: use the powers that are already in place; don't bring us into this. They said it in their submissions, and of course we've all seen those submissions.

That would be my representation submission on number 50, Mr. Chairman.

The Chair: Thank you, Mr. Ceci.

I'd like to recognize Ms Goodridge.

Ms Goodridge: Thank you, Mr. Chair. I will respectfully disagree. I believe that while ministers can in fact have this power within the MGA or the Education Act to do so, I don't actually believe that they should be doing this. I believe that democratically elected people should be recalled by the people that elected them. This is a fundamental belief that I have that I think is critically important, so I would urge all my colleagues to vote against this.

The Chair: Mr. Dang.

Mr. Dang: Thank you, Mr. Chair. I think that I am particularly concerned that the government seems to want to move forward with municipal recall. I won't speak to other motions that may come later, but I think that certainly we heard from the AUMA and the

RMA, the two largest municipal stakeholders in the province, we heard from our expert panel, Dr. Bratt, we heard from Mr. Marciano and Mr. Boychuk from the public consultations that, largely, Albertans do not support this idea of municipal recall. I think there are serious implications of municipal recall that are not being considered by this committee, that have not been explored by this committee, and that we really can't speak to. It would cause many problems down the line.

I mean, it's not uncommon in smaller municipalities for some councillors to be acclaimed. Indeed, even here in Edmonton we often see in school board elections that trustees will be acclaimed. What happens if we suggest a recall legislation that's similar to the recall legislation, the proposal we just set up for the Legislature? What happens if there are no voters? Then how many signatures are required? If it's an acclaimed position, there are no votes. In many smaller communities it could be possible for a very small number of people to have a very large influence on the composition of council, where you're only looking for relatively low margins to recall politicians, right? Some communities have well under 500 people in them.

8:30

I think it's very concerning that when we're looking at this process, we haven't considered any of these logistical barriers, let alone the barrier in terms of administrative and financial burden. For many of these municipalities – let's look at summer villages; let's look at smaller counties and councils – the reality is that the cost of a by-election will be extraordinarily burdensome for some of these municipalities. I think that the government isn't considering all these implications, and then at this time we don't have the information. We haven't done the work. This committee has not heard that we need municipal recall legislation. Indeed, the government has the ability to address the concerns that would be raised typically that would create the need for a municipal recall. The government already has the tools. We have too many problems. If we've simply carbon copied the proposals that we've addressed already into municipalities, it would create more problems than we've addressed.

Thank you.

The Chair: Thank you, Mr. Dang.

I now recognize Mr. Smith.

Mr. Smith: Thank you, Mr. Chair. As a former teacher of 30 years I won't say that I had the privilege, but I did have to go through a situation where our school board, Twin River school board, was annulled by the minister. It's out of that experience that I actually think I couldn't really support this motion. There is a time and there is a place for a minister to intervene when things go seriously off the rails, as I believe it did with the Twin River situation that I had to live through. I saw the angst amongst the people, and I saw the people coming together in the newspapers, as only in a small town it can become, and the emotions that were occurring.

At the end of the day, I will support the concept of a minister being able to intervene because I've seen how that can bring a modicum of relief to a bad situation, but I also believe that there's a role for the citizens. The minister, while they did intervene in this particular case, did not truly, I think, really understand the issues of the day that the people were facing. It's the local people that understood that, that needed to be able to make the decisions locally. I mean, that's the whole concept of a democracy.

I think that there's a value to having recall. I would take Mr. Dang's comments – I think you brought in some reasonable comments – with regard to what you do with an acclamation, et

cetera. I don't think that speaks against the need for the people, at the end of the day, to be able to have a say over municipal officials and to have a say over their school board trustees. There's a value in the minister being able to do that, but there's also, I believe, a value in allowing the people to speak.

The Chair: Ms Pancholi and then Mr. Feehan.

Ms Pancholi: Thank you, Mr. Chair. Simply because I used to work in this area with respect to school boards, I just want to be very clear that we all have the same understanding with respect to school board trustees, the authority for ministers to remove, that the Minister of Education does not have the authority to remove an individual trustee. The minister has the authority to dismiss an entire board and put into place an official trustee. I think that's to address issues that are different from what we're talking about with respect to recall.

When we're talking about recall, we're speaking about the failure of an individual elected representative to do their job. When the Minister of Education is replacing an entire board, it's not individualized that one particular trustee is failing. Particularly, it's about the failure of the board as an entity to fulfill their obligations under the Education Act. I just had to put that on the record because it's something that I'm a little bit particular about given my past work.

We do know that there is the ability for the board to remove an individual trustee for failure to comply with their code of conduct, which is a recent change as a result of the Education Act. Again, my concern, going forward, is actually very similar to Mr. Dang's, which is that we actually did not get feedback from school boards in this process. We did not hear from the Alberta School Boards' Association, the Public School Boards' Association, or the Catholic School Trustees' Association. I think there are direct implications from what we're talking here about for them.

I appreciate, of course, that the general public had an opportunity to provide input, but for whatever reason I think we should have done the work as a committee to make sure, if we are talking about the recall of individual school board trustees, that those organizations were particularly contacted and provided feedback, because this has direct implications.

I'm concerned about that, that we have not heard from school board trustees or any organizations representing them. I am concerned for the same reasons that if we go forward with a recommendation simply applying the process that has been determined already here for MLAs, they don't fit the circumstances for municipal elections, and they don't fit the circumstances for school board elections, where acclamation is high, where voter turnout is very low. So with the thresholds, for example, that this committee has passed, if there are MLAs where that would be a very, very high expectation, it's out of the realm of possibility for most school board trustees and municipal elections.

I would say that I don't think we have done the work to provide a strong and clear direction to the government and any potential legislative drafters around what recall would look like for municipal government and school boards, and I agree with my colleague Member Ceci that I don't agree that it should apply. I believe there are mechanisms already in place. But if we are going to go forward, we don't have the substantive information here to provide clear recommendations on what that legislation would look like for municipal councillors and school board trustees. So I'm concerned we're not going to give clear direction here from this committee.

The Chair: Thank you, Ms Pancholi.

We'll go to the government caucus.

Seeing none, Mr. Feehan, please.

Mr. Feehan: Well, I just, obviously, want to add my voice to the things that have been said by my caucus members. I'm very concerned here about the government intrusion into municipal governments. I realize, of course, municipalities are the child of the provincial government, but I think that there has been a long-standing tradition for the provincial government to allow municipal governments to conduct their business without constant interference, yet we see a regular pattern of that now with this government. We've seen them alter linear assessment, we've seen them give a two-year tax deferral to major corporations, we've seen them change the policing without providing funding, and we've seen them in this committee introduce referendums that were specifically asked not to be introduced by both the RMA and the AUMA.

We've had submissions here at this table from the people that are involved in municipalities. They explicitly asked us not to interfere in their level of government so that they can actually work to reflect the wishes of the people in their community without interference by another level of government, and we've had nobody come to this committee, to my understanding, to ask for the provision of being able to remove municipal councillors. So you're doing something that no one has asked for, that people have explicitly asked not to do.

You're continuing this long pattern that this UCP government has of interfering in another level of government, and I think that this is very problematic. Sometimes you have to stick to your own lane, and this government is absolutely continuing to fail to do that. This whole committee has been an attempt to reach into both federal and municipal politics. People go to the ballots to vote people into both of those other levels of government. That's where people have their voice. The fact that this government doesn't happen to like other levels of government seems to me to be beside the point. We should be respecting the votes cast by citizens in this province, and that means that the municipal levels should be deciding whether or not they want to have rules and not have them imposed on them against their will by this provincial government.

Thank you.

The Chair: Thank you, Mr. Feehan.

Seeing no more comments, I'm prepared to call the question on motion 50, moved by Mr. Ceci.

Member Ceci: I'd like to, Mr. Chair, just close debate if I could.

The Chair: Sure.

Member Ceci: Thank you. You know, I certainly think the points brought forward by my colleagues are excellent and should be respected. They are addressing the views brought forward by the people who submitted to this committee, and the fact that, in my opinion and in the opinion of many in Calgary, the two ministers of Municipal Affairs have failed to act is not a reason to bring in another kind of step.

8:40

The MGA is clear, and the School Act is clear. There are ways to address school boards and councillors who behave, in the case of councillors, unethically. The fact that our two ministers of Municipal Affairs failed to act on that individual is not a reason to create another way to remove people. They should do their jobs, frankly.

Thank you.

The Chair: Thank you, Mr. Ceci.

I'm not seeing anyone here at the table who would like to add anything else, so I'm prepared to call the question. All those in favour of motion 50, moved by Mr. Ceci, please say aye. Any opposed, please say no.

Mr. Dang: A recorded vote, please.

The Chair: A recorded vote has been requested by Mr. Dang. All those in favour of the motion, please raise your hand. Ms Pancholi, Mr. Feehan, Mr. Dang.

Mr. Ceci, how do you vote?

Member Ceci: Yes. I vote aye.

The Chair: Okay. I guess we should go over to Mr. Sigurdson. How do you vote?

Mr. Sigurdson: Nay.

The Chair: All those at the table, please raise your hand if you are opposed to this motion. Mr. Horner, Mr. Rutherford, Mr. Turton, Ms Fir, Mr. Smith, and Ms Goodridge.

Mr. Roth: Mr. Chair, total for the motion, four; total against, seven.

The Chair:

That motion is defeated.

We now have opportunity for the government caucus to move any motions they might have. Mr. Turton, please go ahead.

Mr. Turton: Yes. Thank you, Mr. Chair. I move that the Select Special Democratic Accountability Committee recommend that (a) recall legislation be enacted for the purpose of recalling of municipal elected officials or school board trustees, and (b) such legislation be similar in nature to recall legislation in respect of Members of the Legislative Assembly.

I can speak to that, too, Mr. Chair.

The Chair: Please.

Mr. Turton: Yes. Thank you very much. It's a pleasure, obviously, to be here this morning and speak on this very important issue. Having served on a municipal council for approximately three terms, eight and a half years, I see first-hand, you know, that municipal government truly is the level of government closest to the people. For me, it's always been important to ensure that proper accountability is there. While I realize that this is always going to be a last resort, I find that from my conversations over many years, talking with either elected officials from around the province previously or even just regular Albertans, knowing that this is a tool in the tool box that they can use as an ability to increase the amount of accountability for their municipal councillors is important.

Now, I know some of the examples that were talked about previously, about former minister Lyle Oberg when he, you know, fired the entire Calgary school board. I mean, many of the examples mentioned always come from a top-down approach. You know, it's been evident, from the discussions that I've seen here as well as discussions in the Chamber, that there seems to be an unwillingness by some members to allow tools for regular citizens to have the ability to hold their elected officials accountable. I've always erred on the ability of saying that the regular residents should have the ability to decide if these tools get used. So when Mr. Feehan, for example, on the last motion talked about how the provincial government is imposing rules on municipal government, I look at it, in a way, as: by not passing this, we are preventing regular citizens from having the ability to use this rule if they see fit.

There are many examples between 2013, for example, and 2017 of smaller councils and those Mr. Dang talked about where there were extensive issues in terms of governance, in terms of elected officials perhaps not being accountable to their residents, that we have heard. I heard at that time that residents said: “We wish we had this ability. We don’t have to rely upon the minister to be very top-down and heavy handed with this approach.” So while I agree that this recall legislation will not be used on a regular basis – I would trust that it won’t be – I find it is important to make sure that it is in place so that, moving forward, residents right across the province have this ability that they can always, you know, enact if there are grievous counts. Obviously, with the regulations, that will be properly defined, and I think this is a big step forward in terms of enhancing democracy here in our province.

Thank you very much, Mr. Chair.

The Chair: Thank you, Mr. Turton.

Anyone from the opposition side? Mr. Dang.

Mr. Dang: Thank you, Mr. Chair. I think that I had already raised some concerns in the prior motion, but I’ll rehash them as questions, perhaps for the government members who are introducing this motion. I’m particularly concerned around in some communities where, for example, there are acclamations in school board elections or in council elections, what would be – in this motion it says in I believe it’s section (b): “such legislation be similar in nature to recall legislation in respect of Members of the Legislative Assembly.” Clearly, it would make it impossible to recall these people. You can’t get 40 per cent of zero, right? I guess, what’s the solution there around that? Do we have something in place around these acclamations? Are there going to be additional thresholds that the government is considering? In smaller communities such as summer villages in many cases there are less than 400, 300 people even sometimes, right? You could have, I guess, a really big family, actually, in some cases basically recall a councillor at will.

I think that in some cases the recall process is extraordinarily costly. Again, in some municipalities, for example, that were only established in the ’70s or ’80s, there’s never been a by-election, and they have no administrative processes, no resources in terms of funding for it and other such things. How do we imagine the burden for taxpayers to administer a by-election? There’s a long list of concerns I have around this. I think that the nature of municipal by-elections and recalling municipal councillors, whether it’s the school board level or the county council level, has significant difficulties.

At the school board level you have different difficulties because now if you’re administering additional by-elections at the school board level, you’re now taking money out of classrooms or you’re taking money away, if it happened in this year, for example, from the COVID response. Those are the realities that we’re going to be talking about if school boards have to administer by-elections out of the blue with nothing more than 90 days’ notice, right? Because of the process we’ve now suggested, that again this opposition disagreed with, you’re actually asking school boards that already have limited funding – the government has already cut hundreds of millions of dollars from schools – to administer two by-elections to recall one trustee. That’s the process this government is actually suggesting.

What are the proposed solutions to this, where is the funding coming from, and what are we doing in cases where it’s impossible to recall people? None of these things have been considered by this committee, and I think that certainly if the government can’t answer these questions, we’re going to have to say that we need to come back to the drawing board and actually do the research and

homework before we barrel forward with these. It seems like this government is just predetermined to push forward with this.

The Chair: Thank you, Mr. Dang.

Ms Goodridge.

Ms Goodridge: Thank you, Mr. Chair. I just wanted to rebut some of what Mr. Dang has said. I want to just note for the record that what we had discussed in motion 97 was based on 40 per cent of eligible voters, not the number of people who had voted in the last election. The concerns around those acclaimed: that doesn’t really apply here because you will have eligible voters on an overall list.

But I believe that it’s an accountability measure. This is critically important to change our system to give more power directly to the people and keep all elected officials accountable. I can speak for myself. In my riding of Fort McMurray-Lac La Biche we have some amazing school board trustees. We have amazing councillors that are working exceptionally hard for our community, and this will probably not change the way they do their work, but that’s not necessarily the case all across the province. I believe that this motion is important to keep accountability and put accountability back into the hands of the people for the elected officials at the level of municipal councils as well as school board trustees.

The Chair: Thank you, Ms Goodridge.

Ms Pancholi.

Ms Pancholi: Thank you, Mr. Chair. I would like to request, I guess, the consent of the committee to introduce an amendment from the floor. If I may read it out first, and then I think we vote on whether or not to debate.

The Chair: Correct.

Ms Pancholi: Okay. I would like to move that motion 88 be amended – and I’ll speak slowly, Aaron, for you – by striking out clause (b) and substituting the following:

(b) such legislation include a process for recall developed in consultation with relevant stakeholders, including municipalities and school board trustees.

8:50

Mr. Dang: I think Aaron and probably *Hansard* thanks you, too.

Ms Pancholi: Everybody is always hoping I’ll slow down. You too.

Mr. Roth: Did I catch that right?

Ms Pancholi: That’s right. Thank you.

Mr. Chair, if I may speak to it first?

The Chair: Please. Yes, of course. Oh, sorry. No. The process is for us to vote as to whether to allow it.

Ms Pancholi: Okay.

The Chair: The draft motion from the floor is on the screen. Everyone can see that. I believe members on the phone have heard it if they can’t see it. I will call the question. All those in favour of allowing . . .

Member Ceci: Can you just read it out once more? I’m not seeing the screen. Sorry.

The Chair: Ms Pancholi, if you could, please.

Ms Pancholi: Sure. That motion 88 be amended by striking out clause (b) and substituting the following:

(b) such legislation include a process for recall developed in consultation with relevant stakeholders, including municipalities and school board trustees.

Member Ceci: Okay. Thank you. That's clear.

The Chair: You have a question, Mr. Smith?

Mr. Smith: Yes. Thank you, Mr. Chair. I just want to be very clear. We're voting on whether or not we will accept a motion from the floor, not on this motion?

The Chair: Correct. This vote doesn't have anything to do with the content of the amendment.

It is whether we are going to allow it, to have a debate, and then vote on it.

Is that clear for everyone at the table? Sounds like it. Any questions on the phone? Hearing none, I'm prepared to call the question on the amendment moved from the floor by Ms Pancholi. All those in favour of allowing this amendment to proceed to debate, please say aye. Any opposed, please say no.

Mr. Dang: Recorded vote, please, Mr. Chair.

The Chair: Mr. Dang has requested a recorded vote.

All those in favour, please raise your hand.

Member Ceci: Agreed.

The Chair: Ms Pancholi, Mr. Feehan, Mr. Dang, and I suspect that was Mr. Ceci on the phone.

Member Ceci: Yes, it was.

The Chair: Those opposed, please raise your hand. Mr. Horner, Mr. Rutherford, Mr. Turton, Ms Fir, Mr. Smith, Ms Goodridge.

Mr. Sigurdson, how do you vote, sir?

Mr. Sigurdson: Nay.

Mr. Roth: Mr. Chair, total for allowing the amendment, four; total against, seven.

The Chair:

That motion to approve the amendment has been defeated.

We are now back on the main motion.

Mr. Feehan: I just actually have a question. I just want to make it explicitly clear or have someone on the government side make it explicitly clear that this in no way will affect elections on Métis settlements, given that they're governed by the Metis Settlements Act as opposed to being considered municipal councillors. But there's often some confusion there. I just want to be clear, if the government can tell me: is your intention also to include Métis settlements in this?

The Chair: Mr. Feehan, I suspect that would be a question for Mr. Resler.

Mr. Resler: As far as municipal elections and school board trustees we have no responsibility for those elections. Métis settlements: right now when we look at Senate and referendum . . .

Ms Renwick: They follow the process under the Local Authorities Election Act, but they do have their own processes, so I think that might be a question for someone in Justice as to how it's related.

Mr. Feehan: That's the nature of my concern. They actually do follow the process, but they are governed by the Metis Settlements

Act, so there is some cloudiness here. I wonder whether or not we should actually even defer this motion long enough to have a proper legal opinion.

The Chair: Are there any other comments from the government side?

Ms Goodridge: I was just going to ask if we could get an opinion from Justice.

The Chair: Does anyone from the department have an opinion on this?

Ms Cerminara: We would have to consult with our colleagues in Municipal Affairs to see how the Metis Settlements Act is dealt with currently for elections because they would be the experts on that.

The Chair: Okay. Any other comments on this? Mr. Horner. Oh, I apologize. Ms Pancholi and then Mr. Horner.

Ms Pancholi: Thank you. I appreciate the need for the opinion. I guess the question is somewhat to the government members whether or not they want it to apply because I think really the issue will be, of course, if we are directing legislative change right now, if there is an intention for it to apply to Métis settlements – and I'm certain that that would be the direction coming to amend the legislation and to look at what's currently happening to make that be the case. I mean, I think the essence of what we're doing here is developing policy recommendations, and then the direction will go to the government and then to drafters and all of that. It's an open question. Is there an intention from this committee that it apply to Métis settlements?

The Chair: Mr. Horner, sure.

Mr. Horner: Yeah. Thank you, Chair. Well, I think that, as the motion states, it's specific: "recalling of municipal elected officials or school board trustees." I think that if it does pass, this motion 88, I'd be happy to suggest that we put in the contextual piece that that is not the intent of this committee.

The Chair: Mr. Dang.

Mr. Dang: Thank you, Mr. Chair. Given that, I think we can move on from that point unless my colleagues have more to say later.

I would like to refer back to some of my questions from earlier. Ms Goodridge claimed that she was attempting to rebut some of them, but it appears the government has no answer for what happens in municipalities that don't have the capacity to run multiple by-elections, doesn't have any answer with respect to extraordinarily small populations and numbers of registered or eligible voters, where a very small group of people could suddenly have a very large influence over the composition of council. The government has no opinion or answer to significant concerns around the structure of this.

Really, I think it's disappointing that the government wouldn't even consider consulting or reaching out to municipalities before barrelling forward with this lacklustre recommendation. It shows that this government caucus continually refuses to do their homework. It shows that this government caucus continually does not want to actually engage with municipal and school board trustee politicians and stakeholders to understand what's at stake here and understand what type of policy we're recommending.

It shows that this committee, as we make recommendations and as we make these proposals for legislative change, simply does not

have the information we need because the government is unable to provide answers to the most basic questions that were identified in the issues summary document that was distributed over a week ago. The government caucus knew about these concerns, knew that they came from AUMA, RMA, and others and simply did not even bother to read the summary and actually go and figure out what the solution to the issues would be. I think that's pretty disappointing, all in all.

The Chair: I have Ms Goodridge.

Ms Goodridge: Thank you, Mr. Chair. I think that that display by the member opposite was a little bit over the top. I believe that we have amazing municipalities across this province that have stepped up to the plate, whether it be in COVID to deal with this pandemic and different challenges that we have faced. I know that should this go forward, they will be able to rise to the challenge and find ways of making this work because this is in the best interest of the people. This gives more accountability to the people, and I think this is good.

Thank you.

Member Ceci: Mr. Chair.

The Chair: Yes, Mr. Ceci. Would you like to add to this discussion?

Member Ceci: Thank you. Yes, just briefly. Member Goodridge, a couple of times ago, talked about how this would be a useful accountability measure. I just want to point out that there are already accountability measures in place that the UCP ministers are failing to act on. That's utterly disappointing, actually, because those ministers were elected by the will of the people in their ridings to act. They've got the position at cabinet, and they have clear violations in the city of Calgary and have failed to take action. With my colleagues, I don't understand why we're dealing with this. Maybe it's to put in place a system so that ministers in the current government have to take action.

9:00

The other thing, too, is that we're not respecting the will of democratically elected councillors and the MGA that has been set up. We should be using the tools we have and not designing new ones that have all sorts of potential problems in them, as my colleagues have pointed out.

Thanks, Mr. Chair.

The Chair: Thank you.

We'll go to Mr. Sigurdson. I will remind everyone that we did – though the conversation is still relatively fresh with motion 88, we have had this conversation with motion 50 as well, so I do want to make sure that our comments continue to be new and fresh.

Please go ahead, Mr. Sigurdson.

Mr. Sigurdson: Thank you, Chair. I think out of this conversation there's – I understand that there's a great difference between us and the opposition, and I just want to express how I feel about this. I do want to rebut some of the statements that have been made by the opposition when they say that we haven't done our homework. I have done my homework, and though I've read the responses from RMA and AUMA, what I think the opposition fails to talk about is the engagement that I have had across my riding in the fact that the people – the people – are the ones that I've listened to as well with RMA and AUMA. Hundreds and hundreds and hundreds have come back to me stating that they want increased accountability,

and they keep stating over and over again that this is a tool that they would like to have there.

With that, I hearken back to MLA Smith when he was saying that in a lot of situations the minister may be from a totally different area of the province, not understanding the local issues, and that's why the people want this as a tool. Really, this is about taking that, the accountability. Yes, they've stated over and over again in the opposition that there are tools in place, and we understand that. But the reality is that the responsibility lies in one person. This is about increasing accountability and putting, then, it back into the people's hands to be able to make this decision.

As well, even Member Pancholi has made a statement that the minister has the ability to strike a whole school board. This increases accountability, where if there's one problematic person on a board of trustees, that just one person can be removed. So it increases accountability on that aspect of it.

I would just like to say that that is really what – and why I'm for this right now is because, yes, I have done my homework, as many of my colleagues have. We've heard this overwhelmingly from the people in our areas, so I'm for this motion.

Thank you, Chair.

The Chair: Thank you, Mr. Sigurdson.

Next on my list from the opposition is Mr. Dang.

Mr. Dang: Thank you, Mr. Chair. I have a few comments around what was just said previously and from a little bit earlier as well. I think Ms Goodridge had mentioned that municipalities will rise to the challenge. Well, there wouldn't be a challenge if the government caucus wasn't proposing a recommendation that created a challenge, created chaos without actually giving any proposals and motions that would suggest how these specific issues that were already preidentified should be dealt with. We could have created a situation where there wouldn't be the challenge. In fact, we had just suggested an amendment that would have allowed us to consult and identify how to deal with those challenges, but, instead, the government just said: ah, they'll figure it out themselves; municipalities will figure it out themselves. That is, I think, one of the most disappointing things I've heard in this entire committee process from the government caucus.

Additionally, Mr. Sigurdson had just mentioned that he had done his homework; he had read the report and all those concerns. Well, Mr. Chair, if he had indeed read the report and all those concerns, why didn't he propose a single motion to address any of those concerns? Apparently, Mr. Sigurdson read the report, read the concerns, and then just said: "You know what? I don't care. I think municipalities can go ahead and do it anyways."

Mr. Chair, I think that's something that's very concerning. It's a pattern of behaviour from this government, a pattern of behaviour that they won't engage properly with municipalities, they won't engage properly with school board authorities, they won't engage properly even with the process in this committee and have the proper consultations, do the actual work required, and say that we're not ready to move forward with this recommendation, we're not ready to actually have this process because there are legitimate concerns.

Even Mr. Smith admitted that some of those concerns were legitimate. He said, "Yes, those are actually very concerning things; we should have a process to look at those" just earlier, when we were talking about motion 50. So even when government members acknowledge that there are going to be problems and, as Ms Goodridge said, there are going to be challenges, they refuse to actually say: well, should we bother trying to fix them at all? The

government says no, and I think that's the most shocking thing about how this government's modus operandi is, Mr. Chair.

The Chair: Thank you, Mr. Dang. I appreciate your comments. We now have Mr. Rutherford.

Mr. Rutherford: Thank you, Mr. Chair. I appreciate all the comments from the committee on this motion. As I read and I listen to these comments, I find some of the word choices to be quite exaggerated in that this was going to cause chaos. I haven't heard that used before, that holding municipal officials accountable would cause chaos. I think this would fill a need that would increase accountability, so I'm supportive of it. I won't rehash all the comments of previous speakers, but there's nothing wrong with holding elected officials accountable and people having the option to do that themselves.

The Chair: Ms Pancholi.

Ms Pancholi: Thank you, Mr. Chair. I just want to clarify because the government members were not willing to entertain an amendment to this motion. With this motion government members are recommending that the same precise process that we, this committee, have now put forward for MLA recall applies to municipalities and school boards. Is that correct? I just want to be clear on whether that is the process that is being recommended, and if not, how will that be clarified?

The Chair: I see Ms Goodridge.

Ms Goodridge: Thank you, Mr. Chair. I will just read exactly part (b), that says, "such legislation be similar in nature." It does not say exactly the same; it says similar.
Thank you.

The Chair: I see Ms Pancholi.

Ms Pancholi: Thank you. I appreciate Member Goodridge reading out loud to me. I just wanted to clarify, though: how would it not be similar? What is the intention? Where would it be different, and who would determine what that would be and based on what consultation and what feedback from which stakeholders? At the beginning of this process for looking at recall for MLAs on this committee, we agreed to a motion where we talked about: yes, we would overall be going forward with the process set out in the B.C. legislation, and then we had a thorough conversation about where it would deviate from that. This is the same question I'm asking here. With respect to municipalities and school boards, where would it not be similar, how would it be different, and who would be engaged and have an opportunity to consult and provide their feedback on how it would differ? That's my question.

The Chair: I don't see any – Mr. Dang.

Mr. Dang: Thank you, Mr. Chair. It appears that the government has no answer, and that is the crux of the problem with this entire process, that this government has predetermined to push forward with their motions and barrel forward without actually considering what's happening in this room, without actually looking at the problems, without actually looking at the consultations we did.

I mean, Mr. Chair, it's clear that they haven't even considered the cost to municipalities. I raised that multiple times before, but it's clear that in none of the cases that the government members have spoken to today have they spoken about cost to municipalities. Does it mean that the municipal government is responsible for these costs? Does it mean the province is going to take on these costs?

Does it mean Elections Alberta is going to take on these costs? We have no way of knowing because this government caucus will not even address these concerns, will not answer questions from my colleague Ms Pancholi, will not answer many of the questions I posed today or the ones my colleagues Mr. Feehan and Mr. Ceci raised.

I think it's something that simply means that we're not ready to move forward. It's something that if we do want to move forward and suggest changes to municipal elections and trustee elections that include changes with respect to recall, we should have more time to do this research. It could mean we table this for a different day and we come back and do more consultation and do more research, but what it does mean and what we know is very clear now is that this government is not ready, that this government caucus did not do the work and is fumbling now to try and scramble to salvage their motion.

The Chair: Thank you, Mr. Dang.

I'm going to let Mr. Horner speak, and then unless there's anything substantive that needs to be added to this conversation, I'm going to call the question. This is beginning to get very repetitive.

Mr. Horner: Yes. Thank you, Chair. Yes, it does seem like we're talking in circles. We're the Democratic Accountability Committee. We were asked to be here by Justice. The question that was posed to us was: should the framework for recalls of municipal elected officials and school board trustees mirror the framework for MLA recalls, to the extent possible? With this motion the simple answer is: we think yes, but there still will be work to do by Justice. We're not here to do it all, and I think we should vote on this.

9:10

The Chair: All right. I'm prepared to go to the question on motion 88, moved by Mr. Turton on behalf of Mr. Sigurdson. All those in favour of this motion, please say aye. Any opposed, please say no. I see Mr. Feehan has requested a recorded vote. All those in favour of the motion, please raise your hand: Mr. Horner, Mr. Rutherford, Mr. Turton, Ms Fir, Mr. Smith, Ms Goodridge. Mr. Sigurdson, how do you vote, sir?

Mr. Sigurdson: Aye.

The Chair: Mr. Ceci, how do you vote, sir?

Member Ceci: No.

The Chair: All those opposed to the motion here, please raise your hand: Ms Pancholi, Mr. Rutherford – Feehan. I apologize. I should maybe start drinking coffee. I won't, though. Apparently, it actually helps with that memory thing. I've never had it in my life. And Mr. Dang.

Mr. Roth: Mr. Chair, total for the motion, seven; total against, four.

The Chair:

That motion is passed.

This concludes all seven sections of the recall legislation. However, before we proceed to the next piece of the agenda, an item of concern was brought to my attention by Mr. Resler regarding motion 97. Mr. Resler, would you please? The floor is yours, sir.

Mr. Resler: Okay. Thank you for allowing the opportunity. I wanted to clarify that in motion 97 – I wanted to ensure that the intention of the committee was correct and to ensure the consistency

of the motions that were passed yesterday pertaining to the recall and the initiative motions, to ensure the consistency in the use of the term “registered electors.” Are we going to bring up 97, just so I can see it? Okay.

I believe it is correct as far as the use of the term “registered electors” in the calculation of the 40 per cent threshold, so that is a base point from which that number can be calculated. My concern is in the use of it in the description of those persons who are eligible to sign the recall petition, that it is inconsistent with previous motions. Right now (b) states, “only the physical signatures of individuals who were registered electors during the 90-day period when signatures were permitted to be collected are counted as valid for [this purpose]”.

My concern is that the use of “registered electors” in that part of the motion will increase the threshold that’s necessary for a successful petition due to mobility of residents and also those who are removed from the register. But my biggest concern is that by having that defined as such, I would have to share the list of electors with petitioners in order for them to determine whether the resident which they’re asking for a signature from is actually a registered elector. That information would have to be shared for that purpose, and that concern is as far as misuse of the data, loss of the data, and security of the information itself.

I just wanted to bring that forward to the committee to ensure whether that part should be “registered electors.” With previous motions it was “eligible electors.”

The Chair: So if I understand this correctly, Mr. Resler, you’re suggesting that the wording is a bit inconsistent with the direction the committee’s gone up until this motion with the use of the term “registered” versus “eligible” electors?

Mr. Resler: Correct.

The Chair: Of course, we’d hate to create any inconsistency in writing legislation or any confusion, so I will outline the process about what would have to happen to remedy this problem, and then you can have a conversation as a committee. The committee would have to, by majority vote, accept to rescind this motion, and once the motion is rescinded, a new motion would have to be put forward. That would be the process.

So the first question here is – I’ll open the floor to discussion. In the name of looking to resolve the confusion that Mr. Resler has brought forward, is there an appetite to potentially rescind this motion? Mr. Dang.

Mr. Dang: Thank you, Mr. Chair. Maybe if I can suggest, to try and speed it up a little bit, would it be possible for us to grant unanimous consent to change the accepted motion? No? Okay.

The Chair: No. I think that given that the committee has already deliberated this motion, I suspect that the new amendment would be almost in its entirety similar.

Mr. Dang: I would move that
we rescind motion 97.

The Chair: Okay. Are there any other comments from the other side, or should I go to a vote? I’m prepared to call the question on rescinding motion 97.

Dr. Massolin: It’s just a vote on whether it’s acceptable.

The Chair: What’s that? Sorry.

Dr. Massolin: You have to vote on whether that motion is acceptable.

The Chair: Right. Okay. I apologize. Thank you for the clarification.

There’s a multistep process here. First, we have to accept a motion from the floor, whether or not we will accept this motion from the floor, and that requires a majority. All those in favour of accepting a motion from the floor, please say aye. Any opposed, please say no.

That motion is carried.

Now we go on to the motion put forward by Mr. Dang as to whether or not to rescind this motion. Mr. Dang has moved to rescind this motion. Correct, sir? All those in favour of Mr. Dang’s motion to rescind motion 97, please say aye. Any opposed, please say no.

That motion is rescinded.

I will now need a draft motion, and I see Mr. Horner.

Mr. Horner: Yeah. If it would work to tweak the . . .

The Chair: Oh. Sorry. I can’t even get it. I’m getting ahead of myself.

We now have to have a new motion that would come from the floor. We have to move now from someone to accept a motion from the floor. Ms Goodridge has moved that
we accept this motion from the floor.

All those in favour of accepting a motion from the floor, please say aye. Any opposed, please say no.

That is carried.

Okay. We’ll now proceed, then, to Mr. Horner’s draft motion.

Mr. Horner: Thank you, Chair. Well, if it was agreeable to the committee, I would suggest that we make some tweaks to the motion we just rescinded by removing the word “registered” and replacing it with “eligible” in section (b).

The Chair: This is correct, Mr. Resler? Just in section (b)?

Ms Hillier: Just (b).

Mr. Resler: It’s just (b).

The Chair: Just to be clear, we have consensus from Justice and Mr. Resler that the recommendation is just to change “eligible voter” in section (b) or (a) as well?

Mr. Resler: Just (b).

The Chair: Okay.

Mr. Horner, would you like to read out your new motion in its entirety.

Mr. Horner: Okay. To move that

the Select Special Democratic Accountability Committee recommend that recall legislation be enacted that requires the following to be met for a recall petition to be considered successful: (a) at most 40 per cent of registered electors of the electoral division of the Member of the Legislative Assembly who is the subject of the recall petition that have validly signed the recall petition; and (b) only the physical signatures of individuals who are eligible electors during the 90-day period when signatures were permitted to be collected are counted as valid for the purposes of determining whether a recall petition has been successful.

The Chair: Okay. I'll let Mr. Roth put the draft motion on the screen.

Mr. Resler: Just one clarification.

The Chair: Yes.

Mr. Resler: When you read (a), you said "at most 40 per cent" where it should state "at least 40 per cent" to be consistent.

The Chair: Mr. Horner, is it your intent to change that word of the motion as well, to change it to "at most"?

Mr. Horner: Yes. I just realize that's changed. That's how I had it written.

The Chair: Okay. So there is a draft motion. I'll let Mr. Roth change the wording. There is a draft motion on the screen. I'll open the floor up to any comments or questions. Ms Pancholi.

9:20

Ms Pancholi: Thank you, Mr. Chair. I think this feels quite unusual. It feels like we were making a change to address the concerns brought forward by Mr. Resler to make sure that there was clarification around language. It now seems like there was another intention, which was to change the threshold required for recall after we heard the government vigorously defend yesterday and earlier even today, this morning, the thresholds that were set.

I would believe that it is imperative upon the government to explain why now the 40 per cent of registered electors is not the minimum requirement in order to trigger recall but is now the high end, which means they seem to be suggesting a lower threshold, and what that would be, and how that would be determined. Once again, we now no longer have clarity around that and in what circumstances.

I would like to hear the government speak to why they have changed their direction and changed their tune from yesterday if that was the intent. If this is an error, I think we could entertain an amendment. The committee might consider that, but if this is intended to change the threshold, I would like to hear the government speak to why that is.

The Chair: Thank you, Ms Pancholi.

I guess I should just also clarify that the only recommendation – this motion needed to be addressed by Mr. Resler, and the only recommendation that he made was with regard to eligible signatures. That's a point of clarification. The rest of the motion is up to the member who moved it, just so that there's clarification there.

Mr. Horner: Thank you, Chair. No. To answer Member Pancholi, we're certainly not trying to pull a fast one in our deliberations. When I spoke to this motion yesterday and spoke about it being a maximum, that was a feeling of mine, and having a chance to change this with the will of the committee and a lot of the comments from your side, I guess we can have that discussion.

Mr. Feehan: I am very confused at what Member Horner is just suggesting here now. The committee is being told that the government side, having argued yesterday continuously for having 40 per cent as a minimum and completely voting down the motions where we suggested a smaller number throughout the day yesterday, are now suggesting that they're changing their mind on everything, and they are now going to say that 40 per cent is a maximum and as little as, well – because it doesn't suggest – 1 per

cent of the population could, in fact, be considered in this particular case.

If this is just an error, and you actually meant to say "least" and not "most," to be consistent with everything you've said for the last 24 hours, then perhaps we could change the word. But if you're actually defending the word "most," that's a total contradiction of all of the arguments you gave yesterday for the defeat of motions of a lesser number. Now you're suggesting even less than we suggested yesterday because you have put no minimum in. Therefore, it could be determined that 1 per cent of the population – well, you still have "registered voters" in there. It's completely ridiculous.

The Chair: Thank you, Mr. Feehan.

Do we have any other comments from the government side?

Mr. Dang.

Mr. Dang: Thank you, Mr. Chair. I am quite shocked at this development. I think that, frankly, the opposition side of this committee has been misled, to be very clear. I think that we were under the impression that we were making a minor technical change to accommodate Mr. Resler's request, and instead now we see the government making a complete one-eighty on a substantive policy proposal. I think that's something that's quite concerning, that we now don't have clarity.

Yesterday we moved a significant number of motions, upwards of, I think, 15 to 20 motions, under the assumption that the government was pushing forward with a 40 per cent minimum threshold. Today we see the government come in here and make a substantive change to that policy without even mentioning it in the opening remarks when they moved that motion and using the cover of trying to make a technical change to do so. I think it's hypocrisy at its very basic core, Mr. Chair. I think that the government trying to use this opportunity to pull a fast one on the opposition, not even having mentioned it when we were discussing why we would be rescinding motion, I think, 97 originally, is very disturbing and shows a complete lack of respect for this opposition.

Thank you.

Member Ceci: Mr. Chair.

The Chair: Mr. Ceci, you'd like to speak? I can put you on the list. I now have Mr. Horner.

Member Ceci: Thank you. Okay.

Mr. Horner: Thank you, Chair. No fast ones. The intent of this motion was always to follow closely with the language of the B.C. model and the B.C. threshold, so we're making that intent clear. If this does not fit the intent of the committee, then I guess we're talking about that. This matches more closely with what the opposition has spoken about, so I would think that you would be excited.

The Chair: Next on the list I have Mr. Ceci.

Member Ceci: Thank you, Mr. Chair. I feel like I've been misled. I gave my permission, I gave my support to the views that were brought forward by the Chief Electoral Officer. That's what I agreed to. I didn't agree to the additional comments made by Mr. Horner. I don't know what to say. This feels very irregular and, I think, out of order. I wish that you would make a ruling agreeing to what I thought we all agreed to, which was the views brought forward by Mr. Resler to do a minor change.

Thank you.

Mr. Dang: Mr. Chair, at this time I'd like to raise a point of privilege.

The Chair: Certainly. A point of privilege has been raised.

Mr. Dang: Thank you, Mr. Chair. I think it is very common and has been well established, both in this House and in Houses across the Commonwealth, particularly if we look at *House of Commons Procedure and Practice*, that when a government member or any private member intends to mislead the House, that is something that is particularly recognized as a point of privilege. I believe that the opposition has very clearly been misled in the intent of moving this motion and rescinding the original.

I believe that, as was discussed when you first addressed Mr. Resler and when you first suggested that there were particular concerns around the technical wording of this motion, Mr. Resler only presented to the technical wording of part (b) and the use of "eligible" versus "registered" electors. I think, Mr. Chair, that at that time, no member for the government caucus mentioned at any point that they would be amending additional substantive policy portions of that. I believe that very clearly it was suggested by the government caucus that we would be rescinding motion 97 to amend it only in the technical sense.

I think that as we move forward, it's very clear that the opposition caucus, under your direction, Mr. Chair, was informed that this would be the process, that there would be a certain number of votes to rescind the motion, to approve the rescinding of the motion, and then to approve further motions and such forth.

9:30

I think that, very clearly, we can see in this place that this opposition was operating under the assumption that we would be making a technical change. In reality, what has happened is that Mr. Horner has now made a substantive change. Those differences: the fundamental difference in that proposal, the fundamental difference in this recommendation and motion is that the opposition was not actually given the opportunity to have a part in that discussion before – we were not given the information required to even recognize whether we should be rescinding motion 97. The privilege of this Assembly has clearly been breached. The opposition has clearly been misled by Mr. Horner along with members of the government caucus. I think that is something that is an affront on this place, and you must rule that to be a breach of privilege as such.

Thank you, Mr. Chair.

The Chair: Thank you, Mr. Dang.

In consultation with the clerk's office and Parliamentary Counsel, I'm going to take a five-minute recess just to look at what this is as there are a couple of options here on the table. I will recess until 9:36.

[The committee adjourned from 9:31 a.m. to 9:39 a.m.]

The Chair: Okay. I will call this committee back to order. I appreciate the comments from Mr. Dang. I would just read here from a book, the practical guide, which outlines privilege in committee. It says, "The role of the Chair in such instances is to determine whether the matter raised does in fact touch on privilege and is not a point of order, a grievance, or a matter of debate." At this point I am given the opportunity to allow members from the government side to argue whether or not they believe this is a point of privilege, at which point I will make a decision.

If anyone would like to – Mr. Horner.

Mr. Horner: Thank you, Chair. I'd like to speak, seeing as how I created this. We had some discussion around motion 97 yesterday. I think that in the back and forth between Member Dang and myself I maybe even contextually said that I thought it was a maximum. I guess that if that was some of the thinking in my notes of how this motion should read in the intent of aligning it with B.C., that is no one else but myself. If this offends the committee, the opposition in the way this was brought up, I'm willing to change it back to what it was or change it in some way that embraces the intent of the committee and the motion.

Those are my comments.

The Chair: Okay. The member did not necessarily speak to privilege but to the initial motion, maybe trying to find resolution.

I am prepared, though, to rule on privilege, and I do not find that this does touch on a point of privilege. At best, this would be a point of order. Given that that is the ruling, I will give Mr. Dang an opportunity, if he believes that this is a point of order, to find a point of order to call.

So that would be your opportunity now, Mr. Dang, if you wanted to raise a point of order.

Mr. Dang: Mr. Chair, I raise a point of order under 13(2) at this time: "The Speaker shall explain the reasons for any decision on the request of a Member." I believe that when you and I spoke briefly before the committee, you actually indicated to me this would also be a technical change. So I believe that I've been misled along with the members of the entire opposition caucus by Mr. Horner and the government caucus and indeed, Mr. Chair, in a case by yourself as well. So I'd ask that you explain yourself to us.

The Chair: My purpose was to address the motion as mentioned by Mr. Resler. Once a motion is rescinded and a new motion is accepted by the committee, it is then up to the committee to bring forth motions. The chair has no role in bringing forth motions. With regard to your claims that I misled the committee, I would strongly caution you in that wording.

With regard to the point of privilege there is no point of privilege. That is my decision.

Now, if you have a point of order you'd like to raise.

Mr. Dang: Point of order. Section 13(2) again, Mr. Chair. You have not explained why there is no point of privilege.

The Chair: Just a moment here. This is a procedural matter. It's not a question of privilege. That is my ruling.

If you would like to point out a point of order, I'm happy to entertain that, Mr. Dang.

Mr. Dang: Mr. Chair.

The Chair: Yes.

Mr. Dang: I believe that I can now raise a point of order under 23(f) and 23(b). I believe that the member, Mr. Horner, has clearly indicated that it is his intent not to have moved that motion in that way. In that case, I believe that this motion is actually out of order as the question was already debated and the member had had it rescinded.

The Chair: You raise an interesting point, actually, Mr. Dang. In previous instances when motions from the floor were brought forward, they were first brought forward, and then we voted on whether or not to accept to debate that motion. If it was accepted or denied, then we would go ahead on to debating it or we would disregard the motion. When this motion was brought to the floor,

we simply voted on whether or not to allow a motion from the floor. We did not actually outline the motion. So you are correct. I believe there might be a procedural error here, and I will take responsibility for the procedural error. I can assure you there is no intent of malfeasance in that error. I will consult with Parliamentary Counsel and the clerk as to how to maybe go back and reinitiate this process if that pleases the committee.

Mr. Dang: Thank you, Mr. Chair.

The Chair: In consultation with the clerk and Parliamentary Counsel, this motion is, in fact, out of order because it was not read before we voted to allow it, which would have allowed the members opposite and the government members to determine whether or not they would allow this motion to proceed to debate. Therefore, this motion is out of order.

I will now entertain a new motion.

Mr. Dang: Point of order under 13(2), Mr. Chair.

The Chair: Yes.

Mr. Dang: I have a question regarding Standing Order 65(3). Section 65(3) reads:

When a question of privilege arises in a committee or when disorder persists in a committee,

(a) if the Assembly is then sitting, the Chair shall immediately adjourn and report to the Assembly.

Mr. Chair, I believe the Assembly is currently sitting, and I would like to wonder why this committee has not adjourned and immediately reported to the Assembly. It's the question that arises, not the actual . . .

9:45

The Chair: The question of privilege is out of order because we're dealing with a motion that is out of order. We're actually rewinding in time, if you will, figuratively speaking. Therefore, we have to go back now to where we have no motion because we have rescinded the previous motion, and we now must accept the ability to move a motion from the floor. If there's a draft motion, I will give Mr. Horner the opportunity to read a motion that he would like the committee to consider to allow to go towards a vote. That would be the next process here. So there is no privilege because, again, all the things you have already spoken to actually are addressing a matter that was ruled out of order initially, which was a mistake on my part.

If Mr. Horner has a motion he would like to read into the record that you would like the committee to determine whether or not it will allow it to go to debate, please go ahead and do that.

Mr. Horner: I would be, yes, happy to, Mr. Chair. Let's go back a bit. I move that

the Select Special Democratic Accountability Committee recommend that recall legislation be enacted that requires the following to be met for a recall petition to be considered successful: (a) at least 40 per cent of registered electors of the electoral division of the Member of the Legislative Assembly who is the subject of the recall petition have validly signed the recall petition, and (b) only the physical signatures of individuals who were eligible electors during the 90-day period when signatures were permitted to be collected are counted as valid for the purposes of determining whether the recall petition has been successful.

If it pleases the court.

The Chair: Mr. Resler, does this motion meet the concerns that you initially addressed?

Mr. Resler: Yes, it does.

The Chair: Excellent.

Okay. There is a draft motion on the screen. It is very similar to the original with the exception of changes made as suggested by Mr. Resler. I will ask the question of the members of the committee: if we will allow this motion to proceed.

All those in favour of allowing the motion to proceed to the floor, please say aye. Any opposed, please say no. Okay.

That motion is carried.

We will now go on to the main motion moved by Mr. Horner, as is seen on the screen. Does anybody have any comments or remarks regarding this motion?

Seeing none, I'm prepared to call the question on the motion. All those in favour, please say aye. Any opposed, say no.

That motion is carried.

Awesome. Moving on, then, to instructions on drafting. Oh, are there any other matters for deliberation?

Seeing none, we'll move on.

Ms Goodridge: I believe – is now the right time to move my motion in regards to drafting of the report?

The Chair: Yeah. We're going to get to that point here.

With the committee having concluded its deliberations, we can now proceed to direct research services to prepare a draft report containing the recommendations that the committee has approved this morning. At this time I would ask Dr. Massolin or Ms Robert to provide us with a brief overview of this process and what the draft report will contain.

Ms Robert: Thank you, Mr. Chair. Yes. Now that the committee has finished up its deliberations, this would be the time that the committee might request research services to prepare a draft final report for the committee.

The final report typically includes an executive summary, which is a list of the recommendations that the committee has agreed to. It includes some information with respect to the committee's mandate and some introductory remarks. It also has a section on the consultation process, the stakeholder and public engagement process, that the committee undertook. Then the main section is a discussion of the recommendations that were passed by the committee, which includes some contextual information on how the committee got to the point of passing recommendations. Then, of course, it includes an appendix, which lists the names of the submitters and presenters that made submissions to the committee. That is the basic process.

Thank you.

The Chair: Any comments or questions?

Hearing none, I'd also like to note that the committee may wish to streamline the process and avoid any other meetings by authorizing the chair and deputy chair to approve the draft report after it has been made available for the committee members to review. Are there any thoughts on this issue?

Hearing none, I will need a draft motion, then, to request research services to prepare a draft report. I believe I have Ms Goodridge, who would like to move a motion.

Ms Goodridge: Thank you, Mr. Chair. I would like to move that the Select Special Democratic Accountability Committee direct research services to prepare a draft report on the committee's review of questions posed by the Minister of Justice and Solicitor General in the document entitled Proposed Questions for Review by a Standing or Special Committee, Sessional Paper 192/2020, containing the recommendations approved by the committee and

authorizing the chair and the deputy chair to approve the report after making it available to committee members for review.

The Chair: We have a motion. I'll wait for it to get on the screen. Ms Goodridge, does that motion meet your intent? Thank you. I want to recognize Mr. Dang.

Mr. Dang: Thank you, Mr. Chair. Before I begin, I'd like to thank all members of the government and opposition caucuses as well as our guests who have joined us at the table for the considerable amount of work that's been done over the last two days in deliberations. I think it's no small feat that we've been able to complete this, and I'm looking forward to reviewing the report.

I guess my one comment to the motion and with regard to the motion is that I would perhaps either like a verbal guarantee today, or perhaps we can amend the motion if necessary, that there'd be sufficient time – I don't wish to speak for my colleagues, but I anticipate that the opposition caucus will have a minority report to submit. I would request about a week, I guess, from a draft report, for us to have that time to review and submit a minority report if that'd be sufficient.

The Chair: If I understand this, Mr. Dang, you're asking for the report to be written within a week's time so that you can review it and then write a minority report?

Mr. Dang: Yeah. I guess we'd like, when the report is posted, a week to do the minority report if that makes sense.

The Chair: This report has to go back to the Chamber on November 13 at the latest.

Mr. Dang: Let me look at a calendar here.

The Chair: Sure. Just for your own understanding.

Mr. Dang: Sure. I mean, if the report – I'm maybe looking at the table here – would come next week, then by, like, the 10th or 11th we'd be able to submit our minority report. Does that make sense?

The Chair: I guess the best question first is: when would you suspect, Ms Robert, your report to be complete?

Ms Robert: Thank you, Mr. Chair. I think it's reasonable to expect that the report could be finished by the end of next week. The

transcripts need to come out so that they can be reviewed, and I know that on the 13th of November the Assembly will be on a constituency break. Others can correct me if I'm wrong, but I believe it would be then presented or tabled on the 16th of November. Yes? That's correct. Knowing that, hopefully, that timing will work to give opportunity for a minority report, which, just by way of process, once it's received, is attached as the first appendix to the main report.

The Chair: If I understand this correctly, your report would be done in theory by the 6th of November, which would then give members of the opposition from the 6th to the 16th to fulfill their minority report and attach it?

Ms Robert: Well, possibly the 13th so that we could then attach it and compile it.

9:55

The Chair: Sorry. I'm mixing due dates with the tabling dates. My mistake.

Is it sufficient time for you to have that?

Mr. Dang: That's fine, Mr. Chair. Thank you.

The Chair: Sure. Do we need a motion to that effect, or is it just understood? Okay.

All right. We have a motion on the screen. I'm prepared to call the question on that motion unless, Ms Pancholi, you did have a question.

Okay. All those in favour of this motion moved by Ms Goodridge, please say aye. Any opposed, please say no.

That motion is carried.

Is there any other business to discuss today?

Seeing none, the date of the next meeting will be November 5 and November 6, 2020, to hear oral presentations in relation to the Election Act, election finance and contributions act.

Can I get member to move to adjourn this meeting? Not all at once. Ms Goodridge moves that the October 30, 2020, meeting of the Select Special Democratic Accountability Committee be adjourned. All those in favour, please say aye. Any opposed? That motion is carried. This meeting is adjourned.

Thank you, everyone.

[The committee adjourned at 9:56 a.m.]

