

HANSARD

NOVA SCOTIA HOUSE OF ASSEMBLY

HOUSE OF ASSEMBLY MANAGEMENT COMMISSION

Tuesday, December 12, 2017

Legislative Chamber

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HOUSE OF ASSEMBLY MANAGEMENT COMMISSION

Hon. Kevin Murphy (Chairman)
Hon. Geoff MacLellan
Hon. Labi Kousoulis
Mr. Gordon Wilson
Mr. Chuck Porter
Hon. Christopher d'Entremont
Mr. Tim Halman
Hon. David Wilson
Mr. Neil Ferguson, Chief Clerk of the House of Assembly
(Non-Voting Member)

In Attendance:

Speaker's Office Adviser
Ms. Deborah Lusby
Director of Administration
Office of the Speaker

Ms. Annette Boucher
Assistant Clerk
House of Assembly

Mr. Gordon Hebb
Chief Legislative Counsel



House of Assembly
Nova Scotia

HALIFAX, TUESDAY, DECEMBER 12, 2017

HOUSE OF ASSEMBLY MANAGEMENT COMMISSION

4:00 P.M.

CHAIRMAN
Hon. Kevin Murphy

MR. CHAIRMAN: Order, please. We'll call the House of Assembly Management Commission meeting to order for Tuesday, December 12th, at 4:12 p.m. The materials have been circulated in advance.

Just before we make a motion to accept the agenda, I will get everybody to state their name for the record.

[The commission members introduced themselves.]

MR. CHAIRMAN: We will move on to the agenda. It has been circulated in advance. Are there any additions or deletions to the agenda?

Hearing none, we will now move on to Item 1, the approval of the September 12, 2017, minutes. Mr. Ferguson.

MR. NEIL FERGUSON: I reviewed the minutes a short time ago. I don't see any errors, and it would be in order for one of the members to move approval of those minutes.

MR. CHAIRMAN: So moved by Mr. Halman, seconded by Mr. MacLellan. Would all those in favour of the motion please say Aye. Contrary minded, Nay.

The motion is carried.

We'll now move on to Item 2, the 2016-17 Audit Report and the 2017-18 Audit Plan. Ms. Lusby.

MS. DEBORAH LUSBY: Representatives from the Auditor General's Office presented the 2016-17 Audit Results and the 2017-18 Audit Plan at the September 19, 2017, House of Assembly Management Commission Audit Committee. The reports have been circulated to members of the commission.

For 2016-17, the Auditor General issued three unmodified auditor's opinions: (1) that the internal controls of the House of Assembly are operating effectively; (2) that the House of Assembly's expenditures are in compliance with the House of Assembly Management Commission policies and the policies of the Public Service for the year ending March 31, 2017; and (3), that they are in compliance for the last General Assembly, which is for the period of October 8, 2013, to March 31, 2017.

These opinions are unmodified, which is good. In addition, I am pleased to report that the Auditor General's Office stated that this was a clean audit, and there were no matters requiring a management letter to be issued this year.

The 2017-18 Audit Plan includes a focus on risk and in particular assessing fraud risk. Additional testing will be done on management override and newly elected MLAs to ensure the regulations are being followed. In addition, the Auditor General's Office will be evaluating the House of Assembly's response to the new provincial Fraud Policy, which will be discussed more in the next agenda point.

[4:15 p.m.]

MR. CHAIRMAN: Are there any questions or concerns with that report as presented? Mr. Gordon Wilson.

MR. GORDON WILSON: I'm just curious for new members what training was provided, in regard to spending limits and anything like that, for any of the new members.

MS. LUSBY: We held a training session I believe on June 20th, similarly as we would have done for you and your group when you were newly elected. It's a full-day session, going over the members' compensation and expenses and budgets, claim forms, as well as folks attended from Leg. TV and Hansard who explained about their area. So it was a full day of training.

MR. CHAIRMAN: Are there any other questions? Mr. MacLellan.

HON. GEOFF MACLELLAN: I have just a quick question. There was a discussion and I don't even know how far it got or what the genesis of it was, but I think maybe Deb can shed some light. There were musings about MLAs' pays going to monthly. Would that be a function of this particular committee and where do those discussions happen? Is this sort of the relevant place to have that discussion or is it just something that's sort of done in the Speaker's Office and then informally decided? I'm just truly curious.

MS. LUSBY: I guess I can start off with that, in that it was proposed to us from Payroll Client Relations in order to better meet the House of Assembly Management Commission regulations, which say that members should be paid monthly. However, back in 2010 or 2011, the new payroll system that the government or the province put in couldn't do monthly pay so MLAs were moved to biweekly pay, just like everybody else.

It was decided - I'm not sure who, perhaps Neil could tell me - but it was decided that that wasn't going to go ahead for this year and maybe not ever. We did discuss it at the House of Assembly Management Commission Audit Committee, and the Chair of the Audit Committee felt that if we want to, or if you folks want to explore moving to a monthly payroll that it should come to the commission first.

MR. CHAIRMAN: Mr. Ferguson.

MR. FERGUSON: Just for the benefit of the people who were not here at the time, originally payroll was handled in the Speaker's Office and we had a dedicated staff person. A previous government decided to take some of the functions of the Speaker's Administration and spread them into the Public Service, so we lost the people who had been doing it and thereafter, decisions respecting payroll were being made by those operating bodies and we were more or less told that it was going to happen.

I understand that subsequently a decision was made somewhere in the workings of government to not proceed with that.

MR. CHAIRMAN: Are there any other questions or concerns with the Audit Results as presented? Hearing none, do you want to hear the rest of it or do we make a motion on this to accept it?

I have a motion to accept the Audit Results by Mr. Gordon Wilson, seconded by Geoff MacLellan.

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

The motion is carried.

We'll now move on to Item 3, the provincial Fraud Policy. Annette Boucher.

MS. ANNETTE BOUCHER: The provincial Fraud Policy was distributed to all the members with their package of materials for today's meeting. That policy is effective June 1, 2017.

Just a little background. Members will have noticed that on the first page of the policy it indicates that the purpose for the policy is “. . . to ensure consistent and effective prevention, investigation, and reporting of fraud occurrences within Government,” and that all public servants are bound by the policy. In addition to the policy, there's an online module for all employees to take as part of the implementation of the Fraud Policy.

The reason it is here is that when the Auditor General met with the Audit Committee to review the 2016-17 annual Audit Results that Deborah spoke about just moments ago and the Audit Plan for 2017-18 for the House of Assembly, the issue of fraud risks and the applicability of this provincial Fraud Policy to the MLAs was discussed.

In the Audit Results themselves, the Auditor General, in the documents that you received, noted on Page 3 that “. . . the House of Assembly Management Commission bears ultimate responsibility for fraud risk. Consequently, we . . .” - that's the Auditor General's Office - “. . . encourage the Commission . . .” - this commission - “. . . to ensure that it has in place an established fraud risk governance process, an assessment approach to identify fraud risks and implement controls and activities to address fraud risks.” The Auditor General has already made reference to it, that this is going to be on their radar screen.

The Audit Committee sought an opinion from Legislative Counsel on whether this Fraud Policy applied to MLAs or not. At the September 19, 2017, Audit Committee meeting, the members were informed that Legislative Counsel's opinion was that the fraud policy did indeed apply to MLAs. The authority for that is at sub-section 11(2) of the House of Assembly Management Commission Act that indicates that “The administrative, financial, management and human-resource policies and procedures of the public service of the Province apply to the House of Assembly unless it is reasonably necessary for them to be changed or varied.” There hasn't been any variation or change to that policy made by the House of Assembly Management Commission so the opinion is that it does apply.

The Audit Committee agrees that the policy does apply. At their most recent meeting on November 28th, they recommended to the commission that the commission make the decision as to whether the MLAs should be required to complete that online module that I referred to at the beginning, that's part and parcel, that goes hand in hand with the policy itself.

The final thing I'll mention on that is that as Deborah mentioned, in the Audit Plan for next year, the Auditor General has indicated that there will be a focus on assessing fraud risk and that the House of Assembly's response to the provincial Fraud Policy will be looked at, and that could be one of their measurements that they will do as part of the audit.

Where it sits now, Mr. Chairman, as I understand it, is the Audit Committee recommends that this group make the decision as to whether or not the MLAs should complete the online module. For the benefit of folks, I did it on Friday, I did the online module just to see what it was. There's an audio part to it and it's a webinar kind of module where the information is given about fraud, there's a section of interactive activities where you're asked certain questions, and at the end there is an exam or a test. There are 10 questions to be answered. (Interruption) Yes, and Neil keeps showing his diploma he received and I have one of those too. They are multiple choices.

However, I wouldn't want to leave the impression that it's a slam dunk. You have to have paid attention to the module to answer the questions. Nonetheless, they say it takes about 45 to 60 minutes to complete and in effect, it took me a little over 60 minutes to do because I got a little interrupted while it was going on.

Mr. Chairman, I think that's the decision that the Audit Committee is asking the commission to make as to whether or not the decision be made whether or not the module should be completed by MLAs as part of this process.

MR. CHAIRMAN: Are there any questions or comments on that? Mr. Gordon Wilson.

MR. GORDON WILSON: I certainly don't have any problems with the principals of it and I believe all of our staff over at the caucus office have taken it.

What I am curious about is just this one example of fraud that simply says, "undeclared conflicts of interest." Sometimes you don't declare a conflict of interest because you don't know it is. Does that mean that you've created fraud?

MS. BOUCHER: Mr. Speaker, having done the module, the conflict of interest that's referred to and that's part of the module is not a conflict of interest as you would think from the commissioner that we have here who polices conflict of interest. I think it's unfortunate they use conflict of interest, when it doesn't mean the same thing in the fraud policy as what it means in terms of what the commissioner would be looking for in terms of conflict of interest for MLAs. You have to do the module to have an expansion of what's there in the policy, and they have a section on that.

It's not the same thing as what you would think that a conflict of interest is. Personally, I think it's a poor choice of words that they use conflict of interest in it because it's not as we envisage it. Would you agree?

MR. FERGUSON: Yes, and I think using the example that you just did, if you're not aware of something, then you can't form the intent to commit fraud - if you don't know it's there. I think you would be in a very difficult situation in a criminal sense. You would not be able to form the intent if you don't know it's there.

MR. CHAIRMAN: Are there any other questions or comments? Certainly as Chairman, I agree with Mr. Wilson. I don't see any reason why we wouldn't recommend that our MLAs complete this for the sake of a few minutes.

Do we need a motion on that? I will take the motion from Mr. Kousoulis, seconded by Mr. MacLellan.

Mr. David Wilson.

HON. DAVID WILSON: I just want to inquire around a timeline if we adopted it. Is it within the year, within a month?

MR. CHAIRMAN: What time is it right now? (Laughter.) Good question. Deb, is there a requirement on when we should aim to have this completed by?

MS. LUSBY: Since it will be part of our 2017-18 assessment by the Auditor General's Office, the goal would be before the end of March. Once this is approved by the commission today, I will be sending out an e-mail to the caucuses, to the members, instructing how to get to the module. The hope is perhaps in a quiet time over the holidays or before the end of January that everybody could get it done.

MR. CHAIRMAN: We have a motion with a seconder. Would all those in favour of the motion please say Aye. Contrary minded, Nay.

The motion is carried.

Thanks very much, Annette, for the work on that.

Just before we move on to Item 4, in reference to Item 2, I would be remiss if I as Speaker didn't offer commendation and recognition to Deb Lusby and the team across the street. It's no small feat to accomplish the quality of work that they have done on our behalf as MLAs cumulating in and being validated by the fact that the auditor finds no flaws in their work or procedures. Thank you very much, and please pass that recognition back to your staff and team under your purview.

Item 4, Deb Lusby, the financial updates for the first and second quarters of 2017-18.

MS. LUSBY: There are two reports there. The second one, with more columns on it, would be the cumulation of the first and second quarter financial review.

The main item to report, I guess, is that the indemnity and expense allowance was up because of transition allowance payments to members who were not re-elected in the May 2017 election. We are tracking additional expenses related to the election, and we don't expect the expenses to exceed a projected shortfall in other areas such as members' allowances. However, if our expenses do exceed our budget, we can request an additional appropriation from Treasury Board, but it's not expected at this time.

The third quarter review will be more fruitful, I guess, because our detailed forecast has been done since September 30th. It wasn't done at this point because we didn't have the budget approved until the end of September. The third quarter will be more interesting to review.

If you have any questions at any time, just let me know.

MR. CHAIRMAN: Are there any questions or concerns with those quarterly reports as presented? Hearing none, can we have a motion to accept the first and second quarter reports for fiscal year 2017-18? Moved by Mr. MacLellan, seconded by Mr. Gordon Wilson.

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

The motion is carried.

Thank you. That concludes the business of the House of Assembly Management Commission for today. The meeting is adjourned.

[The commission adjourned at 4:30 p.m.]