



STANDING COMMITTEE ON PUBLIC ACCOUNTS

Hansard Verbatim Report

No. 4 – November 8, 2016



Legislative Assembly of Saskatchewan

Twenty-Eighth Legislature

STANDING COMMITTEE ON PUBLIC ACCOUNTS

Ms. Danielle Chartier, Chair
Saskatoon Riversdale

Mr. Larry Doke, Deputy Chair
Cut Knife-Turtleford

Ms. Jennifer Campeau
Saskatoon Fairview

Mr. Herb Cox
The Battlefords

Mr. Glen Hart
Last Mountain-Touchwood

Mr. Warren Michelson
Moose Jaw North

Ms. Nicole Sarauer
Regina Douglas Park

Mr. Randy Weekes
Biggar-Sask Valley

[The committee met at 08:00.]

The Chair: — Good morning, everyone. Welcome to Public Accounts. I'd like to start by welcoming our members here today. We have Ms. Campeau; we have Mr. Weekes, Mr. Hart, Mr. Michelson, Mr. Cox, and Mr. Doke. And substituting today for Ms. Sarauer is Ms. Sproule. We have one item of business on our agenda today, and that's consideration of the Provincial Auditor's report and issues arising from it, the *Special Report: Land Acquisition Processes, The Global Transportation Hub Authority and Ministry of Highways and Infrastructure*. I want to welcome the Provincial Auditor here, Judy Ferguson, and her officials.

I know, Ms. Ferguson, you changed your schedule to be here with us this morning, so thank you for that. I'd like to — in a moment, Ms. Sproule — I'd like to recognize we've got folks from the Provincial Comptroller's Office here today, Terry Paton and Chris Bayda. Thank you for your time and your willingness to get here.

We do have a few items to table before moving on to the business of the agenda. So I'd like to table the Provincial Auditor of Saskatchewan: Second quarter financial forecast for the three months ending September 30th, 2016, that's PAC 13-28; The Ministry of Education: Report of public losses for boards of education, June 1st, 2016 to August 31st, 2016, that's PAC 14-28; The Ministry of Parks, Culture and Sport: Responses to questions raised at the September 16th, 2016 meeting, PAC 15-28; Ministry of Finance: Report of public losses, July 1st, 2016 to September 30th, 2016, PAC 16-28.

So I just want to point out . . . There's more. I would like to advise the committee that pursuant to rule 142(2), the following reports were committed to the committee: Government of Saskatchewan: 2015-16 Public Accounts volume 1, summary financial statements, sessional paper no. 117; Government of Saskatchewan: 2015-16 Public Accounts volume 2, details of revenue and expense, sessional paper no. 246.

And so just before starting here I would like to take a moment to point out that things are a little different here. Usually the auditor is sitting next to me as an adviser to the committee, and today she is at the end of the table. She'll make a presentation on her report and answer any questions around that presentation.

But I'd like to point out, in the usual course of business, we usually have the agencies and ministries who are mentioned in that report as witnesses. And in this particular report, it would be the Global Transportation Hub, the Minister of Highways, and the Minister of Economy which is responsible for the Global Transportation Hub. In our usual course of business, that is how it usually works, and the deputy minister is usually the individual who speaks for those ministries and the agency.

So I trust as committee members here that we'll leave a little bit of time to have the opportunity to discuss next steps and which witnesses we should have here. So with that, I would like to get on with the business at hand here. Ms. Sproule.

Ms. Sproule: — Thank you very much, Madam Chair. And I

would like to move a motion at the outset, but I just want to say this: I appreciate as well that this is a very unique situation. I really want to thank the auditor for making herself available and the staff today because this is a very important matter before us. I also want to mention that we appreciate your work on this very complicated file. So we appreciate that very much.

We do look forward to asking you questions that arise out of the report. And we have been having some difficulty getting answers in the House by the cabinet ministers. So we know, Madam Chair, that we need to have other people come forward to answer questions and that would include individuals or officials who can generally be expected at PAC [Public Accounts Committee] as you indicated, and they're not here today.

So I would like to make the following motion, Madam Chair:

That this committee request the deputy minister of Economy, Mr. Laurie Pushor; the former CEO of the Global Transportation Hub, Mr. John Law; the former interim CEO of the Global Transportation Hub, Mr. Chris Dekker; and the current CEO of the Global Transportation Hub, Mr. Bryan Richards appear before the committee as witnesses at a meeting or meetings of the Public Accounts Committee held prior to November 30th, 2016.

I so move.

The Chair: — Thank you. Ms. Sproule has moved a motion. I'm going to give you . . . Do you want to . . . I need you to put this on the motion paper and we'll take a moment to see if that's in order.

Thank you. Ms. Sproule has moved:

That this committee request the deputy minister of Economy, Mr. Laurie Pushor; the former CEO of the Global Transportation Hub, Mr. John Law; the former interim CEO of the Global Transportation Hub, Mr. Chris Dekker; and the current CEO of the Global Transportation Hub, Mr. Bryan Richards appear before the committee as witnesses at a meeting of the Public Accounts Committee held prior to November 30th, 2016.

Is the committee ready for the question?

Some Hon. Members: — Yes.

The Chair: — Yes. Okay. All in favour of the motion please say yea.

Some Hon. Members: — Yea.

The Chair: — Opposed?

Some Hon. Members: — Nay.

Ms. Sproule: — Could I request for a recorded vote?

The Chair: — You could. All in favour of the motion please raise your hand. All opposed? That motion is defeated,

6 opposed and 1 in favour. So seeing no other hands at this point in time, we'll move on to hearing from the Provincial Auditor, her presentation on these two pieces of business.

Ms. Ferguson: — Thank you very much, Madam Chair, Deputy Chair, members, and . . . I'm so used to saying officials but I guess I don't have to say that this morning. So with me this morning I've got Ms. Regan Sommerfeld. Regan is a deputy in our office and she's responsible for the portfolio that includes GTH [Global Transportation Hub] and Highways and led the work that is before us this morning. On my right-hand side is Jason Wandy. Jason is a principal of our office and he was very involved in leading the work that's again before us this morning. And behind me is Mr. Clinton Griffiths, and Clinton's a senior manager with the office and again was involved on the audit team here. And Jason Shaw sends his regrets. He was unable to make the meeting today, and again he was an integral part of the team that did the work that's in the report.

As you're aware, the report includes two audits. One is the audit of the Global Transportation Hub and the second is the audit of the Ministry of Highways and Infrastructure. First off, I want to thank the committee for the opportunity to come to the committee and talk about our report, especially in consideration. It seems like there has been a lot of conversation of the report but our office hasn't had an opportunity to participate in that conversation.

The Chair: — Ms. Ferguson, may I just interrupt for one moment? There was an error made in the vote. There was 1 in favour and 5 opposed. So my apologies. I needed to correct the record. So thank you. Sorry about that.

Ms. Ferguson: — No, no problem. So as the committee is aware, we did the GTH audit in response to cabinet's February 2016 request and the February 2016 motion of this committee here.

We did the Ministry of Highways and Transportation audit for the following reasons: when planning the GTH audit, we recognized to audit the GTH transactions properly, we needed a really solid understanding of the processes that the Ministry of Highways and Transportation uses to buy land, in particular land for the bypass. In addition, at that point in time too, our office was receiving expressions of concern about land transactions related to the Regina bypass.

In deciding what and how best to audit the GTH, we kept the following in mind: the mandate provided to our office under *The Provincial Auditor Act* as the auditor of the Government of Saskatchewan and of public money. The Act doesn't give our office the mandate to audit private individuals or corporations, or the authority to follow the dollar — that is, to directly audit individuals or persons who receive money from government dollars — unless we invoke the powers afforded to us in the Act under *The Public Inquiries Act, 2013*, which is section 25 of our Act.

My understanding is that, in the long history of our office — and our office actually predates the province; we were formed with the territories — we've never used these provisions in any of our work. And in essence, I think in part it's because they're

viewed very much as a legal process and one that would be costly and actually cause delays in providing the members of the Assembly with information.

The Act also requires us to follow standards for assurance, engagements published by CPA Canada in their *CPA Canada Handbook — Assurance*, when planning for and carrying out audits. These standards encompass certain processes and procedures that we must follow. This includes setting an audit objective, identifying criteria, and concluding against that objective. In addition, they include considering and being alert to the risk of fraud and carrying out procedures in response to those risks.

For example, during the audits, we made inquiries of government officials and board members to determine whether they had direct knowledge of actual or suspected fraud affecting the entity. And we looked at how GTH was governed. In addition, we hired an individual with expertise in evaluating land appraisals and another with expertise in conducting investigations and interviews.

As the report indicates, we did not design the audit to be forensic in nature as forensic investigations are typically legal in nature and use different standards. You'll find our work does focus on activities of government officials and agencies, and we did not include the transactions between private sector individuals or corporations such as the sale of land between private sector purchasers, sellers, and their realtors.

Our office works hard to carry out all of our audits in an independent and objective and professional manner. We worked hard to share the results of this work in a timely and fair manner. For this report, the request was made pre-election. We recognized early it wasn't feasible for us to conduct the work prior to the election, but we endeavoured to provide the report to the members of the Assembly before the end of June which we did meet that deadline, albeit the last day of June. Frankly some of the procedures and tasks that we undertook took us longer than we had anticipated, and we felt it was important to do a thorough job before presenting the report.

As the report indicates, we assessed the effectiveness of the Global Transportation Hub's and the Ministry of Highways' processes to acquire land. Because of the importance of understanding the Ministry of Highways and Infrastructure's processes to buy land, Ms. Sommerfeld is going to present the audit findings related to the ministry first and then Jason, Mr. Wandy, will present the findings related to GTH immediately thereafter. With that, I'm going to turn it over to Ms. Sommerfeld.

Ms. Sommerfeld: — Thank you, Madam Chair, and Judy. From 2013-14 to 2015-16 the ministry acquired just over 2,100 acres of land for the Regina bypass at a cost of \$82.7 million from over 100 landowners. It purchased about half of these acres from landowners willing to sell the land at a cost of 35.8 million and expropriated the other half at a cost of 46.9 million.

Part C of our special report describes the results of our audit to assess the effectiveness of the ministry's processes for the period up to March 31st, 2016 to acquire land for the construction of the Regina bypass in a fair manner at amounts

reflecting fair value. Our audit did not assess or question the appropriateness of the approved routes or types of interchanges for the Regina bypass. It did not establish alternate estimates of fair land the ministry acquired or confirm the completeness of damages identified and included in offers provided to landowners. In addition, it excluded files for a few landowners who were involved in litigation with the ministry over non-bypass land purchases.

[08:15]

We concluded, for the period up to March 31st, 2016, the Ministry of Highways and Infrastructure had, except for the recommendations we made, effective processes to acquire land for the Regina bypass in a fair manner at amounts reflecting fair value. We made eight recommendations. I will highlight each recommendation and then explain why we made it.

On page 46 we recommend that the ministry explore alternate approaches to optimize the timing of land acquisitions for major public improvement projects. We found the ministry followed its standard practice of waiting to acquire land for the bypass until it had finalized the route and design. While this practice is practical for minimizing the risk of acquiring unneeded land, it makes taxpayers vulnerable to paying for increased land values. This vulnerability to increases in land values was greater for the Regina bypass than for smaller highway improvement projects because of the size and complexity of the Regina bypass project and its proximity to the city of Regina.

We found that the ministry had planned the Regina bypass over a 15-year period, from the late 1990s to its finalization in April 2014. As part of this 15-year planning process, the ministry consulted with potentially affected municipalities, individuals, and businesses. While these consultations provided the ministry with valuable input, it also gave a broad range of individuals insight into the potential route of the bypass and created an environment where these individuals could leverage this information for land speculation if they so desired.

We also found the period in which the ministry was . . . [inaudible] . . . the bypass design and route was a period when Saskatchewan's economy was strong. During this period, demand for residential housing and industrial land in Regina and surrounding areas increased. For example, industrial land values around Regina doubled from 2008 to 2013. Also during this period, the city of Regina annexed land east of the city, increasing the annexed land value by almost 700 per cent from 2012 to 2015.

In addition, we found that to meet the government's Regina bypass P3 [public-private partnership] construction timetable, the ministry bought almost all the 2,100 acres within a compressed time frame, from March 2014 to March 2016. This compressed time frame may have increased demand for land and hence its value.

While the ministry could not reasonably be expected to control all factors affecting land values, we found that it did not do enough to reduce the government's exposure to increases in land value. The ministry did not consider alternate purchasing strategies such as purchasing land early or registering provincial interests on desired land under *The Planning and Development*

Act.

On page 50 we recommend that the ministry require staff responsible for acquiring land in public improvement projects to periodically document their conflicts of interest. While the ministry uses conflict of interest guidance of the Public Service Commission to identify and mitigate potential conflicts related to acquiring land, it did not keep evidence of its requests of staff involved in buying land to declare conflicts or the declarations that those staff made. Not having periodic written documentation of possible conflicts of interest between staff involved in buying land and landowners increases the risk that the ministry staff may not have identified conflicts or objectively developed offers to acquire land.

On page 53 we recommend that the ministry require staff to clearly document the results of their reviews of appraisal reports used to acquire land for public improvement projects. The ministry uses appraisal reports to determine compensation for land value and compensation for damages. For the land acquisitions files we tested, ministry staff informally documented their review of appraisal reports. They did not clearly document what information they had checked or whether they had resolved identified questions or issues. Documenting reviews of appraisal reports would show that the ministry had confirmed appraised land values and compensation for damages that it uses to make its offers to purchase are reliable.

On page 53 and 54 we made three recommendations. We recommend that the ministry clarify its policy for paying permanent damages for partial takings of agricultural land to landowners for public improvement projects. It should follow written approved policies in effect related to determining compensation associated with land acquisitions for public improvement projects and keep the related supporting documents. It should also provide for an internal review of compensation performed by a second person other than the preparer associated with land acquisitions for public improvement projects prior to making offers to landowners.

The ministry places emphasis on having policies and procedures to help it acquire land in an organized and fair manner. We found the ministry did not always determine or pay compensation consistent with its policies. Our testing of files found that the ministry paid permanent damages for agricultural land of about \$32,000 to an ineligible landowner, and did not pay permanent damages for agricultural land of about \$138,000 to an eligible landowner. The ministry paid two landowners a total of \$25,000 above market value before its August 2015 approved policy came into effect. And finally, the ministry was unable to provide us with support for negotiated damages of an additional \$7,000 per acre, totalling \$770,000 that it paid to two landowners.

The ministry did not require a second person to review the proposed compensation to landowners prior to making the offers. Doing so may have caught the issues we just mentioned with payments to landowners. Not consistently following approved policies in effect at the time of the offer to purchase land or keeping support for the amounts paid increases the risk of the ministry not treating landowners consistently and fairly, of disagreements between the ministry and landowners, and of

making inappropriate payments.

On page 58 we recommend that the ministry follow its delegated signing authority when acquiring land for public improvement projects. The ministry maintains a delegated signing authority. For the land acquisition files we tested, the ministry did not approve 22 per cent of those land purchases in accordance with its approved signing authority. Each of these were for purchases over half a million dollars. Following its delegated signing authority reduces the risk of making inappropriate purchases and lessens the chance of error.

And finally, on page 59 we recommend that the ministry publish information to help landowners understand their property rights and how it determines due compensation for land for public improvement projects.

The ministry does not make public information on how it determines compensation, its related policies, and landowner property rights. Some landowners find selling land to the ministry stressful. Providing publicly accessible information for landowners impacted by government land acquisitions improves understanding of the process, increases transparency, and can help build trust.

This concludes my presentation on part C of our special report.

Mr. Wandy: — So I'm going to begin the presentation on part B of our report. Part B of our special report describes the results of our audit to assess the effectiveness of the processes the Global Transportation Hub Authority, or the GTH, had for the period ending March 31st, 2016 to acquire land for the purposes of the transportation logistics hub from the private sector at amounts reflecting fair value.

Since its establishment in 2009, the GTH had directly acquired only three parcels of land from the private sector. As shown in figure 1 on page 5 of the report, one parcel is located south of the GTH's footprint, that being the south parcel, and the other two parcels located to the east of the footprint which I'll refer to as the east parcels.

Similar to the ministry audit, our audit did not establish alternate estimates of fair value for land that the GTH bought from the private sector. We concluded that for the period up to March 31, 2016, the GTH did not have effective processes to acquire land for the purposes of the transportation logistics hub from the private sector at amounts reflecting fair value.

As part of our audit, we interviewed existing and former GTH officials, examined emails and other related correspondence. When examining our audit evidence, we looked for consistency between information. The audit did not find evidence of conflicts of interest or indications of fraud or wrongdoing by GTH management or its board of directors.

During this period, the GTH acquired the south and east parcels without having formal policies or processes for buying land, including processes around due diligence, or experience in acquiring land. The GTH did not prepare business cases for major land acquisitions, have clear land acquisition strategies, or keep documentation of review of land appraisal reports used for making offers to purchase land.

Subsequent to these land purchases, the GTH had established various processes for buying land. The GTH's unique board governance, along with the active involvement of the GTH Chair and minister, and multiple government agencies, added complexity to acquiring the two east parcels. No one government agency had clear responsibility for leading the purchase.

These factors may have delayed decisions on buying the land during a period of time of rapidly escalating land values. In addition, these factors contributed to buying the land at a significantly higher price and not in a financially responsible manner. In our view the government did not take sufficient and timely action to mitigate its — and ultimately the taxpayers' — exposure to increases in land values.

In addition to highlighting each recommendation and explaining why we made the recommendation, I'll also highlight other key findings.

On page 20 of our report we recommend that the Global Transportation Hub Authority require, for its board's review and approval, the preparation of business cases for major land acquisitions or significant new initiatives.

While the GTH financial and business plans included estimated costs for the acquisition of the south and east parcels of land, the plans did not provide details on the assumptions used to determine the estimated costs or set out the risks associated with the acquisitions.

GTH based the estimated costs included in its plans upon the average cost that the Ministry of Highways and Infrastructure had paid to acquire the GTH's initial land footprint, that being approximately \$9,000 per acre. The estimate did not sufficiently consider increases in land values that had occurred since the acquisition of the initial land footprint.

In 2012 the GTH bought the south parcel, consisting of 41 acres for about \$30,000 per acre. That's about two times its appraised value. It paid \$1.2 million. In 2014 the GTH bought the two east parcels consisting of about 204 acres for \$103,000 per acre, at about 1.75 times the appraised value. It paid \$21 million.

Use of a business case may have helped the GTH develop a more realistic estimate of the costs to acquire these parcels of land and more clearly set out the basis for its estimate. Preparation of business cases may also help the GTH set out how it plans to finance planned acquisitions, and if purchases are not made within expected time frames, how it plans to mitigate its exposure to future increases in land values.

On page 28 we recommend that the Global Transportation Hub Authority require and keep documentation of review of land appraisal reports it uses when making offers to purchase land.

We found buying land directly from the private sector was new and infrequent for the GTH. The GTH did not have formal policies or processes for doing due diligence on land acquisitions or experience to oversee these activities. Rather the GTH used external parties to perform due diligence on proposed land acquisitions, including obtaining and reviewing land appraisals and reviewing land titles.

While GTH management discussed the land appraisals it received, they did not keep documentation to support their review of the appraisals and the decisions. Not having a documented appraisal review process increases the risk that potential areas of concern or disagreement with the appraiser's opinion are not adequately resolved. It also increases the risk of using appraisal reports not prepared for the purpose of acquiring land. These risks can affect the price offered to landowners.

In addition, it did not keep documentation of key aspects of negotiations to purchase both the south and east parcels. We did not make a recommendation as GTH kept documentation of later attempts to buy land from the private sector.

Pages 21 to 26 of our special report describe how the GTH board's unique governance structure and the involvement of multiple government agencies added complexity to the GTH's acquisition of the east parcels. We found that the governance of the GTH was unlike any other Saskatchewan Crown agency. The GTH's board was comprised of its minister responsible as Chair, along with individuals most of whom were not officials or employees of the provincial government as board members.

[08:30]

In addition *The Global Transportation Hub Authority Act* gave the GTH minister the power to direct the authority and the board. Some members of GTH's board found it unclear in the acquisition of these parcels whether their role was to give the Chair advice, take direction from the minister, or make decisions. This unique governance structure may have contributed to the minister directing the purchase and the board not actively overseeing the acquisition of the east parcels.

From 2012 to 2014, a period in which the land prices around Regina were escalating rapidly, the acquisition of the east parcels involved multiple agencies and officials, those being the GTH, the Ministry of Highways and Infrastructure, the GTH minister and his staff, the Ministry of Government Services, the Crown Investments Corporation, and cabinet. The involvement of the GTH Chair and minister and these multiple agencies and officials complicated the land acquisition process.

It was also a period of time in which GTH was a relatively new agency and when its primary focus was to attract businesses to operate within the hub.

The acquisition of the east parcels was unique as two government agencies, that being the Ministry of Highways and Infrastructure and the GTH, required portions of the same parcels of land for interdependent reasons. While all agreed on the importance of buying the east parcels and were aware of rapidly escalating land prices and land speculations taking place, cabinet did not make one agency responsible for leading the purchase of these parcels. Overall, those involved did not take sufficient steps to mitigate exposure to this risk. Rather, the ministry followed its standard land purchasing practices, consulting with affected parties and not buying land until it approved the route and design.

For the west bypass, starting in November 2008, the ministry formally advised landowners of its interests in all or part of their property along the selected route. As shown in figure 1 on

page 5, the route went through a portion of the east parcels. It finalized the route and design of the west bypass in stages, starting in 2008, finalizing the design of the GTH interchange in April of 2014. It actively consulted with the GTH on the design of this interchange. The design of the GTH interchange affected how much of the east parcels the ministry needed. As noted on page 34, in March 2014 the ministry bought 58.1 acres of the east parcels — that's almost 30 per cent of the east parcels — for the west bypass, including the GTH interchange.

The GTH did not have a clear acquisition strategy. From September 2012 to December 2013, it changed its view on who should buy the east parcels many times.

Also during this period, *The Global Transportation Hub Authority Act* was introduced and came into force in August of 2013. This Act did not give the GTH the power to expropriate land. After introduction of this bill and the passage of this Act, views varied on whether it was appropriate for the minister to expropriate lands for the GTH's use.

In addition we found that the GTH, the GTH minister and his staff, and the Ministry of Highways were carrying out acquisition procedures at the same or similar times, resulting in duplication of efforts and delays in purchasing the east parcels. These delays resulted in the government paying a significantly higher price for the east parcels. Direct guidance from cabinet on which agency should take the lead on acquiring the land may have resulted in a timelier purchase of these parcels.

GTH paid \$103,000 per acre for the east parcels. With respect to the portion of the east parcels that the ministry bought from the GTH, we note that on an overall basis, the terms of the sale between the GTH and the ministry approximates \$103,000 per acre if all of the borrow material is used and hauled.

Under the agreement, the ministry was to pay \$3.5 million for damages associated with the use of the GTH's 55 acres for borrow material. At late May of 2016, the ministry indicated that the P3 company hired to build the Regina bypass was assessing whether the quality of the borrow materials was suitable for use in construction. If the P3 company uses less borrow material than the agreement anticipates, officials from the ministry and GTH indicated they would develop a mutually agreeable solution.

This concludes my presentation on part B of our special report.

The Chair: — Thank you very much, Ms. Ferguson, Ms. Sommerfeld, and Mr. Wandy. I'd like to open up the floor for questions. Ms. Sproule.

Ms. Sproule: — Thank you very much, Madam Chair. And thank you very much, Madam Auditor and officials, for that thorough review of the report. There are a few questions that I'd like to pose that arise from some of things that were stated in the report. The first thing is I'd like to turn page 14, and that will probably be the bulk of . . . We'll focus on comments made in the timeline for now. So on page 14 there's an indication at the bottom, April 2012, that:

The GTH Chair/Minister received an unsolicited call from a 3rd Party about selling the East Parcels to the

Government for \$65,000 per acre.

First of all, were you aware of who spoke to the minister during that original phone call?

Ms. Ferguson: — No, we're not aware of the name of the caller, if that's the question that you're asking. But we are aware that the minister did advise officials of the call.

Ms. Sproule: — And how did you find out that the call actually happened?

Ms. Ferguson: — Through emails.

Ms. Sproule: — Through emails?

Ms. Ferguson: — Documentary evidence.

Ms. Sproule: — Were you provided any phone records at all of telephone calls that were made during that time period?

Ms. Ferguson: — As we indicated in our presentation, we didn't view this as a forensic audit. What we did is we kept alert to the fact of . . . We recognized that there was risks of conflict of interest, and there was allegations of fraud and error and so as auditors, you keep your — we call it professional skepticism — so we keep that up. And so we ask, we have lines of inquiry. So what we did is we looked at the information that was in the emails, and we corroborated it with interview evidence, you know, and through that we didn't see a need to pursue phone records.

Ms. Sproule: — Who did you interview in relation to that phone call?

Ms. Ferguson: — I think, basically, I think it would have been a multi-faceted . . . It would have been the people that would have been touched with respect to the emails. I don't have the names offhand.

Ms. Sproule: — Would you be able to provide those names to the committee?

Ms. Ferguson: — I think we would be able to. Yes, we can dig them out.

Ms. Sproule: — The next question then is, could you make clear to the committee why you wouldn't do this in a process audit and what the difference is in a forensic audit?

Ms. Ferguson: — I'm sorry, I'm unclear what the why is.

Ms. Sproule: — Just make clear the difference for the committee, of the difference between a forensic audit and the audit you did which was a process audit.

Ms. Ferguson: — The starting point is different. The starting point for a forensic audit is . . . The purpose of the forensic audit is either to prove, you know, that there was a situation of fraud or error or wrongdoing, and whereas a process audit, you know, or an audit that the office is doing is that we're looking to see how well things were managed.

And frankly, if we did a forensic audit, there would be a lot of matters that we included within our report that would not have been provided to the committee. You know, you may not have looked in terms of the governance structure of the organization. You may not have looked at their processes for reviewing appraisals, etc., etc.

So the focus of the work would be quite different. Normally on a forensic audit, it's linked into financial transactions. In this case, in this report there was really only . . . For the GTH there were three main financial transactions, or in essence two: the south parcels and the east parcels. The phone call didn't result in a financial transaction between the organization and the private sector. It was a communication.

Ms. Sproule: — Then I'm just wondering why you felt it important to note that in your timeline.

Ms. Ferguson: — As indicated, we talked to that directly in the report as to why we thought it was important, because what it showed to us is that there was knowledge within the general community that the GTH and Highways was interested in purchasing these specific properties, and we cite that directly in the report.

So I think it shows that, you know . . . If people know that the government is interested in buying property, you know, then they know there's a ready market at some point in time.

Ms. Sproule: — One other question in terms of that note is, in April 2012 you indicated that cabinet had a committee that directed the GTH to proceed. Who was in that committee at the time?

Ms. Ferguson: — I don't have the names of the . . . It would be a subcommittee of cabinet, and so it would be a subcommittee of the ministers of cabinet. I don't have the names with me at this point.

Ms. Sproule: — Is that something you could provide to the committee?

Ms. Ferguson: — Yes, we can see if we've got . . .

Ms. Sproule: — Did you have any curiosity in terms of how else the community may have known about the actual interest in the east parcels?

Ms. Ferguson: — Well I think that's the importance of the Highways work that we've done, you know, because what it shows is that starting in November of 2008, Highways directly contacted landowners and let them know that they were interested in buying property in which the route or the proposed route for the Regina west bypass would go through.

And we also know that through Highways' processes that they had consultations with a number of different groups and committees, you know, through their various stages of their studies, etc. And so we do know that there was business owners and landowners that were potentially affected. They were involved in those discussions. And so, you know, what it showed us is that it really was an environment that it was not secret that, you know, that . . .

Ms. Sproule: — I think it's clear that there was no secret that Highways was interested in purchasing. But what seems a bit unusual is that this caller called the Minister for the GTH, a relatively unknown organization, that they specifically called the minister. So that is really unrelated to the work of the Ministry of Highways at the time. So did you investigate into why that would happen?

Ms. Ferguson: — Well what we saw is that the minister in fact did alert his officials of the call and did ask his officials as to, how do people know? And I think, you know, what we did see is that there was discussions and then they were unable to figure out exactly how people knew and why that individual caller would have known. So those types of actions to us did, you know, did . . . It was contrary to the fact. You know, if a person . . . In our view if somebody wanted to suppress something, then you wouldn't share that you received a call.

Ms. Sproule: — It's interesting that the minister was concerned how this information was made available. What sort of . . . Who did he speak to in GTH about that? What sort of questions did he ask? Who did he ask those questions to? Were you given that information?

Ms. Ferguson: — I don't have that with me today here. But basically what we saw was the trail of the communication through emails is really, in that case . . . and, you know, it showed lines of inquiry that were pursued.

Ms. Sproule: — Yes, it's interesting that he was quite concerned that that information was out there. So I'm just wondering if you could provide the committee with a list of officials that the minister spoke to, what communications and concerns he had at the time, and who they were directed to, and also what the reply of those individuals was. Could you provide that to committee?

Ms. Ferguson: — We'll endeavour to do that.

Ms. Sproule: — Okay, thank you. Moving forward on to December 2012, in your report you indicated that there was a joint request to cabinet submitted by the GTH minister and the Minister Responsible for CIC [Crown Investments Corporation of Saskatchewan] for immediate assembly or purchase of those three parcels of land, two of which were the east parcels. In your report you indicated that the request was withdrawn before the cabinet meeting. Minister Wyant indicated in an interview last week, on Tuesday, November 1st, that that was not correct and that . . . He indicated that the matter was dealt with at the cabinet table.

So I'm just wondering . . . He said, it seems like either the auditor got bad information or misunderstood. Her understanding was that the GTH pulled it and cabinet didn't discuss it; my recollection is we did discuss it at the time. Can you share with committee what information you were provided in relation to that item and why it's different from the Minister of Justice?

Ms. Ferguson: — Most certainly. So basically, as indicated in the report, you know, that item was submitted into cabinet. And so you've got to keep in mind, in today's world that's an electronic process. And so that would've been, you know, a

cabinet agenda item. You know, and what we said is that the request was withdrawn. And that doesn't mean that the materials are withdrawn. So the materials resided within the agenda documents of the cabinet meeting. And so the request to actually consider the information was withdrawn.

For us, we don't have . . . What we did is we looked at the cabinet agenda items and we also looked at the cabinet minutes, and there's no indication in the minutes of a discussion of this particular item. So whether or not there was informal chats outside of the meeting or, you know, our office is not privy to that aspect. So I don't think it's inconsistent between the two.

Ms. Sproule: — The minister indicated that there was certainly discussion at the cabinet table with respect to the transaction, and you're saying there were no minutes of that discussion in what you were provided?

Ms. Ferguson: — The cabinet minutes do not reflect that discussion. Minutes reflect decisions, primarily.

Ms. Sproule: — What kind of cabinet documents were you given access to?

Ms. Ferguson: — The cabinet materials that were provided for the meetings and the minutes.

Ms. Sproule: — And the minutes. Were there any other notes that you were provided by cabinet?

Ms. Ferguson: — No.

[08:45]

Ms. Sproule: — Okay. On June 2012 you make the indication that the GTH CEO was replaced with the interim CEO. And if I understand correctly, that was . . . Mr. John Law was the GTH CEO at the time, and he was replaced by Mr. Chris Dekker. Is that correct?

Ms. Ferguson: — Yes.

Ms. Sproule: — Did you . . . Were you provided with any documentation at all to explain why Mr. Law was replaced as CEO by Mr. Dekker at that point in time?

Ms. Ferguson: — We didn't ask for specific documentation. We did interview both parties. And we did, in our interviews, we did afford them with the opportunity to . . . like the open-ended question, if there's anything that they felt necessary to share with us, to share with us. And there was nothing, you know, that was relevant to the audit.

Ms. Sproule: — In terms of your interviews with Mr. Law and Mr. Dekker, in a forensic audit, would that be a different sort of interview?

Ms. Ferguson: — I'm not too sure. Like you know, in this case we actually . . . As we indicated in our opening comments, we did engage an individual to assist us in those interviews and that individual did participate in the interview. That particular individual, he is trained actually, frankly, in forensic auditing, you know. And so he is trained to watch reactions of

individuals and to help gauge that. And we certainly . . . We did use that as indications to help us work our way through the audit and to figure out if we needed to pursue further lines of inquiry, you know, and to go in different directions. So I'm uncertain as to if it would be or not.

Ms. Sproule: — It seems that at that time there was a considerable amount of varying advice being provided. And I think the advice of the interim CEO was . . . I'm just trying to find where that is in here. The GTH board . . . Oh yes. May, a month earlier, he had advised the board that Ministry of Government Services and Ministry of Highways were to manage the acquisition of the parcels. And then a month later, he was replaced. Is there any indication in any of the documentation you received that that may have been a reason for his dismissal?

Ms. Ferguson: — No, there wasn't. I think, you know, what you have to keep in mind in terms of the timeline with respect to those types of recommendations is the timeline with respect to the introduction of the GTH Act into the Assembly. And so his advice to the board and to the organization preceded that bill being introduced to the Assembly. And so at that point in time, Global Transportation Hub under their order in council, they didn't have the powers to assemble land. They would've had to either have sought those powers or used Highways.

So I think his advice was very consistent with the time of the day in terms of where GTH was in terms of the legislative authority that was provided to them.

Ms. Sproule: — You indicated earlier you didn't ask for any further documentation in relation to that. What sort of documentation did you have made available to ascertain what you just explained?

Ms. Ferguson: — Well the order in council that sets up GTH is a public document. The bills that go to the Assembly are public documents. The discussion of the Assembly in terms of the various readings are public documents.

We also talked to the officials in terms of the CEOs in terms of where they were at and other officials in the organization. And we received quite consistent messaging for that period of time as to where they were at, along with emails. There's a whole mess of information on there, and so it's not something that you can readily provide as one document.

Ms. Sproule: — I appreciate the words "whole mess." In terms of the officials being very consistent in their messaging, is there any sort of summary that you could provide us of what the officials stated to you and who you spoke to and when?

Ms. Ferguson: — Well I would indicate that our report in essence is that summary.

Ms. Sproule: — Of the discussion why Mr. Law was replaced?

Ms. Ferguson: — Well we, as I indicated earlier, we afforded Mr. Law the opportunity to respond to that, and he didn't bring anything to our attention. So you know, we felt that if he would have thought that there was something relative that we needed to know, he would have shared that with us.

Ms. Sproule: — Obviously it would be a very delicate situation for him, and perhaps there was like in a judicial inquiry, he would be compelled to reply. Is that correct?

Ms. Ferguson: — I haven't sought legal advice on that, so I can't answer.

Ms. Sproule: — In terms of choosing Mr. Chris Dekker as the interim CEO for the GTH at that very critical time, were you made aware that he was an active participant with the government's political party, the Saskatchewan Party?

Ms. Ferguson: — We were aware of Mr. Dekker's background. We were also aware that he, you know, had worked with the ministry and also had led the Enterprise Saskatchewan. So you know, he was well versed in terms of government affairs.

Ms. Sproule: — And how did you become aware of that?

Ms. Ferguson: — Our office audits the ministry and we also audit Enterprise Saskatchewan, so we have had former interactions with Mr. Dekker in his previous roles.

Ms. Sproule: — Were you provided with any documentation from the government regarding the decision made to hire him as the interim CEO in 2012?

Ms. Ferguson: — We didn't ask for that information.

Ms. Sproule: — You didn't see that as germane to the discussion?

Ms. Ferguson: — You know, what we were focusing in on is their processes to buy land, if . . . And so, no, I think what we saw is that, as an organization, it was an organization at that point in time that did not have processes to buy land. So you know, so in saying that, you know, I'm not sure if the decision point to hire an individual, you know, fed into that in a direct way. We didn't pursue that line of inquiry.

Ms. Sproule: — All right. You indicated obviously there's, in terms of the whole mess, that a number of these processes were obviously in flux, being developed at the time, and that obviously the leadership at the GTH chief executive officer position would be critical in terms of where things were going because I think it was described as a goat show by one of the people that were interviewed. The position of CEO was a critical position and the decision to place a Sask Party connection in that position, particularly with the active involvement of the minister at the time, did that raise any flags for you at all?

Ms. Ferguson: — We did, we were aware, as I indicated, we were aware of Mr. Dekker's background.

Ms. Sproule: — Thank you, Madam Auditor. I'm just going to move on here. In December of 2013 — jumping around a little bit — there's a comment made in your report in the blue font, blue print at the bottom, "The GTH made conditional offer to 3rd Party C . . ." And I understand that's Mr. Marquart. Is that correct?

Ms. Ferguson: — It would be to the numbered company that Mr. Marquart was a principal of.

Ms. Sproule: — All right. Thank you. It was a numbered company:

... to buy East Parcels for total price of \$21 million subject to Lieutenant Governor in Council approval (Cabinet) [approval]. The GTH Minister asked condition be removed after 3rd Party C questioned condition given 3rd Party C's understanding that Cabinet had previously approved the purchase.

In this case, first of all I would like to ask you to share with the committee how that information ... the first part is, how you knew that the minister asked the condition to be removed.

Ms. Ferguson: — As again, you know, it's consistent with the rest of the audit. We did a combination of looking at documentary evidence combined with interviews, so it was the combination of the two pieces.

Ms. Sproule: — Sorry, I was chatting and I missed your answer, Madam Chair. I'll have to look at it on the record.

The third party understanding that the cabinet had approved the purchase, how did that come to your attention?

Ms. Ferguson: — As I just said, our audit consisted of looking at documentary evidence including emails along with interviews, so it was from those sources of information.

Ms. Sproule: — So could you share with the committee which emails you received in relation to that and what other documentation and who they were from and who they were to and on what days they were shared?

Ms. Ferguson: — I don't have that with me today.

Ms. Sproule: — Would you be able to share that with the committee at a further date?

Ms. Ferguson: — Yes.

Ms. Sproule: — Thank you very much. Did you do any further investigation in terms of finding out how party C, or Mr. Marquart, knew that the cabinet had approved the sale or did you just flag it like this?

Ms. Ferguson: — You know, I guess where we were at on that one there, as indicated there, we were aware that the negotiations was led by a special adviser to the minister and that there was a number of back and forth. A lot of that back and forth was verbal negotiations and our understanding is that, you know, that individual indicated that he could have mentioned it in that exchange. There was a bit of uncertainty there.

Ms. Sproule: — In terms of this special adviser to the minister, would it be correct to say that that was Mr. Laurie Pushor?

Ms. Ferguson: — Yes it was.

Ms. Sproule: — You indicated that many of these ... this

information was through conversations that weren't recorded. So how did you come aware that there was verbal conversations between Mr. Pushor and Mr. Marquart?

Ms. Ferguson: — Through interviews.

Ms. Sproule: — And did you interview Mr. Marquart as well?

Ms. Ferguson: — As indicated in the report, we did not interview private citizens.

Ms. Sproule: — So the only interview you conducted at the time in relation to this point was with Mr. Pushor then.

Ms. Ferguson: — And other officials that were at the, you know, afterwards aware of the negotiation process.

Ms. Sproule: — Could you share with the committee the names of the other officials that were interviewed?

Ms. Ferguson: — It would be the board of the GTH that became aware later and the chief executive officer of GTH.

Ms. Sproule: — So that would be Mr. Richards at that point in time.

Ms. Ferguson: — Yes it would be.

Ms. Sproule: — Okay. And what was the context of those conversations or interviews with the board of GTH and the CEO of the GTH in relation to the conversations between Mr. Pushor and Mr. Marquart?

Ms. Ferguson: — I think, you know, basically I think it just was an awareness, you know, as to basically trying to understand what the negotiation process would be.

Ms. Sproule: — Were there any concerns raised by the board or by Mr. Richards in relation to this individual having information that was cabinet confidentialities?

Ms. Ferguson: — I guess in our view, you know, that ... What we find is that the way the government works, when cabinet makes a decision, cabinet shares their decision with affected officials so that they can carry out actions, so ... You know, so it moves from a situation of being cabinet confidentiality to certain aspects of cabinet decisions are shared so people can do their jobs.

Ms. Sproule: — So Mr. Marquart knew that cabinet had previously approved the purchase based on what you said here. What sort of information were you given that indicated that Mr. Marquart had that information about a cabinet decision? Was that anything you followed up on?

Ms. Ferguson: — You know, our understanding it was part of the negotiation processes. You know, as you can appreciate, the negotiator went back, thought he had a number, they took it to cabinet, cabinet said okay, but we'd like you to try to go lower. And so he had to go back to the individual that he was negotiating with. And so, you know, normally when you're doing that, you're probably going back and saying okay, you know. In our view, it just sounded logical. You'd probably go

back with a reason.

Ms. Sproule: — So there was an original tabled deal of \$105,000 an acre? And then . . .

Ms. Ferguson: — He presented it forward at 105 as indicated in the report.

Ms. Sproule: — Right.

Ms. Ferguson: — You know, and sought support for the 105 and was asked to go back to try to negotiate a lower number. That information is included in the report.

Ms. Sproule: — So then why would the minister ask that condition be removed after it was questioned by Mr. Marquart? Why did the GTH minister ask cabinet to remove that condition? There was no indication.

Ms. Ferguson: — Well I think, you know, I think in part it was probably just an acknowledgement that cabinet had given the green light to purchase, so he asked, and it was removed. So we just left it as a statement of facts.

Ms. Sproule: — I just want to go back to the dismissal of Mr. John Law in June of 2012. And in particular I'm just wondering, can you rule out that he was dismissed for . . . that he was dismissed for reasons other than or just can you rule out that he was dismissed rather than replaced?

Ms. Ferguson: — Our office didn't pursue it in that manner. Like as I indicated earlier, we afforded Mr. Law the opportunity to raise anything that he thought was relevant to the scope of our work, and we did feel that he had a full understanding of the scope of our work.

Ms. Sproule: — Thank you. Moving on then, in terms of the documents that you and your officials were provided, can you tell us what is the total number of documents that you received from the government?

Ms. Ferguson: — No, and actually frankly that wouldn't be readily determinable. We don't organize our files in that manner so that wouldn't . . . A lot. An awful lot.

[09:00]

Ms. Sproule: — The current minister says thousands and thousands. Would that be correct? Yes. Okay.

Ms. Ferguson: — Jason is nodding yes.

Ms. Sproule: — Okay. Thank you. Would you say the bulk of them were email conversations, or were they prepared cabinet minutes? Sort of, what was the breakdown in terms of the types of documentation that you received?

Ms. Ferguson: — We received a lot of emails, an awful lot of emails. There was a lot of documentary evidence, as indicated in the reports, in the form of appraisals, etc. There was obviously, as indicated in our report, there's areas that we wished for documentation that we didn't find documentation to. So there was analysis that wasn't . . . There was nothing written

down. The negotiations, again, nothing written down too.

So you know, as indicated in our report, the essence of the document was there was policies. You know, GTH did have policies. For example their conflict of interest policy was quite good for both the staff and the board. So you know, they did have some business plans, financial plans. We did look at some of their financial reports, board minutes, the agenda packages, you know, the typical aspects that you would do in an audit, and then over and above that probably would be the emails.

Ms. Sproule: — I know you indicated at the outset when you were charged with this particular request from cabinet as well as the Public Accounts Committee, you indicated that it was time dependent, and I know your office is incredibly busy and has many other things that you are working on at the same time. So were you able . . . I know you indicated earlier that you went right to June 30th because you needed that time. Would you have been able to use more time, or were you able to fully canvass every aspect of the file that you would like to have?

Ms. Ferguson: — In our view, we thought we did a thorough job, you know, given the objective of what we were doing as an audit office. We thought we did a thorough job. We had hoped to have it to the committee earlier but, as I indicated, you know, there were certain things that took us additional time because we carried out additional steps. Bottom line, an audit, the information kind of . . . You use your lines of inquiry to determine what you're going to do next.

You know, I know in the media there's a lot that says we did a process audit. We did a process audit. But I think people have to understand in a process audit you still look for corroborating evidence and consistency of evidence, etc. It's not just looking at what people have in terms of policies, etc.

Ms. Sproule: — I notice you indicated one of your limitations is in the legislation itself where you're just . . . obviously aren't given the scope to actually speak to third parties. Is that something you are going to recommend be changed? Is that important to you to be able to fully investigate?

Ms. Ferguson: — So what we indicated is that we . . . The normal course of the audit, we don't have that authority unless we invoke *The Public Inquiries Act* which does take you down another avenue. So you know I think it's . . . We are aware that other provinces, other jurisdictions do have that. In our world we call it follow-the-dollar mandate, you know, and so it's as anything, when you seek legislative changes I think you learn, you try to package them with other things at the same time.

Ms. Sproule: — Certainly this whole discussion is a follow-the-dollar type of discussion. Have you considered looking at a public inquiry? Is that something you can call on yourself as the auditor?

Ms. Ferguson: — I think we'd have to weigh that very carefully in terms of, you know, the cost and the dollars associated with that and what additional information or if there's other avenues, if the members are interested to pursue those other avenues.

Ms. Sproule: — In terms of the cabinet meeting documentation

that you were provided, could you share with the committee how many cabinet meetings you were provided notes for and the dates of those cabinet meetings?

Ms. Ferguson: — Yes.

Ms. Sproule: — And how many of those cabinet meetings would have contained information about the east parcels, the deal on the east parcels specifically?

Ms. Ferguson: — We focused . . . We actually asked specifically for information that focused on those discussions.

Ms. Sproule: — In terms of if you were given legislative authority to do the follow-the-dollar audits, would you have sufficient resources within your current capacity at this point in time to be able to do that?

Ms. Ferguson: — I think the way that our legislation is set up and the fact that the committee affords us to have what we regard as the contingency appropriation, that those types of situations are envisioned in the use of that contingency appropriation if so needed.

Ms. Sproule: — At one point you indicated that the GTH minister gave cabinet an overview of the land assembly for east parcels. Can you highlight what was included in the overview or provide us with a copy of the overview? And was this information gained from emails or was it an actual report that the minister gave cabinet?

Ms. Ferguson: — We would probably pause on that one there because that would be envisioned . . . It would be part of the cabinet documents so we'd have to seek legal counsel as to if it would be appropriate for us to release that.

Ms. Sproule: — Right. Thank you very much. I appreciate that. I think we'll go back here to the difference between 2012 and 2013. And as you know in November of 2012, that was when the — or I guess December — the deal was pulled from the cabinet discussion meeting. And in 2013, about a year later, that's when cabinet gave its approval to purchase the land for \$21 million, that's the east parcels. Do you have any records of which cabinet ministers voted which way? Is that information you were given?

Ms. Ferguson: — No.

Ms. Sproule: — There's no record of that? Did you ask for that information?

Ms. Ferguson: — Basically what we relied on was the cabinet minutes themselves and what was captured through the cabinet minutes.

Ms. Sproule: — And there's no recording in the cabinet minutes of any indication of . . .

Ms. Ferguson: — No.

Ms. Sproule: — Were there any ministers who expressed dissatisfaction in the minutes or was it . . .

Ms. Ferguson: — No.

Ms. Sproule: — Just the minutes noted that it was approved. All right. In 2013, it was obvious that the Minister of Justice was no longer concerned about the deal that went through, or at least we don't know if he was concerned or not. We don't have any evidence either way. But were you interested to know why he changed his mind in 2013? Did you interview him about that?

Ms. Ferguson: — His concern in 2012 was the concern that was raised by others in that, in the 2012 transaction they weren't sure who owned the company, you know, and it's always very important that you know who the owner is so that you can determine whether or not you have conflict of interest before you buy a property. So his concern was consistent with that of others.

Ms. Sproule: — Who were the others that were concerned about it?

Ms. Ferguson: — What we found is that, you know, like when they were doing their due diligence they were trying to pursue who owned, you know, like who was actually the owners of the company in terms of the due diligence processes that was conducted jointly between CIC and GTH.

Ms. Sproule: — Now normally when I want to know who an owner of a company is I do a corporate search in the registry, which takes about five minutes. So was there difficulties further than that in terms of who was the owner of the numbered company?

Ms. Ferguson: — Well as you are aware, in some cases people decide not to put the principals as the owner, and they put things in trust with lawyers. And so in this case, it took them to a lawyer and the lawyer was not willing to share who the principal owner was, and as has been reported in the media, if they did, without the permission of their client, they would break client-solicitor privilege.

Ms. Sproule: — How did cabinet come to know who it was, who was the owner at that point?

Ms. Ferguson: — They didn't.

Ms. Sproule: — They never did. It was always Marquart when Marquart took it over.

Ms. Ferguson: — No. This is, you're . . .

Ms. Sproule: — I mean, no, I mean eventually Mr. Marquart bought the property from the numbered company.

Ms. Ferguson: — And in that case they were able to do the corporate searches, and the corporate searches showed who the principals were in the company. So you're in a . . . It's a different situation, a different environment between, like a different scenario between the two in that regard.

Ms. Sproule: — Right. So in this case, Mr. Marquart was a known individual in the community, real estate mogul of sorts. And so that was . . . Then obviously, the minister was okay with

that. In terms of 2013 though, the whole pricing had changed. And were there any concerns raised at cabinet about the extra amount of money that this deal was now going to cost?

Ms. Ferguson: — As you can appreciate, what we are reviewing is the submission to cabinet, which is the agenda and the minutes and it doesn't include that level of detail.

Ms. Sproule: — Okay, thank you. Regarding the third party appraisal regarding the east parcels, we have heard that the previous minister said it was essential to the deal. Your report shows that this appraisal wasn't used at all in the deal. Can you expand on this?

Ms. Ferguson: — As indicated in the report, the lead negotiator for that indicated to our office that he did not use the appraisal when he negotiated the price; rather, he used the price that the company had recently paid for the parcels as the starting point. As indicated in the report, we did find that that was inconsistent with the information that went to the board and to cabinet. By the fact that we've included that into the report, we do express that as a concern. We think the information should have been consistent.

Ms. Sproule: — I think the Privacy Commissioner has said not only is it inconsistent but it is somewhat significant in terms of the process audit that was done. And I think the negotiator in this case was Mr. Laurie Pushor, the senior advisor to the Ministry of the Economy. Is that correct?

Ms. Ferguson: — Yes it is.

Ms. Sproule: — So Mr. Pushor deliberately did not use the appraisal, which was considerably lower. What sort of concerns would that have raised in the interviews that you had?

Ms. Ferguson: — I'm sorry, I'm not sure which appraisal you're referring to.

Ms. Sproule: — It was a third party appraisal, the one that party C provided to the special advisor, Mr. Pushor. I'll find it in the notes here.

Ms. Ferguson: — The appraised value on that one, as indicated in the report, was actually higher than what the individual had recently paid. So I'm sorry, I'm still not sure which one you're referring to, if you're referring to one that's lower.

Ms. Sproule: — Perhaps you could share with the committee how many appraisals you looked at in relation to, or how many appraisals came up in terms of the acquisition of the east parcels, right from the Ministry of Highways.

Ms. Ferguson: — As indicated in the report, around the period of time that the negotiation occurred, there was three appraisals. There was the one done by the Ministry of Highways. It used a direct cost comparison approach. There was one done by, commissioned by GTH. Again it used a direct cost comparison approach. And then there was one that was done by . . . that was provided to the negotiator, and then later provided to GTH, that didn't use a direct cost comparison approach. It used a different appraisal approach.

Ms. Sproule: — Could you talk a little bit more about that third one? So that was provided to the negotiator by the third party?

Ms. Ferguson: — Yes it was.

Ms. Sproule: — And what kind of approach did it use?

Ms. Ferguson: — We haven't disclosed that, and we're hesitant to disclose that just because of some caveats that were on the appraisal document itself, and I think that's consistent with the advice of the Information and Privacy Commissioner. So we did recognize that when we did the audit, that we should be respectful of the caveat that was on the front of the appraisal report.

Ms. Sproule: — Fair enough. Could you share with the committee what the essence of that caveat was?

Ms. Ferguson: — Basically it's, you know, I don't think it's dissimilar to sometimes what auditors do, is that sometimes when you do an audit, you do it for specific purposes and you do it with a specific distribution of the report in mind. And so it's, in essence, the same for an appraiser. He did that report for a specific audience, for a specific purpose. And so we felt that, like given that, it wouldn't be appropriate to disclose the details.

Ms. Sproule: — Okay. I'm sorry, I am not very clear on what happened with all these appraisals. So with your permission, could you describe the Ministry of Highways' direct cost comparison when was it done, and what was the value for these parcels that it had determined at that time? I know it's in here somewhere but . . .

Ms. Ferguson: — If I could take you back to the timeline . . . and so I'm on page 16, so the box that says April to November. So they did, the Ministry of Highways did an appraisal on October of 2013 and when it used the direct cost . . . direct comparison approach, sorry, not cost, direct comparison approach and it had an appraised value of 6.7 million.

And then on October, the immediate line below, GTH commissioned an appraisal and it had an appraised value of 12 million using the same approach.

Ms. Sproule: — Can you explain to the committee how that number could differ so much?

[09:15]

Ms. Ferguson: — I think what happens is that in a direct comparison approach, you know, what they do is they take parcels of land that the appraisers feel are similar to the land values. And so that assessment of what they view as similar parcels can differ.

Ms. Sproule: — And in this case, 12 million, 6.7 million is significantly lower than the final purchase price of 23 million. So the decision to pay the 23 million was based on . . . Do you know how they came up with that number?

Ms. Ferguson: — This is where, you know, if I take you to the report in terms of what we have said in the report, that the negotiations and the basis of the negotiations were not well

documented. But from basically interview evidence and also what we found is that based on the interview evidence, what the negotiator said is that they used the purchase price that the individual had most recently paid and then they recognized that that individual would be expecting a profit.

Ms. Sproule: — So it wasn't using appraisals at all basically. It was just basically an interview with Mr. Pushor. He told you that he decided that the appraisals wouldn't work because he knew how much Mr. Marquart had paid for the land and knew he would expect some sort of . . .

Ms. Ferguson: — I think he knew that Mr. Marquart had paid for the land. He knew that Mr. Marquart was also a land developer around the city of Regina. He held multiple properties which, I think, if you do just a search of land you can see that. He also was aware that Mr. Marquart didn't have to sell the land. There was no reason for him to compel him to sell the land and that not buying the land could delay the build of the west bypass.

Ms. Sproule: — But certainly that would be a concern for Highways. And Mr. Pushor would be aware that Highways had expropriation rights so that this perceived over-the-barrel feeling he had because of Mr. Marquart intervening in the land ownership, would Mr. Pushor . . . Did you ask him about why he wouldn't turn to Highways at this point in time and ask them just to expropriate it?

Ms. Ferguson: — As indicated in the report, Mr. Pushor was asked to negotiate to see if they could reach a willing buyer, willing seller approach. He was asked to pursue that approach. And so he . . .

Ms. Sproule: — And can you remind the committee? That was in November of 2013 when the Chair, the minister of the time, he made the decision to buy the east parcels using a willing buyer, willing seller approach?

Ms. Ferguson: — Yes.

Ms. Sproule: — And do you have any documentation at that point in time why the minister wouldn't go with normal acquisition of a direct comparison or perhaps even expropriation for fair market value by the Ministry of Highways and Infrastructure?

Ms. Ferguson: — As we indicate in the report, you know, what we found is that the Minister of Highways was proceeding with its normal course of action in terms of looking at the parcel of land, you know, and considering which way that they would buy it. As you are aware, and that's in the second part of the report, is that the Minister of Highways, their very first approach that they have to use by law is a willing buyer, willing seller approach. And then if that doesn't materialize or if they can't come up with a reasonable approach, then they go to expropriation. So you can't . . . I think it's erroneous to assume that the ministry would go to expropriation immediately because that would be contrary to their legislation.

Ms. Sproule: — And that's absolutely correct. But when a vendor is asking for much more than the market price, then it is absolutely appropriate to consider expropriation, correct?

Ms. Ferguson: — I think what you'll find is that what they do is they, when they go through that willing buyer, willing seller, you know, it is actually an appraised value plus what's referred to as a lift. So what Highways pays doesn't always equal exactly appraised value too. So I think it's, you know, that's another important consideration that we learned when we did our work at the Ministry of Highways.

Ms. Sproule: — Yes, I certainly appreciated the way you went through part C and indicated how Highways conducts their business, and obviously willing buyer, willing seller is step one. In some cases, they paid a little bit more than they did for the expropriated parcels . . . [inaudible] . . . very clear. Obviously it saves time and energy to not have to go through the heavy-handedness of expropriation, so that makes sense.

Now when you talk about an appraised value plus a lift, in this case the highest appraised value was 12 million and the ultimate purchase price was more than double that. Is that an appropriate lift? Like how do you determine whether that's an appropriate amount?

Ms. Ferguson: — Our office has concluded that they did not buy this land in a fiscally responsible manner.

Ms. Sproule: — Yes, you're very clear on that, thank you, in the appraisal. So it was the minister's direction to follow, direct Mr. Pushor to get this land, whatever it took apparently. I'm curious about the fact that MHI [Ministry of Highways and Infrastructure], Ministry of Highways, and their staff were actively preparing for the acquisition of the same land at the same time that the minister decided willing buyer, willing seller, or basically during a little bit before that, and that MHI communicated with its minister's office on the acquisition plans. I believe Mr. McMorris was minister at the time, of Highways. Correct? And so his staff communicated with him regarding these acquisition plans. Do you have any indication that Minister McMorris would have communicated that to Minister Boyd? Is these any records at all that indicated that?

Ms. Ferguson: — We don't have information on that matter.

Ms. Sproule: — I just want to go back to in May of 2012 . . . I thought of this earlier and I forgot, and I see my time is quickly coming to an end. In May of 2012 the CEO Mr. Law advised the board of the GTH that the Ministry of Government Services and Highways were to manage the acquisition of the south and east parcels. I believe Minister Heppner was the Minister of Government Services at that time. Do you know why Government Services was brought in by the CEO of GTH at that point in time? Because normally it would be Highways, right?

Ms. Ferguson: — Well what they did is they created a land assembly team as indicated in the report, and the land assembly team encompassed both the officials from Ministry of Government Services and Ministry of Highways. I think it reflects the fact that at that point in time GTH did not have personnel or expertise in this area whatsoever, and so it was just utilizing expertise across the government in procurement.

Ms. Sproule: — Thank you. I think we're pretty much there yes. So at this point in time, I'm sure other members of the

committee may have additional questions, and I took up a lot of the time. But I have to say, Madam Auditor, that we so much appreciate the work you've done on this very important file, you and your staff. And I may have appeared impassioned about some of my questions, and I apologize for that. It's a very important file.

And I think when we see the fact that the government failed, that the people, particularly in terms of the amount of money that was paid for this land . . . And I think you were very clear. You just said it, and I wrote it down. Now I can't find it. But I know you have some very serious concerns that were identified in the report, and certainly it couldn't have been an easy task going through all those thousands and thousands of documents.

So at this point, I just want it clear that we absolutely support the work you do, and it's critical to our ability as legislators to ask the hard questions that come out of reports like yours. And so at this point I think, Madam Chair, I would conclude my questions on this issue for now.

The Chair: — Are there any . . . Mr. Doke.

Mr. Doke: — Thank you, Madam Chair. I too would like to thank the auditor for a very extensive report on this. We've had a barrage of questions here this morning that I think you've answered, and I appreciate that. I do have a couple of questions, first being, were there any obstacles either by cabinet or ministries at all that hampered your investigation or your audit, sorry?

Ms. Ferguson: — No, there wasn't really any obstacles. Like I said, it's like some of the information took a little bit longer to compile and pull together than we had hoped, but I think, given the volume of the information that, you know, that it wasn't unreasonable in that regard. So we did find that people were co-operative. We were very pleased when we reached out to the former CEOs that they were willing to meet with our office, you know. We thought that was very important and appreciated that, their involvement.

Mr. Doke: — Okay, my second question is, as you do your audits for all ministries and it comes to this body and you make recommendations and then we look at those recommendations . . . you've made 10 recommendations here, two for the GTH and eight for Highways. Is it my understanding that five have been implemented from Highways?

Ms. Ferguson: — On Friday of last week we received a correspondence from Highways indicating the progress that they'd made and, in their assessment, they think five are implemented. As always, as you know, we always go back and do our follow-up, and so we'll have a look to see whether or not we agree with their assessment. We'll do that in our normal cycle. It will take . . . You know, we'll go back in two to three years, I think it's actually two years in this case, to see if they have in fact implemented.

We have also worked with GTH in terms of they provided us with a draft policy that they have taken to their board and to get our input on that. If they proceed with the draft policy that they've got, we think that they're on their way to implement the recommendations that we have presented to them also.

Mr. Doke: — Thank you, Madam Chair. With that I have a motion that I would like to move.

The Chair: — And what's your motion, Mr. Doke?

Mr. Doke: —

That the Standing Committee on Public Accounts request the deputy minister of Highways and the CEO of the Global Transportation Hub to present before the committee on the recommendations made in the *Special Report: Land Acquisition Processes: The Global Transportation Hub Authority and Ministry of Highways and Infrastructure*.

The Chair: — We'll take a moment with that motion. I'd like to read the motion into the record:

That the Standing Committee on Public Accounts request the deputy minister of Highways and the CEO of the Global Transportation Hub to present before the committee on the recommendations made in the *Special Report: Land Acquisition Processes: The Global Transportation Hub Authority and Ministry of Highways and Infrastructure*.

Mr. Doke has moved this motion. Is there any debate on . . . Ms. Sproule.

Ms. Sproule: — Just one question, Madam Chair. I don't think this goes anything beyond the normal processes that the auditor referred to in terms of reporting back in a couple years. So is this in order?

The Chair: — The motion is in order. The one piece that is missing is normally the minister responsible for the respective organization is usually present at our committee meetings, and so we've got . . . [inaudible interjection] . . . Or no, sorry, the deputy, pardon me, the deputy minister, the deputy minister, yes. So this motion, as you'll note, is requesting the CEO of the Global Transportation Hub and the deputy minister of Highways.

Ms. Sproule: — Okay then. If I may, Madam Chair, I'd like to move that we amend it to all officials back to November of 2011 when the GTH was formed.

The Chair: — Yes. We need paper. So Ms. Sproule has moved that the following words be inserted, moved an amendment:

That the following words be inserted after the words "Global Transportation Hub," and all senior officials from the Ministry of Highways and Infrastructure, Ministry of the Economy, going back to 2011.

Is there any debate on the motion? Ms. Sproule.

Ms. Sproule: — If I could just speak to the amendment, Madam Chair, I think what's really important here is that we have an opportunity as a committee to ask questions of the officials that were there at the time and certainly of senior officials who were directly involved in the negotiation of the east parcels, in particular Mr. Laurie Pushor; and that just having a motion the way it reads right now, which was submitted to members of the committee by a staffer from the

Executive Council, I think that is something that really short shrifts the committee in its ability to do its work properly.

The Chair: — Thank you, Ms. Sproule. Is there any further discussion? Okay. All in favour of the amendment, please say yes.

An Hon. Member: — Yes.

The Chair: — All opposed?

Some Hon. Members: — No.

Ms. Sproule: — Can I ask for recorded division of that, Madam Chair?

The Chair: — Recorded division. All those in favour of the amendment?

Ms. Sproule: — Yes.

The Chair: — Please raise your hand.

Ms. Sproule: — I can do that too.

The Chair: — All of those opposed, please raise your hand. Six to one. That amendment is or that motion is defeated 6 to 1. The amendment is defeated 6 to 1.

And so moving back to the original motion that Mr. Doke moved, the motion . . . Mr. Doke moved:

That the Standing Committee on Public Accounts request the deputy minister of Highways and the CEO of the Global Transportation Hub to present before the committee on the recommendations made in *Special Report: Land Acquisition Processes: The Global Transportation Hub Authority and Ministry of Highways and Infrastructure*.

Is there any debate on this motion? Seeing none, all those in favour, please say agreed.

Some Hon. Members: — Agreed.

The Chair: — All those opposed?

Ms. Sproule: — I don't agree, and I would like to ask for a recorded division.

The Chair: — All those in favour, raise your hands. Six. All those opposed? That motion is carried, 6 to 1. And now that we've reached past the time of adjournment, this committee stands adjourned until the call of the Chair.

[The committee adjourned at 09:36.]