



PROVINCE OF NEWFOUNDLAND AND LABRADOR
HOUSE OF ASSEMBLY

HOUSE OF ASSEMBLY
MANAGEMENT COMMISSION

Ninetieth Meeting

Wednesday, June 14, 2023

HANSARD

Speaker: Honourable Derek Bennett, MHA

The Management Commission met at 9 a.m. in the House of Assembly.

SPEAKER (Bennett): Good morning, everyone. Welcome to the Management Commission meeting.

Before we begin, I'm going to start off by asking all Members and staff to introduce themselves. I'll start with MHA Warr.

B. WARR: Brian Warr, MHA, Baie Verte - Green Bay.

C. PARDY: Craig Pardy, MHA, District of Bonavista.

B. PETTEN: Barry Petten, MHA, Conception Bay South.

B. RUSSELL: Bobbi Russell, Policy and Communications Officer in the Office of the Clerk.

K. HAWLEY GEORGE: Kim Hawley George, Law Clerk.

L. DEMPSTER: Good morning. MHA Lisa Dempster, Cartwright - L'Anse au Clair.

J. HOGAN: John Hogan, MHA, Windsor Lake.

CLERK (Barnes): Sandra Barnes, Clerk.

SPEAKER: I'd just like to add that MHA Pike and MHA Evans both send their apologies and are unable to attend this morning.

Before we begin, the first item on today's agenda, as required under the *House of Assembly Accountability, Integrity and Administration Act*, I'm reporting decisions taken at in camera meetings. In today's briefing materials, draft minutes, notes, the substance of decisions taken at in camera meetings on the dates of February 21, May 24 and June 7, all of 2023 – this is just for the public's information. The minutes for these in camera meetings will be posted on

the House of Assembly website after they are approved in our first agenda item.

Agenda item 1 is the Approval of Minutes. These are included in the briefing package that's provided to all Members. They are for the meetings held on February 21, February 22, May 24 and June 7 of 2023.

Committee Members, before we call for a motion, if there are any Committee Members who have any questions or identify any errors or omissions from those minutes.

Seeing none, I ask someone to move that the Commission approve the minutes of the meetings of February 21, 2023, February 22, 2023, May 24, 2023, and June 7, 2023.

Moved by Minister Dempster; seconded by MHA Petten.

All those in favour, 'aye.'

SOME HON. MEMBERS: Aye.

SPEAKER: All those against, 'nay.'

Motion carried.

On motion, minutes adopted as circulated.

SPEAKER: Item 2, Speaker's Report – Rulings on Allowance Use.

This process for ruling on allowance use is outlined in section 24 of the *House of Assembly Accountability, Integrity, and Administration Act*. The act gives authority for the Speaker to make rulings when expenditures of Members have been rejected for payment, providing that the ruling is distributed and receives concurrence from all Management Commission Members.

Any rulings under this provision must be reported at a public meeting. The report detailing all such rulings for the period ending November 4, 2022, have been

circulated to the Commission in today's briefing package and is posted on the website after today's meeting.

Again, this is only for reporting purposes, but I will open up the floor if anybody has any questions or comments on that.

Seeing none, we'll move into item 3, which is Financial Reports. This agenda item is also for reporting purposes to the Commission. There are no decisions required. The *House of Assembly Accountability, Integrity and Administration Act* states that the Commission must regularly and at least quarterly review the financial performance of the House of Assembly, as well as the actual expenditures of Members compared with the approved allocations.

Financial reports for the Legislature and statutory offices, as well as Members' expense reports are included in today's briefing materials for the following periods: April 1, 2022 to December 31, 2022, and also from April 1, 2022, to March 31, 2023.

Again, no action is required, but I'll open up the floor if any Members have any questions.

Seeing none, if everyone is okay, we'll move on to agenda item 4, Budget Transfers Report for 2022-2023 fiscal year. This item is also for reporting purposes. The House of Assembly transfer of funds policy requires only certain budget transfers to be approved by the Commission, but requires all transfers of funds processed during a fiscal year to be reported to the Commission for transparency purposes.

In accordance with the policy, all budget transfers processed during the fiscal year ending 31st of March 2023 are included in the briefing package.

Again, I'll open up the floor for any comments or questions Commission Members may have.

Seeing none, we'll move on to item 5. This is the Confirmation of Rule Amendments for the Intra & Extra Constituency Allocations.

At our meeting held on February 22, 2023, the Commission approved a new funding formula to provide a framework for calculating I&E constituency allocation amounts for each district. We approved the revised I&E constituency allocation amounts for each district pursuant to the new funding formula and also directed that the process to amend Schedule A of the rules proceed to reflect the revised I&E constituency allocation amounts as calculated under the new funding formula.

In accordance with this direction and pursuant to the process outlined in the *House of Assembly Accountability, Integrity and Administration Act*, the following steps have taken place with respect to the required amendments to Schedule A of the rules. The draft amendment was tabled at a meeting of the Commission on February 22, 2023.

Secondly, where the House was not in session at that time, a notice of a draft amendment was distributed to each Member and it was also posted on the House of Assembly website. That was done on March 6, 2023. The final step is that the draft amendment must be voted on at a subsequent meeting of the Commission, which is what we are doing here today.

I'd just like to bring to all Members' attention that when this information was distributed to all Members of the House, there was no feedback that came back from anyone there. So all Members should have had an opportunity to review it in their briefing notes.

Before we call for a motion, are there any questions or comments any Member would like to make on this particular item?

Seeing none, I would just like to commend the staff on all the great work they've done in putting that together.

I would like to call for a mover and a seconder that pursuant to subsection 15(5) of the *House of Assembly Accountability, Integrity and Administration Act*, the Commission approves the processed amendments to Schedule A of the Members' Resources and Allowances Rules.

Can we get a mover and a seconder for that, please?

Moved by MHA Pardy.

Secunder?

Minister Dempster.

All those in favour, 'aye.'

SOME HON. MEMBERS: Aye.

SPEAKER: All those against, 'nay.'

Motion carried.

Item 6 is recommendations of the Audit Committee – Employee Code of Conduct. The Code of Conduct of Officers and employees of the House of Assembly was developed and adopted by the Management Commission as required by subsection 35(3) of HOAAIA. The code provides all Officers and employees of the House of Assembly Services and the statutory offices with guidance on standards of conduct in discharging their duties.

Paragraph 23(7)(h) of HOAAIA requires that the Audit Committee review the Code of Conduct applicable to the House of Assembly Service and statutory offices and make recommendations for improvements to the Commission.

At a meeting on January 12, 2023, the Audit Committee reviewed the Code of Conduct

and made a recommendation to the Commission as outlined in the briefing notes. The revision proposed is a matter of clarification and no substantive change has been identified.

Should the Commission adopt the recommendation, the Clerk, as secretary of the Commission, will immediately provide all employees of the House of Assembly Service and statutory offices with a copy of the revised Code of Conduct.

I don't know if a Member of the Audit Committee would like to speak further on that. I know the Chair is not here right now.

Craig, do you have anything that you'd like to add to it?

C. PARDY: At the Audit Committee, we just looked at it and thought that it is difficult to ensure, but you can certainly consistently strive to ensure. We thought that would be more fitting in the Code of Conduct. I think that was unanimous in the Audit Committee.

SPEAKER: Any other comments or any of the other Committee Members have any other questions on this?

If not, we'll ask for a mover and a seconder that the Commission approves the revisions to the Code of Conduct for Officers and employees of the House of Assembly, as recommended by the Audit Committee and that clause 3 would read the following: We will consistently strive to ensure that we maintain the confidence and trust of Members of the House of Assembly and provide fair, confidential and impartial service equally to Members and staff of all parties.

Moved my Minister Hogan and seconded by MHA Petten.

All those in favour, 'aye.'

SOME HON. MEMBERS: Aye.

SPEAKER: All those against, 'nay.'

Motion carried.

Item 7: This is an item I decided to put on the agenda based on the number of calls and feedback that I have received from Members over the last two years. Item 7 is the Eligibility of Christmas Greetings – Advertising and Special Occasion cards.

A number of recommendations were made by the 2016 MCRC respecting Christmas greetings in MHA advertising and Member-created publications, such as newsletters and other householders and in special occasion greeting cards.

The acceptance of the recommendations as well as the recommendations of the ad hoc Committee of the Management Commission appointed subsequent to MCRC resulted in the following: Amendments to the Advertising and Publications Policy for Members of the House of Assembly prohibiting seasonal greetings, including Christmas, in advertising, but allowing seasonal greetings in Member-created publications, such as newsletters, postcards and other householders.

Also, an amendment to section 24 of the rules was allowing special occasion cards for occasions such as birthdays, anniversaries and sympathy only, but they prohibited the reimbursement of Christmas cards.

Section 24 of the rules establishes the office operations, supplies and communications allocation, which is approximately \$12,000 per MHA or district, which includes various expenses related to operations of the constituency office and supplies, as well as communication expenses and advertising. Member-created publications and special occasion cards are included.

The provisions respecting Christmas greetings has caused confusion in that it allows reimbursement of Christmas and

seasonal greetings by a Member-created publication, such as householders, but it prohibits the expense of the same funding and allocation for Christmas greeting cards.

So, basically, I've got a couple of examples. If Minister Dempster doesn't mind me using one of her cards, I just want to give you some examples of what the rules do permit and what the rules don't permit and I've got a couple of mine.

These are a couple of different Christmas greeting newsletters that are permitted under the regulations that we can circulate as MHAs, whether it be a rack card, a newsletter with a Christmas message in it, but Members are not permitted to do something like this here as it relates to basically the same information, just in a different format.

It has caused a lot of confusion with Members. I'm not really sure what the rationale when MCRC decided to make the change was, but we do have the authority to change it because it's not creating any additional expenses. It just gives Members the ability to do a Christmas card just the same as they want to do a birthday card or a sympathy card to any of their constituents.

I don't know if anybody has any questions or comments, in favour or against.

Sandra.

CLERK: I will say that because this is the only way that Members can send greetings, there's an influx of these in CMS and everybody's trying to get them out around the same time. There's a lot of work to review these to make sure that they are compliant with the advertising rules. I know a lot of Members are, like I said, trying to get them out in time for the season because it does contain a seasonal message, but it does create a lot more administrative work as well.

SPEAKER: MHA Petten.

B. PETTEN: This may be not directly on the Christmas card thing. I think that's nonsense actually. I thought that since 2016 – and the former MCRC, or whoever, wants to listen to me – I thought it was outrageous, but anyway, I want to be on record for that. I've never hid from that viewpoint. I think everyone in the Chamber at that date thought that was disgraceful.

Another thing that was brought up and we have to wait for a new MCRC – I don't know if we have the authority. If you have a minor hockey tournament in your district, you have to be careful what you write in your – I can't remember the exact wording, but there were certain wordings permitted and not permitted. A crowd of children playing in an Easter tournament, you have to be careful with your words. You're not allowed to congratulate them. I can't remember the exact wording, but that was actually even changed as well. I don't know if we can loop that in, but that's something that needs to be put aside. I mean, that's beyond me, too. Some of the stuff is just really, like Minister Hogan rightly said, it's unbelievable we're debating this. But like I told him, eight years ago there was an MCRC that did a lot of damage to this House of Assembly.

SPEAKER: Thank you.

Sandra, you may want to correct me or not, but I think as it relates to that particular advertising item, is that your message that you put in a booklet or any type of advertising, whether it be a festival or a tournament or that, that you're only permitted to put in basically your contact information as an MHA. Your office information, contact numbers. You're not allowed to put a greeting to say congratulations, welcome to the tournament. Which I fully agree with you on, I think it's just a matter of playing with words.

J. HOGAN: That's almost worse. That is just purely political if it's only your picture in

there. You don't even acknowledge the fact – anyways.

SPEAKER: Bobbi.

B. RUSSELL: I can clarify that. I think the recommendation from MCRC at the time, which it causes confusion as well, from what I understand, messages of welcome and congratulations can only be used in – I forget the exact language, but it was something around events of a constituency, provincial or national significance.

CLERK: (Inaudible.)

B. RUSSELL: Yes. I think that could probably cause confusion in terms of what does that mean and how do you apply that. That's how it was recommended and written into the policy. But there can be varying interpretations of what it means by a constituency level event or a provincial level event or a national level event in terms of how do you apply that and interpret it. I think that's how it's written in the policy currently.

SPEAKER: Thank you, Bobbi.

MHA Petten.

B. PETTEN: Further to that, so we go around as MHAs and we've all been doing it for years, you're welcoming people, you're bringing greetings, you're welcoming people to your district, you're honouring an event in your district as the Member that represents the district. That's the frustrating part. You're the elected Member by the people in your district and you're bringing greetings on behalf – it's not really on behalf of you; you're speaking on behalf of your district. I like to point out, too, on record, I'll always usually say on behalf of the District of Conception Bay South. I think we all represent – collectively, that's our role.

I'll use a hockey tournament. You have teams from out all over Newfoundland and Labrador coming to a provincial tournament and we have a lot of them in CBS. I'm sure

around the province, too. They're from all over the province. You'll put an ad in their book and why can't you say welcome to Conception Bay South, hope you have a great tournament and wishing you well? What's wrong with saying that?

To Minister Hogan's point, it's exactly right; putting our card in there, with nothing else other than whatever, that's way more political than welcoming people. You're welcoming everybody, where you're putting in your card – anyway, once again, I think it's crazy.

SPEAKER: Thank you, MHA Petten.

There were some revisions made, like I say, prior to – the past MCRC 2016, there was a subcommittee put in place for that. Actually, I remember sitting on that committee back, I think, it was 2018 or early 2019. I think, initially, the actual first advertising your information was only permitted as a business card size at first, no matter if it was a minor hockey booklet that's going to cost you \$25 or a national magazine that was going to cost you \$1,000. The costing didn't matter; it was the size of advertising.

I don't know if we can make a decision on it today or we can make a decision on the Christmas cards now and put together another small ad hoc Committee to review the other parts and make some changes, or we can –

B. RUSSELL: We could do a piece of work on some proposed amendments, based on the comments today around the messages of welcome and congratulations. Because, just to clarify, as well, similar to the Christmas greetings, you can't do welcome or congratulation messages in advertising, depending on the type of event, but on the flipside of that, you can do it in Member-created publications such as newsletters. So it's the same kind of idea as the Christmas greetings in terms of being allowed to do it in one part of the \$12,000

allocation but not being permitted to do it in another part.

So it can be confusing. We could certainly bring forward proposed amendments.

SPEAKER: If I'm not mistaken, I think if the organization, such as minor hockey we used for an example, you can pay for your ad, but they can give you free space to put a message into it, too, which is only just jumping around the rules.

MHA Petten.

B. PETTEN: Can we not just go ahead and change it now? I mean, I know we can go and review it. It takes a lot of time. I don't think there's much there to review. Collectively, I think you get unanimous – again, we're here debating it. If we can change it, I suggest we change it. That's my suggestion.

SPEAKER: Sandra.

CLERK: We can certainly take direction from that and we'll look at it. In doing so, if we hit any roadblocks, we will come back to the Management Commission. If it's straightforward, we can change it.

J. HOGAN: Let's just get a small report like this just so it's on the record about the request, just so details are there.

CLERK: We need clarity.

SPEAKER: So is it the consensus that we move forward with both of it right now? The staff will start the work or the staff will do the work on the second portion first?

J. HOGAN: I'm okay with voting on the Christmas cards.

SPEAKER: Okay.

So has everyone had an opportunity to speak or got any other questions? If not, I'll ask for a mover and a seconder that we'll

make the amendment to the regulations so to permit Christmas cards as a part of our advertising under this particular part of our I&E.

B. RUSSELL: Just to clarify, Speaker, there are two parts to that. So one would be amending the advertising policy to allow Christmas greetings in MHA advertising. Then an amendment to the rules that would allow Christmas cards, the purchase of Christmas cards and special occasion cards. So it's two pieces there.

SPEAKER: Okay.

So do we have a mover for that? MHA Petten.

A seconder? Minister Hogan.

All those in favour, 'aye.'

SOME HON. MEMBERS: Aye.

SPEAKER: All those against, 'nay.'

Motion carried.

Staff will do some additional work with respect to the other portion as identified by MHA Petten and other Members.

Item 8 with regard to Severance Policy for MHAs. Again, the 2016 MCRC made a number of recommendations respecting severance for MHAs, including a recommendation that severance provisions recommended be retroactive to those first elected on or after the 2015 general election of November 30.

The adoption of the recommendations led to the Commission's approval of the current severance policy for Members of the House of Assembly at its December 6, 2017, meeting. The policy is a consolidation of severance provisions for Members including Members first elected prior to November 30, 2015, and for Members first elected on or after November 30, 2015.

A recent query regarding the severance policy revealed that the calculation of severance entitlement should a Member resign while the General Assembly is still in progress, is not possible as the calculation is dependent on the length of the General Assembly, which is not known until the dissolution occurs. The briefing note outlines in details the formula for calculating severance and how it is pro-rated should a Member depart while the General Assembly is still in progress.

To date, we have not had any Members resign during an election since November 30. Therefore, this issue was not detected.

As a Commission, we are limited in the options to address the matter as a change in severance policy can only be made by further MCRC and right now the MCRC for the 50th General Assembly has not yet been appointed. So it will have to be ratified when they come.

There are some options identified in the briefing notes to operationalize the policy in the interim should a Member leave while the 50th General Assembly is still in progress, before the MCRC is appointed.

I don't know if any Members have any questions.

Sandra, would you like to further elaborate on that. I know you did a lot of work on this.

CLERK: Yes, it was quite some time; it's almost a year ago now, actually, since we realized there was a problem. The bottom line is if somebody who was elected since 2015 leaves, we'd have no direction to pay out their severance. Now, anybody who hasn't served three years, in accordance with that policy, is not even entitled to severance.

For example, if Mr. Petten decided to resign next month, how do we calculate it? I don't think it's fair to ask anybody to wait until the end of the General Assembly. I mean,

Members are not entitled to EI benefits. This is the only bridge funding that they get to transition them to another career or to a pension or whatever. Right?

So I wouldn't want to be in the situation of somebody resigning and us having to try to get the Management Commission together.

J. HOGAN: No one has resigned since 2015?

CLERK: No, not since – we've never had to operationalize. That's a lie. I'm telling a lie. Former Premier Ball. But the other policy was applicable to him, so it was no issue.

J. HOGAN: So you're saying if Barry resigned today –

CLERK: We wouldn't know how to calculate it.

SPEAKER: We wouldn't know how to calculate it. The formula is calculated strictly on the full Assembly and, right now, that could be two years or it could go to four years-plus.

CLERK: It doesn't really work well to mix the concept, a parliamentary concept like a General Assembly with something administrative like years of service. So that is maybe something that the next MCRC can look at because a General Assembly has a life that's indeterminate based on – following a general election to dissolution and they're not really compatible terms is the best way to say it. Mixing a General Assembly with an administrative thing, such as years of service, is difficult because of the indeterminate length.

Now, to be fair, in 2016 we had several years of four-year General Assemblies. But then, of course, we had the 48th and 49th General Assemblies which had the 2019 general election. That was earlier than four years and then the 2021 was like 1½ years. So you can see how you can't assume a

four-year General Assembly for calculation purposes.

SPEAKER: MHA Pardy.

C. PARDY: I think it's reasonable to look at that we use MHA Petten as an example, but it certainly can be completed for the previous Assemblies that he sat in. It is only the current one that he resides in, of which the calculation wouldn't be able to be calculated because we don't know the duration of this current Assembly.

So I think the option that we have, that we would provide for the previous Assemblies the severance in order to serve as a bridge, in lieu of that is the only income that they would certainly have when they would depart, would be fair. Then the current Assembly, when it ends, at least the calculation could be made to provide for that sitting Member.

So that would seem like a good option for the interim.

SPEAKER: Thank you, MHA Pardy.

You have a question first, Minister Hogan or MHA Petten?

MHA Petten.

B. PETTEN: Yeah, I've been looking at this and seeing as my name is the one that's been used in the example. I looked at this before today, though.

One option is once you have two Assemblies in, you're looking at this example. So if you do six years and then divide it by the actual length of the Assemblies, then add on 25 per cent of the entitlement for this Assembly, you're looking at a \$25,000 entitlement for each full Assembly. So you could do an add-on.

You could take what you're entitled to after your six years, that's in the bank, and when you're in this current Assembly, if you left

after your second year, you'd just do an add-on in the formula. Just go plus 50 per cent after two years; if three years, it's 75; if it's one year, it's 25; and if it's four years, you get the full amount. That could be operational.

CLERK: The only issue with that is that we don't know. I mean, we could be dissolved tomorrow and then we're into a receivable from the party Members.

B. PETTEN: But correct me, because this goes back to the 2016 MCRC again. The formula, though, if you do a two-year Assembly, are you entitled to the full severance for that two-year Assembly?

CLERK: This is what I alluded to in terms of mixing the concept of a General Assembly with years of service, because the other part of the severance, for those elected before 2015, is based on months of service, actually, and it's not tied to the General Assemblies at all.

It doesn't make any difference if the General Assembly was 60 days and it was your second General Assembly, you would get 50 per cent at the end of it because that's how the formula is constructed. It's based on General Assembly.

But there's another part then, the pro-ration part is based on years of service. Like I said, they're not fully compatible because of the nature of the two different terms.

SPEAKER: Minister Hogan.

J. HOGAN: The option to pay that last General Assembly amount when we dissolve, it says: if the Member's service ends at the conclusion of. But the Member's service wouldn't end at the conclusion of, it would end before. I don't even know if you'd have the authority to pay it after.

CLERK: The only issue is that, okay, if they're serving their third General Assembly or a subsequent General Assembly, the

maximum payout is 75 per cent. We don't know the number of years. For example, Mr. Petten is in his third General Assembly, so he's entitled to 75 per cent, depending on when he leaves. If he leaves at the end of the General Assembly, it's the full 75 per cent. If you leave prior to that, it's a portion of it. The problem is we don't know what that portion is.

We would have to set it up as a receivable. Essentially, it is an amount that's payable and due and payable to him. The only thing is we can't do it until the General Assembly ends.

SPEAKER: Is it safe to say MHA Petten's situation and a couple others are in the same –

B. PETTEN: (Inaudible.)

SPEAKER: You're not going anywhere. Okay, John or Jane Doe, they could potentially be paid for the 50 per cent up at that point and then calculate the third portion after.

CLERK: Yes.

SPEAKER: Rather than waiting until – because that could be two years. If someone resigned, left tomorrow and an election went to 2025, it could be potentially two years before they'd be entitled to any severance.

As Sandra said, this is the only bridging that MHAs have after they leave. We're not entitled to EI or any benefits that way.

Minister Dempster.

L. DEMPSTER: Thank you.

Just seeking a piece of clarity, because I think I was not clear prior to this discussion. I thought for each year that you served, if you had 10 years in and you left, it was 10 months of severance.

B. RUSSELL: (Inaudible.)

There are two sets of severance provisions. That's the other – anyone first elected before 2015 –

SPEAKER: You would be on that one.

CLERK: You're the only one in the room.

L. DEMPSTER: Okay. So I was right concerning myself.

SPEAKER: Yes. It's only since the November 15 election that this would impact.

I think it's a fair recommendation. Like I said, rather than have someone, potentially – it may never happen but for calculation purposes and if any Member does decide to leave for whatever reason, personal or professional or health wise, then I don't think they should have to be waiting a year or two years to receive their severance that they are fully entitled to.

Is it safe that we're recommending that we would pay up to the current General Assembly, that portion?

CLERK: There are only two options: One is we pay out what we can based on the solid information we have or the other option is we defer payment until we know exactly the amount, which, as the Speaker said, would deprive the Member of any bridge funding.

J. HOGAN: I'd be okay to pay (inaudible).

SPEAKER: Are Members good with that?

Do you want to read out the motion, Bobbi?

B. RUSSELL: So the motion would be that the Commission directs an interim measure for resigning Members first elected on or after November 30, 2015, that partial severance be calculated and paid at the time the Member departs based on the full General Assemblies the Member has

served, with the remaining amount of severance for the partial General Assembly to be paid when the 50th General Assembly dissolves.

SPEAKER: Everyone clear with that?

If agreeable, I'll call for someone to move and a seconder.

Moved by Minister Dempster.

A seconder? MHA Petten.

All those in favour, 'aye.'

SOME HON. MEMBERS: Aye.

SPEAKER: All those against, 'nay.'

Motion carried.

So this concludes our televised portion of our meeting. I just want to thank all Members for their participation today and also for those who are viewing through our webcast.

With that, I'll call for a motion to adjourn.

Oh sorry, we're not going to adjourn yet. We do have one item to address in an in camera meeting, so we will recess.

The Speaker recessed the meeting to transition to an in camera session.