



Legislative Assembly of Alberta

The 27th Legislature
Fourth Session

Standing Committee
on
Private Bills

Tuesday, April 26, 2011
8:30 a.m.

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Standing Committee on Private Bills

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Woo-Paw, Teresa, Calgary-Mackay (PC), Deputy Chair

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Boutilier, Guy C., Fort McMurray-Wood Buffalo (W)
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Doerksen, Arno, Strathmore-Brooks (PC)
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Jacobs, Broyce, Cardston-Taber-Warner (PC)
Kang, Darshan S., Calgary-McCall (AL)
Lindsay, Fred, Stony Plain (PC)
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McQueen, Diana, Drayton Valley-Calmar (PC)
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Rogers, George, Leduc-Beaumont-Devon (PC)

Bill Pr. 2 Sponsor

Pastoor, Bridget Brennan, Lethbridge-East (AL)

Bills Pr. 3, 4, 5, and 6 Sponsor

Johnston, Art, Calgary-Hays (PC)

Bill Pr. 7 Sponsor

Rodney, Dave, Calgary-Lougheed (PC)

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Standing Committee on Private Bills

Bill Pr. 1, Alberta Association of Municipal Districts and Counties Amendment Act, 2011	PB-87
Bill Pr. 2, Galt Scholarship Fund Transfer Act.....	PB-87
Bill Pr. 7, Hull Child and Family Services Amendment Act, 2011	PB-88
Bill Pr. 3, Auburn Bay Residents Association Tax Exemption Act.....	PB-88
Bill Pr. 4, Cranston Residents Association Tax Exemption Act.....	PB-88
Bill Pr. 5, New Brighton Residents Association Tax Exemption Act.....	PB-88
Bill Pr. 6, Tuscany Residents Association Tax Exemption Act.....	PB-88

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[Dr. Brown in the chair]

The Chair: Good morning, everyone. Thank you, all, for being so punctual on the first day after a long weekend.

I want to note for the record that Mr. Lund is here as an official substitution for Ms Redford, and Mr. Groeneveld is here as an official substitute for Mr. Jacobs. Mr. Boutilier is going to be joining us via teleconference. I also received regrets from Ms Woo-Paw, who indicated that her flight from Calgary has been delayed, so she may not be able to join us in time for the meeting this morning.

I would invite everyone present to introduce themselves for the record. If we could start on the left with Mr. Hinman, please.

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

Mr. Xiao: Good morning. David Xiao, Edmonton-McClung.

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

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

Mrs. McQueen: Good morning. Diana McQueen, Drayton Valley-Calmar.

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

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

Mr. Allred: Ken Allred, St. Albert.

Ms Dean: Shannon Dean, Senior Parliamentary Counsel, director of House services.

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

Ms Marston: Florence Marston, assistant to the committee.

Mr. Lund: Ty Lund, MLA, Rocky Mountain House, pinch-hitting for Alison Redford.

Mr. Doerksen: Arno Doerksen, Strathmore-Brooks.

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

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

Mr. Groeneveld: George Groeneveld, Highwood, sitting in for Bryce Jacobs.

Mr. Rodney: Dave Rodney, Calgary-Lougheed.

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

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

The Chair: Mr. Boutilier, are you there? Not yet. Okay.

What I would like to do is start with the approval of the agenda. If I may make a suggestion before a motion is made, could I suggest that we move Pr. 7 up in the order after Pr. 2 and that we deal with Pr. 3, 4, 5, and 6 together. We did hear them jointly, and I think it makes sense to hear them together. Is that agreeable?

Hon. Members: Agreed.

The Chair: Any objections? Okay. Then we'll proceed that way.

Any other suggestions on the agenda? Could I have a motion, then, to approve it as amended? Mr. Doerksen. Thank you. All in favour? That's carried.

The first order of business, then, would be Pr. 1, the Alberta Association of Municipal Districts and Counties Amendment Act, 2011.

Mr. Boutilier, are you there?

Mr. Boutilier: Yes. Good morning, Mr. Chair.

The Chair: Good. Welcome. We have just approved the agenda with a change, Mr. Boutilier. We're going to move Pr. 7 up after Pr. 2, and we're going to deal with Pr. 3, 4, 5, and 6 together as far as discussion goes.

Mr. Boutilier: Thank you.

Bill Pr. 1

Alberta Association of Municipal Districts and Counties Amendment Act, 2011

The Chair: Okay. Pr. 1, the Alberta Association of Municipal Districts and Counties Amendment Act, 2011. Ms Dean, do you want to make any comments on that?

Ms Dean: Thank you, Mr. Chair. I don't have any substantive comments further to my report in connection with this private bill unless there are any questions.

The Chair: The amendments requested appear to be in order. Could I have someone, then, make a motion? Mrs. McQueen, I think, had her hand up first.

Mrs. McQueen: I'll move that

Bill Pr. 1, the Alberta Association of Municipal Districts and Counties Amendment Act, 2011, proceed in the Assembly.

The Chair: Any discussion? Then can I call the question? All in favour? Anyone opposed? That's carried unanimously.

Mrs. McQueen: Mr. Chair, we might want to do the minutes.

The Chair: Okay. Can we do those at the end?

Mrs. McQueen: Yeah. Sure.

The Chair: Sure.

Bill Pr. 2

Galt Scholarship Fund Transfer Act

The Chair: I think this one was in order. There didn't seem to be any difficulty with the amendments requested. There was no opposition.

Ms Dean: If I may, Mr. Chair, just point out that the University of Lethbridge did provide a letter confirming that they are agreeable to taking over the administration of the trust fund for the scholarships.

The Chair: Right.

Mr. Allred: Mr. Chair?

The Chair: Yes, Mr. Allred.

Mr. Allred: That was my concern, and I'm satisfied.

The Chair: Thank you.

Mr. Doerksen, could you make a motion now?

Mr. Doerksen: Thank you, Mr. Chair. I move that

Bill Pr. 2, the Galt Scholarship Fund Transfer Act, proceed in the Assembly.

The Chair: Any discussion? Then can I call the question? All in favour? Anyone opposed? Okay. That's carried.

Bill Pr. 7

Hull Child and Family Services Amendment Act, 2011

The Chair: Moving on, then, to Pr. 7, the Hull Child and Family Services Amendment Act, 2011, any discussion? Mrs. Sarich, would you like to make a motion, then?

Mrs. Sarich: Thank you, Mr. Chair. I move that

Bill Pr. 7, Hull Child and Family Services Amendment Act, 2011, proceed in the Assembly.

The Chair: Thank you. Any discussion? Mr. Rodney, you're the sponsor of that bill.

Mr. Rodney: And I'm very much looking forward to it. Thank you.

The Chair: Can we call the question, then? All in favour of the bill proceeding as is? Anyone opposed? Mr. Boutilier?

Mr. Boutilier: I will say if I am opposed on any of the motions. Thank you.

The Chair: Thank you. I didn't hear one way or the other, so I don't like to assume. That is carried.

Bill Pr. 3

Auburn Bay Residents Association Tax Exemption Act

Bill Pr. 4

Cranston Residents Association Tax Exemption Act

Bill Pr. 5

New Brighton Residents Association Tax Exemption Act

Bill Pr. 6

Tuscany Residents Association Tax Exemption Act

The Chair: Okay. We can move on to the discussion on the remaining bills. Mr. Allred, would you like to make a motion on that?

Mr. Allred: Well, Mr. Chair, I'd like to make a few comments first.

The Chair: Sure.

Mr. Allred: Just a few comments on bills Pr. 3, Pr. 4, Pr. 5, and Pr. 6. Mr. Chair, while I'm very sympathetic to the position expressed at the last meeting by the representatives of these residents associations, I believe the committee needs to look at the big picture. I am certain that there are many residents associations and possibly even condominium associations and maybe even public golf courses and other sport and/or arts groups that might fit into similar circumstances. I am also cognizant of the fact that by overruling the municipal corporation on these four decisions of the Assessment Appeal Board, we may be seen as deciding municipal

issues without all of the relevant facts and thus creating a dangerous precedent.

I also feel that geographically this is a much larger issue than just the city of Calgary and needs to be examined from a provincial perspective, recognizing also that there are many new and innovative forms of land development being proposed every day in this province and indeed across the continent. Many modern developments these days are required by the municipality to provide services for new neighbourhoods that have formerly been provided by the community at large. These new development requirements demand a closer examination of the nature of community organizations and how they fit into the system of local government taxation.

8:40

However, I do acknowledge that there have been a few decisions of the Municipal Government Board that have upheld appeals in similar situations. The Municipal Government Board is a properly constituted body with the authority and the expertise to hear these appeals and decide based on all of the evidence and the applicable law.

I also appreciate that an appeal to the Municipal Government Board is a costly and time-consuming process. I am concerned with what appear to be lengthy delays in rendering decisions by the board. Nevertheless, the proper recourse in these situations, a comprehensive and long-term solution which has been endorsed by both the representatives of the city of Calgary and the Department of Municipal Affairs, is to review the Municipal Government Act and the community organization property tax exemption regulation, otherwise known as COPTER, and make a well-thought-out policy change that addresses situations of this nature.

Having said that, Mr. Chair, I recognize and appreciate that the residents associations do serve a very useful purpose, providing recreational facilities for the residents that would otherwise have to be provided by the citizens at large through their tax dollars. These residents, however, do know up front that they will be levied an annual recreation levy through their agreement to purchase and a notice of which appears on their certificate of title. They also have certain privileges and priorities granted to them as shareholders of a sort in these recreational facilities.

Mr. Chair, I would therefore move that

the Standing Committee on Private Bills recommend to the Legislative Assembly that Bill Pr.3, Auburn Bay Residents Association Tax Exemption Act; Pr.4, Cranston Residents Association Tax Exemption Act; Pr.5, New Brighton Residents Association Tax Exemption Act; and Pr.6, Tuscany Residents Association Tax Exemption Act, not proceed.

Thank you, Mr. Chair.

The Chair: Thank you.

We have a motion, then, on the floor, and we can open the floor to discussion.

Mr. Hinman: I can appreciate what Mr. Allred is bringing forward. I guess that for the residents the concern that I have is that once again the government seems to be failing the different organizations and communities. Again, because we didn't have the Minister of Municipal Affairs in here, we're not going to address it. I'd be much more comfortable even putting in a sunset clause.

Since 2006 this has been an ongoing dilemma for these communities, and they've spent an awful lot of money to do that. I mean, if government was going to come forward and say, "Look, we're going to bring something forward," this government has the ability and has in the past brought bills forward and passed them in 30 days. We've got numerous bills in front of us in the Legisla-

ture right now, and I don't understand why we're not addressing a known concern like this and having a bill come forward from the government to do it. So the delays concern me.

They meet the standards – public access, educational, health-wise – and it just seems like, if nothing else, we could have talked to them to have a sunset clause, you know, for three years so that the board can rule on these and set precedent because once wasn't enough, we heard. It's just frustrating to see these communities go on, with the money and the time that they're spending, and we're going to say: well, the committee isn't in a situation. Well, to me, then, the Minister of Municipal Affairs should be doing something and bringing something forward to accommodate these problems.

The Chair: Before we proceed, I just want to make note that we've been joined by Dr. Morton and Ms Woo-Paw. Welcome.

I also would like to point out to the committee that we have received some late documentation regarding three of these organizations, the Tuscany, New Brighton, and Auburn Bay residents associations, which indicated that a Municipal Government Board decision has been rendered with respect to the 2009 tax exemption, which has been allowed for those three associations. I don't think it'll affect greatly the discussion here this morning, but it's information that they were found to be exempt in those particular cases.

Dr. Taft.

Dr. Taft: Thanks, Mr. Chairman. I would just like to get it on the record to urge the government to move quickly on this. I agree that the private bills mechanism is not the way to go, but these are issues that need to be dealt with quickly in fairness to all the tens of thousands of people involved. So I would just like to urge the government members here to twist the arms of your ministers and see how quickly we can move this issue along.

The Chair: Dr. Taft, would you hold that in abeyance until we deal with this motion?

Dr. Taft: Sure.

The Chair: Perhaps you'd care to make a motion calling for the committee to make such a recommendation to the minister – I think that would be entirely in order – after we've dealt with the main motion.

Dr. Taft: I'd be happy to do that.

The Chair: Just for the record I would welcome Mr. Horner, who has now joined the proceedings. Welcome, Mr. Horner.

Mr. Horner: Thank you, Chair.

The Chair: Okay. We have a motion here that these four bills not proceed. Further discussion, please?

Mr. Boutilier: Mr. Chairman?

The Chair: Yes. Mr. Boutilier.

Mr. Boutilier: Yeah. Thank you. I appreciate the comments this morning. Obviously, the motion which was put forward by Mr. Allred was in advance of – was he aware of the decision by the Municipal Government Board? He had made reference to the fact that, of course, they had made a decision indicating that the communities had qualified, but that information, Mr. Chair, we had not seen. I was wondering if he will reconsider his motion now in light of what you shared with the committee this morning relative to the decision that has been made.

The Chair: Mr. Allred.

Mr. Allred: Thank you, Mr. Chair. I think it was mentioned at the hearing last week. No, I wasn't aware specifically of that motion, but I note it's dated 2001, so it's 10 years old, actually.

Mr. Boutilier: Mr. Chair, I would like to say as the former Minister of Municipal Affairs that the citizens from Calgary have utilized the . . .

The Chair: Mr. Boutilier, can you just hold off a minute, please? We have just an intervention here.

Ms Dean: Can I just clarify the status of that decision that was distributed this morning? This decision of the Municipal Government Board was released last Thursday. We got it yesterday via e-mail. It's in connection to the 2009 tax status for the four entities.

Mr. Allred: Sorry, Mr. Chair. I misread it. It's 2011, not 2001.

The Chair: Okay. Thank you.

Mr. Boutilier, you can proceed now.

Mr. Boutilier: Thank you, and thank you for that clarification. Of course, when the residents were in front of our committee utilizing the private member's bill, they were utilizing the existing law. I'm very concerned with the comment that perhaps it should not be in front of our committee. I have to ask and reflect to all members of the committee on the purpose of the committee. The citizens of Calgary have come in front of our committee and did, I thought, a very good job.

The Municipal Government Board, with all due respect to Mr. Allred, relative to us and the other jurisdictions, specifically the municipality of Calgary, I think clearly has utilized the existing law. The Municipal Government Board overruled the civil servants and the bureaucracy within the city of Calgary who, of course, had gone in front of the board. The Municipal Government Board looks at the big picture, which I think is most important in reference to some earlier comments, and made a decision to grant the citizens and these associations the tax exemption because of the public good and because of the fact that they met the public threshold under the category provided. So the Municipal Government Board did their job. I think it sets an important precedent, and I think it sends an important message to the civil service within the bureaucracy of the city of Calgary.

Now, fortunately, you know, I can only say that our responsibility is to listen to all of that. Having been a former Minister of Municipal Affairs, it's clear to me that I support what the residents of Calgary have done and that, therefore, looking at the big picture, I think it has served the test of time, especially with the 2009 ruling that was just announced last Thursday. Therefore, I believe this should come forward to the Legislature, and I guess I would say that I would not be supporting the motion being put forward at this time.

8:50

The Chair: Okay. Thank you.

Any further discussion?

Mr. Allred: Well, Mr. Chair, perhaps I can just address Mr. Boutilier's comments. I see now that this is the one that was spoken of that was before the Municipal Government Board and has now just come forward last week, and I haven't had time to read it. Nevertheless, I asked the question specifically last week, I think, of Mr. Dalgleish, the chief assessor for the city of Calgary, on if the Assessment Appeal Board took into consideration municipal

government boards as precedents. I believe he answered that they did consider them, and I would hope that in view of this latest decision and the hearing last week the Assessment Appeal Board will pay a lot closer attention to these decisions.

In the bigger picture I don't think it's in the overall interests of the province to pass private members' bills on these individual situations. I could see that next year we'd get about 50 of them because this will set a precedent that we will have an awful lot of difficulty counteracting in the future. I do agree with what Dr. Taft said, that we do need to urge the Minister of Municipal Affairs to move forward expeditiously with a review of this legislation and come up with some amendments. Possibly the amendments can be made just to the regulations as opposed to opening up the act.

So I think we can move forward with it expeditiously, but I think it's important that we do it right.

The Chair: Thank you.

Is there any further discussion?

Mr. Hinman: I guess I'd just like to add to the comments. Again, as Mr. Boutilier brought forward and to my understanding, they've met, and according to council they've done everything properly for a private member's bill. They've brought it before the proper committee. I just see no reason, if everything is in order, for us to say, "Oh, we're not going to hear it," when they've done what is right.

I would add that I think this would do a lot more than just urge the government, if they're in fear of a landslide of private members' bills coming forward, to actually act before the next time.

The third thing is that if we refuse to accept this and they've gone through the proper process for a private member's bill, what message are we sending to all those other areas? It says: "You know what? Even if you come forward to the Legislature in the proper process, we're not going to listen because we think that government should handle this." We don't want to act and set – well, maybe I should say open the floodgates to more private members' bills. I think it would also send a loud and clear message to those municipalities that want to try and have a tax grab, to double-tax the different associations, and appeal, saying: well, we've got these technicalities; therefore, we'll appeal for another year or two more years or three more years. I mean, in this case since 2006. Five years. They can say: well, the Legislature is not going to deal with it, so we can grab these taxes for the coming years.

I think that it would be wrong for us as a committee to vote against this purely because we don't want to have a landslide of private members' bills coming forward next year. If they've met the criteria, if they've done what's right, I think that we should vote accordingly.

I would ask that we would have a recorded vote on this when it comes to the vote.

The Chair: Thank you.

Dr. Taft, please.

Dr. Taft: Thanks, Mr. Chairman. First of all, I need to get it on the record for the people reading *Hansard* that these are not private members' bills. Okay? These are private bills, and the purpose of private bills is very different. People reading need to understand that we're dealing with two different things here. These are private bills, which are intended to deal, essentially, with issues that cannot be dealt with in any other manner.

What we've found – and Parliamentary Counsel might be able to correct me if I'm wrong here – is that this is a broad issue. I learned over the weekend of cases in Edmonton that would likely

come forward next year or in the near future to do the same thing. We are tying up a third of the Legislative Assembly on these bills for hours at a time. We've probably spent more time on these bills than we've spent on most of the department budgets and certainly more man-hours of the Assembly. Billions of dollars go through budget debate with far less consideration than what we're giving these. If we do this time and again, next year and the year after, then when they need to be amended, we'll be convening some Private Bills Committee of the future.

These are legitimate issues. This is, in my view, not the correct way to address them. There are much more efficient, effective, flexible ways to address them than a specific act of the Assembly.

So I cannot support the positions of the members for Fort McMurray-Wood Buffalo or Calgary-Glenmore. It doesn't mean I don't support the people who've brought these issues forward. They've been put in a corner by a government that hasn't been responsive. But the solution is not for us to pass the bills; the solution is for the government to be responsive.

Mr. Boutilier: Mr. Chair?

The Chair: Mrs. Sarich is next, please.

Mrs. Sarich: Thank you, Mr. Chair, and thank you, Dr. Taft, for your level of clarification on this particular issue. I'm reminded by the presentation that the individuals gave on Pr. 3, Pr. 4, Pr. 5, Pr. 6, which is up for our discussion this morning, that one of the issues we must keep in mind here is that albeit that this avenue of private bills was and is available to be heard and presented to the committee, the other issue is that those groups were waiting for an adjudication by the MGB attached to the city of Calgary. Having received in our hands this morning the documents on the ruling, the summary of the decision giving exemption to three out of the four, with one issue still outstanding, I think that those parties that gave the presentation would be very pleased with the results that have been decided as of last week.

I agree that this avenue was available to these groups, to come forward to be heard, but it's rather awkward when you're waiting for an adjudicated decision at the municipal level. That's the difference here on these issues. It's very difficult for members of a Private Bills Committee to be put in the middle of such a decision. I'm very pleased although it took some time for the matter on three out of the four to be adjudicated.

I like the direction that Dr. Taft is proposing for our next discussion, to have more robust responsiveness at the municipal level. There are ways and means of doing that.

Thank you, Mr. Chair.

The Chair: Okay. Mr. Boutilier, followed by Mr. Hinman, please.

Mr. Boutilier: Yes. Thank you. I think the points that were just made are valid as well. I think that ultimately when the decision was made for these private bills to be allowed to be brought forward – I'm not sure, Mr. Chair. Perhaps you could elaborate on the process that was used to allow those private bills to be brought forward in light of the decision that was made by the Municipal Government Board. That's something that I think at our next meeting we can reflect on as well if, in fact, you know, the decision is not to allow it to go to the Assembly.

Perhaps that discussion should have taken place at the very onset, when the private bills were brought forward. If, in fact, the decision regarding the Municipal Government Board – the Municipal Government Board is new information that, certainly, I think, is obtaining the remedy that myself and Dr. Taft have mentioned as well as the Member for Calgary-Glenmore.

I think that, first and foremost, our objective is to get the acceptable remedy for the residents. I think that ultimately the standing committee – and I say this as a former minister over, let me see, six or seven years ago, that it is unfortunate that Municipal Affairs has not taken some leadership from the government to remedy this situation well before it arrived in front of our table.

The reason for my decision of wanting it to come forward to the Assembly is because I do not have confidence in when the Ministry of Municipal Affairs will bring something in front of the Assembly. I have seen other examples of things that are under review, but they still have not been brought forward to the Assembly. In Fort McMurray we have a situation right now. I know that another member from Calgary has asked for numerous reviews regarding two situations, that I believe have still not been brought forward to the Assembly.

9:00

Therefore, if a minister of the Crown does not want to do his or her job, then this standing committee will do their job for them. That's what I interpreted has taken place this morning. I don't have confidence that a review would be brought forward by the Ministry of Municipal Affairs at any time in the future because it had five or six years to be able to do that. That's why I will not be supporting the motion put forward by Mr. Allred.

Thank you very much.

The Chair: Mr. Hinman, please.

Mr. Hinman: Yes. I'd first like to thank Dr. Taft for his enlightenment. I always appreciate his experience and knowledge, and it'll be missed if he continues to decide not to run in the next election.

It still begs the question for myself. If they've come through the proper process to get a private bill, why would we not do a vetting process to say that these aren't qualified to come forward, make that decision, rather than go through all the time of studying them. Dr. Taft is completely correct in that we spend less time on the budget than on these bills. But if they've gone through the proper process for a private bill and it meets all that, how do we as a committee now say that it's taking too much of our time?

I mean, this is pointing the problem to Municipal Affairs. They haven't addressed it. If they've gone through the proper process – and they have, to my understanding; otherwise, it wouldn't have been brought before us – why would we step now and say, "We've spent all this time; let's not correct the problem and go forward"?

I do agree. I don't want to have 50 bills next year to spend the time on. Yet if Municipal Affairs doesn't act and correct this, we condone the practice and say that municipalities can continue doing this because we're not going to act either in Private Bills or with Municipal Affairs. I think that we need to send a message and say that they've done what's right. They did their homework. They applied for it properly. It is a properly applied-for private bill, and we should be able to pass it. Like I say, if anything, put in a sunset clause, then, and say that in five years it expires. Then Municipal Affairs, perhaps, will have it in order.

It just seems wrong. Justice delayed is justice denied. These people have brought forward their bill, and it just seems wrong to me that we would say no to it. If it doesn't qualify to come forward as a private bill and should be dealt with somewhere else, that isn't a decision that we should be making at this committee level, I don't feel.

Thank you.

The Chair: Well, thank you, Mr. Hinman. Just for clarification, though, whether or not the bill qualifies as legitimate territory for a private bill is what's to be decided and adjudicated here in this room. That vetting process doesn't take place when they submit a petition. A petition has very basic requirements, and they're all technical in nature with respect to advertisement and notice and so on, to give notice to anyone who cares to oppose it. That process does not take place until the bill gets to this stage. So it's really up to us.

We serve two functions in this committee, as I mentioned when we began. One of them is the legislative process, to take the bill. The other is quasi-judicial, and that's where we hear both sides of the argument. That's why we heard opposition from the Department of Municipal Affairs and the city of Calgary. With respect, I mean, anyone can bring a petition for a private bill. It doesn't necessarily mean that it would be an appropriate area of responsibility for the committee to pass on to the Legislature.

Mr. Hinman, do you care to respond?

Mr. Hinman: Well, I always appreciate the clarification. I don't know because there are ramifications both ways. Perhaps we should decide first whether or not these bills should be studied in depth and we should listen to all of that if we think that this is something that's not appropriate here. Why spend all the time having the people come here and present their case if, in fact, we can say: this is Municipal Affairs. I don't know. Like I say, maybe we have to do it in that order, but it just seems like we should be able to vet it first and say that this isn't something that we're going to take the time or have people spend a lot more time and money to come forward if this is going to be our decision. We could have come to this decision before we listened to all the hearings, I think, with just the paper that was sent to us on the paper application side.

The Chair: Thank you, Mr. Hinman.

Mrs. McQueen, please.

Mrs. McQueen: Thank you, Mr. Chair, and thank you, everyone, for the comments. Just a couple of things, I think, to follow up on what Mr. Hinman just said. These folks absolutely have a right to be heard. The purpose, my understanding is, of this committee is to decide in this particular case of these four bills: is there another process, or is this the only process that they have to have their bills go through?

There is, indeed, another process. Councils are duly elected by the public of Alberta. They have rules to fall under which are guided to them by the Municipal Government Act. The act, an enabling piece of legislation, clearly states to them where they can make bylaws and govern accordingly. Those folks are duly elected by the citizens of Alberta every three years.

In this case, when there is someone that petitions with this, our job, really, on this one is to decide – whether we agree that they should be exempt or not isn't the issue. The issue that we're to decide here is the process. Is there another process for them to follow? Absolutely. It's laid out in the MGA. If, indeed, we have heard from them that there may be flaws in the process, then that is the point where we're opening the act. The gentleman from Municipal Affairs says that there will be a review of the Municipal Government Act. This will be a section of the Municipal Government Act that has been raised and that would be under review as well.

To me it's very clear today what we're supposed to decide on. Absolutely, we should be hearing from these folks. Our job is to then decide: is this the only place for them to be heard? If it's not,

if there is another process, then that's the process they follow until such time as we change the process in the act.

Thank you.

Mr. Hinman: That answers the question, and that should be the first question we ask. Is there another place for this to go through? We shouldn't have wasted so much time and effort here in this committee if, in fact, it's just the process and there is another place for them to apply. Therefore, we don't need to hear this. That's the point that I was trying to make. Have we got the cart before the horse? According to the last speaker I would say: yes, we do. Let's at least get the horse in front of the cart for the rest of the private bills that come forward.

The Chair: Mrs. McQueen.

Mrs. McQueen: Thank you. I'm sure Mr. Hinman would agree with me that it's never a waste of time to listen to Albertans on issues. I know he would agree with that. The point is that I don't think it's a waste of time because in hearing this being brought forward, we are also hearing that there is, potentially, a flaw in the process. It's not working for Albertans. Parts of our acts are not working for Albertans. This here has I think been brought out to us by them, and now it's an opportunity for us to raise that issue. Perhaps, as mentioned, Dr. Taft will raise that within a motion that we would further direct.

I don't think that this was a waste of time, and I don't believe that you do either. I think what follows out of that is, one, we found out that, yes, there is another process. Two, we found out that there may be some flaws within the act that we need to address as a government.

Mr. Boutilier: Mr. Chairman?

The Chair: You're next.

Mr. Kang, please.

Mr. Kang: Thank you, Mr. Chair. I think, Mr. Hinman, that if we didn't hear them, you could probably make the argument, you know: how can you make the decision when you haven't heard their case or their story? And here we're making the decision. So I don't think it's putting the cart before the horse. I think we are part of the process, and now we can make a decision whether this proceeds or doesn't proceed or there is some other avenue we can go through to address this problem.

I think the sticking point was the general public under COP-TER. That's what we should be looking at: the MGA, section 362. That will fix all of the problems. If they put in there the general public or the community, then I think that will take care of the problem. We should fix this problem once and for all, not address it every year or every two or four or five years.

You know, we should be looking at the root cause of the problem, and we should fix that. There should be no Band-Aid solution to the problem. If we proceed with this, I think this will be a Band-Aid solution.

Thank you.

The Chair: Mr. Boutilier, please.

9:10

Mr. Boutilier: Yeah. Thank you. Just very good comments by everyone. I appreciate what I think is a very positive discussion. Could I express just one concern? I say this as a former Minister of Municipal Affairs. It is apparent to me, though, that in the previous meeting I heard some opinions by bureaucrats and civil servants, with all due respect, from the Ministry of Municipal

Affairs, but at no time did I hear from the Minister of Municipal Affairs relative to if, in fact, he intends to have a review or not.

I heard a civil servant say that he thinks there should be a review. First of all, a civil servant's responsibility is to follow the leadership of the minister. Now, I am very troubled by someone under a minister giving an opinion about what he or she would like to see happen relative to the Municipal Government Act. As I mentioned many times before, with all due respect, you know, are the inmates running the asylum?

My only comment would be this, Mr. Chairman. Did the Minister of Municipal Affairs refuse to come to our standing committee to offer his opinion, which is certainly acceptable in our committee, as opposed to people that work under him whose responsibility is to follow the direction of the Minister of Municipal Affairs, who is responsible for the Municipal Government Act?

I certainly appreciate Dr. Taft's suggestion. Certainly, Dr. Taft said that's going to be a motion. I will be supporting that if it comes forward.

Really, we are doing the job of the Minister of Municipal Affairs. I haven't heard from him. I'd like to know, Mr. Chair: why, in fact, are we accepting the opinions of people that work under him? He can also have deniability and say: well, I didn't say that.

The Chair: Thank you, Mr. Boutilier.

Are there any other comments? Mr. Hinman, please.

Mr. Hinman: Yes. I'd like to thank everyone for their comments. I absolutely agree. It's always good to hear. If I used the word "waste," that wasn't proper. Sometimes as we're thinking and trying to plot everything out, we use words that come to mind that we don't realize we've used.

What I feel is even more important to hear, though, is to actually act. What we did hear here is that we have various residents' associations that are extremely frustrated with the process and haven't been able to get the Municipal Government Board to act in an appropriate timeline for them. This is costing them lots of money, undermining their associations. And they met it. That's why I just feel that we listened. We heard that there was a problem. The government can certainly act before this fall or next spring to stop the landslide coming forward of other areas that are not being dealt with fairly according to the MGA and do something.

Again, why would we delay something like this? It's interesting, too, because when I did a little bit of work after listening to their petition last time they were here – they said that the city never, ever brought up the usage point, that it's not enough public usage, and when we asked the city officials, they never did give us a number and say that, well, they didn't reach the 70 per cent threshold; they were short 2 per cent, or they were short 20 per cent. They were very elusive when it came to that. Again, to me it was quite obvious that there was a problem and that we could and should act, in my opinion, and not just say: well, there is another process. There is, but that other process also failed. So now we have a double failure.

I just hope that people reconsider that we could pass these and have the government step forward to plug the hole next year because I do definitely agree that there is a better process, but it has failed so far.

Thank you.

The Chair: Go ahead, Mrs. McQueen.

Mrs. McQueen: Thank you. Well, with the utmost respect I'd like

to say that the process hasn't failed the residents of Calgary that appealed this. I see a decision made in their favour, although it may have taken more time than they wanted. It says right here that their properties are exempt. To me, it hasn't failed them. The MGB: maybe the process is long and cumbersome, but the process has delivered the results for these appellants.

The Chair: Mr. Hinman.

Mr. Hinman: Yes. If we need to keep debating it, we will. Yes, these 3 out of 4 that could afford to do this have gotten their results, but there are many, many other associations that cannot afford to go through this process, so it hasn't served them. Yes, 3 out of 4, 75 per cent: I guess if that's what this government and this community feel is good enough, fine, but I think that we're failing to do the work that we need to do for those that cannot afford to come forward. How often do we hear that? Businesses and people say: "I can't afford to go through the courts. I can't afford to go through the process." That's the message that we're sending back here. For those of you who can afford and can wait the time, the process will work. For those of you who can't, no problem; that's not our concern.

The Chair: I'm not sure that they were in existence in 2009. I think it was a relatively new organization that just got a building with respect to 2010.

Mr. Allred, do you have any further comments to make?

Mr. Allred: Just a few closing comments I'd like to make. I really think it's important to look at the big picture, and I think the last comments indicate why. The affordability is an issue in making an appeal through the process, and coming to this stage of a private bill is a very costly process. I'm not sure how many representatives from down there were at the hearing last week, four or five, which is a costly process for the appellants, for the municipality, and others.

I think we've got to look at the Municipal Government Act. It's probably pretty close to 30 years old now. There have been a lot of changes in the last 30 years in the development process, and I think it's important to examine that process and examine the legislation and bring the Municipal Government Act and/or the COPTER up to date.

With regard to the specific applications I've sort of tried to skim over Municipal Government Board order 031/11 – at least I caught the date properly this time – and it seems to be very comprehensive. It does send a very strong message to the city of Calgary Assessment Appeal Board and, in fact, all assessment appeal boards. I think it's very interesting that the only applications we've had for private bills have come from developments in the city of Calgary, and I believe the former ones that were allowed several years ago were also from the city of Calgary. Now, maybe there's a very strong message being sent to the city of Calgary Assessment Appeal Board.

I'm hopeful that the city of Calgary Assessment Appeal Board will examine this board order, listen to the transcript and the debate we've had today, which has been very good, and review their processes and, hopefully, make some amendments. I would also hope that the Minister of Municipal Affairs will look very closely at this issue and expedite a review of both the regulation and the Municipal Government Act.

Thank you.

The Chair: Mr. Kang, did you have something further?

Mr. Kang: I just want to make a comment. "Community associa-

tion' means an organization where membership is voluntary, but restricted to residents of a specific area, and that is formed for the purpose of . . ." I won't read the next two lines. Anybody could be an associated member of the community association. It's not restricted, that you cannot be a member of the association. I live in Chestermere, and I'm an associated member of other community associations.

Maybe in the RA it's restricted to the community only. Maybe a person from another area could not be an associated member of an RA. It's not clarified here that that is the case, but maybe that could be the case, too, that there's a limited membership. I don't see it here. That could be another sticking point, too, to the general public.

The Chair: Thank you, Mr. Kang.

Is there anyone else who wishes to make a comment?

Mr. Boutilier: Mr. Chair, I really appreciate Mr. Allred's last comments. Mr. Allred, I think you've certainly hit the nail on the head when you made reference to the Ministry of Municipal Affairs. Certainly, I would encourage those who are part of the government to encourage the minister to take leadership action so that we as a committee are not taking and doing the job for him.

The Chair: Thank you, Mr. Boutilier.

I just want to remind committee members that we have had some advice from our Senior Parliamentary Counsel on the matter, and she did point out that the city of Calgary has raised some legitimate concerns regarding these four private bills and that under the Municipal Government Act there is a process that is available for the residents associations or similar entities to seek a tax exemption. Given the fact that there is an existing process in place under public legislation, it was her recommendation that the bills not proceed. I just want to make sure we were remembering what the advice of counsel was.

9:20

Mr. Boutilier: Just to be clear, could I ask a question, Mr. Chair, of Parliamentary Counsel based on their expertise? Was that decision based on information from the Ministry of Municipal Affairs, or was that solely a decision that was deduced – by whom and under what expertise?

Ms Dean: Well, it was based on a number of factors. Obviously, a review of the . . .

Mr. Boutilier: Was one of the factors the Ministry of Municipal Affairs?

The Chair: Mr. Boutilier, can you just let Ms Dean respond, please?

Mr. Boutilier: I'm sorry; I was cutting out.

Ms Dean: If you review the Municipal Government Act, it's quite clear that there is a process in place to deal with this issue, and as well there was advice from the Department of Municipal Affairs and the city of Calgary in connection with this matter. So there's clearly a process in place for appealing tax assessments under public legislation.

Mr. Boutilier: Thank you very much, Ms Dean, and, Mr. Chair, thank you for allowing me to speak. I would conclude that, clearly, this is not so clear, and the reason is simply this. The process that arrived at this decision really is who knows – the city of Calgary civil servants, not elected officials but civil servants within

the assessment branch of the city of Calgary. Also you have the Municipal Government Board, who I think certainly made a proper decision even if it was later than usual, but I congratulate all of them. Members of the Municipal Government Board are appointed by Executive Council and the Minister of Municipal Affairs, so there is a connection there.

To the members who spoke earlier who have experience in municipal affairs: I ask you to consider – don't you see this clearly as a power struggle within bureaucrats and civil servants? Anyone who's appeared before us – you know, if the Minister of Municipal Affairs had appeared before us, then I would have been able to pose to him some very direct questions, and certainly I'll be doing that in question period. For the purpose of this standing committee I have to ask members of the committee, especially on the government side, to reflect back on who is really running the ministry because, unfortunately, we heard from comments – I was wondering, Ms Dean, did you speak directly with the Minister of Municipal Affairs on the advice that was given as well?

Ms Dean: Mr. Chair, the practice of this committee is to go to the deputy minister to request advice from officials in connection with any matter that might touch upon legislation in a particular portfolio. It's certainly within the committee's purview to ask the minister to appear, but that's not the common practice with respect to these sorts of things.

Mr. Boutilier: My question, Ms Dean, was: did you speak directly with the Minister of Municipal Affairs? The answer is no; you spoke to the deputy minister?

Ms Dean: I did not speak directly to the Minister of Municipal Affairs.

Mr. Boutilier: No. You indicated that you received the information from the deputy minister.

I think my case rests, to the members of the committee who have municipal affairs experience, relative to elected officials and also, then, those who, of course, work for the minister who are unelected. I rest my case.

The Chair: Okay. Are we ready for the question, then? We have a motion by Mr. Allred that bills Pr. 3, Pr. 4, Pr. 5, and Pr. 6 not proceed. Can I ask all of those in favour of the motion to please raise their hands or otherwise signify?

Mr. Allred: Mr. Chair, I believe there was a request for a recorded vote.

Ms Dean: Mr. Chair, do you want me to read the names into the record?

The Chair: Yes, please. That's a good idea. Could you hold your hands up?

Ms Dean: Those in favour: Mr. Lund, Mr. Doerksen, Mr. Lindsay, Mr. Groeneveld, Dr. Morton, Mr. Horner, Mr. Kang, Dr. Taft, Ms Calahasen, Ms Woo-Paw, Mr. Xiao, Mr. Drysdale, Mr. Dallas, Mrs. McQueen, Mrs. Sarich, Mr. Sandhu, Mr. Allred.

The Chair: Okay. Those opposed to the motion?

Ms Dean: Mr. Boutilier, Mr. Benito, Mr. Hinman.

The Chair: Okay. That motion is carried. Thank you very much. I think Dr. Taft had another . . .

Dr. Taft: Yes. In light of the very interesting debate we've had, I would make the following motion for the committee to consider, and that would be that the committee urge the government and particularly the Minister of Municipal Affairs to act quickly to address and resolve the issues raised by private bills 3, 4, 5, and 6 to promptly bring a fair and balanced resolution to the issues.

The Chair: Okay. We have a motion. Discussion, please?

Mr. Boutilier: Dr. Taft, I certainly support your motion that you're putting forward. I think that it is helpful.

I also would like to add, though, something that has really piqued my interest, the comment by Parliamentary Counsel. Ms Dean, I appreciate your comments and your good work. You made reference to the "practice," and I'd like to understand what that means, the practice of soliciting the Deputy Minister of Municipal Affairs.

The Chair: Now, wait a minute. Mr. Boutilier, we're talking about a motion here, and that's really not relevant to this. You can raise that point later if you wish.

Mr. Boutilier: Okay. I'll put a motion forward following this one. They are connected, with all due respect, Mr. Chair, but I will wait for the next motion.

The Chair: Okay. Did you hear the motion, Mr. Boutilier? Were you able to hear the motion?

Mr. Boutilier: No, unfortunately. Can you just repeat it? I'd appreciate that.

The Chair: Yeah, we can do that.

Dr. Taft, if you could, for the benefit of Mr. Boutilier.

Dr. Taft: Yes. That

this committee urge the government and particularly the Minister of Municipal Affairs to act quickly to address and resolve the issues raised by private bills 3, 4, 5, and 6 to promptly bring a fair and balanced resolution to those issues.

The Chair: Okay. Any comments regarding the motion, then? Are you ready for the question?

Hon. Members: Question.

The Chair: All in favour? Is there anyone opposed? Okay. That's carried unanimously. Thank you.

Are there any further comments? Mr. Boutilier, did you wish to make a further comment regarding the bills that we had before us here today?

Mr. Boutilier: Yeah. I think, Mr. Chair, I raised my point, so I don't think it needs to be repeated again relative to Parliamentary Counsel, the practices. Having said that, I don't think it requires a motion. A cautionary note to all members of the committee would be that it certainly would have been more helpful to have the Minister of Municipal Affairs, who's an elected official of Executive Council, appointed by the Premier, be here as opposed to listening to an unelected deputy minister relative to what is brought forward pertaining to the recommendations from Parliamentary Counsel. That's a cautionary note, and I would encourage that Parliamentary Counsel as a new practice in the future speak directly with the minister. That would be my friendly advice as the former minister, six or seven years ago, in that portfolio.

The Chair: Thank you, Mr. Boutilier.

We have another item of business before the committee this morning, and that's the approval of our minutes from the April 19, 2011, meeting. Those have been circulated. Could I have a motion to accept? Mr. Lund. Any discussion? All in favour, then? Anyone opposed? That's carried. Thank you.

Is there any other business to come before the committee?

Mr. Allred: Mr. Chair, just a question on process. I've noticed in the last number of meetings that we have not invited any of the appellants in until we've had a little private discussion. Are these meetings held in camera except for the hearing portion? They're all recorded on *Hansard*, so I guess my question is: why do we not let them come in right off the bat, save being introduced twice for one thing, and let them stay for our deliberations after? Is there any particular reason for that?

9:30

The Chair: Ms Dean, do you want to comment on that?

Ms Dean: I'm not quite clear that I understand the question. We're on the record unless there's a motion to go in camera, and with respect to what's transpired this spring, we've been on the record for all of our meetings.

Mr. Allred: I guess my point is that we don't seem to let the appellants come in until we're ready for them, and we seem to dismiss them as soon as they're finished. Is there a reason for that?

The Chair: Yeah. I think the reason simply is that we are dealing with matters of procedure and whatnot. There's certainly no intention to exclude anybody from what's going on in here – I mean, they are public meetings – but where we don't have things that actually pertain to the petition in question, then we usually deal with them without the necessity of having the petitioners here.

Dr. Taft: Mr. Chairman, this would just be a suggestion. I think Parliamentary Counsel has actually made these efforts before, but

I think it would be useful for all of us as members of this committee to maybe get a short memo, a couple of pages or something, on just what the role of this committee is because it seems apparent there's a lot of confusion. I've been on this committee off and on for a number of years. It actually has a pretty clear role. I think that maybe it's just a matter of some in-service education for all of us to remind us what the committee is about.

The Chair: Well, thank you, Dr. Taft.

I will take responsibility for that because at the beginning of this year I had assumed that almost all of the members here had been on the Private Bills Committee in the past year or two and that it wasn't necessary for me to go through that review. I do take responsibility for that, and I'll take it under advisement. The next time that we have a meeting, I'll make sure that we go through that review of what the process is and what our role is as Private Bills.

Mr. Boutilier: Mr. Chair, on that point – and this is germane to the issue – I'd certainly appreciate an elaboration in written form on what the practice is of Parliamentary Counsel in providing assistance to our committee. I guess I didn't see the manual of what the practice is relative to dealing with the deputy minister versus the minister. I'd appreciate that insight as well.

The Chair: Yeah. We do have a memo that has already been prepared. We're certainly willing to circulate that to all of the members just to refresh their memories.

Thank you, Mr. Boutilier.

Mr. Boutilier: Thank you, Mr. Chair.

The Chair: Is there anything else to come before the committee, then?

Can I have a motion to adjourn? Mr. Lindsay. All in favour? Anyone opposed? That's carried. Thank you very much.

[The committee adjourned at 9:32 a.m.]

