



Legislative Assembly of Alberta

The 27th Legislature
Third Session

Standing Committee
on
Private Bills

Tuesday, March 23, 2010
8:02 a.m.

Transcript No. 27-3-2

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The 27th Legislature
Third Session**

Standing Committee on Private Bills

Brown, Dr. Neil, QC, Calgary-Nose Hill (PC), Chair
Woo-Paw, Teresa, Calgary-Mackay (PC), Deputy Chair

Allred, Ken, St. Albert (PC)
Amery, Moe, Calgary-East (PC)
Benito, Carl, Edmonton-Mill Woods (PC)
Bhardwaj, Naresh, Edmonton-Ellerslie (PC)
Boutilier, Guy C., Fort McMurray-Wood Buffalo (Ind)
Calahasen, Pearl, Lesser Slave Lake (PC)
Dallas, Cal, Red Deer-South (PC)
Doerksen, Arno, Strathmore-Brooks (PC)
Drysdale, Wayne, Grande Prairie-Wapiti (PC)
Hinman, Paul, Calgary-Glenmore (WA)
Jacobs, Broyce, Cardston-Taber-Warner (PC)
Kang, Darshan S., Calgary-McCall (AL)
Lindsay, Fred, Stony Plain (PC)
McQueen, Diana, Drayton Valley-Calmar (PC)
Olson, Verlyn, QC, Wetaskiwin-Camrose (PC)
Sandhu, Peter, Edmonton-Manning (PC)
Sarich, Janice, Edmonton-Decore (PC)
Taft, Dr. Kevin, Edmonton-Riverview (AL)
Xiao, David H., Edmonton-McClung (PC)

Bill Pr. 1 Sponsor

Weadick, Greg, Lethbridge-West (PC)

Bill Pr. 2 Sponsor

DeLong, Alana, Calgary-Bow (PC)

Bill Pr. 3 Sponsor

Home, Fred, Edmonton-Rutherford (PC)

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Standing Committee on Private Bills

Bill Pr. 1 Participant

George Hall	Executive Director, Lethbridge Community Foundation
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Bill Pr. 2 Participants

Allan Cunningham	Manager, Corporate Services, Law, City of Calgary
Ron Cust	Director, Legislative Projects, Department of Municipal Affairs
Stuart Dalglish	Assessor, City of Calgary
Brian K. Dell	Legal Counsel
Graham Kerslake	Altus Group Limited
Darryl Lagerquist	Legislative Analyst, Department of Municipal Affairs
Bob Reekie	Chief Financial Officer, Calgary Olympic Development Association

Bill Pr. 3 Participants

Martin Chamberlain	Assistant Deputy Minister, Corporate Support, Department of Health and Wellness
Rick Ewasiuk, QC	Legal Co-counsel
Kent Harrold	Chair, Board of Management, Lamont Health Care Centre
Margaret Mrazek, QC	Legal Counsel

8:02 a.m.

Tuesday, March 23, 2010

[Dr. Brown in the chair]

The Chair: Good morning, everyone. We'll call the meeting to order. We have Mr. Boutilier and Ms Calahasen attending the meeting via teleconference. Welcome.

Mr. Boutilier: Yes. Good morning.

Ms Calahasen: Good morning.

The Chair: The first order of business is to approve the agenda for today's meeting. Could I have a motion to approve the agenda as presented? Moved by Mr. Doerksen. Any issues with the agenda as presented? There may be something under other business, but I don't think we need to change the agenda to deal with that. All in favour? Any opposed? That's carried.

The second item on the agenda is approval of the committee minutes from Tuesday, February 23, 2010. Those have been circulated. Could I have a motion? Mr. Lindsay has moved. Any discussion on the minutes? Everyone agreed, then? Any opposed? That's carried.

Okay. This morning, members, we have petitions for three private bills to be heard. The first is Bill Pr. 1, the Community Foundation of Lethbridge and Southwestern Alberta Act; the second one is Bill Pr. 2, the Canada Olympic Park Property Tax Exemption Amendment Act, 2010; and Bill Pr.3, the Lamont Health Care Centre Act.

Just to remind everyone, Parliamentary Counsel's report is the yellow bundle that you have received. It was distributed last Friday to all of your offices. I just want to make sure that everyone has the benefit of that before them. If you don't, we have copies.

Broyce, you're okay?

Mr. Jacobs: No, I don't have it. Oh, here. I do.

The Chair: Ms Calahasen and Mr. Boutilier, you have copies of the Parliamentary Counsel report?

Ms Calahasen: Yes.

Mr. Boutilier: Yes, I do.

The Chair: Good. The remaining materials were available on the committee's website, which I presume everyone had access to sometime prior to last Friday.

I'm going to take a couple of minutes just to briefly describe the procedure that we're going to go through with these three bills. The purpose of these bills, of course, is to allow an individual or a group to petition the Legislature for relief or remedy that is not available under the general law. Once the private bill is passed in the Legislature, it becomes a piece of the law just the same as any other legislation.

The procedure on private bills is set out in standing orders 89 through 106. Briefly, that involves the requirements for compliance with the petitions according to the standing orders. That involved advertising in the *Alberta Gazette* and the requirement to file with the Assembly and with the Lieutenant Governor. The draft bill was then presented by the petitioners with a filing fee of \$200. They were then referred to me as chair of the committee, and then we presented them in the Legislative Assembly.

We then proceed with today's part of the process, which is the hearings. At this time we'll ask the petitioners to appear and anyone

else who has an interest in the matters that are involved in those private bills. Once the hearings have been completed, we will meet again to deliberate each of the bills and to make recommendations to the House. We can make a recommendation that the bill proceed as it is, that it proceed with amendments, or that it not proceed.

Before we start, are there any questions about the process, then, with respect to these bills? Once it does get to the House, of course, with our recommendation, it will then proceed through the normal course of business: through second reading, Committee of the Whole, and third reading. Any questions?

Okay. I'll invite Shannon to bring in the first petitioner for Bill Pr. 1, the Community Foundation of Lethbridge and Southwestern Alberta Act.

I hope everyone got my e-mail yesterday afternoon requesting that everybody go through the materials. There are a few substantive issues that need to be dealt with in respect to some of the petitions.

Dr. Taft: I guess we'll introduce ourselves when the guests come in, Neil. Is that right?

The Chair: Yes. I was going to wait until the first petitioner came in.

[Mr. Hall was sworn in]

The Chair: Good morning. I think we'll start with introducing our guest here: Mr. George Hall, who is the executive director of the Lethbridge Community Foundation. Welcome.

**Bill Pr. 1
Community Foundation of Lethbridge and
Southwestern Alberta Act**

Mr. Hall: Thank you.

The Chair: I'll just ask my colleagues to introduce themselves going around the table. We'll start with those that are on the telephone. Mr. Boutilier.

Mr. Boutilier: Yes. Good morning. I'm sorry; I have laryngitis. It's Guy Boutilier from Fort McMurray-Wood Buffalo.

Ms Calahasen: Pearl Calahasen, Lesser Slave Lake.

The Chair: Thank you.

And we'll start with Mr. Kang.

Mr. Kang: Good morning, everyone. Darshan Kang, MLA, Calgary-McCall.

Dr. Taft: Hi. I'm Kevin Taft, MLA for Edmonton-Riverview.

Mr. Amery: Good morning. Moe Amery, Calgary-East.

Mr. Bhardwaj: Good morning. Naresh Bhardwaj, Edmonton-Ellerslie.

Mr. Allred: Ken Allred, St. Albert.

Mr. Jacobs: Broyce Jacobs, Cardston-Taber-Warner.

Mr. Lindsay: Good morning. Fred Lindsay, Stony Plain.

Mr. Benito: Good morning. Carl Benito, Edmonton-Mill Woods.

Ms Marston: Florence Marston. I'm the assistant to the committee.

The Chair: Neil Brown, chair of the committee.

Ms Dean: Shannon Dean, Senior Parliamentary Counsel and counsel to the committee.

Ms Woo-Paw: Good morning. Teresa Woo-Paw, Calgary-Mackay.

Mr. Olson: Good morning. Verlyn Olson, Wetaskiwin-Camrose.

Mr. Doerksen: Arno Doerksen, Strathmore-Brooks.

Mr. Drysdale: Wayne Drysdale, Grande Prairie-Wapiti.

Mrs. Sarich: Good morning. Janice Sarich, Edmonton-Decore.

Mr. Hinman: Good morning. Paul Hinman, Calgary-Glenmore.

8:10

The Chair: Thank you.

Mr. Hall, if you'd like to address the committee regarding your petition today.

Mr. Hall: On behalf of the board I would like to thank you for considering it. The impetus for change came with the name change. I've been there three years, and I spend a lot of my time explaining what the name is not. It's not the Lethbridge Community Foundation. We really cover southwest Alberta. We've talked about the name quite a bit, and that was the primary reason.

As I started looking at our statute, it would need to change, and as I looked at others – Calgary, Edmonton, Vancouver – I realized how inadequate our act is. It was established in 1966, with some small changes in 1994. The word "community" was put in, and in the minds of the board that did mean southwest Alberta. However, I can't find anyone on the street who realizes that. It says: Lethbridge Community Foundation. So there's the name change.

I think the new statute will provide better governance. And, thirdly, it will protect donors. It's for donor information and transparency.

The name. I've kept Lethbridge in. It now is the third word, so Community Foundation of Lethbridge and Southwestern Alberta. It was considered whether to leave the name Lethbridge out, but it was felt that historically it's there. It also centres what is the southwest because people often don't know: does it include up to Calgary? So it centres it.

It is very long, but it also mirrors the Community Foundation of Medicine Hat & Southeastern Alberta. They're just a few letters longer. They are the longest name in Canadian community foundations. It's awkward, but we're going to have to live with it.

The board started in the fall looking at the Calgary statute, and we realized what an excellent document it is. When I look at that, that is really what we do. There are a number of issues in there, especially investment powers. The board actually went to the new way of doing investments in 1998, but this actually makes it transparent. Especially if you're a board member coming on, you can read it, or if you're a donor, you can actually look at it there. It's transparent, exactly the way the money is invested. Also, indemnity for board members. Often it is hard to recruit board members because people often think: what about liability? So that is in there.

I don't pretend to understand the legal stuff. I've had two volunteer lawyers work with me. The last was Murray Pritchard. Actually, it was his father, Fred Pritchard, who drafted the first act in 1966, so things come around.

There are a number of issues. The wishes of the donor. I often find this myself that sometimes when I get a bequest in, the person has not talked to the foundation at all. They're depending on the lawyer, and sometimes it is quite ambiguous. I had one last year that was actually to give money for sports, and sports is only charitable in a very small context through a national organization. So I had to work to really find out. If I could not have found a solution, I would have had to go to the nearest possible way of realizing the donor's wishes.

I was going to start with a bit of background on the foundation since 1966. We're now about \$13 million in permanent endowments, and we are probably the highest percentage of unrestricted funds of any foundation I can find in North America. It's about 70 per cent. It's several donors who gave their money to the foundation, and they put no restrictions on it. They said: do the best you can. That allows us to do quite a bit of community granting. We should be distributing about \$400,000 a year according to the Canada Revenue Agency, who is really our governing body.

I think it's really important when I talk to donors to actually say that there is an act; it's there; it's transparent. It helps promote.

That about covers it, I think. Any questions?

The Chair: Thank you, Mr. Hall.

I'll invite questions from committee members, starting with Mr. Hinman, please.

Mr. Hinman: You mentioned \$400,000. What have you averaged the last year? Some years you're able to go up? The fall in the stock market: has that impacted you? How are you doing?

Mr. Hall: It did impact. We were still able to grant in 2008 and 2009 but probably more like 1 and a half per cent or 2 per cent, not the 3 and a half per cent that we are required to do. But the 3 and a half per cent is over time. We actually have a surplus with Canada Revenue Agency of about half a million, so we can do less in the next while.

There are all sorts of changes. The last budget brought in some major changes about defining what is enduring capital and what's not, so we're trying to sort that through as a national body, Community Foundations of Canada.

Mr. Hinman: Your enduring capital, your principal, then, has been preserved and is continuing to grow.

Mr. Hall: It is preserved. It's in market value, but we are maintaining the wishes of the donor in preserving that. It's coming back. We're at about \$250,000 now instead of the \$400,000, but hopefully that will come back.

The Chair: I'd just make note that Mr. Xiao from Edmonton-McClung has joined us. Welcome.

Mr. Xiao: Thank you, Mr. Chair.

Mr. Boutilier: Mr. Chairman, I have a question.

The Chair: Yes, Mr. Boutilier. Go ahead.

Mr. Boutilier: Thank you very much for your presentation. My

question. Obviously, as Members of the Legislative Assembly we often ask the MLAs in the constituencies that are impacted what they think. I was just wondering if you had the opportunity to speak with whomever your MLA would be in that geographical region.

Mr. Hall: Well, Greg Weadick is actually my neighbour next door. I can knock on his wall to talk to him. He's fully aware of us. We wave each day. I've worked through Greg, and Greg, I think, would probably talk to others. I did myself. He's very supportive.

Mr. Boutilier: Thank you very much.

The Chair: Mr. Allred, you had a question?

Mr. Allred: Yes. Thank you, Mr. Chair. In our materials I noticed reference to the Milk River and District Foundation Act. Is Milk River not considered part of southwestern Alberta?

Mr. Hall: I don't remember the words "Milk River." Is it just an area? It's part of our area. My president is from Milk River.

Mr. Allred: Perhaps some clarification from Ms Dean. Is that act still alive?

Ms Dean: It is. It's another community foundation that has been established by a private act.

Mr. Hall: Is it? Okay. Yes, I do find small ones around. We actually are built to help those organizations. There's one in Coaldale now that I'm working with. It's a community organization. We can actually take that on as a fund and actually administer it. They can have the fun of giving the money out, and we take care of everything else. That's one of our services.

Mr. Allred: Then there are a number of other community foundations within southwestern Alberta that you work and co-operate with.

Mr. Hall: Well, no, I'm not aware of that. There are a couple of small ones I see when I get the list from Canada Revenue Agency of whom we can grant to. I see a couple, and I don't know anything about them. A few, I noticed, are religious organizations, and they're very specific in what they're giving.

Our former president, Eric Hillman, when I asked him if he supported the name change, said: yes; we need to stake out our territory and be clear of our territory of southwest Alberta from Grassy Lake to Crowsnest, from Nanton to Waterton. But we do offer service to any other group that wants to do that. We take care of all the charitable receiving and everything for them.

Mr. Allred: I guess that in raising it, my concern was that in staking our your territory, as you say, you are not encroaching on somebody else's territory.

Mr. Hall: Well, there aren't any other large ones that I know of. Any community can start its own organization and go through Canada Revenue Agency. It's up to Canada Revenue Agency. But it does make it clear for our promotion. In speaking to donors, I've gotten several who are considering their farms, and when they see Lethbridge Community Foundation, they wonder: what are you going to do? So it would give comfort.

Ms Calahasen: Mr. Chair, on that point can I ask a question?

The Chair: You're on the list. There are two prior to you, but we'll call on you in a second here.

8:20

Mr. Kang: Sir, you said that you distribute \$400,000 a year. Has it been going up consistently? At what rate? Has it been steady?

Mr. Hall: Well, we try to be steady. In 2005 we started receiving our major endowment, and it was completed about 2008. It was called the Rinehart Estate, and it was \$6 million, so \$6 million of our \$13 million is one. We got that money. We actually got it, and then the market fell, so it's coming back. It depends. We try to do 3 and a half per cent. We've been over that, but it depends on your endowment as to what you can give.

Mr. Kang: Is there a list of community associations or whomever you supported? Is there some kind of criteria?

Mr. Hall: Yes. The criteria are set by Canada Revenue Agency. You have to have charitable status with Canada Revenue Agency, or it can be a gift to the Crown. Municipalities are also large. Libraries are often part of the municipality. We give to other sports/community centres. We're now doing the research of going through all our paper files since 1966 and blowing the dust off all these receipts for the last 44 years, and we're finding that we've contributed \$6 million to the communities. Part of that was through a private foundation that's actually centred in Calgary called the Anonymous Donor. It was about \$1.7 million for facilitating private donations. We've given about 2,100 grants in those 44 years.

Mr. Kang: What are the criteria to get the grant, then?

Mr. Hall: There are two types. There are unrestricted funds and restricted. Donors will say: distribute the funds here. We take care of that. And there are unrestricted. We have an application process either once or twice a year, and I advertise it throughout the southwest. Then a committee actually decides, goes through them. Last time we had 85 applications, and we were able to grant to 42, and we gave \$157,000 to those.

Mr. Kang: It is restricted to the southwest, then?

Mr. Hall: The southwest, yes. The service is to the southwest. It could be Easter Seals. It's a Calgary office, but it has to serve the residents of southwest Alberta.

Mr. Kang: Thank you, sir. Thank you, Mr. Chair.

The Chair: Mrs. Sarich, please.

Mrs. Sarich: Thank you very much. Thank you, Mr. Hall, for your presentation. My question this morning is around the powers of the board in sections 13(1)(a), (b), (c) and 13(2) and (3). I was just wondering. It says in (a) in that section that the board may "appoint a president, treasurer, secretary or secretary-treasurer," and so on. They may "fix and determine the remuneration of officers." They may "make by-laws, resolutions, rules and policies." I was just curious if you had thought about perhaps strengthening that piece. You don't have to on the wish of the board do any of those things because it's written in the fashion of "may," may do those things, rather than as "shall." I'm wondering if historically you've had any problem with that.

I was also noticing your entire proposal. I'm wondering if at any time historically you've had to delegate any authority to any given person because of some particular or specific situation. You don't speak to the delegation of authority other than that it's inherent within your board itself.

Mr. Hall: Do you mean delegation of authority for executive and for executive director?

Mrs. Sarich: Or any of those powers, the powers of a board to delegate authority to any given person or persons. I'm just wondering if you had any thoughts about the strength of this powers of the board section.

Mr. Hall: Well, no. I pretty well took the Calgary wording, whether it was "shall" or "may." I figured they had a team of lawyers working on it; I had two lawyers. I mean, we couldn't operate if we didn't have bylaws. I'm assuming that we would always do that.

Mrs. Sarich: Okay. The question was more from an historical perspective, that you've never really had any situations that arose in the past to this point in time that called into question any of the things in here. It's written in such a fashion that you could do those things, but you're not obligated to do them because it's written as a "may."

Mr. Hall: Well, it's new wording from our old wording, too. It's a total rewrite of the act. I presume that the board would keep operating as it should. Unless Shannon felt it needed to be "shall" instead of "may."

Mrs. Sarich: I'm just asking what your experience has been in the past to this point, if there have been any problems or situations that arose where you would look to the powers of the board to perhaps bolster this particular section because of any historical thing that might have arisen in the past, and I wouldn't know that as a committee member.

Mr. Hall: No. As far as the administration there hasn't been. Definitely, it comes into play with the powers with donors and their wording. That's more difficult. Otherwise, we always have one or two lawyers on the board, mainly because we have to relate to the professional advisors. Really, our endowment is 99 per cent built by estate lawyers and accountants. We always have lawyers on, so they'll keep us on the straight and narrow. Nothing has come up with the delegation that I'm aware of.

Mrs. Sarich: Okay. I would just always look to ensure that the powers of the board had been a top consideration. Also, from time to time foundations also may consider the delegation of authority, you know, just in case something needs to be delegated in a different capacity.

Mr. Hall: No one brought it up. My lawyers on the board didn't.

Mrs. Sarich: Okay. I didn't mean to put you on the spot.

Mr. Hall: I was dreading a legal question, you know.

Mrs. Sarich: Oh, well, I'm not a lawyer. It's just based on experience; that's all. I thank you so much for sharing and your presentation this morning.

Mr. Hall: Thank you.

The Chair: The chair would just like to recognize Mr. Sandhu from Edmonton-Manning, who has joined the committee at this time.

Mr. Sandhu: Good morning.

The Chair: I will now call upon Ms Calahasen. You had a question?

Ms Calahasen: Yeah. I've got two questions and one comment. When you're talking about extending the foundation's power to deal with gifts when the wishes of the donor are unclear or impossible to carry out, can you tell me if there are cases where that has happened? Is that the reasoning as to why you'd want to expand those powers?

Mr. Hall: Well, we actually just had one. It went through a court case eight years. We actually lost in the end. It was that the husband and the wife did not agree. Those things do happen. I think we've learned from it, and I think our lawyers have learned from it. It does happen that people just put things in their wills, and they really don't understand the implications, and we have to deal with that.

Usually it's clear. They've worked through a lawyer, and it's reasonably clear. But that one in the last couple of years, that said "for individual sports," was very difficult to do. It has to go through KidSport. The only way we can do that is through KidSport Canada and Alberta. That's the only way. Luckily, we managed it. So it does happen.

Ms Calahasen: Okay. And that's the reasoning why you want to be able to have these powers to do that?

Mr. Hall: Yes. We have to. We have no other recourse.

Ms Calahasen: Okay. My other question has to do with when you're dealing with the funds and the charitable organizations. Has there ever been any kind of notion in the Lethbridge area that there would be aboriginal involvement in those?

Mr. Hall: I've been trying to get an answer on that from Canada Revenue Agency. Our long-standing representative, Jane Waterfall, retired, and I'm playing telephone tag with her replacement. I know Victoria and Vancouver are working in that area, so I'm going to contact them. I was just talking to Janice Wing in Red Deer yesterday. When I came up, I stopped by the Red Deer community foundation. She said that they're working that way.

It has come up. I had a request the other day, and that's why I'm asking the Canada Revenue Agency what we can do. It would have to be a gift to the Crown of Canada. But it's finding its way to that organization that's, I would imagine, difficult. Yes, we're trying. We're looking at that and trying to figure out a way and looking at other community foundations.

Ms Calahasen: I know that they have some foundations of their own. I forget which colleague of mine asked a question about encroaching upon other jurisdictions. I'm just wondering: would that be considered part of that, or is that just sort of in co-operation with?

Mr. Hall: With a First Nations reserve?

Ms Calahasen: With the aboriginal community, yes, with First Nations.

8:30

Mr. Hall: Well, our community foundations are quite separate. Medicine Hat is over there. It goes up to 40 miles. We're quite clear. We would always work in conjunction, and if we could help reserves in our area, we would consider it.

Ms Calahasen: Thank you.

The Chair: I'll just recognize Mr. Dallas from Red Deer-South, who has joined us.

Mr. Dallas: Thank you, Mr. Chair. I apologize for the timing of my arrival.

The Chair: I'll now call upon Mr. Olson, who has a question, please.

Mr. Olson: Thank you very much, Mr. Hall, for your presentation. I have a legal question, but it might be more properly referred to Ms Dean. It's just a question on what the relationship is between this bill and the Trustee Act. In the Trustee Act the powers of the trustee are relatively conservative. I'm looking at section 6 here and the Calgary Foundation wording, pretty broad wording in terms of investment powers. I assume that the intent is that these investment powers would trump any kind of a restriction that would be in the Trustee Act.

Ms Dean: My understanding is that when the Trustee Act went through changes – and I'm thinking about five years ago – they adopted the prudent investor rule, so the Calgary Foundation actually made those changes to its act before those changes came through in the public legislation. Basically, the community foundation is just mirroring what I understand to be the current state of the public law.

Mr. Olson: Okay. That's my only question. Thank you.

The Chair: Any other questions? Does Parliamentary Counsel have any issues?

Well thank you very much, Mr. Hall, for coming today. The committee will meet again on April 13 to render a discussion about the bill before us, and we'll be informing you at some time thereafter regarding the decision of the committee.

Mr. Hall: Okay. Thank you.

Ms Calahasen: Mr. Chair?

The Chair: Yes, Ms Calahasen.

Ms Calahasen: I can hardly hear people. Can you either have *Hansard* turn up the volume or have people speak into the mikes? I'm travelling right now. I'm travelling with a friend who's driving, and I can hardly hear.

The Chair: Okay. We'll make sure that the microphones are closer, and we'll try and amplify it a little bit for you.

Ms Calahasen: Thank you very much.

The Chair: Okay. I'll ask Ms Dean to bring in the next petitioner.

It's Bill Pr. 2, the Canada Olympic Park Property Tax Exemption Amendment Act, 2010. Members may recall that there was a similar bill that came before the committee, I believe, last year or the year before. In the end it was not proceeded with. There were some issues about public policy and some issues with the city of Calgary that needed to get resolved. So they're back again, hopefully with something we can work with.

Mr. Boutilier: Mr. Chair, is everyone still there?

The Chair: We are. We're just waiting for the petitioners and their entourage to be seated, and we'll introduce everybody at that time, Mr. Boutilier.

Mr. Boutilier: Thanks very much. I thought I might have been cut off.

[Mr. Cunningham, Mr. Cust, Mr. Dalgleish, Mr. Dell, Mr. Kerslake, Mr. Lagerquist, and Mr. Reekie were sworn in]

The Chair: Please be seated. Before we commence, I will start with some introductions. I just want to acknowledge that Ms DeLong, the MLA for Calgary-Bow, who is the sponsor of Bill Pr. 2, has joined us in attendance.

I will just ask the petitioner and all of the parties at the table to introduce themselves. If there are any others seated behind, perhaps you could recognize them as well. We'll start over on the left-hand side with Mr. Cunningham, please.

Bill Pr.2

Canada Olympic Park Property Tax Exemption Amendment Act, 2010

Mr. Cunningham: Good morning. My name is Allan Cunningham. I'm a lawyer with the city of Calgary.

Mr. Dalgleish: Good morning. Stuart Dalgleish, director, city assessor with the city of Calgary.

Mr. Dell: Good morning. My name is Brian Dell. I'm with the law firm of Wilson Laycraft. I'm the solicitor for the Calgary Olympic Development Association, the petitioner.

Mr. Reekie: Good morning. I'm Bob Reekie, the chief financial officer for the Calgary Olympic Development Association.

Mr. Kerslake: Good morning, Mr. Chairman. My name is Graham Kerslake. I'm a real estate appraiser with the Altus Group in Calgary.

Mr. Cust: Good morning. I'm Ron Cust, director of legislative projects for Municipal Affairs.

Mr. Lagerquist: Good morning. Darryl Lagerquist, legislative analyst, legislative projects unit, Alberta Municipal Affairs.

The Chair: Is that everyone? Sorry. Mr. Cunningham.

Mr. Cunningham: Yes. Brenda King from the city of Calgary is here as well.

The Chair: Thank you. I'll just introduce the members of the committee to those who are present. If we could start on the right-hand side with Mr. Kang, please.

Mr. Kang: Darshan Kang, Calgary-McCall. Good morning, everyone.

Dr. Taft: Kevin Taft, Edmonton-Riverview.

Mr. Amery: Moe Amery, Calgary-East.

Mr. Bhardwaj: Good morning. Naresh Bhardwaj, Edmonton-Ellerslie.

Mr. Allred: Ken Allred, St. Albert.

Mr. Jacobs: Bryce Jacobs, Cardston-Taber-Warner.

Mr. Lindsay: Good morning. Fred Lindsay, Stony Plain.

Mr. Benito: Carl Benito, Edmonton-Mill Woods.

Ms Marston: Florence Marston, assistant to the committee.

The Chair: I'm Neil Brown. I'm the chair of the committee and the MLA for Calgary-Nose Hill.

Ms Dean: Shannon Dean, Senior Parliamentary Counsel and counsel to this committee.

Ms Woo-Paw: Teresa Woo-Paw, Calgary-Mackay.

Mr. Olson: Good morning. Verlyn Olson, Wetaskiwin-Camrose.

Mr. Doerksen: Arno Doerksen, Strathmore-Brooks.

Mr. Drysdale: Wayne Drysdale, Grande Prairie-Wapiti.

Mrs. Sarich: Good morning. Janice Sarich, Edmonton-Decore.

Mr. Hinman: Paul Hinman, Calgary-Glenmore.

Mr. Xiao: David Xiao, Edmonton-McClung.

Mr. Sandhu: Good morning. Peter Sandhu, Edmonton-Manning.

Mr. Dallas: Good morning. Cal Dallas, Red Deer-South.

The Chair: And we are also joined by two members who are joining us by teleconference this morning. They're Mr. Boutilier and Ms Calahasen.

Would you like to introduce yourselves?

Ms Calahasen: Pearl Calahasen, MLA, Lesser Slave Lake.

Mr. Boutilier: Guy Boutilier, Fort McMurray-Wood Buffalo. Good morning.

The Chair: Thank you, all. At this point I will invite the petitioner, if they will, please, to make some opening remarks regarding Bill Pr. 2.

8:40

Mr. Dell: Thank you, Mr. Chairman, members of the committee, and staff. On behalf of the Calgary Olympic Development Association, or CODA, as I will refer to them, we are here today to present a petition to amend an existing act with respect to property tax

exemptions at the Canada Olympic Park and some surrounding lands also owned by CODA in the city of Calgary. We would gratefully acknowledge that Ms DeLong has brought forward the bill, sponsored the bill.

I won't go through any introductions other than to say that Mr. Reekie is here today to speak to the description of any of the CODA lands and the Canada Olympic Park; the basic financing of CODA's operations; CODA's background and the various services, programs, and educational opportunities it provides for the city of Calgary's youth and the community at large; the basic utilization of the CODA facilities, what they're there for; and current and planned developments at the park. It's really those current and planned developments that bring us forward seeking to expand the current property tax exemptions with respect to the Canada Olympic Park and surrounding CODA lands.

Mr. Kerlake as an appraiser deals extensively in property assessment matters. He would be happy to answer any questions that the committee may have that are of a technical nature, geared towards property assessment and taxation.

I, of course, will walk the committee through the bill and be here to answer any drafting questions or legal questions that members of the committee may have.

CODA has worked diligently over the last several weeks with the city of Calgary. I'm pleased to report that last night we were able to come to a consensus on the wording of a draft bill. We do have amendments, or suggested amendments, for the committee to consider with respect to the bill.

I don't know, Mr. Chairman, if you'd like me to walk the committee through what those amendments are at this stage.

The Chair: Sure, Mr. Dell. I think that would be a good idea if you could summarize where we are at with respect to the differences. I think the committee members have all read the materials and studiously absorbed the differences that were present leading up to today's meeting. We understand that you've resolved those outstanding two issues and that we have perhaps gotten to the point where we have an agreement here. So if you could just advise us, perhaps, on those two outstanding issues, what they were and how they've gotten resolved.

Mr. Dell: Certainly. The concerns of the city of Calgary – and I certainly invite Mr. Cunningham or Mr. Dalglish to step in if I happen to misstate anything – coming into yesterday were primarily twofold. One was with respect to potential commercial uses of the CODA lands. The second was primarily with respect to gaming and liquor concerns with respect to the land.

We've been able to resolve those issues based upon adopting the principles and the guidelines set out in the community organization property tax exemption regulation. So what you will see in the draft bill is that there is a broad section, section 3 of the bill, which deals with section 2 of the act, dealing with a broad exemption for CODA lands and improvements that are used or intended to be used by CODA in connection with sporting and recreational purposes. That's inclusive of cultural, educational administration, facilitation, support, and advancement of sports and recreation. Those types of lands and improvements section 2 provides shall be exempt from property taxation.

Section 3 of the bill in our amended language was primarily where concerns arose.

Do you wish for me to wait for these to be handed out, Mr. Chairman?

The Chair: Yes. I just would advise, for the benefit of Mr. Boutilier

and Ms Calahasen, that we're now distributing a black-lined version of the revised proposal for Bill Pr. 2, I think, which incorporates some changes that Mr. Dell is referring to.

Mr. Dell, if you could just continue with explaining what those are for the benefit of particularly Ms Calahasen and Mr. Boutilier, who do not have the benefit of the written revisions before them.

Mr. Dell: Certainly. The Community Organization Property Tax Exemption Regulation, or what's commonly referred to as COPTER, provides that certain retail and commercial uses are permitted within exempt facilities provided that the funds or revenue derived from those facilities goes back into the operational costs of a particular facility. Other qualifications prior to COPTER are such that you have to be a nonprofit organization. CODA is a society registered under the Societies Act and is a not-for-profit and also a charitable organization registered with Revenue Canada. So what we've done in section 3 is introduced in section 3(1)(c) and 3(1)(d) limitations on lands or improvements that may be used for gaming in section (c).

Dr. Taft: Sorry, Mr. Chairman. I don't know about others, but I've got now, I guess, two conflicting documents in front of me. Is that right?

Mr. Dell: That's correct. You will have the draft bill.

Dr. Taft: Which one are you talking about?

Mr. Dell: I'm speaking to the amendments to the draft bill, the second document, the black-lined copy that was just handed out.

Dr. Taft: The ones we were just handed one minute ago. So where are you on these?

Mr. Dell: Second page.

The Chair: Correct me if I'm wrong, Mr. Dell. The black-lined version is incorporating the changes that you've just agreed to last evening and are now bringing as suggested amendments for the committee that they might agree to in order to get this bill passed without any conflict.

Mr. Dell: Exactly.

The Chair: So I think, Dr. Taft, we'll direct our minds to the black-lined version of it, which has just been distributed.

Dr. Taft: Okay.

The Chair: Any further comments, Mr. Dell?

Mr. Dell: On page 2, then, you'll see that section 3 of the bill, referring to section 2 of the existing act, provides for the broad exemption for lands used in connection with and supporting recreation and the facilitation thereof. The exemptions are pulled back in section 4 of the bill, with reference to section 3 of the existing act, in 3(1)(a), the interest of a person who becomes the owner of the land. So if CODA sells off lands, then those lands or improvements on them would fall out of the bill and become taxable. The exemptions don't extend past CODA.

In 3(1)(b) the language we've agreed to here is that exemptions do not apply to CODA or the interest of a person who becomes an occupant of the lands and, say, in the scenario where CODA were to

lease an improvement to a nonexempt entity. So lands or improvements that are used for commerce or trade purposes or the sale of assets or goods are withdrawn from the bill. Those types of things would become taxable by the city of Calgary.

In 3(1)(c) the interest of a person who uses the lands for gaming – so that would apply broadly to CODA or any other person who would use these lands for gaming, which would not otherwise qualify for tax exemptions under COPTER. In COPTER there are some narrow provisions that allow some form of gaming, bingos, for very limited purposes. Likewise, with respect to section (d) the sale of liquor would not fall to an exemption except, once again, if it's in accordance with the narrow provisions that allow for liquor sales in that exemption regulation. So in 3 we have a pullback from the exemption primarily with respect to commercial operations.

8:50

Then in subsection (2), if we turn over one page – I heard a comment from Mr. Cust earlier that, unfortunately, this is kind of how property tax legislation is drafted – we now have an exception to the exception in 3(1). What it is is that under subsection (2)(a), where CODA uses its lands or improvements for commerce or trade but that operation would qualify in accordance with COPTER, then the exemption would remain.

The regulation sets out various criteria, the driving criteria being that it's okay to have a tuck shop in your skating rink, it's okay to have a bake sale in your church, it's okay, say, in a community hall to carry on some commercial-type activities provided that the revenue from those activities goes back into the operation of the organization, back into its operating costs and so on.

With respect to CODA, say, for example, in their day lodge – I don't know if people have been there, but they have a day lodge where you can have a lunch and so on and so forth – there is a cafeteria in there. There's also a small shop that sells CODA logo apparel, where you can buy a pair of mitts if you happen to leave your ski mitts at home, and sells CODA-type merchandise. That's run by CODA and operated by CODA, and those revenues achieved from that small operation go directly back into facilitating CODA's operational costs. So in that circumstance those types of commercial retailing operations are permissible, and the exemptions remain.

The Chair: Mr. Allred, you wanted a clarification of that last comment by Mr. Dell?

Mr. Allred: Yes. If I could just get clarification on what you just said. You stated for "operational" purposes in a very broad context, but the act seems to be very restricted for operations for sporting, recreation, cultural, or educational purposes. So it's just operational purposes for those four items – is that correct? – not for the general operation of CODA.

Mr. Dell: If I understand the question, the language used – "in connection with" the facilitation of cultural, sporting, recreation – would entail, through the use of the language "in connection with," and directly relate back to that commercial operation, would directly facilitate the advancement of sport. Those revenues are used to fund CODA's object and purposes, which is to provide sporting and recreation facilities.

Mr. Allred: I guess I misunderstood your original statement. I thought it was very broad operational purposes, which to me could be for most anything. But it's restricted in the act, and that's clearly your intention.

Mr. Dell: Well, it's restricted in the act, and it's also restricted in terms of other legislation as well such as the Societies Act, which prohibits distribution of revenues to members. All revenue is needed to be directed back into the objects of the society.

Mr. Allred: Okay. Thank you.

The Chair: Before I invite further questions from committee members, I'm going to ask the city of Calgary if they would briefly speak to the issues and, I guess, give the committee some level of comfort that the outstanding issues, then, have been resolved and, perhaps, just a thumbnail sketch from the city's point of view of what we're achieving here.

Mr. Dalgleish: Thank you, Mr. Chairman and members of the committee. My name is Stuart Dalgleish. I'm the assessor with the city of Calgary. I'd like to thank Mr. Dell for his comments about the work that we've done with the CODA organization over the last few weeks. It has been very productive, and we appreciate the approach they have taken to bring this issue to us and to work collaboratively with us on the drafting of this bill.

In terms of the city of Calgary's role I think that Mr. Dell has spoken to the purposes of the act and the legislation, so I won't repeat any of that. One of the questions that you may be asking is: why is the city of Calgary here? We do feel as though we have some responsibilities associated with this act. I can summarize those. We're here because one part of this act has an impact on revenues for both the city of Calgary and the provincial government, for that matter. So we feel as though we have a role in ensuring that that aspect of responsibility is addressed around property tax revenues, which are both municipal and provincial.

Secondly, we have a role in respect of taxpayers. When there are exemptions from taxes, the simple translation of that means that other taxpayers subsidize the relief that those exemptions provide. So we feel as though we have a role on a couple of fronts to ensure that those two customers, if I can call them that, are considered in your considerations around this act.

In respect to the CODA property specifically, this is a unique and special purpose property. As Mr. Dell has pointed out, there is legislation that covers exemptions from taxation across the board for any type of organization. This property, though, is larger than the typical property, so there is a private act on which an expansion of the existing exemption is sought. There are also substantial areas in this property that could yet be developed, so we felt that we wanted to make sure that we had a role both in ensuring that the exemptions that would apply today were considered but also that future development was considered as well in the exemptions.

In terms of the issues that we had on the table, there were about – and we did send the committee a letter – eight issues that we had with the initial drafting of the act. Six of those were addressed in advance, a couple of days ago probably, and we've worked hard on the last two issues in the last day. I believe that Mr. Dell has reflected accurately the last couple of issues that we've talked about. They were around commercial purposes being on the property but also specifically the potential scale of those commercial purposes.

Because this is a larger property, the existing Municipal Government Act legislation and the COPTER regulation that Mr. Dell referred to we felt needed some additional pieces in this act to make sure that commercial retail areas, which are allowed on exempt properties through the Municipal Government Act currently, could not be of such a scale or a size that they really would be beyond what the MGA, Municipal Government Act, had originally intended. So we feel as though we've addressed that through some of the draft

wording that Mr. Dell has spoken to. The second piece just around the liquor areas and the gaming areas, we also feel as though we've addressed that because we have now aligned that with the Municipal Government Act and the principles in that particular legislation.

So of the six issues and the last two issues specifically we feel as though we have done our job and represented both levels of government, who rely on revenues from taxes, and also taxpayers, who do need to be concerned about the extent to which they provide subsidies for exemption from taxation where that's granted. So the city of Calgary does believe that its interests and those taxpayer and government interests have been represented. I can also advise you that this was a discussion of an in camera meeting with council yesterday, so council has been briefed on this issue, and no concerns were raised that I needed to bring to this meeting.

Thank you, Mr. Chairman, for the opportunity to make some comments on behalf of the city of Calgary.

The Chair: Thank you, Mr. Dalgleish. Just for clarity, then, you're advising us that the city of Calgary and CODA have agreed with respect to all of those outstanding issues, and they're incorporated into that black-lined revision document that has been circulated to the members of the committee.

Mr. Dalgleish: That's correct, Mr. Chairman.

The Chair: Now I'll ask Ms Woo-Paw to ask her questions.

Ms Woo-Paw: Well, actually, my question is for Municipal Affairs, so should I wait?

The Chair: Okay. Yes. That's entirely in order. Did Municipal Affairs wish to make any comments, or are you waiting for questions?

Mr. Cust: I'm comfortable with waiting for questions from the members, and then I can address any outstanding issues at that time.

9:00

The Chair: Okay. Ms Woo-Paw, you can go ahead.

Ms Woo-Paw: How many questions can I ask?

The Chair: As many as you need to.

Ms Woo-Paw: Okay. First, I would like to understand the rationale for the initial acceptance of including exemption for assessment. It was in the act before, and the recommendation is that the exemption not include assessment anymore, right?

Mr. Dell: I initially addressed that. I think Stuart Dalgleish may want to put something in there as well. But that is correct. The initial act exempted from assessment and taxation. As we've evolved from the former Municipal Taxation Act, that legislation was passed into the current time frame. From CODA's perspective it's really the tax dollars that are of critical nature here. For reasons that I think Mr. Dalgleish could better address than me, we've pulled back on the exemption from assessment and only applied it to taxation.

The Chair: Mr. Dalgleish, do you want to comment?

Mr. Dalgleish: I would echo Mr. Dell's comments. I think that since the act was first passed, in 1988, there have been some

amendments to the Municipal Government Act. It was changed from the Municipal Taxation Act to the MGA around the assessment and tax provisions. This really is an issue somewhat of philosophy. The impact to CODA is the same, but from an assessment and tax perspective one of the principles that we hold quite dearly is that exemption should be from taxation and we continue to assess. That does a few things. It ensures that we keep up to date on the inventory of what is there for properties when it comes to assessment. It also ensures, again, back to the cost of those exemptions and the subsidy that is provided, that we always keep a running tally of what those assessments are so that we're aware of both forgone revenues and the subsidy that other taxpayers provide. It keeps us better up to date with the inventory that we have to manage as well.

The Chair: Ms Woo-Paw, you had another question?

Ms Woo-Paw: Yeah. Perhaps this is for Municipal Affairs. Do I understand that you have some concern around the retroactive date of December 31, 2009? Has that been addressed?

Mr. Cust: The only concern we had was making sure that both parties understood that by making it retroactive, the taxation liability would be in 2010 and that the preparation of their assessment would be calling condition date as of December 31, 2009.

Ms Woo-Paw: So that's addressed. Okay.
I think that's it.

The Chair: Okay. We'll move on, then. Next on our list is Dr. Taft, followed by Mr. Olson, then followed by Mr. Boutilier.

Dr. Taft: Thanks, Mr. Chairman. I'm just trying to get my head around the longer term implications when you're sitting on such a nice piece of land there and the aspirations and pressures and so on for development. I don't think I actually understand yet whether those developments will be exempt or not.

I notice the original legislation was very specific about the objects of the association of Canada Olympic Park, and my impression is that those objects of the association have expanded. It's not just sports; it's culture and other things like that. I notice, actually, that in your plan here on page 8 there's talk about a creative hub to provide infrastructure for film, television, and interactive media. Would all those kinds of developments be exempt?

Mr. Dell: No, not necessarily. You're very correct that the existing act applies very directly to some specific improvements and the lands that they're incorporated onto. In terms of other exemptions CODA also has the benefit of exemptions currently under the COPTER regulation, so what this proposed amendment really does is bring all of them under the umbrella of one set of legislation that's going to be easily administered between CODA and the city of Calgary. Rather than a piecemeal approach to these exemptions, that's been ongoing over the last several years, we're bringing them all together under one umbrella.

If you've read CODA's material, we refer to certain gaps in the legislation. For example, under construction at the Canada Olympic Park is an ice house complex, an arena, a three-arena building, that will be used by Calgary minor hockey, various community organizations, and so on and so forth. This three-arena complex during the stage of construction doesn't fit within the existing act. It also doesn't fit cleanly within COPTER. It doesn't fit cleanly in COPTER until the first puck is dropped. So what we have inclusive in what we're requesting in our petition is that the exemption from

taxation for the arena complex once the puck is dropped be given during the construction phase as well.

You bring up the media centre. I mean, those are just initial discussions now between CODA and the province, and they're not on any official level. That's what I understand. Mr. Reekie can speak more directly to that. Those are informal discussions at this stage. Depending upon what that thing ended up looking like, if it's in relation to sports, recreation, and the furtherance of CODA's goals, then, yes, it could be exempt. If, however, we're talking about Universal Studios and that type of thing, then obviously not. It would fall out of the act and be taxable.

Dr. Taft: Okay. This is probably going to be a concern for me when I read – it's on page 2 of the document that was circulated earlier in this meeting, the proposed amendments. It refers to sporting and recreational purposes inclusive of cultural, educational, administration, facilitation, support, and advancement of sports and recreation. Now, cultural and educational: those are potentially really, really broad. The television and movie centre could fit in there; a concert centre might fit in there; you know, rodeo is cultural. We have debates in the Legislature, and the government tends to define horse racing as a cultural activity.

My concern, frankly, is that this could over the years get quite out of hand in terms of a large development with all kinds of cultural activities that is exempt from property tax, and I wouldn't be very enthusiastic about that. Maybe you can help me see where I've gone wrong in that interpretation.

Mr. Dell: Sure. I think there are two protections, one of them in the existing act and one of them in the draft bill, against that type of thing. First of all, it's tying the exemptions to COPTER, and the second is that there's a ministerial power in the existing bill that would be carried forward with any amendment. So there's always room for the minister to step in.

Dr. Taft: Yeah. Your organization is going to need to allay my concerns, at least – or maybe you can't, and that's okay, too – that we're not opening the door to all kinds of things that might arise five, 10, or 15 years from now that would either create an unfair tax situation, where competitors in other parts of Calgary don't have this advantage, or cause problems for the city of Calgary or set undesired precedents.

The Chair: Can I just ask Mr. Cunningham, perhaps, to comment on that on behalf of the city?

9:10

Mr. Cunningham: Through the chair, Dr. Taft, those were very important concerns to the city of Calgary in doing this, that led to the changes that we are agreeing to at this particular point in time. Basically, section 2 provides an exemption, as you point out correctly, for things including educational and cultural.

When you get to section 3, subsection (2), this says that anything that's commercial is not exempt. Then you get to subsection (b), and there's a further exemption, but that exemption is tied into what has been described as COPTER, the legislation that is applicable to all parties.

If, for example, there was a film studio set up, this has now been set up such that subject to the new section 7, they will be required to report that. I would anticipate the city would know that because it would be able to see the building, et cetera. If that film studio is established and is on this land and if the city of Calgary in its investigation determines that it's, in fact, commercial, then we will

tax them, and it will be up to them to go through the process to prove that pursuant to COPTER, the legislation, they have an exemption.

The way this is established is that by bringing in that regulation, we have leveled the playing field because if there are any concerns in regard to the blanket exemption, we're going to call them on that. We're going to tax them for property tax, and it'll be up to them, then, to go in front of the board that has the appeal process to prove that. That is exactly the same as any other party who may claim an exemption but doesn't have the benefit of this bill. That may be a community association who starts to set up a commercial operation next door to their facility. The city says: "No. Sorry. That doesn't apply." Then they would have to go and get COPTER to do that.

I hope that assists, Dr. Taft.

Dr. Taft: Thank you. I'll study the documents when we have a little more time. Thanks. I appreciate that.

Mr. Olson: Well, thank you very much for the information. Some of my questions were similar, I think, to those of Dr. Taft. In the questions I'm asking, really, I think I'm just asking for some clarification to kind of bounce my understanding off you to see if I'm close to the mark.

Looking at section 2, the limiting words that I see in there are – you know, there's been reference to the various types of activities. I was particularly interested in the cultural and educational activities, too. The limiting words are "used by CODA." Right? If it's used by somebody else, there's no exemption, but if it's used by CODA. It does raise some questions in my mind as to – I guess it's maybe a silly example – if CODA decided to go into the film production business in a commercial way and diversify, what would be the interpretation there? I'll just kind of rattle off a few of my little things here, and then you can respond.

In section 3 in the little couple of words of (b) it says, "CODA or the interest of a person." The reference to CODA is specifically missing in (c) and (d), so I assume that means that CODA can be in the business of gaming and liquor sales and the exemption stays. Is that right?

Mr. Dell: Not quite, sir. The "interest of a person": well, "a person" being broad, it would include CODA.

Mr. Olson: Then why do you specifically say CODA or a person?

Mr. Dell: In (b)?

Mr. Olson: In (b).

Mr. Dell: The scenario that happened there is, say, with respect to the ice rinks that are under construction, that Hockey Canada will likely move their offices into that new building when it comes on stream. Hockey Canada in and of itself is an exempt entity currently under the existing regulation, COPTER, so those Hockey Canada offices would remain exempt from assessment.

Now, let's say that it was a different scenario, where CODA rented out office space to a for-profit corporation. Then that would be captured by the exclusion from the exemption, and that portion of the building, consistent with current assessment practice, would be assessable and taxable. That's basically how the city of Calgary deals with exempt entities who hold office space within office towers downtown. Those exempt entities can apply for property tax exemptions under COPTER.

Mr. Olson: Okay. Thank you. So the bottom line is that if CODA was in the gaming or liquor sales business, they would not be exempt?

Mr. Dell: Only in the event that they complied with the narrow exemptions that are set out in the regulation for gaming or liquor purposes.

Mr. Olson: Okay. Thanks. I just have one other question, and that's on section 7. I understand the annual requirement to declare changes. Does that suggest that at this point – and maybe this is a question for the city – the city is satisfied that they know what's happening there now, so they have kind of an inventory of activities now? Because this just talks about reporting changes. Is there any expectation that CODA is going to have to do some further work to kind of give an inventory before you get to having to report changes?

Mr. Dalgleish: Mr. Chairman, I think we're aware of two specific changes. Back to the reference on the implications for 2010, we're certainly aware of a couple of particular change areas that would have an impact for 2010. That's one of the reasons that we're dealing with this private act today. In our usual processes we are up to date with respect to those processes for 2010. I would see that having an impact for the 2011 assessment roll year, but we're certainly up to date on two specific changes that this private act will have an impact on for 2010.

Mr. Olson: Thank you.

The Chair: Mr. Boutilier, please.

Mr. Boutilier: Yes. Thank you, Mr. Chairman. I want to thank CODA and the city of Calgary. I'd like to speak as a former Minister of Municipal Affairs under the Municipal Government Act, and I'd like to ask this question. I appreciate the city of Calgary indicating that, you know, if someone is potentially going to be exempted from taxation, it means someone else does have to pay. The reference was made to the fact that – by chance do you have a resolution of council with you supporting this initiative this morning from anyone with the city of Calgary legal team?

The Chair: Mr. Cunningham, you wanted to comment?

Mr. Cunningham: Through the chair, no, we don't. As commented by Mr. Dalgleish earlier, this matter was brought to the attention of council yesterday.

Mr. Boutilier: Yes. That's the point of my question. I think it was referenced that this was an in camera session. I'm familiar with the Municipal Government Act and the purposes of in camera sessions. I'm wondering, under the act as it exists today, if this would be also held in public resolution of council, that council would in fact, not behind closed doors but in public, indicate their support of exempting CODA and the provisional changes being made to us as a province. Right now my understanding is that took place in camera, behind closed doors – is that correct? – and not in a public council meeting.

Mr. Cunningham: That's correct. I can't advise what will occur when they are required under the Municipal Government Act to rise and report. That then may become public. Basically, council was briefed yesterday in camera in regard to this matter, given details,

and there were no substantial objections by any council members from what we're aware.

9:20

Mr. Boutilier: You obviously would not have been in attendance at the in camera session. When will they rise and report in public on the decision that was discussed yesterday relative to lending support to this initiative?

Mr. Cunningham: My understanding is that they rise and report upon leaving the in camera session. I stand to be corrected on that, but that's my understanding. Sometimes, candidly, rising and reporting does not include all of the information that was provided or the documents that were provided behind closed doors. So I can't, sir, provide you with a definitive answer as to what has already been made public and whether or not it will be made public.

Mr. Boutilier: That's the point of my question this morning. Thank you.

The Chair: Thank you, Mr. Boutilier.
Mrs. Sarich, please.

Mrs. Sarich: Thank you very much, and thank you for your presentation thus far. Many of my questions have already been addressed. I just was wondering and curious – because there was some attention paid to the cultural, educational, sports, and recreation – why you wouldn't move to have some definitions in this act for that because they're broad and sweeping in any context. Lifestyle sessions could fall quite appropriately under recreation. Many things could fall under any of those areas. I do appreciate that you sort of had brought to our attention, you know, the provision in here for other things to protect the intent of where you're going on this, but I was wondering if you had any thoughts to share about further definitions of those four terms.

Mr. Dell: Thank you, ma'am. Certainly, Mr. Chairman, it might be useful to have Mr. Reekie speak to some of the CODA programs currently in existence with respect to culture, education, recreational opportunities for the citizens of Alberta to frame the background for that discussion. Then maybe I can address the question in the context of, say, section 362 of the Municipal Government Act.

Mr. Reekie: Thank you, Mr. Chair. In regard to the question around educational and cultural as well as recreational and program opportunities out at Canada Olympic Park we do offer year-round opportunities both with summer recreation and also winter recreation. Through what I'll call our brochure program we're offering learn to ski or learn to mountain bike opportunities. We also offer to the Calgary board of education and also the Calgary Catholic separate schools and other chartered schools in and around Calgary the opportunity to bring their school classroom out to the park to, I guess, recreate, sweat, as we like to call it, take part in some activity in order to help improve their fitness overall.

Since the organization has evolved, there's a partnership we have with Campus Calgary whereby schoolchildren come out to the Olympic Hall of Fame, and they learn about the Olympic movement and the ideals involved with that. They try and reach out to them and educate them about the Olympic ideals. Hopefully, the goal there is, again, to motivate young children to be active and to want to go out.

As far as cultural and other educational, CODA also has a partnership with the Calgary board of education currently allowing

what we term developing athletes, or athletes that are on the cusp of perhaps becoming high performance, to continue with their education. It's through our National Sport School. It provides a flexible education program for these athletes that works around their training schedule so that they can go out and train during the day and then go home in the evening and do remote school or remote training sessions online. Those are some of the other areas that CODA has branched out into as far as the educational or cultural piece.

Mr. Cunningham: If I might, Mr. Chair, I would also point out – because this is a concern that the city of Calgary had – section 2. When you read it, it says, “intended to be used by CODA in connection with sporting and recreational purposes inclusive of cultural, educational, administration, facilitation, support and advancement of sports and recreation.” So cultural and educational in that context are restricted to the purposes that CODA actually has set out in their mandate. We are not talking about an artist's enclave in this perspective; we are talking about cultural and recreational matters which are dealing with recreation and sport.

I'll give you an example. One of the reasons that this wording was put in there is that as we speak, I believe, Canada's Sports Hall of Fame is under construction on that site. It's Canada's Sports Hall of Fame which would be a cultural aspect. We are hopeful and believe that from the city's perspective, Mr. Chair, we have covered those aspects.

Mrs. Sarich: Okay. Thank you for that. I think the point was raised very appropriately given the lateness of the briefing by the city councillors – that's the other elected representatives for the people who reside in the city of Calgary – that their briefing was behind closed doors yesterday, an in camera session. Really, they don't have anything on the public record as to where their stand would be at this particular juncture.

I think, at least for me, that it would be very important not to supersede any further dialogue or discussion in the public venue regarding this issue by those elected representatives in that particular city. There's some heightened concern that they haven't come out officially to report or give the public an opportunity to react to what is being proposed here, given that you've done a lot of hard work, and I really appreciate that you've got some common ground here, which is really important and very positive. I look forward to hearing more from the city council of Calgary, from those elected representatives on behalf of their public that they represent, on this particular new common ground that's being proposed here.

Thank you.

The Chair: Well, I think, Mrs. Sarich, certainly their representatives are here today. I'm sure that in due course they'll report back to the council regarding that. Given the interval between today's hearing and the conclusion of our deliberations if there's anything that they wish to add, I'm sure that they will make it known to us regarding, you know, any further advice.

We'll move on. Mr. Kang, please.

Mr. Kang: Thank you, Mr. Chair. On most of the concerns I had, the questions have been asked. Like on section 2 – we come back to CODA again – that it's intended to be used by CODA in connection with sporting and recreational purposes inclusive of cultural, educational, administration, facilitation, support and advancement of sports and recreation. Although Mr. Cunningham tried to clarify this, in my opinion, it's still very, very broad.

You know, with CODA if we are saying, “Okay, sports-related facilities only,” I could see this. Mr. Olson raised the same question,

too. CODA could bring in a studio. Who knows? Maybe you could move the Stampede there tomorrow, and all the proceeds from that would go to CODA. Then they say: well, CODA is doing this. Those are the concerns we have. It's just very, very broad. So I don't know how you're going to satisfy me or other members here.

Mr. Cunningham: Through the chair I very much appreciate your comments. You're correct, and it's obviously something that has been raised. But we've built in a further check in regard to that. Section 2 is the blanket exemption from taxation. Section 3(b) says, "CODA or the interest of a person who becomes an occupant of any of the Lands . . . where CODA or that person's use of the Lands or Improvements" are for commercial purposes and other things. In other words, we believe that if they started to bring in other things, they would have to go through the process pursuant to section 2 of then qualifying, as anybody else would, for those exemptions.

Mr. Kang: Another question I have. It says in section 3(b) here: "CODA or the interest of a person." Couldn't we add "the exempt entity" for "person" so that it would maybe clarify instead of putting "person" in there and then implying that they are the exempt entity?

9:30

Mr. Dell: I believe that, through the chair, your concern is captured by way of the exclusion in 3(1)(b) and then the exception to that exclusion in 3(2)(a). So we take that person out, but we put them back in provided that they make the criteria set out in the COPTER regulation.

Mr. Kang: Mr. Dalgleish, all the taxes exempt for the holder for 375 hectares: what kind of effect is that going to have on the residential property side of the taxes? Is there a number there? How much tax is the city going to let go? That money has to come from somewhere.

Mr. Dalgleish: I'm sorry, Mr. Chairman. If I could just get that second piece repeated again.

Mr. Kang: My question is: would cities go and lose property tax or business tax on non-CODA lands if it's exempt?

Mr. Dalgleish: At this point, through the chair, the city would not be – I want to make sure I say this correctly.

Mr. Kang: I'm just trying to clarify here.

Mr. Dalgleish: Mr. Chairman, at this point in time there would be no loss of current taxes which the city of Calgary receives from the CODA property. In 2010 there is one development taking place on the property, and there is a change on the property that could result in taxes in 2010 were this private act not to be passed.

The current value estimate that we have on those taxes for the additional lands is about \$790,000, \$220,000 of which is the provincial portion, provincial revenues, and \$565,000 of which is the municipal portion. So those are taxes, were this act not to be passed and those exemptions not applied to the hockey rink, for example, in 2010, that the city and the province would receive, but they are not currently being received by the city of Calgary. They have not yet been taxed.

With respect, if I may, Mr. Chairman, on the earlier questions around culture and education if I can just add on one piece.

The Chair: Very briefly, please. We are running up against time issues here for some of our caucus members.

Mr. Dalgleish: Then, Mr. Chairman, I will simply say that I think the intent that we had worked out with CODA was really around the umbrella of everything being sports and recreation. There is another piece in that section 2 which I think is also important. It speaks to: it has to be "used or intended to be used by CODA." It can also only be a portion of the property. So if we see a portion of this property that does not fit within that umbrella of sports and recreation, including culture, et cetera, associated with that, that portion of the property would not be exempt. I think that was an important piece that we built in as well.

Thank you, Mr. Chairman.

The Chair: Thank you.

Mr. Benito, please.

Mr. Benito: I'm just wondering about the inclusion of film development. Why was it included in this discussion? Was it anywhere in the amendment? I'm just curious.

Mr. Dell: No, it's not in the amendment. What we put into CODA's document that was provided to the committee was discussion pieces with respect to potential future development. That is an informal discussion that is being carried on with members of the province with respect to: hey, maybe this would make an ideal place for a film studio. Those are unofficial discussions, but we just put that into the document to make sure.

Mr. Benito: Let me follow up on that line of questioning, Mr. Dell. Do you think film development is part of education and culture or sports and recreation? Would that more or less be part of the objective of CODA?

Mr. Dell: Well, I think that it all depends upon how that was set up. Now, if that's, say, for example, a National Film Board subsidized development to some point or financed through Culture Alberta, with an interest in that development maintained by the province, then, yes, perhaps it may fit within the COPTER guidelines. But if it's a for-profit, studio-type, Hollywood scenario, then it would fall out of the guidelines, and it would be fully assessable and taxable.

Mr. Benito: Okay. Let me ask you a direct question with reference to those first two questions that I asked. The CODA intention is basically about Olympic sports and recreation. That's basically the main reason why you exist today.

Mr. Dell: Yes.

Mr. Benito: Your intention here is trying to put on the playing field other purposes not really on the playing field. You're trying to violate the main objective of CODA, the intent and direction. Tell me if I'm wrong. You're trying to make it different with this amendment. Summer and winter recreation, ski, mountain bike, school participation but with reference to fitness, Olympic ideals, participation in sports, and when it comes to cultural/educational programs for athletes in training: I think that if you go outside of this objective, even though it might be justified later on, in my opinion that might violate the reason for your existence. If that's the intention, tell me if I'm wrong.

Mr. Dell: That's not the case at all. With respect to the educational aspects, for example, it's not only providing flexible education structure for athletes in the making, but also CODA has direct programs with both the Calgary board of education and the Catholic

school board that allow for school trips to the Canada Olympic Park. If you're familiar with the park at all, you'll see a vast array of lands to the east side of the park that have been referred to as the Paskapoo Slopes. There's student geocaching trips there with respect to, you know, plant identification. You'll see some of the photos at tab 3 of what CODA submitted with respect to some of those school activities, and you'll see children out in the field with notebooks taking notes and so on and so forth. So the educational component is a little bit broader than just geared towards the potential development of high-performance athletes.

With respect to the film scenario CODA is going to need to operate within its objects, which are set out at tab 1 of the submission. Certainly, CODA is not in the business of being, you know, a Universal Studios. I think maybe Mr. Reekie would be probably best to speak to CODA's intentions and what its overall objects and its intentions are in furtherance of those objects that it does have.

The Chair: I think the central point is that we have a reference to this outside regulation, which is going to govern it, an umbrella, and then also there's this annual reporting mechanism that's built into the proposal as well. So we should be able to take care of those issues.

Mr. Dell: I believe there are plenty of checks and balances in the draft that's proposed.

The Chair: Right.
Mr. Allred.

Mr. Allred: Thank you, Mr. Chair. In recognition of the time just a short question to Mr. Lagerquist from Municipal Affairs. In the document that we've been presented, your department had a number of concerns. I'd just like reassurance from you that those concerns have been addressed in the draft.

9:40

Mr. Lagerquist: They have been addressed, yes.

Mr. Allred: Thank you.

The Chair: Are there any other questions from committee members?

Well, thank you very much. I would advise the petitioners and those present that the committee will meet on April 13 to consider the submissions that you've made today on Bill Pr. 2. If you have anything further that you wish to get to us, please feel free to do so through our committee clerk. I would also like to thank you for your patience in answering many questions this morning and for your attendance here today. I know it was an early morning for you. You're welcome to leave now. Thank you very much.

Mr. Dell: Thank you, Mr. Chairman.

The Chair: Ms Calahasen, are you still there?

Ms Calahasen: Yes, I am. I'm just in and out, Mr. Chair, because I'm in various areas where sometimes I can't hear what's going on, but I catch some components of the discussion.

The Chair: Okay. We'll just ask members to speak directly into the microphone. I think it might help.

Ms Calahasen: Thank you very much.

The Chair: Mr. Boutilier, are you still there?

Mr. Boutilier: Enjoying waiting for the next group. Everyone is very quiet at this moment.

The Chair: Thank you. I just want to make sure that we're not losing quorum here.

Ms Calahasen: No. We're still here.

The Chair: We're just getting ready to proceed with Bill Pr. 3 here. Bear with us.

I will ask Ms Dean to bring in our next petitioners.

[Mr. Chamberlain, Mr. Ewasiuk, Mr. Harrold, Mr. James, Ms Mrazek, and Ms Perret were sworn in]

The Chair: We'll just advise for the record that Mr. Horne, the sponsor of Bill Pr. 3, has joined us this morning. Welcome. I'm going to ask the petitioners and the other representatives who are at the table to please introduce themselves at this time.

Bill Pr. 3

Lamont Health Care Centre Act

Ms Mrazek: Thank you very much, Mr. Chair. I'm Margaret Mrazek, and I'm legal counsel for the board of management. Actually, I've acted for them since 1992. Beside me is Rick Ewasiuk. He's a senior partner at Reynolds Mirth Richards & Farmer, and he's provided legal services to the board relative to the private bill and certainly other matters. Over to my right is Kent Harrold. He's the chair of the board of management for the Lamont health care centre, and he has been the chair since the inception of the board of management in 1992. To my immediate right is Harold James, the executive director of the Lamont health care centre.

Mr. Chamberlain: Mr. Chair, I'm Martin Chamberlain, assistant deputy minister with Alberta Health and Wellness, and with me is Denise Perret, who is corporate counsel for Alberta Health and Wellness.

The Chair: I will ask the members of the committee to introduce themselves once more for the benefit of those who are attending, starting with Mr. Kang, please.

Mr. Kang: Darshan Kang, MLA, Calgary-McCall. Good morning, everyone.

Dr. Taft: Hi. Kevin Taft, Edmonton-Riverview.

Mr. Amery: Moe Amery, Calgary-East.

Mr. Bhardwaj: Naresh Bhardwaj, Edmonton-Ellerslie.

Mr. Allred: Ken Allred, St. Albert.

Mr. Jacobs: Broyc Jacobs, Cardston-Taber-Warner.

Mr. Lindsay: Good morning. Fred Lindsay, Stony Plain.

Mr. Benito: Carl Benito, Edmonton-Mill Woods.

Ms Marston: Florence Marston, assistant to the committee.

The Chair: I'm Neil Brown. I'm the chair of the committee and the Member for Calgary-Nose Hill.

Ms Dean: Shannon Dean, Senior Parliamentary Counsel and counsel to this committee.

Ms Woo-Paw: Good morning. Teresa Woo-Paw, Calgary-Mackay.

Mr. Olson: Good morning. Verlyn Olson, Wetaskiwin-Camrose.

Mr. Doerksen: Good morning. Arno Doerksen, Strathmore-Brooks.

Mr. Drysdale: Wayne Drysdale, Grande Prairie-Wapiti.

Mrs. Sarich: Good morning. Janice Sarich, Edmonton-Decore.

Mr. Hinman: Paul Hinman, Calgary-Glenmore.

Mr. Xiao: David Xiao, Edmonton-McClung.

Mr. Sandhu: Good morning. Peter Sandhu, Edmonton-Manning.

Mr. Dallas: Cal Dallas, Red Deer-South.

Ms Mrazek: If I may, I'd be very remiss in not introducing Reverend Lynn Maki. Although she will not be giving evidence, she is the executive secretary of the Alberta and Northwest Conference of the United Church of Canada and has joined us and has been very supportive of this bill.

The Chair: Thank you for that.

I would also advise the petitioners that MLA Boutilier and MLA Calahasen are joining us by teleconference this morning, so you may hear from them on your speaker.

Mr. Boutilier: Good morning to the delegation.

Ms Calahasen: Good morning.

The Chair: Okay. Well, I'll ask Ms Mrazek if she would like to make a submission on behalf of the petitioner. If possible, try to keep your comments brief. Where there are some changes to the draft bill that the members have before them, I'm sure that you'll want to address those in some detail.

Thank you.

Ms Mrazek: We will.

There is just a preliminary matter I'd like to raise, Mr. Chair, if I could. While I'm legal counsel for the board of management – and I have been since 1992, its inception – before that I acted for the United Church of Canada for the former Archer memorial hospital, which is part of this integrated facility. I also held and continue to hold a voluntary position with the Progressive Conservative Association of Alberta, where I serve as a member of the executive committee of the party. I did serve as the president from May 2007 to November 2009, and I'm immediate past president of the party now.

I raise this for your information, but I'm here – and I really want to make a strong point on that – in my capacity as legal counsel. I'm legal counsel for the board of management. They've asked me to represent them, and I have represented them since 1992. It's not a new undertaking for me.

I'm here to answer legal questions on legal issues. I do not see a

conflict or bias in my appearing before the Private Bills Committee today because of my voluntary positions with the Progressive Conservative Association of Alberta, but I did want to disclose my involvement so that it's open and transparent. I wanted to just raise that, and I don't know if there are any questions on that. I'm prepared to answer.

The Chair: Well, thank you for that disclosure.

Mr. Boutilier: Mr. Chairman.

The Chair: Yes, Mr. Boutilier.

Mr. Boutilier: Thank you. Just to Ms Mrazek: has someone raised an issue of potential conflict or perception of conflict? I just need to know that. I was quite surprised you introduced yourself because I understand you're there as legal counsel. Has someone raised the issue of potential conflict?

Ms Mrazek: Certainly, it was an issue that was presented to me as a possibility by the chair, and I asked if I could just address it in case there is. I do not see it, because I'm really here to address legal issues, and that's what I'd like to address. I don't see anything else in this bill, especially the form of bill we have here. It should be straightforward, I think. We're continuing a corporation. That's all we're trying to do.

9:50

Mr. Boutilier: Just to yourself, Mr. Chairman: you raised the issue of potential conflict to the committee. Is there a concern that you may have?

The Chair: Well, I think that those concerns now are relatively insignificant because of the fact that some of what might have been outstanding issues with respect to the bill I think have been largely resolved, and I don't see any outstanding issues that would present a difficulty for Ms Mrazek this morning.

Mr. Boutilier: Thank you very much.

The Chair: Ms Mrazek, if you'd like to proceed with your presentation, then, please.

Ms Mrazek: Thank you very much. Just by way of background before Mr. Kent Harrold will expand in a moment on this matter, I just want to indicate very quickly that the Lamont health care centre is both an acute and auxiliary hospital and a nursing home. It's all on adjacent lands. They also do have an assisted living facility in Lamont as well, and it's operated by something called a board of management and located right in Lamont. The board of management, actually, is a corporate entity. It was formed under sections 4 and 5 of the Hospitals Act.

In its simplest terms the board of management is really a joint venture between at that time the district hospital board and the United Church of Canada. Now, of course, it is Alberta Health Services and the United Church of Canada under which the facility is jointly governed.

Sections 4 and 5 of the Hospitals Act are going to be repealed because of the Health Facilities Accountability Statutes Amendment Act, 2007, which was enacted and is going to be proclaimed in force. Once they are repealed, the board of management will cease to exist. Of course, that's a corporate entity and operates the facility, so we need some other way for having the continued existence of this board of management.

From the petition that you have before you, what the Private Bills Committee is being requested is for the continuation of that corporate entity, the board of management for the Lamont health care centre, so that we can continue to operate in the same manner as it had in the past.

The new act is going to be a permanent entity. All we're asking is – and, like I say, Kent Harrold will expand on this – just to continue the operations indefinitely without disruption and to ensure that there's a seamless transfer between the old corporation board of management and the new one. It'll certainly take the board of management out of the Hospitals Act and continue it as a stand-alone entity under the proposed act. This is something that has been an issue for a little while, that it come out from under the Hospitals Act. As you will see from the material presented along with the petition, the concept of doing this under the private mechanism is supported by all the stakeholders. You've got correspondence from Alberta Health and Wellness and from Alberta Health Services.

With this background, I'm going to ask Kent Harrold if he can just give you a little bit more detail regarding the background, and then we'll be prepared to answer questions.

Mr. Harrold: Thank you. In some of what I have to say I will be repeating what our counsel has just indicated. Lamont health care centre consists of two facilities: the acute-care hospital, formerly known as Archer memorial hospital and owned by the United Church of Canada, and an auxiliary hospital and nursing home, formerly known as the Lamont auxiliary hospital and nursing home. It was at one time known as a district hospital, now owned by Alberta Health Services. These facilities were operated independently as separate facilities with their own boards prior to 1992. Since that time, since '92, Lamont health care centre has been operated as an integrated facility by a board of management established as a body corporate under section 5 of the Hospitals Act.

Now, this arrangement was entered into at the urging of the at that time health minister, Marvin Moore, who had come to our facility on our request. We had an old building at that time. Some of it was dating back to 1928. At that time, after his tour of our facility and assessing the situation, Mr. Moore suggested very strongly to us – in fact, it became a requirement – that if we were to get a new facility, we must consider the amalgamation of these two hospitals, which we entered into. The two boards entered into this arrangement, and after some considerable discussion, as you might imagine, the two facilities were amalgamated. That, in effect, made many fiscal arrangements much more efficient so that we were able to combine departments and move our staff around into a much better sort of an organization.

The board of management that was formed at that time in the Lamont health care centre has and continues to operate in accordance with a plan entitled the Lamont health care centre plan. That's dated June 1, '92, declared in force by Ministerial Order 98/92 under section 4 of the Hospitals Act. This plan was amended in '96 and declared in force by Ministerial Order 97/96. The Lamont health care centre continues to be operated in accordance with this plan.

This mechanism for operating the hospital as well as the long-term care auxiliary hospital and nursing home has proven to be a very positive one in that it allows for much more effective and efficient operation of the facilities. At this time the Lamont health care centre plan is the only such plan in existence under sections 4 and 5 of the Hospitals Act. The Lamont health care centre provides services for residents of Lamont and district under a co-operation and service agreement with the regional health authorities and now Alberta Health Services. The petitioner for Bill Pr. 3, the board of manage-

ment, is a body corporate, and it is the employer for the employees of the Lamont health care centre and also has entered into all contracts related to the operations since '92.

In 2007 the Health Facilities Accountability Statutes Amendment Act was enacted. It has not yet been proclaimed in force, but this act repeals sections 4 and 5 of the Hospitals Act, and thus on proclamation of this act the board of management will cease to exist unless otherwise continued. Thus, some legal mechanism is required to continue the board of management so that it can be assured of being able to continue to operate the Lamont health care centre in a manner consistent with the terms of the Lamont health care centre plan.

The board of management did consider options in respect to how it might best continue. One option it considered was to incorporate a new body corporate. However, the assets and contracts and employees of the board of management would have to be transferred over to the new body corporate, and this would create considerable expense and complication and even some risk for the board. It determined that the most efficient and cost-effective way to proceed to continue the board of management and not impact the operations of the health care centre was to proceed by way of a private bill to be entitled the Lamont Health Care Centre Act.

The bill is similar to legislation that was passed last year for the operations of various Catholic facilities under one corporation, Covenant Health. The Lamont Health Care Centre Act, once enacted, will remove the dependence of the Lamont health care centre upon the Hospitals Act for its continued existence. The board of management will simply continue to exist under the new private act with the name Lamont health care centre. This would avoid the difficulty of disruption and risk and expense involved in transferring, as I indicated previously, assets out of one entity and passing them into another. It also avoids having to reapply for a charitable tax number as well.

The United Church of Canada and Alberta Health Services, parties to the Lamont health care centre plan, desire the board of management to continue, and they support Bill Pr. 3. Going the route of a private bill will accomplish the primary goal of ensuring the continued existence of the Lamont health care centre. The board of management sees the Lamont Health Care Centre Act as the only way for a seamless transition of the operations of the Lamont health care centre.

The passing of Bill Pr. 3 will give certainty as to the continuation of the board of management under the same terms as in the plan and will permit the Lamont health care centre to plan for the future.

Thank you, Mr. Chairman.

10:00

The Chair: Mr. Chamberlain, do you wish to make any preliminary remarks?

Mr. Chamberlain: Thank you, Mr. Chair. The minister supports the bill. We have nothing further to add unless there are questions later.

The Chair: Right.

Before calling on members to ask any questions, I just want to put on the record that the members have had the benefit of some advice from our Senior Parliamentary Counsel, Ms Dean, on this. There were certainly some concerns and some issues that, I think, the committee would have dealt with during the course of this proceeding this morning in terms of their questioning, but I understand, Ms Mrazek, that you've had the benefit of some advice and some discussions with Parliamentary Counsel. Perhaps we could address

some of those outstanding issues and how you propose to have them resolved in that the initial draft of the bill that we have before us this morning might be amended to accommodate some of the precedents and some of the concerns that we had before.

Ms Mrazek: Yes, Mr. Chair, we did, and we're appreciative of that discussion because I think we can move fairly quickly, then, and at least present it. I'll start out by stating that there were some changes relative to section 10 that came in from corporate registry, and we do not have any problem with the suggested changes to that. The other concern was relating to the liability provision, and Rick Ewasiuk will be talking about that if he can just go ahead and present because we understand the issue there and what we would propose.

The Chair: I think it would facilitate matters and perhaps speed things up if we could just address those specific issues that have been raised and how you're proposing to resolve them.

Mr. Ewasiuk: All right. Thank you, Mr. Chairman. As has been mentioned, there are a number of housekeeping, more technical-type changes that Ms Dean has raised with us. We're fine with those, and we think, actually, they're very good changes. The one potentially controversial issue had to do with directors' liability or members' liability. Again, I think we're quite happy to adopt the same kind of wording that is in the Covenant Health Act, which deals with that same issue.

The only thing I would add to that and I would ask the committee to consider would be this: as you know, voluntary boards are exactly that; they are voluntary boards. It's difficult enough to recruit quality people to a board without having to present them with personal liability risk.

One of the things I would ask this committee to consider would be this. Under section 112 of the Employment Standards Code there is a provision that directors of corporation can be liable for unpaid salaries, and of course that's a very good provision in the context of a business corporation. You don't want a corporation that's in trouble to scoop money and take it away from salaried employees. It has a very specific purpose. However, even that section recognizes that in the context of a nonprofit organization it's probably not appropriate and not necessary. Section 112 of the Employment Standards Code specifically exempts itself from societies and from nonprofit companies incorporated under part 9 of the Company's Act. The only thing that we would ask this committee to give some consideration to would be a provision that specifically says that this company is also exempt from section 112 of the Employment Standards Code, just like a society would be or just like a part 9 company would be.

Aside from that, that's the only thing at issue that we would ask for, again giving consideration to the fact that, you know, this is a voluntary position, and we do want to encourage quality people. We don't think they ought to be taking that kind of risk.

Thank you, Mr. Chairman.

The Chair: Thank you.

I'll open the floor to questions from committee members now. Mr. Lindsay.

Mr. Lindsay: Well, thank you, Mr. Chairman. I'm not a big fan of creating extra legislation, so the question I have is: why couldn't you accomplish the same thing through the Societies Act or else part 9 of the Companies Act, which appears to me would give you the same thing?

Mr. Ewasiuk: Ultimately it would give us pretty much the same thing. There's a technical issue, and that technical issue has to do with the fact that if we were operating as a society or under part 9 of the Companies Act, we wouldn't have the capacities of a natural person, which is what the modern legislation does. It's just that there are occasions where, technically, that's an advantage.

More than that, it's the process of getting there. In order for us to move to a society or a part 9 company, we would have to move the operations from one entity to another entity, which is quite a complex process. We would have to dismiss all our employees and rehire them. We would have to go out and obtain a new charitable tax number and go through the bother and expense and delay of doing that. We would have to move all of our contracts over to this new entity, which involves a very thorough review of all the contracts that we're parties to, checking to see if, in fact, assignment, which is what that is, is permitted and whether or not this will give people escape abilities that we don't want them to have. It also would involve potentially some reaccreditation issues. It would also involve some risks that wills and other gifts that might be out there might fall into the void because they would be a gift to some identity that no longer exists.

There are a bunch of process issues that make it very difficult, make it risky, and make it very expensive. This is the most efficient way of doing that because we don't change the entity; we simply take the entity out of one act and bring it into the safe harbour of another act.

Mr. Lindsay: Thank you for that.

The Chair: Other questions?

Ms Calahasen: Mr. Chair.

The Chair: Ms Calahasen.

Ms Calahasen: Thank you very much. Good morning, commissioners. There was a comment on the fact that a letter from Alberta health – and I just wanted to hear from Alberta Health and Wellness – noted that the stated objectives that are incorporated in this bill differ from what is in place for Covenant Health. Can you elaborate on this point and explain what that means?

The Chair: Mr. Chamberlain.

Mr. Chamberlain: Thank you, Mr. Chair. That was simply an observation for the committee. The point was that this bill is modelled on the Covenant act. The Covenant act sets up a corporation for general charitable Catholic purposes. This act is a little more specific in that it's taking over one specific facility, the Lamont health care centre, so the scope is actually a little narrower. It was simply an observation for the committee that although it's modelled on the same piece of legislation, the purpose is a little bit narrower in the case of Lamont.

Ms Calahasen: So it doesn't affect anything. It's just a note for us to notice that there is a difference.

Mr. Chamberlain: That's why we raised it.

Ms Calahasen: Okay. Thank you, Mr. Chair.

The Chair: Thank you.
Any further questions?

Ms Dean: Just one clarification.

The Chair: Ms Dean, please.

Ms Dean: Thank you, Mr. Chair. Ms Mrazek, I just wanted to follow up on your comment with respect to the recommended changes that we discussed in connection with the bill. You had mentioned section 10, but I believe it's sections 11 and 12 dealing with dissolution.

Ms Mrazek: It's 10, 11, and 12. I'm sorry.

Ms Dean: Just for clarification, you are agreeable to those recommended changes to those provisions.

Ms Mrazek: Yes, we are.

Ms Dean: Thank you.

Mr. Kang: Are we going to get the copies of those changes which are being made? When will they be available?

Ms Dean: I'll be drafting them in preparation for the deliberations which are scheduled on April 13.

The Chair: Yeah. I think it would be helpful, too, if we had the petitioner sign off on whatever those agreed changes are or at least the submissions that you're making with respect to those possible changes. I think it really obviates the necessity of a lot of discussion if we can come to some consensus on what those changes should be.

If there are no further questions, I'll thank the petitioners for coming this morning and for answering all our questions. You're welcome to leave at this time.

Ms Mrazek: Thank you.

Ms Calahasen: Thank you, Mr. Chair. I think I'm going to lose you in a minute or two.

The Chair: We're not done yet, Pearl. Just bear with us, please.

Ms Calahasen: Sorry, Dr. Brown. I know. I'm just going to be going into an area soon, so if I lose you, it means that I'm out of range.

10:10

The Chair: I hope you're not talking on one of those hand-held devices.

Ms Calahasen: Well, I'm not driving. I've got a driver.

The Chair: Okay.

Now, there is another issue that I wanted to raise under our other business, members, and that is that our next meeting is scheduled for the 13th of April, commencing at 8:30, to deliberate on these various bills. There is a possibility of some exigencies arising due to the business of the Legislature, and I'd like maybe to ask Mr. Olson if he could address that possibility.

Mr. Olson: Well, thank you, Mr. Chair. I was thinking the same thing. Because of there being some time sensitivity to some of these applications and because of some uncertainty, I would suppose, in

terms of when this session will actually end, just out of an abundance of caution I would like to move that

we give the chair discretion to call a meeting at an earlier date if he deems it necessary.

The Chair: Well, thank you. I think that that is entirely in order. Any discussion on the proposal by Mr. Olson?

Mr. Boutillier: Does Mr. Olson know something we don't know?

Ms Calahasen: Yeah. Does he?

Mr. Olson: I wish I did. I'm just hearing all the same speculation.

Mr. Boutillier: Life goes on, Verlyn.

Mr. Lindsay: Chair, again, not knowing when session is going to be completed, what is the downfall or the danger of carrying this legislation over to a fall session?

The Chair: Well, I think there is certainly some urgency in the case of the Lamont health centre, as I understand it. On June 1 the piece of legislation is ceasing to exist, and the hospital's operations are really in the balance, so I think at least in the case of that one there is certainly some urgency in proceeding. In the case of Pr. 2 I think that they also had some issues with respect to timing there in terms of retroactivity of the application of their tax because of that building that's under construction or that ice facility. So I think that there certainly are some issues with respect to trying to get these bills through, if possible, in the spring session.

As I understand it, if there is no issue with, you know, the procedures in getting through the House in second reading, Committee of the Whole, and third reading, then we'll just leave the date as it is, but I think it's in order to have some discretion to bring that meeting forward to an earlier date if we need to.

Mr. Boutillier: Mr. Chairman?

The Chair: Yes, Mr. Boutillier.

Mr. Boutillier: I just don't want to be presumptuous. I think that it was a very good meeting you chaired this morning with all the members and the comments. However, it's my understanding that we will determine the recommended action to the House in the meeting on the 13th. I just don't want to be presumptuous on what the resolution of the committee will be on the 13th or if you determine to call it earlier.

The Chair: No, not at all. The thing is that we need a little bit of latitude. We may need some latitude with respect to having the deliberations because after the deliberations we have to present my report to the House. I think under the standing orders we also have to put it on the Order Paper, and then we have to go through second reading, Committee of the Whole, and third reading. Now, that happens on the 13th, which is the second day back after our break, I believe. So there are some issues there just with respect to timing. We just don't have a lot of flexibility other than calling people back, you know, in the middle of their break, which I will certainly endeavour not to do.

Mr. Kang, you had an issue, and then Mr. Allred.

Mr. Kang: Well, I think my issue has been addressed. Thank you.

The Chair: Okay.

Mr. Allred: Mr. Chair, I don't have any issue at all with regard to Pr. 3, but with regard to Pr. 2 I think it has been suggested that perhaps we need a resolution from the council of the city of Calgary confirming what we have been told today. I would support that. With regard to Pr. 1 I would like to see a letter from some of the other areas within southern Alberta that have community associations, confirming that they don't feel threatened by this legislation. I would suspect with Pr. 1 there's probably no urgency in that issue.

The Chair: Right. Well, we can talk about all of those issues when we come to the meeting for deliberation. Let's just address the issue for the motion.

Mr. Allred: Well, I guess I'm suggesting, Mr. Chair, if we're going to address those, we should have that in advance or make them aware we're going to expect it in advance of that meeting.

The Chair: I understand. Yeah. Good comment.

Any further comments regarding the motion that Mr. Olson has made? All in favour, please say aye or raise your hands.

Hon. Members: Aye.

The Chair: Anyone opposed? Thank you very much.

That concludes the business of the meeting unless there's anything else that members want to raise.

Mr. Allred: Do we need a motion to ask for something from city council?

The Chair: Well, I think your comments are entirely appropriate, and I think that Ms Dean will pass those on to the petitioners in both those instances.

Okay. I'll accept a motion to adjourn. Mr. Drysdale, I think, had his hand up first. All in favour? Anyone opposed? Carried.

[The committee adjourned at 10:17 a.m.]

