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HOUSE OF ASSEMBLY MANAGEMENT COMMISSION

Thursday, September 10, 2015

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**HOUSE OF ASSEMBLY
MANAGEMENT COMMISSION**

Hon. Kevin Murphy (Chairman)
Hon. Michel Samson
Hon. Labi Kousoulis
[Mr. Brendan Maguire, attended]
Ms. Margaret Miller
Mr. Iain Rankin
Hon. Christopher d'Entremont
Mr. Larry Harrison
Hon. David Wilson
Mr. Neil Ferguson, Chief Clerk of the House of Assembly
(Non-Voting Member)

[Hon. Labi Kousoulis was replaced by Hon. Joanne Bernard]

Counsel to the Commission

Ms. Annette Boucher
Assistant Clerk and Legislative Counsel
House of Assembly

Speaker's Office Adviser

Ms. Deborah Lusby
Director of Administration
Speaker's Office



HALIFAX, THURSDAY, SEPTEMBER 10, 2015

HOUSE OF ASSEMBLY MANAGEMENT COMMISSION

12:30 P.M.

CHAIRMAN
Hon. Kevin Murphy

MR. CHAIRMAN: If we're all set, I'd like to call the House of Assembly Management Commission meeting to order.

Just before we get started we'll make note of one personnel change and two substitutions. Iain Rankin is now replacing Lloyd Hines - I was notified by the caucus office from the Liberal Party yesterday on that change. In Terry Farrell's absence, Brendan Maguire is substituting today; Minister Bernard is sitting in for Minister Kousoulis who is also away. I believe that's everything.

Also I'd like to welcome our Assistant Clerk from the Legislature, Nicole Arsenault, who is also present today. I believe this is her first Management Commission meeting.

With that, the materials were circulated in advance and a revised agenda was just circulated. Does anybody have any additions, deletions, or corrections to the agenda?

Hearing none, do we have a motion to accept the agenda, as presented? Moved by Minister Samson, seconded by Margaret Miller.

Would all those in favour of the motion please say Aye. Contrary minded, Nay.

The motion is carried - the agenda has been accepted.

We'll move on to Item 1 which is approval of the March 3, 2015, minutes and I'll turn it over to Chief Clerk Ferguson.

MR. NEIL FERGUSON: The minutes were all circulated. I couldn't see any mistakes or errors but if anyone else has anything that they believe should be changed, they should tell us now. Otherwise, it would be appropriate to have a motion to approve the minutes.

One thing in the minutes you'll see is that the matter of the MLA training allowance appeal by Mr. Ramey was deferred until this meeting. The materials had been circulated then and have been recirculated in advance of this meeting.

MR. CHAIRMAN: Moved by Mr. d'Entremont and seconded by . . .

MR. IAIN RANKIN: I think there's a mistake on the timing. It said it started at 3:00 p.m. and ended at 11:27 a.m., so I'm not sure if you were here . . .

MR. CHAIRMAN: It was a long meeting. (Laughter) What page is that on?

MR. RANKIN: The beginning page has March 3rd at 3:00 p.m., and then Page 5 said the meeting adjourned at 11:27 a.m.

MR. FERGUSON: We'll check the notes and we'll get that error fixed before we actually certify the minutes. Thank you, eagle-eyed new member.

MR. CHAIRMAN: Thank you for pointing that out.

HON. CHRISTOPHER D'ENTREMONT: I'll move that change.

MR. CHAIRMAN: Do we have a seconder? Minister Samson. Would all those in favour of the motion, with the correction pointed out, please say Aye. Contrary minded, Nay.

The motion is carried - it's accepted with the change as noted.

The second item, an amendment to revise Section 43A, the franking and travel allowance, to be on a monthly basis, similar to the constituency allowance. Chief Clerk Ferguson.

MR. FERGUSON: Subsequent to the last commission meeting, the Audit Committee said that in its opinion the annual amount should be allotted on a monthly basis. This was agreed to by the Audit Committee and Minister Kousoulis took it away for discussion. On that basis we have done that and there has not been any issue for any member. This is just a fix to add the word "monthly" into what was already approved, so if anybody would care to move that.

MR. CHAIRMAN: I believe that amendment has been circulated. Does everyone have a copy of that? Mr. d'Entremont.

MR. D'ENTREMONT: As a member of the Audit Committee as well, I'll move that change.

MR. CHAIRMAN: Moved by Mr. d'Entremont, seconded by Mr. Wilson. Would all those in favour of the motion please say Aye. Contrary minded, Nay.

The motion is carried.

Item 3, appeal request of former MLA Gary Ramey's retraining allowance. I'll turn that over to Chief Clerk Ferguson.

MR. FERGUSON: Again, this material was circulated before the March meeting. As noted in the minutes, Minister Samson noted that there was a substantial amount of personal information of Mr. Ramey's in there that should have been redacted, so the materials were redacted and recirculated.

Everybody had the appeal letter before and right behind your minutes there's a summary of the timeline of events. Essentially some of the retraining allowances that Mr. Ramey had requested were outside the 12 months after the time that he ceased to be an MLA and were not eligible for reimbursement. He appealed that to the Speaker, and as you will see in the materials, the Speaker said that he didn't have the discretion to approve reimbursement outside the 12-month window.

In Mr. Ramey's letter, which you have in your materials, I guess on fairness grounds he noted that he had been out of the country and there were some medical issues. You all have that material, so I don't think we need to get into it, but it is up to this commission then to decide whether to uphold the decision of the Speaker or whether to overturn it.

If you look at the regulations, the key word seems to be that if the commission considers that it would be "unjust" and says:

Notwithstanding that an expense claim has been denied by . . . the Chair, in accordance with the regulations, where there is an appeal to the Commission . . . and the Commission determines that that claimed expense amount

(a) has been incurred by the member of the House of Assembly;

(b) is a permitted expense under this Act and the regulations;
and

(c) does not exceed an expense amount or allowance allocation permitted under the regulations,

and a denial . . . of the expense amount would, in the opinion of the Commission, be unjust, the Commission may approve the expenditure . . .

It's on that basis that Mr. Ramey sent the letter that he sent, which has been distributed to you.

There were other MLAs who took similar courses, some of which fell outside the 12-month window, and the Speaker had also said you can't have that - actually, I believe staff dealt with it. So there were other MLAs who were outside the 12-month window who did not get reimbursed for identical courses.

MR. CHAIRMAN: Mr. Wilson.

HON. DAVID WILSON: As a representative of the NDP, we're dealing with Mr. Ramey's request here, so with all due respect to the other MLAs, I think they could have had the opportunity to put in a letter to revisit this.

In the letter that Mr. Ramey presented in February, it indicated he had all intentions to fulfill the obligations within the mandate of reimbursement, but due to some circumstances that I don't think I need to get into - some pending medical issues - he had to put the start of that course off.

It is the will of the committee to look at this so we're just requesting that we look at Mr. Ramey's appeal and support his endeavour to get reimbursement of that course.

MR. CHAIRMAN: Mr. d'Entremont.

MR. D'ENTREMONT: I'm just wondering, on the other MLAs who probably fall in almost the same boat and didn't make the application for the extra funding - I believe there was Mr. Steele and Mr. Preyra - there are a number of different MLAs who did take some retraining opportunities and fell outside that, as well, and didn't get reimbursed. I don't know how many there were in total. Does this mean if we approve this one, do we have to approve, or at least go back and pay those individuals as well? So it's just more of a question - is this one specific to Mr. Ramey and what does that do to open up the regulation for others who might come and ask for reimbursement as well? (Interruptions) Exactly.

MR. FERGUSON: If you're asking me, there is the potential that people could see the specific 12-month cut-off as slippery. Others might say, well, you've done it in the past in circumstances, make the argument that they had similar circumstances. I don't think it would open it up to everybody just saying 12 months doesn't matter. I mean, we're talking

about situations, specific circumstances, for an individual who is making a case based on their specific situation.

MR. D'ENTREMONT: Just to cap my idea and that of our caucus - the rules were put in place for a reason and I think we support the Speaker's original decision to deny it. Unfortunately, I mean, knowing Mr. Ramey's situation - I do feel bad about it, but the rules are there for a reason.

MR. CHAIRMAN: Mr. Samson.

HON. MICHEL SAMSON: Could you specifically advise how many other MLAs would have been denied funding because they were outside of the 12-month period? I don't need to know names, but how many?

MS. DEBORAH LUSBY: I know of two. There may have been others who were taking programs but didn't request or inquire because they knew they weren't falling within the timeline.

MR. FERGUSON: There were two others who took the identical course, I believe.

MR. CHAIRMAN: They only received the funding for the portion of the course that fell within the parameters of the regulations and they were denied the other portion. Essentially the same situation, only Mr. Ramey chose to exercise his right to appeal.

MR. SAMSON: So the other two took the exact same course and were not provided funding for the other half of the course because of the time frame.

MS. LUSBY: There were two MLAs who took the course within the timeline of the 12 months and they completed the course, so they took it during the summer of July 2014. There was another who started late and he was only reimbursed for the Fall portion of the course, even though he was taking courses into 2015. There was another MLA who was not taking the same course but was taking a program. He was only reimbursed for the Fall portion where he had registered and paid for the fees prior to the deadline, or we paid the fees for the Fall term.

MR. SAMSON: I guess one of the questions - this is new, I guess this would be our first election that we went through with these new rules. Have we done a jurisdictional scan to see what's done in other jurisdictions? Is that one-year limit the standard that's used elsewhere or do we need to look again at that one year whether that's a sufficient amount of time?

MR. FERGUSON: This originated with the MLA Review Panel; they decided to put this in place. At that time I do not believe they were doing it on the basis of a jurisdictional scan, so subsequent to that we've had no need to look at what else was done - their decision became the law. We haven't had a need to see what the law is everywhere

else. That was just the decision of the MLA Review Panel specific to Nova Scotia, based on the submissions that were made to it by present and past MLAs, who talked about the need for retraining as they transitioned out of the role of MLA. We have not done or had any need to do a scan elsewhere because this was something created by the panel. (Interruption) According to Ms. Boucher, they did look at it.

MS. ANNETTE BOUCHER: I know that the panel did look at what was done across the country. I don't remember exactly what that is. I know there are a few jurisdictions that do offer this kind of training; New Brunswick looked at it and I think the Yukon - I don't remember all of the others. I don't remember what the period of time was, but the amount for sure, the \$7,500 was in the range of the amount in other jurisdictions. We have the information, it would be in the material that would be in the Review Panel's report that was attached as an appendix at the back.

MR. CHAIRMAN: Mr. Wilson.

MR. DAVID WILSON: Timing of an election will have an impact on the ability for a former member to seek a program or a course. Of course, the last election was in October, so it could be in the middle of a current course. Most courses start September to December and maybe after. All we're asking for is the opportunity for any member who ceases to be a member, the ability to seek some retraining. Hopefully, we could take that into account that elections don't fall on a school-year schedule and that you could be out of luck for maybe a full year if the course you want is a year-long course, if the election is midway through that year. So just take that into consideration when we make this decision.

MR. CHAIRMAN: Mr. Ferguson.

MR. FERGUSON: Just to make it clear for the purpose of the commission, this is a statutory requirement in the House of Assembly Act. If we're going to be deviating from it and the commission believes that a year is not appropriate, then it should suggest to the government that the Statute be amended. But that is what the law says, 12 months.

MR. CHAIRMAN: I do believe - Ms. Lusby, correct me if I'm wrong - that a notice or two were sent out 30 days in advance of the deadline, indicating the deadline is coming up should you wish to take advantage of this?

MS. LUSBY: Yes, there were a couple of notices; I think one was sent out in June and again in late summer, as a courtesy for those non-elected MLAs.

MR. CHAIRMAN: Mr. Samson.

MR. SAMSON: Obviously whenever we make these types of rules, it's expected that people will do their utmost to be able to live within them. In this case we're being presented with information, which is being supported by Mr. Wilson for one of his former colleagues, regarding medical concerns as to why this wasn't able to be adhered to under

the normal practices. Obviously, anytime that we're presented with a case like this we have the rules, but at the same time we're being asked to look at the individual situation of a member, and he has provided us some pretty specific details regarding his own personal situation and that of his spouse. Therefore, I think it would be left open to other members on the issue that Mr. d'Entremont raised, as well, whether they will be seeking this, if they're free as well, if they have some personal situations that they wish us to consider.

I think this is a bit of a unique situation, I don't believe it's going to open the floodgates in any way, especially since the deadlines have long past on this. So in light of what has been provided and the information provided by Mr. Wilson, if he's willing to make a motion on this, we would be supportive of a motion to reconsider.

MR. CHAIRMAN: Mr. Wilson.

MR. DAVID WILSON: Mr. Chairman, I move that the committee approve Mr. Ramey's request for funding for the course, outlined in the details that he provided to the committee.

MR. CHAIRMAN: Is there a seconder for the motion? Seconded by Mr. Samson.

Would all those in favour of the motion please say Aye. Contrary minded, Nay.

The motion is carried.

Moving to Item 4, risk assessment update. Again a sheet was circulated, I believe, to all and we'll refer to that - that's the chart. I'll turn this over to Ms. Lusby.

MS. LUSBY: Thank you. In the Auditor General's February 2013 Report one of the recommendations was that the House of Assembly perform a comprehensive risk assessment. That was completed in April 2014. Five key recommendations were made and we've seen this table a few times at the commission. We've reported on status updates so I'll just go through it quickly.

No. 1 is that we work on succession planning for key positions. The status of that is that the Assistant Clerk position was filled in March 2015 and succession planning is underway for the Chief Legislative Counsel.

No. 2 is to review staffing levels for branches within Legislative Services. We went through a brainstorming session with all the divisions and a summary of key challenges and proposed solutions was distributed to the House of Assembly Management Commission Audit Committee at the June 2015 meeting. HR and IT support will continue to be addressed, which is further down at No. 5, but there is no further action at this time on this item.

No. 3 addresses a formal business continuity plan for the House of Assembly. We did embark on that exercise, creating our own business continuity plan. However, at the same time, the province, through the Internal Services Department, is doing a formal business continuity program and we have been encompassed in their planning process. That plan was expected to be finalized in August so that has just past. It is expected to be finalized shortly and there will be more testing this Fall 2015.

No. 4 talks about the structure, composition, and public nature of the House of Assembly Management Commission. There have been several exercises and reviews done about that point. The House of Assembly Audit Committee is recommending to the commission that it plan quarterly meetings and also would like to invite the commission to consult the Audit Committee when changes to the regulations are financial in nature. These points will be addressed further in the Audit Committee's annual report.

On the other page is what I alluded to earlier; No. 5 concentrates on the central and corporate support that we receive from the province as it relates to IT and HR support. Those support issues were addressed in the summary of key challenges and proposed solutions that were presented to the House of Assembly Audit Committee in June 2015. Regarding IT, the ICTS Division has assigned us a dedicated representative, and meetings are underway to improve that service and support that we require. Regarding HR, senior management discussions are also underway.

MR. CHAIRMAN: Thank you, Ms. Lusby. Mr. d'Entremont.

MR. D'ENTREMONT: Thank you, I want to look at No. 4. We talked about this one a few times and that's the one that I think mostly affects the work of the committee here today, sort of the issue of getting together on a regular basis to discuss the issues that are before us. Section 11(1) of the House of Assembly Management Commission Act says:

The Commission is responsible for the financial stewardship of all public money that may be voted by the House of Assembly for the use and operation of the Assembly, and for all matters of financial and administrative policy affecting the Assembly and its members, offices and staff and in connection with them . . .

Also Section 11(3)(b) says that the commission shall, "regularly, and at least quarterly, review the financial performance of the House of Assembly as well as the actual expenditures of members compared with approved allocations . . ."

As you know, in 2014 the commission failed to meet its legislative requirement. In 2014, we met on February 27th and we met on July 10th, and that was it. So far this year, it looks like we might be able to hit our fourth item, but I'd like to run a motion that the House of Assembly Management Commission fulfill its legislative responsibility for oversight of the financial stewardship of public money used for the operation of the

Assembly and its legislative responsibility to meet at least quarterly by scheduled meetings in January, March, September, and December - I so move.

MR. CHAIRMAN: I'll open it up for discussion. Mr. Samson.

MR. SAMSON: This is the first we've heard of this motion - it was not shared with us prior to this meeting. Obviously, we remain committed to ensuring that the proper oversights are in place, and with the work that the Audit Committee is doing as well. We are doing a further review on the entire committee structure in the province and will certainly be reaching out to both caucuses in discussing these matters. So at this point we would like to take that matter under consideration, rather than having it come to a vote today so that we can give it the time it needs to reflect on having actual set times, rather than meeting when necessary.

MR. D'ENTREMONT: I respect the member's thoughts on this and it can be something that we discuss on a future date. The point here is, we are an organization reporting to the House of Assembly. We are not an organization responding to the Government of Nova Scotia or the Liberal Party of Nova Scotia. If we have set meetings, we can plan for meetings and we know that when we need to share information, we're sharing it in due time so that we have enough time to consider and discuss before it comes to this floor.

I don't mind deferring this as long as come December we have a clear date on the next meeting for this before the end of the year, and then we can set a clear path to these meetings. So I'll hold it for further discussion at another meeting.

MR. CHAIRMAN: Are there any further comments? The motion is on hold. I appreciate that, thank you very much.

We'll move on now to Item 5: the CPI increase as of April 2015, for this committee, Regulation 52. I'll turn it over to Ms. Lusby.

MS. LUSBY: Regulation 52 states that fixed amounts in the regulations may be increased by the lower of the federal or provincial CPI as of April 1st of each year, subject to the approval of the commission. So on April 1, 2015, CPI for Canada was 0.8 per cent and Nova Scotia was 0.3 per cent, which is not very much. That would mean if we were to increase the allowances by 0.3 - for example, if the constituency allowance has increased by 0.3, it would go from \$4,282 per month to \$4,295 per month, which is a \$13 increase - approximately \$150 annually per MLA. It's up to the commission to determine whether they would like to do that.

MR. CHAIRMAN: Mr. d'Entremont.

MR. D'ENTREMONT: We voted against an increase in 2011-12, 2013-14, and 2014-15, so I'm going to guess it's probably going to be the same thing. So I move that the CPI increase, referred to in Regulation 52 of the House of Assembly Management Commission Regulations, be waived for April 15, 2015.

MR. CHAIRMAN: Is there a seconder? Seconded by Mr. Samson. Would all those in favour of the motion please say Aye. Contrary minded, Nay.

The motion is carried.

Moving on to Item 6, the financial update. Again, Ms. Lusby.

MS. LUSBY: The Auditor General's Office is currently completing their 2014-15 compliance audit and they have been in and out of our office for most of August. There have been no significant items of concern brought to my attention during their visit, it seems all very positive. Their formal report should be issued before the end of November.

The fourth quarter financial, since we hadn't met since they were issued, for 2014 - which would be as of March 31, 2015 - are included in your package. One of these long, detailed reports with the tiny print - these come to you quarterly. There is nothing significant to report except I will comment that at the end of the year approximately \$1.7 million was returned to the province, which is consistent with prior years.

In the first quarter report for 2015-16 which is as of June 30, 2015, the cost variance should be approximately 25 per cent. There are a couple that are over at this time. The first line which is MLA salaries, pension severance, et cetera, is due to the three MLAs who are no longer with us - Allan Rowe and then the two MLAs who resigned on April 2nd - and the payouts made to them that they are due. Also, under the Office of the Speaker, Hansard, Legislative Library, and House of Assembly Operations are just slightly over and that's due to the lengthy House sessions in the Spring, and those will balance out before the next quarter's report.

MR. CHAIRMAN: Are there any questions on those reports? Could we have a motion to accept these reports? Do we have a motion to accept all three pieces? Moved by Ms. Miller, seconded by Mr. d'Entremont.

Would all those in favour of the motion please say Aye. Contrary minded, Nay.

The motion is carried. The reports are accepted as presented. Thank you very much.

We are now going to go in camera while we discuss an item of concern for constituency assistant compensation - moved by Mr. Samson and seconded by Brendan Maguire.

Would all those in favour of the motion please say Aye. Contrary minded, Nay.

The motion is carried.

We will now go in camera.

[The public session adjourned at 1:04 p.m.]