

1991 BILL PR2

Third Session, 22nd Legislature, 40 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL PR2

GRANDE CACHE TOURISM AND BUSINESS DEVELOPMENT AUTHORITY ACT

MR. DOYLE

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

Bill PR2
Mr. Doyle

BILL PR2

1991

GRANDE CACHE TOURISM AND BUSINESS DEVELOPMENT AUTHORITY ACT

(Assented to , 1991)

WHEREAS a petition has been presented, praying for the incorporation of the Grande Cache Tourism and Business Development Authority, and it is expedient to grant the prayer of the petition;

THEREFORE HER MAJESTY, by and with the advice and consent of the Legislative Assembly of Alberta, enacts as follows:

Definitions

1(1)In this Act,

(a) "Affiliate" has the same meaning as defined in the *Business Corporations Act*;

(b) "Associate", has the same meaning as defined in the *Business Corporations Act*;

(c) "Authority" means the Grande Cache Tourism and Business Development Authority;

(d) "Chairman" means the Chairman of the Authority;

(e) "Chamber" means the Grande Cache Chamber of Commerce;

(f) "Council" means the municipal council of the Town of Grande Cache;

(g) "court" means the Court of Queen's Bench of Alberta;

(h) "elector" has the same meaning as defined in the *Municipal Government Act*;

(i) "material contract" means every contract and arrangement which the Authority becomes involved with except for contracts or arrangements

(i) for the supply of utilities or the payment of taxes;

(ii) appointing a director, officer or representative of a corporation, board, commission, committee or other body by the Council, the Chamber, the School Board or the Authority whether or not financial consideration is paid to a member for his participation in that body;

(iii) involving a person employed by the Government of Canada, the Government of Alberta, a federal or provincial Crown corporation or agency, the Chamber, Town, or School Board, where one of the parties to the contract or arrangement is the person's employer, provided no other conflict of interest exists;

(iv) involving a credit union, cooperative, non-profit organization, service club or volunteer organization in which the member's sole interest is that he is a member of it;

(vi) that give rise to interests so remote or insignificant that they cannot reasonably be regarded as likely to influence the member or officer;

(j) "member" means a member of the Authority;

(k) "officer" means an officer, including the President, of the Authority;

(l) "President" means the President of the Authority;

(m) "Registrar" means the Registrar of Corporations as defined in the *Business Corporations Act*;

(n) "School Board" means Grande Cache School District No. 5258;

(o) "Town" means the Town of Grande Cache;

(p) "Vice-Chairman" means the Vice-Chairman of the Authority.

(2) In this Act, a body corporate is a affiliated with, controlled by, or a subsidiary of another body corporate or person if it is related to another body corporate or person as described in section 2 of the *Business Corporations Act*.

Incorporation

2(1) There is hereby created a non-profit corporation with the name "Grande Cache Tourism and Business Development Authority" comprised of members appointed in accordance with the provisions of this Act.

(2) The Town is not liable for any liability, act or default of the Authority.

(3) The members of the Authority shall have direction and control of the conduct of the business and affairs of the Authority.

Seal

3 The Authority shall have a common seal.

Head Office

4 The head office of the Authority shall be the Town.

Objects

5 The Authority shall have as its objects the promotion of business and tourism in and around the Town, the establishment of tourism facilities of a regional nature or otherwise in or near the Town, and to act generally as a community association in promoting the interests of the Town, its businesses and its residents.

Powers

6 Without limiting the generality of section 5, the Authority shall have the power to

(a) appoint a President;

(b) acquire the rights or privileges that the Authority may think necessary or convenient for the purpose of its business;

(c) engage the services of any bank, treasury branch, trust company or credit union and to enter into agreements for that purpose in connection with its business;

(d) draw, make, accept, endorse, execute and issue promissory notes, bills of exchange, bills of lading and other negotiable or transferable instruments;

(e) delegate in writing any power or powers contained in subsections (c) and (d);

(f) buy, sell, lease and otherwise deal with real and personal

property;

(g) incorporate other bodies corporate;

(h) take or otherwise acquire and hold the shares or other securities of any other bodies corporate and sell, reissue, or otherwise deal with such shares or other securities, with or without guarantee, directly or indirectly;

(i) borrow or raise or secure the payment of money in such manner as the Authority thinks fit, and, without limiting the generality of the foregoing, by the issue of debentures or debenture stock, perpetual or otherwise, charged upon all or any of the Authority's property or the Authority's interest in it, and to purchase, redeem or pay off any such securities;

(j) enter into any agreements that may seem conducive to the Authority's objects or any of them;

(k) obtain from any government or authority any rights, privileges, and concessions that the Authority may think it desirable to obtain, and carry out, exercise, and comply with any such arrangements, rights, privileges and concessions;

(l) construct, improve, maintain, develop, work or manage any and all works necessary or desirable in carrying out the objects of the Authority;

(m) receive gifts, donations and grants of money or other property from any source for the purpose of enabling the Authority to carry out its objects or its general or special powers;

(n) acquire and undertake the whole or any part of the business, property, and liabilities of any person or body corporate carrying on any business that the Authority is authorized to carry on, or possessed of property suitable for the purposes of the Authority;

(o) apply for, purchase or otherwise acquire any patents, licences, concessions or other entitlements conferring any exclusive or non-exclusive or limited right to use, or any secret or other information as to any invention capable of being used for any of the purposes of the Authority or the acquisition of which would appear, directly or indirectly, to benefit the Authority, and use, exercise, develop or grant licences in respect of, or otherwise turn to account the property, rights or information so acquired;

(p) raise and assist in raising money for, and, subject to section 6, to aid by way of bonus, loan, promise, endorsement, guarantee or otherwise, any person with whom or with which the Authority may have business relations or any of whose shares, securities or other obligations are held by the Authority, and to guarantee the performance or fulfilment of any contracts or obligations of any such person, and in particular to guarantee the payment of the principal of an interest on securities, mortgages and liabilities of any such person;

(q) sell, improve, manage, develop, exchange, lease, dispose of, turn to account or otherwise deal with all or any part of the property and rights of the Authority;

(r) invest and deal with such moneys of the Authority as are not immediately required, in such manner as may from time to time be determined, and

(s) generally, do or cause to be done all things necessary for or incidental to the objects of the Authority.

Prohibition on
authority granting
financial assistance
to members

6(1) The Authority shall not, directly or indirectly, give financial assistance by means of a gift, loan, guarantee or otherwise

(a) to a member or officer of the Authority or any Associate of such member or officer; or

(b) to a director or officer of any Affiliate of the Authority or any Associate of such director or officer.

(2) Notwithstanding subsection (1) the Authority may give financial assistance, by way of a loan or guarantee, to a member or any officer or employee of the Authority if such loan or guarantee is set forth in an employment agreement between the Authority and the party receiving the loan or guarantee.

(3) A contract made by the Authority in contravention of this section may be enforced by the Authority or by a lender for value in good faith without notice of the contravention.

Approval of
Council

7 Notwithstanding sections 5 and 6, without the approval of Council, the Authority shall not

(a) acquire or sell real property;

(b) lease any real property for a period of greater than one year;

(c) acquire or alienate shares in the capital stock of any corporation;

(d) enter into an agreement requiring an expenditure by or financial commitment of the Authority in excess of \$5,000.00 or such other sum as Council may from time to time designate by resolution;

(e) borrow money.

Composition of
authority

8(1) The Authority shall be comprised of the following provided each is a natural person:

(a) 1 person who sits on Council appointed by the Council;

(b) 4 persons appointed by Council;

(c) 3 persons recommended by the Chamber and appointed by Council;

(d) 1 person recommended by the School Board and appointed by Council;

(2) The Council may appoint up to 4 additional electors to the Authority.

Term of member

9(1) As soon as practical after this Act comes into force the first members of the Authority shall be appointed.

(2) The representative of Council who is first appointed as a member of the Authority shall be appointed for a term of 2 years commencing on the first day of his appointment.

(3) Notwithstanding the period for which any person is appointed as a member of the Authority, a member appointed to the Authority as a representative of Council may hold office as a member of the Authority only so long as that member remains on Council.

(4) The 4 persons who are first appointed as members of the Authority shall be appointed for terms commencing on the day of their appointment and shall be appointed, as Council may determine, so that

(a) the term of one member shall be three years,

(b) the term of a second and third member shall be two years,

and

(c) the term of a fourth member shall be one year.

(5) The term of any electors appointed as members of the Authority pursuant to Section 8(2) shall be determined by Council at the time of their appointment which shall commence on the day of appointment but shall in no case exceed 3 years.

(6) A member appointed pursuant to Section 8(1) (c) or (d) shall be appointed for a term of 1 year.

(7) Subject to section 10, a subsequent representative of Council or a person appointed to succeed a person appointed pursuant to subsection (2) or (4), respectively, shall be appointed for a term of 1 year.

Idem

10(1) Notwithstanding the period for which a person is appointed, a member of the Authority shall remain in office until a successor has been appointed, unless disqualified pursuant to the provisions of this Act.

(2) A member or officer may resign from membership or office in the Authority by submitting a written resignation to the secretary or other authorized officer of the Authority.

Former member

11 A former member of the Authority is eligible for re-appointment as a member of the Authority.

Vacancies

12 Where a vacancy occurs in membership of the of the Authority by any cause other than the expiration of the term for which the member was appointed, Council shall appoint a successor to fill the vacancy for the remainder of the unexpired term provided such successor meets the qualifications of their predecessor as set out in section 8.

Qualification

13 A person is not qualified to be appointed as or to remain a member of the Authority if that person

(a) is convicted of

(i) an indictable offence punishable by death or by imprisonment for a term of 5 or more years;

(ii) an offence under section 123 of the Criminal Code (Canada) pertaining to municipal corruption or any section passed equivalent thereto;

(b) is absent without excuse, from 3 consecutive meetings of the Authority;

(c) is or becomes

- (i) a judge of a court of civil or criminal jurisdiction;
- (ii) a member of the House of Commons or the Senate of Canada;
- (iii) a member of the Legislative Assembly of Alberta;
- (iv) the auditor or a member of the firm of auditors of the Authority;
- (v) an undischarged bankrupt.

Irregularity in
appointment

14 An act of a member of the Authority is valid notwithstanding irregularity in that member's appointment or a defect in that member's qualifications.

Chairman

15(1)At the first meeting of the members of the Authority and at each first meeting held after one year from that date, the members of the Authority shall elect 1 of their number to act as Chairman and 1 of their number to act as Vice-Chairman.

(2) The Chairman, or in the Chairman's absence the Vice-Chairman, shall preside at meetings of the Authority.

President

16(1)The Authority shall appoint and employ a President who shall be the executive officer of the Authority.

(2) Subject to the direction of the Authority from time to time, the President shall exercise supervision and control over the daily administration of the Authority and shall manage its business and affairs.

(3) The President shall, in the absence of the Chairman and the Vice-Chairman, preside at meetings of the members of the Authority.

(4) The President shall be responsible to the Authority.

(5) The President shall have such powers and duties as may be assigned to him by the Authority.

(6) The President shall not be a member of the Authority but shall be paid a salary fixed by the Authority.

Delegation

17(1)The members of the Authority may appoint any committees or officers and employ any employees and delegate to such committees, officers, and employees the power to enquire into, research and report to the members of the Authority on any matter referred by the Authority to such committee, officer or employee and to do such other tasks as the Authority may from time to time designate.

(2) The members of the Authority may prescribe any remuneration payable to any officers or persons comprising a committee appointed pursuant to this section or any remuneration payable to any employee employed pursuant to this section.

Finances

18(1)The Council shall provide to the Authority whatever money is, in the opinion of the Council, necessary for the operation of the Authority.

(2) The Council may by by-law guarantee the payment of capital and interest of money borrowed by the Authority.

(3) Any cash revenue collected by the Authority shall be paid by the Authority to the Town at or prior to the end of each fiscal year except for monies allocated in the Authority's budget for a subsequent fiscal year for

(a) the Authority's anticipated operating expenses;

(b) capital expenditures;

(c) a reasonable reserve for unanticipated overages.

Disclosure of interest

19(1)A member or officer of the Authority shall disclose in writing to the Authority, or request to have entered in the minutes of meetings of the Authority, the nature and extent of their interest if that member or officer

(a) is a party to a material contract or proposed material contract with the Authority, or

(b) is a director or an officer of or has a material interest in any person who is a party to a material contract or proposed material contract with the Authority.

(2) Subject to subsection (3), the disclosure required by subsection (1) shall be made, in the case of a member of the Authority

(a) at the meeting at which the proposed material contract is first considered,

- (b) if the member was not interested in the proposed material contract at the time of the meeting referred to in subsection (2)(a), at the first meeting subsequent to that member becoming so interested;
 - (c) if the member becomes interested in the material contract after the material contract is made, at the first meeting subsequent to that member becoming so interested; or
 - (d) if a person who is interested in the material contract later becomes a member, at the first meeting subsequent to that person becoming a member.
- (3) Where a proposed material contract is dealt with by resolution pursuant to section 21, the disclosure that would otherwise be required to be made in accordance with subsection (2) shall be made
- (a) forthwith on receipt of the resolution; or
 - (b) if the member was not interested in the proposed material contract at the time of receipt of the resolution, at the first meeting after that member becomes so interested.
- (4) The disclosure required by subsection (1) shall be made, in the case of an officer who is not a member
- (a) forthwith upon that officer becoming aware that the material contract is to be considered or has been considered by the Authority;
 - (b) if the officer becomes interested after the material contract is made, forthwith upon that officer becoming so interested; or
 - (c) if a person who is interested in the material contract later becomes an officer, forthwith upon that person becoming an officer.
- (5) If a material contract or proposed material contract is one that in the ordinary course of the Authority's business would not require approval by the members, a member or officer shall disclose in writing to the Authority, or request to have entered in the minutes of the meetings of members of the Authority, the nature and extent of their interest forthwith upon the member or officer becoming aware of the material contract or proposed material contract.

(6) A member of the Authority referred to in subsection (1) shall not vote on any resolution to approve the material contract unless the material contract is a contract for indemnity or insurance under section 24.

(7) For the purpose of this section, a general notice to the Authority by a member or officer of the Authority is a sufficient disclosure of interest in relation to a material contract made or proposed to be made between the Authority and either the member or officer or a person in which the member or officer of the Authority has a material interest or of which he is a director or officer, if

(a) the notice declares the member or officer is a party to the material contract or proposed material contract or is a director or officer or has a material interest in the person who is party to the same, and is to be regarded as interested in any material contract made or to be made by the Authority with that person, and states the nature and extent of the interest;

(b) at the time disclosure would otherwise be required under subsections (2), (3), (4) or (5), the extent of interest of the member or officer of the Authority in the material contract or the interest of the interested person is not greater than that stated in the notice; and

(c) the notice is given within the 12 month period immediately preceding the time in which disclosure would otherwise be required under subsections (2), (3), (4) or (5).

(8) If a material contract is made between the Authority and one or more of its members or officers, or between the Authority and another person of which a member or officer of the Authority is a director or officer or in which a material interest exists as provided above, and if, when the member or officer disclosed the interest in accordance with subsections (2), (3), (4), (5) or (7), the material contract was approved by the members of the Authority;

(a) the material contract is neither void nor voidable by reason only of that relationship, or by reason only that the member with an interest in the material contract is present at or is counted to determine the presence of a quorum at a meeting of members that authorized the material contract; and

(b) a member, officer or former member or officer of the Authority to whom a profit accrues as a result of the making of the material contract is not liable to account to the Authority for that profit by reason only of holding office as a member or officer provided the material contract was reasonable and fair to the Authority at the time it was approved.

(9) If a member or officer fails to disclose an interest in a material contract in accordance with this section, the court may, on the application of the Authority, a member of the Authority or on the application of Council, set aside the material contract or adjudge such other remedy as the court may think fit.

(10) The provisions of this section shall apply *mutatis mutandis* to an officer or director of an Affiliate of the Authority who is party to a material contract or proposed material contract with the Authority or who is a director or officer of or has a material interest in any person who is a party to a material contract or a proposed material contract with the Authority.

Quorum

20 5 members shall form a quorum at any meeting of members of the Authority for the transaction of business.

Resolution signed
by all members

21(1) Subject to the by-laws of the Authority, a resolution signed by all the members of the Authority entitled to vote on that resolution at a meeting of the Authority is as valid as if it had been passed at a meeting of the Authority.

(2) A copy of every resolution referred to in subsection (1) shall be kept with the minutes of the proceedings of the Authority.

Duties and
exercises of power

22(1) Every member or officer of the Authority in exercising their powers and discharging their duties shall

(a) act honestly and in good faith with a view to the best interests of the Authority; and

(b) exercise the care, diligence and skill that a reasonably prudent person would exercise in comparable circumstances.

(2) Every member shall comply with this Act and the by-laws of the Authority.

(3) No provision in a contract, the by-laws or a resolution of Authority relieves a member or officer of the Authority from the duty to act in accordance with this Act or from liability for breach

of that duty.

(4) In determining whether a particular transaction or course of action is in the best interests of the Authority, the member may give special, but not exclusive, consideration to the interests of the party who appointed that member.

Members present
deemed to consent
- exceptions

23(1) A member who is present at a meeting of members of the Authority is deemed to have consented to any resolution passed or action taken at the meeting, unless that member

(a) requests that his abstention or dissent be entered in the minutes of the meeting;

(b) delivers his written dissent to the secretary of the meeting before the meeting is adjourned;

(c) sends his dissent by registered mail or delivers it to the registered office of the Authority immediately after the meeting is adjourned; or

(d) otherwise proves that he did not consent to the resolution or action.

(2) A member of the Authority who votes for or consents to a resolution or action is not entitled to dissent under subsection (1).

(3) A member or officer of the Authority is not liable for any error in judgement or loss occasioned by the Authority if that member relies in good faith on

(a) financial statements of the Authority or an Affiliate represented by an officer of the Authority or of the Affiliate fairly to reflect the financial condition of the Authority or of the Affiliate; or

(b) an opinion or report of a lawyer, accountant, engineer, appraiser or other person whose profession lends credibility to a statement made in their professional capacity.

Indemnification of
officer or director

24(1) Except in respect of an action by or on behalf of the Authority or an Affiliate to procure a judgement in its favour, the Authority shall have the power to enter into an agreement indemnifying a person described in subsection (2), and that person's heirs and legal representatives, against all costs, charges and expenses, including an amount paid to settle an action or satisfy a judgement reasonably incurred by that person in respect of any civil, criminal or administrative action or proceeding to which he is made a party by reason of being or having been a member or officer of the Authority or director or officer of such other body corporate, if that person

(a) acted honestly and in good faith with a view to the best interests of the Authority or such other body corporate; and

(b) in the case of a criminal or administrative action or proceeding that is enforced by a monetary penalty, had reasonable grounds for believing that such conduct was lawful.

(2) Subsection (1) applies to

(a) a member or officer of the Authority or of an Affiliate; or

(b) a former member or officer of the Authority or of an Affiliate; or

(c) a person who acts or acted at the request of the Authority or of an Affiliate as a director or officer of a body corporate of which the Authority or an Affiliate was or is an Affiliate, a shareholder or creditor.

(3) The Authority may purchase and maintain insurance for the benefit or in respect of any person referred to in subsection (2) against any liability incurred by, directly or indirectly incurred by the Authority on that person's behalf, except when the liability relates to that person's failure to act honestly and in good faith with a view to the best interests of the Authority or of the Affiliate, as the case may be, while in that person's capacity as

(a) a member or officer of the Authority or as a director or officer of an Affiliate, or

(b) a director or officer of a body corporate referred to in subsection (2), if he acts or acted in that capacity at the request of the Authority or of an Affiliate.

Town may manage

25 Council may direct the Authority to turn over the management and operation of any business arrangement, tourism facility or other asset of the Authority to the Town or its nominee and the Authority shall comply with the direction.

Town may take
property

26 Council may direct the Authority to transfer to the Town or its nominees all or any portion of the assets and undertaking of the Authority without payment of consideration and the Authority shall comply with the direction.

Auditing and fiscal
year

27(1) The Authority shall order an annual audit of its accounts to be made at least once in every fiscal year by an independent auditor who shall be a chartered accountant or a firm of chartered accountants.

(2) An auditor shall be appointed at or prior to the commencement of each fiscal year of the Authority and may be the auditor or firm of auditors of the Town.

(3) The fiscal year of the Authority shall coincide with the fiscal year of the Town, and the Authority shall submit its annual audited statements to Council.

(4) The Authority shall give its auditor such information and permit such inspections as are necessary to enable the audit to be carried out, and shall cause a certified statement of each audit, showing the receipts and expenditures of the Authority of for the preceding fiscal year and investments, if any, held by the Authority at the time of the audit for said fiscal year, to be laid before the first meeting of the members of the Authority held after the completion of the audit.

Records

28(1) The Authority shall prepare and maintain at its head office records containing

(a) the by-laws and all amendments to the by-laws;

(b) minutes of meetings of the members of the Authority;

(c) a register of disclosures made pursuant to section 19;

(d) accounting records which adequately and fairly present the financial affairs of the Authority; and

(e) resolutions of the members of the Authority.

(2) The records described in subsection (1) shall be kept at the head office of the Authority or at any other place the members of the Authority think fit and shall at all reasonable times be open to examination by the members.

(3) The members of the Authority may examine the records referred to in subsection (1) during the usual business hours of the Authority free of charge.

Idem

29(1) All records required by this Act to be prepared and maintained may be in a bound or looseleaf form, or in a photographic film form, or may be entered or recorded by any system of mechanical or electronic data processing or any other information storage device that is capable of reproducing any required information in legible written form within a reasonable time.

(2) If a person is entitled to examine any record that is maintained by the Authority in a form other than a written form and makes a request of the Authority to do so, the Authority shall:

(a) make available to that person within a reasonable time a reproduction of the text of the record in legible written form;
or

(b) provide facilities to enable that person to examine the text of the register or record in a legible written form and shall allow that person to make copies of that record.

Dissolution

30 The Authority may be dissolved at any time by Council, whereupon all assets, liabilities and records of the Authority shall become the property and responsibility, as the case may be, of the Town or its nominee, as the Town may direct.

Information
Returns

31 The corporation will provide the Corporate Registry with an annual return identifying members and its head office.