



Legislative Assembly of Alberta

The 30th Legislature  
Third Session

Select Special  
Committee on  
Real Property Rights

Thursday, May 26, 2022  
5 p.m.

Transcript No. 30-3-7

**Legislative Assembly of Alberta  
The 30th Legislature  
Third Session**

**Select Special Committee on Real Property Rights**

Sigurdson, R.J., Highwood (UC), Chair  
Rutherford, Brad, Leduc-Beaumont (UC), Deputy Chair  
  
Dach, Lorne, Edmonton-McClung (NDP)\*  
Frey, Michaela L., Brooks-Medicine Hat  
Ganley, Kathleen T., Calgary-Mountain View (NDP)  
Hanson, David B., Bonnyville-Cold Lake-St. Paul (UC)  
Milliken, Nicholas, Calgary-Currie (UC)  
Nielsen, Christian E., Edmonton-Decore (NDP)  
Neudorf, Nathan T., Lethbridge-East (UC)\*\*  
Rowswell, Garth, Vermilion-Lloydminster-Wainwright (UC)  
Schmidt, Marlin, Edmonton-Gold Bar (NDP)  
Sweet, Heather, Edmonton-Manning (NDP)  
van Dijken, Glenn, Athabasca-Barrhead-Westlock (UC)  
Yao, Tany, Fort McMurray-Wood Buffalo (UC)

\* substitution for Heather Sweet

\*\*substitution for Michaela Frey

**Also in Attendance**

Loewen, Todd, Central Peace-Notley (Ind)

**Support Staff**

Shannon Dean, QC	Clerk
Teri Cherkewich	Law Clerk
Trafton Koenig	Senior Parliamentary Counsel
Vani Govindarajan	Parliamentary Counsel
Philip Massolin	Clerk Assistant and Director of House Services
Nancy Robert	Clerk of <i>Journals</i> and Committees
Sarah Amato	Research Officer
Warren Huffman	Committee Clerk
Jody Rempel	Committee Clerk
Aaron Roth	Committee Clerk
Rhonda Sorensen	Manager of Corporate Communications
Janet Laurie	Supervisor of Corporate Communications
Jeanette Dotimas	Communications Consultant
Shannon Parke	Communications Consultant
Tracey Sales	Communications Consultant
Janet Schwegel	Director of Parliamentary Programs
Amanda LeBlanc	Deputy Editor of <i>Alberta Hansard</i>

## **Standing Committee on Real Property Rights**

### **Participants**

Peter Dobbie, QC, Farmers' Advocate and Property Rights Advocate



5 p.m.

Thursday, May 26, 2022

[Mr. Sigurdson in the chair]

**The Chair:** Hello, everyone. I'd like to call this meeting of the Select Special Committee on Real Property Rights to order and welcome everyone in attendance.

My name is R.J. Sigurdson, MLA for Highwood and chair of this committee. I'd ask that members and those joining the committee at the table introduce themselves for the record, and then I will call on those joining in by videoconference. We will begin in person to my right.

**Mr. Rutherford:** Thank you, Chair. MLA Brad Rutherford.

**Mr. Rowswell:** MLA Garth Rowswell.

**Mr. Milliken:** MLA Nicholas Milliken, Calgary-Currie.

**Mr. Yao:** Tany Yao, Fort McMurray-Wood Buffalo.

**Mr. Hanson:** MLA Dave Hanson, Bonnyville-Cold Lake-St. Paul.

**Mr. Dobbie:** Peter Dobbie. I'm the Farmers' Advocate and Property Rights Advocate for the great province of Alberta.

**Mr. Schmidt:** Hon. Marlin Schmidt, ECA, MLA for Edmonton-Gold Bar.

**Mr. Nielsen:** Good afternoon, everyone. Chris Nielsen, MLA for Edmonton-Decore.

**Ms Govindarajan:** Vani Govindarajan, Parliamentary Counsel office.

**Ms Robert:** Good evening. Nancy Robert, clerk of *Journals* and committees.

**Mr. Huffman:** Warren Huffman, committee clerk.

**The Chair:** Excellent.

We will now go to those joining us virtually. We will start with MLA Neudorf. Please go ahead.

**Mr. Neudorf:** Nathan Neudorf, MLA for Lethbridge-East.

**The Chair:** Excellent. Next we have MLA van Dijken.

**Mr. van Dijken:** Yeah. Good afternoon. Glenn van Dijken, MLA for Athabasca-Barrhead-Westlock.

**The Chair:** And just as a double-check, I don't see any others that have joined us virtually, but I'll just pause briefly to make sure we haven't missed anyone.

Hearing no one, for the record I would just like to note a few substitutions for tonight's meeting. We have MLA Dach for MLA Sweet and MLA Neudorf for MLA Frey.

A few housekeeping items to address before we turn to the business at hand. Please note that the microphones are operated by *Hansard* staff. Committee proceedings are live streamed on the Internet and broadcast on Alberta Assembly TV. The audio- and videostream and transcripts of meetings can be accessed via the Legislative Assembly website. Members participating remotely are encouraged to have your camera on while speaking and your microphone muted when not speaking. Remote participants who wish to be placed on the speakers list are asked to e-mail or send a message in the group chat to the committee clerk, and members in the room are asked, as always, to please signal the chair or the

committee clerk. Please set your cellphones and other devices to silent for the duration of the meeting.

Moving on to item 2, approval of the agenda, are there any changes or additions to the draft agenda? I see MLA Rutherford.

**Mr. Rutherford:** Thank you, Chair. I was looking to add, probably after item 3, just a section where we can potentially review additional acts or have a section for that discussion.

**The Chair:** I do believe that would be to add "scope of review" to the agenda. At this point in time we'll make sure that gets added in. I do believe the committee clerk will just add it briefly – there we go – that the agenda be amended by adding "scope of review" prior to "research services." Are there, of course, any additional comments that you'd like to make to this?

**Mr. Rutherford:** Just briefly at this time because the debate for that will be later on. I think it's self-explanatory, just a conversation at that point to discuss any additional acts that might be brought in for review.

**The Chair:** Excellent.

Before we get into debate on this, of course, as we have motions under 52.041 in play, we just want to make sure that we can proceed with this. Prior to getting into discussing this, of course, we have to vote to allow whether we can move into the discussion portion.

All those in favour of allowing this amendment in person, please say aye. All those in person opposed to allowing this amendment, say nay. Online, all in favour, say aye. Online, all those opposed, say nay. Hearing none,  
that motion is carried.

We can now proceed to discussing and then, of course, voting, if so, on this motion.

Please go ahead, MLA Rutherford.

**Mr. Rutherford:** Thank you. I think the agenda will be now amended, but my comments will still be just rather brief to what I had said before, Chair, that at that section of the agenda we will bring up the additional acts, potentially.

**The Chair:** Excellent. Thank you.

At this point in time, of course, we will have to vote on the agenda as amended, but I will just pause to see if there are any additional changes or additions to the draft agenda.

If not, would somebody make a motion to approve the agenda as amended? I see MLA Hanson to move the agenda as amended. In person, all those in favour, please say aye. In person, all those opposed, say nay. Online, all those in favour, say aye. Online, all those opposed, say nay. Hearing none, thank you.

That motion is carried.

The agenda as amended is adopted.

Moving on to approval of minutes, next we have the draft minutes of our February 16, 2022, meeting. Are there any errors or omissions to note?

If not, would a member like to make a motion to approve the minutes? I see MLA Milliken. Moved by MLA Milliken that the minutes of the February 16, 2022, meeting of the Select Special Committee on Real Property Rights be approved as distributed. In person, all those in favour, please say aye. In person, all those opposed, say nay. Moving online, all those in favour, please say aye. Online, all those opposed, please say nay. Thank you. That motion is carried.

At this point I will just pause briefly. We've had an additional member join us here this evening. Could you please just introduce yourself, state your name for the record.

**Mr. Dach:** Thank you. Good evening. Lorne Dach, MLA for Edmonton-McClung.

Thank you, Chair.

**The Chair:** Excellent. Thank you.

We are now moving on to item 4, research services. Oh, sorry. I apologize. We did amend. I apologize. Just one sec, briefly.

We are now moving on to the item scope of review, as amended. I apologize to the committee members.

I see that MLA Milliken has signalled me. Please go ahead. I apologize to the committee.

**Mr. Milliken:** Yeah. I think this was submitted correctly. I move that

the Select Special Committee on Real Property Rights expand its review to include the Surface Rights Act because the committee has determined, based on its consultations, that doing so is necessary to ensure the completeness of its review.

It looks like it's up there.

**The Chair:** Excellent. It is on the screen for everybody to review. We'll move into a discussion. Do you have any additional comments?

**Mr. Milliken:** Sure. I have a few quickly prepared comments. Essentially, it's fair to say, from everybody who was at the public engagements, I think, that on a number of occasions different landowners and Albertans generally, pretty much across the province, did voice some concerns with regard to surface rights issues, old Surface Rights Board timelines. Therefore, I think that it's probably wise to bring the Surface Rights Act into the scope for the purposes of our deliberations.

**The Chair:** Excellent. Thank you.

Is there any further discussion? I see MLA Nielsen. Please go ahead.

**Mr. Nielsen:** Yeah. Thanks, Mr. Chair. Yeah, I would certainly agree. That was definitely one of the things that we heard during our consultations. I think we've also heard other concerns from Albertans around, you know, some of the issues they're facing, problems, thoughts, things like that, how to move forward. I think they would be, I guess, well served for us later as a committee to, potentially at least, have a really open conversation. That way, we're not painted into a corner in terms of what we can and can't do. I would suggest that I have a subamendment to this one.

**The Chair:** Based on 52.041, just as a note, in order to allow this amendment, it would have to be the will of the committee to allow this amendment. So at this time, before we proceed, MLA Nielsen, I will ask the question to the committee on whether we at this time allow this amendment to proceed. In person, all those in favour, please say aye. In person, all those opposed, please say nay. Moving online, all those in favour, please say aye. All those opposed, please say nay.

That is defeated.

We're moving back to discussion on the motion as proposed by MLA Milliken. Are there any other comments to the motion that is on the screen?

Seeing none, I will call the question. All those in favour of the motion as proposed by MLA Milliken, in person, please say aye. In person, opposed, please say nay. Moving online, all those in favour, please say aye. Online, all those opposed, please say nay. Thank you.

That motion is carried.

5:10

Is there any further discussion on the scope of review at this time?

Seeing and hearing none, we will move on now to research services. There is a summary of oral presentations at the public meetings. Hon. members, Legislative Assembly Office research services provided the committee with two research documents, which were posted on the committee's internal website. The first is a summary of oral presentations made during the public meetings held by the committee earlier this year.

At this time I would like to invite Dr. Sarah Amato from LAO research services to provide an overview of this report.

**Dr. Amato:** Good evening. I hope you can hear me. The first document I'll talk about is the summary of oral submissions made at the public engagement sessions in February, March, and April in Edmonton, Edson, St. Paul, Medicine Hat, Fort Macleod, Hanna, and Eckville. The document is a summary of oral presentations made by 62 members of the public. You'll find the executive summary on pages 3 and 4 of the document, and there you'll see some of the issues that were raised by members of the public grouped into four categories. I'll just briefly go over them.

The first was the adequacy of legal remedies available to landowners, and grouped under this issue are a variety of concerns that were expressed related to feelings that current legal remedies need improvement. There were issues raised concerning the provisions of the Expropriation Act; expropriation, information sharing, and notification processes; cutting red tape; the Land and Property Rights Tribunal; and compensation and lack of enforcement.

The second category is expansion of real property rights and constitutional protections. Most presenters recommended the expansion of real property rights and discussed constitutional protections for property rights. Some also discussed expansion of rights for landowners adjacent to development, adverse possession, grazing leases, carbon capture and storage, and the Geothermal Resource Development Act.

The next category was additional legislation. Here there were concerns regarding the Wildlife Act, the Historical Resources Act, the Species at Risk Act, and the Special Areas Act.

The final category is just grouped under other comments. Here there were concerns regarding government monitoring activities, Indigenous land and treaty rights, and rural crime.

Thank you.

**The Chair:** Excellent. Thank you so much for that review, Dr. Amato.

At this point in time I will just go back to the committee for any questions in relation to your presentation. Are there any questions at this time?

Seeing and hearing none, an excellent presentation.

We'll move on to the summary of issues and proposals. The other document is the summary of the issues and proposals from stakeholder and public submissions and presentations to the committee during the course of its review on real property rights.

I would like to again invite Dr. Amato to provide an overview of this summary. Please go ahead.

**Dr. Amato:** I hope you have a copy of the issues and proposals document, and I'll just once again provide a very high-level summary of it. Section 1 is the introduction. Section 2 suggests how to use the document. Section 3 is an executive summary, and the issues and proposals themselves are listed under section 4.

I'll just note for you that in section 4 there's a notes column, and the notes column contains references to additional information

provided by submissions, oral submissions or written submissions, where applicable.

I will turn to generally how to use the document, and I will just ask you to please note that it is intended only to assist the committee as it engages in the deliberation process. Committee members can decide the order in which to consider proposals and may indeed wish to pursue other issues related to real property rights that are within the committee's mandate but were not brought forward by stakeholders, organizations, or members of the public. Please also note that although the issues document includes recommendations pertaining to Bill 206, Bill 206 was removed from the Order Paper on February 21, 2022.

Turning to the executive summary, I'll just go through it. You'll find it on pages 2 and 3, and you'll find there that all issues and proposals are grouped under seven main headings. I'll just go through them at a very high level.

The first is recommendations relating to legal remedies for real property owners. The second is recommendations relating to expansion of real property rights and individual constitutional protections. The third category is recommendations abolishing the law of adverse possession. The fourth category is recommendations related to the adequacy of expropriation processes provided under the Expropriation Act. The fifth category is recommendations relating to Bill 206. Once again, Bill 206 was removed from the Order Paper on February 21, 2022. The sixth category is recommendations pertaining to the Alberta Bill of Rights, the Alberta Land Stewardship Act, the Expropriation Act, the Land Titles Act, the Law of Property Act, the Limitations Act, or the Responsible Energy Development Act.

Then the seventh category is a bit of a catch-all for additional recommendations on real property rights in Alberta. You'll notice there that there is a range of recommendations, from those relating to the Municipal Government Act, subsurface formation of carbon sinks through to freehold mineral rights and the Geothermal Resource Development Act, repealing the Calgary Metropolitan Region Board regulation, and recommendations related to the preservation of trees, ecosystem goods and services, wildlife management, grazing leases, the Wildlife Act, and reviewing the Special Areas Act.

That's, again, a high-level summation. I hope it's somewhat useful, and I'm happy to answer any questions.

**The Chair:** Excellent. Thank you so much for that review.

I will again pause and go to the committee for any clarifying questions for Dr. Amato. MLA Milliken, please go ahead.

**Mr. Milliken:** I just want to take an opportunity and thank you, Dr. Amato and, of course, all of research services, because I read both of these documents thoroughly, and I was very impressed. I just wanted to take an opportunity to put it on the record as: thank you.

**The Chair:** Excellent. Are there any other questions or comments at this time?

On behalf of the committee, Dr. Amato and to all of your staff for putting this together, thank you again for these great presentations and summaries of the committee work. Thank you again.

Next we are moving on to next steps on the agenda, (a) deliberations and recommendations. Now, before we begin our deliberations process, I'd like to take a moment to give an overview of the work the committee has done. The committee was struck on March 22, 2021, and began its review by striking a subcommittee on committee business, clarifying its scope of review, and hearing technical briefings from government ministries. The committee contacted First Nations and Métis settlements across Alberta about hosting the committee. There was a handful of groups who expressed interest; however, no meetings

happened. The committee received written and oral submissions from stakeholders and the public, and the committee also held six in-person, public meetings around the province and a virtual meeting from Edmonton to hear from Albertans.

We will now take all of that information into consideration as we begin our deliberations related to the committee's mandate review of real property rights in the province. To assist us with this, the committee requested that the ministries of Agriculture, Forestry and Rural Economic Development; Justice and Solicitor General; Energy; Environment and Parks; and Indigenous Relations provide technical support during our deliberation process. Joining us at the table today we have Mr. Peter Dobbie, Farmers' Advocate and Property Rights Advocate. Thank you for joining us today.

I would state for everyone's information that we are considering the recommendations that we would like to include in our report to the Assembly. I would remind the committee that we are required to report back to the Legislative Assembly by June 30, 2022.

**5:20**

Under Standing Order 52.041 notices of substantive motions were due to be received by May 20, 2022, and notices of amendments to those motions were due on May 24, 2022. The Legislative Assembly Office staff have been able to assist committee members with the drafting of motions and to distribute proposed motions on the internal website. These motions are on notice for today's meeting as well as tomorrow's, so we can address them in an order that works for our deliberations.

With that, I would like to open the floor to begin deliberations, and I see MLA Rutherford. Please go ahead.

**Mr. Rutherford:** Thank you, Chair. I'll just start off by moving a motion. I move that

the Select Special Committee on Real Property Rights recommend that the Surface Rights Act be amended to (a) reduce the burden of legal costs incurred by an owner or occupier who appeals a compensation order or requests a review of a rate of compensation, (b) establish an arbitration process in respect of disputes arising between an owner or occupier and an operator, and (c) establish rules or a process that reduces the legal costs incurred by an owner or occupier who appeals a decision of the Land and Property Rights Tribunal to the Court of Queen's Bench.

Now that that is up on the screen for everybody, just some rationale around that if I could, Chair?

**The Chair:** Please go ahead.

**Mr. Rutherford:** Why, thank you. Throughout the process on this committee I think we heard consistently from Albertans that they did not feel as though they had adequate legal remedies available to them when they were deprived of use of their property or land. The primary source of this belief seemed to stem from interactions with utility, oil, and gas companies when landowners came into conflict with them.

We heard this especially at the St. Paul public meeting, where many farmers and property owners brought up issues around hearing timelines, notice of hearings, processes as well as costs associated with pursuing any legal action. There was a concern and frustration from these property owners on how companies have deeper pockets than they do, and they're able to pay lawyers, keep lawyers on retainer. They felt as though they were put into an unfair situation and that this recommendation would assist in alleviating that, especially in drawn-out legal disputes where property owners are put, I think, at a disadvantage against companies that can hold

out longer with legal fees and retain lawyers longer and draw this process out.

That's my rationale, Chair.

**The Chair:** Excellent. Thank you.

Is there any further discussion on this? I see hon. MLA Schmidt. Please go ahead.

**Mr. Schmidt:** Thank you. A couple of questions to Mr. Rutherford, who's bringing forward this motion. First of all, can you expand a little bit on what your intent was behind section (b) in this motion, establishing an arbitration process? My fear is that this will be another hoop that landowners have to jump through before they can actually go to the Land and Property Rights Tribunal to get a decision, because what we've heard clearly from landowners all across the province was that usually oil and gas companies but industrial proponents, those kinds of people, who are seeking to conduct activities on landowners' property put them through the wringer: you know, they try to negotiate a deal, and they drag out the process, those kinds of things. I'm just wondering if the arbitration process will actually improve landowners' ability to get a fair hearing and get a fair settlement, or will it just be another hoop that landowners have to jump through before they can get a fair hearing and a fair settlement?

**Mr. Rutherford:** I appreciate the question, hon. Schmidt. No, it is not intended to be an additional hoop. It is not intended to add additional burden. The issue around arbitration is that companies have gone straight to legal action. Arbitration is supposed to be there to help alleviate costs.

**Mr. Schmidt:** So will we be recommending a – like, is this a mandatory step? I guess I'm asking that. Or is this something that landowners and industrial project operators can voluntarily agree to? I guess arbitration is a very broad term that means many things in very different contexts. We are recommending setting up an arbitration process, but absent any kind of boundaries or specifications as to what kind of arbitration process we're proposing here, I think we're asking more questions than we're answering.

**Mr. Rutherford:** It's a fair concern, and I think that on the record of this committee, I mean, we can obviously express that. This is about streamlining that process. I think that laying out exactly what that arbitration process looks like is not what I want to be able to put into this recommendation. What I want to be able to suggest to future legislation is that we need a streamlined process that can help landowners and property owners through legal disputes and have it be just a more streamlined mechanism. As I laid out in the rationale, with the costs that can be incurred, legal fees that can be incurred, my intention here is to simply try to find a process that can settle these disputes in a quicker fashion.

**Mr. Schmidt:** One final question, then, if I may, on section (c). We're recommending to "establish rules or a process that reduces the legal costs incurred by an owner or occupier who appeals a decision of the Land and Property Rights Tribunal to the Court of Queen's Bench." Now, it's more than just owners and occupiers who appeal decisions of the Land and Property Rights Tribunal, right? Right now the town of Canmore is considering an appeal that the Land and Property Rights Tribunal made regarding the Three Sisters Mountain Village project to the Court of Queen's Bench. Is our intention to provide rules and processes that reduce the legal costs for municipalities, recognizing that municipalities often are strapped for resources and don't necessarily have or would benefit,

I guess is more fair to say, from a system that reduces their legal costs as well?

**Mr. Rutherford:** It's not the direction I considered in the motion, around municipalities. I was considering landowners as well, basically, to be able to help them with the legal costs and to streamline that process for them. I know I'm repeating myself on that, but I'm trying to keep it to the simplest terms in the recommendation of what we would like to see in future legislation.

**Mr. Milliken:** Yeah. Also, if I could just say, I don't think that during the . . .

**The Chair:** Just one second, MLA Milliken.

**Mr. Milliken:** Sure. Yeah.

**The Chair:** Just to make sure: are you finished, MLA Rutherford?

**Mr. Rutherford:** Yes.

**The Chair:** Okay. Thank you.

Sorry. MLA Milliken, you are next to speak. Please go ahead.

**Mr. Milliken:** Just to bring it back, I think that throughout this process the recommendations that we've been looking at have been in large part due to what we heard through public engagement, and I don't think we heard too many issues or anything along the lines of municipalities and whether or not they're having issues with regard to paying for legal costs or if they feel like that, perhaps. I think that the original intention of this – and I wouldn't, obviously, presume the will of the room of anything like that – was to ensure that those individuals who felt like they were fighting something that was larger than them or had deeper pockets, which was, I think, a word that I heard a few times – that was the issue, so I think that just the idea is to allay those kinds of fears.

**The Chair:** Thank you, MLA Milliken.

Next we have MLA Dach. Please go ahead.

**Mr. Dach:** Not to get off the subject, I could defer to MLA Schmidt if he wants to carry on the conversation on the one topic.

**Mr. Schmidt:** I wouldn't mind, Mr. Chair, if I could.

**The Chair:** Please go ahead.

**Mr. Schmidt:** With respect to Mr. Milliken's discussion I will remind the committee that we did hear from a councillor from Starland county at the meeting in Hanna who was talking about these very issues, the challenges dealing with, you know, the regulatory system, industrial operators, those kinds of things, and I think that it might be fair to capture concerns of municipalities and their concerns around the Land and Property Rights Tribunal as well. Just a friendly suggestion for your consideration.

**The Chair:** I see MLA Milliken. Please go ahead.

**Mr. Milliken:** Yeah. Just to respond, again, I'm only commenting with regard to (c), which was the issue that you brought up, which had to do with the legal cost aspect of it, and I don't think we heard anything with regard to the municipalities' views on that. But you're right; we did hear from a councillor on some somewhat related issues, under property rights, for sure, so I appreciate it.

5:30

**The Chair:** Are there any other questions, comments in relation to the motion? I see MLA Nielsen. Please go ahead.



**Mr. Nielsen:** Thanks, Mr. Chair. You know, I guess a good thing with *Hansard*: as the government considers legislation, they can go back, read some of the discussion we were having and, hopefully, maybe that's just a consideration that they'll think about when they're potentially drafting legislation. Of course, I'd never assume that the government will accept all our recommendations and whatnot, but I guess at the end of the day there's no reason for the motion not to proceed and for members to vote in favour. Again, hopefully, we'll be able to look at some of those smaller municipalities, like we heard, and they'll be considered when thinking about it.

**The Chair:** Next I have MLA Dach. Please go ahead.

**Mr. Dach:** Thank you, Chair. I just briefly want to add my comments to the record on item (b), arbitration. With respect to comments made previously by the hon. Member for Edmonton-Gold Bar, I think the point is well taken that the arbitration process – while not prescribing in detail to the Legislature what the regulations might be, it should be noted whether it's going to be a mandatory process or not. I think that is not overly prescribing to the Legislature. I think it's important to let the Legislature know this committee's intent because it is a very important element, whether that will be mandatory or an optional part of the process. If one as a landowner could skip right to the courts, if that option existed, that's a very important element to be clear, and I think it's important for this committee to make its notions clear. It would be my preference that the arbitration process be a step that would be optional, not necessarily a mandatory process. I'm not sure if the committee is interested in pursuing that or commenting further on it, but I think it's not beyond the scope of this committee to tell the Legislature clearly whether that arbitration process should be mandatory or optional.

**The Chair:** Excellent. Thanks.

Is there any further discussion on the motion on the screen?

Seeing and hearing none, we will now move on this. On the motion as proposed by MLA Rutherford, all those in person in favour of this motion, please say aye. In person opposed, please say nay. All those in favour online, please say aye. Online, all those opposed, please say nay.

That motion is carried.

Next I see MLA Rowswell. Please go ahead, MLA Rowswell.

**Mr. Rowswell:** Yes. I would like to move a motion on behalf of MLA van Dijken.

**The Chair:** Please go ahead.

**Mr. Rowswell:** Okay. MLA van Dijken to move that the Select Special Committee on Real Property Rights recommend that (a) the government review the average period of time the Land and Property Rights Tribunal requires to resolve a matter referred to it under the Surface Rights Act and (b) the Surface Rights Act be amended to enable the Lieutenant Governor in Council to prescribe timelines within which the Land and Property Rights Tribunal must resolve disputes brought before it.

**The Chair:** Excellent. I do believe that motion is now up on the screen, so if you'd like to move with your rationale, please go ahead.

**Mr. Rowswell:** Yeah. We've heard quite a few complaints about delays on the Surface Rights Board, before that, and now that it's been amalgamated, the tribunal as well, and I think it'd be nice to review how much time it takes and try to get it sped up and then also to give the Governor in Council opportunity to prescribe that.

I just think it's – you know, we heard that quite often throughout our tour in presentations and stuff, so I think that's the main rationale behind the recommendation.

**The Chair:** Excellent. Thank you.

Is there any discussion on the motion as proposed by MLA Rowswell? I see MLA Nielsen. Please go ahead.

**Mr. Nielsen:** Yeah. Thanks, Mr. Chair. I appreciate the motion coming forward. Obviously, reviewing timelines on a somewhat regular basis is always a good thing. You never know when things are changing. Something new comes in, something gets out of date or whatever, so it's good to review those. You know, maybe I would suggest, when it comes to timelines, that rather than possibly having them in regulations, we might even want to consider legislation around that, and that way they're firm, there's no ambiguity about it. Hopefully, maybe the government might consider those kinds of things moving forward. And, of course, if there is a tribunal, it's key that that tribunal is properly resourced. If it's not, we're simply going through the motions, and I think that does a disservice to landowners. Hopefully, that is considered, too, should that be put together.

I'm happy to support the motion going forward and certainly would encourage others to do the same.

**The Chair:** Excellent. I will just briefly pause at this time. Of course, we've had another member of the Assembly join us here this evening. Please, if you would like to just introduce yourself to the committee.

**Mr. Loewen:** Todd Loewen, MLA, Central Peace-Notley.

**The Chair:** Excellent. Thank you.

Next on the speaking list to this motion I have MLA van Dijken. Please go ahead.

**Mr. van Dijken:** Good. Thank you, Chair. I'd just like to reiterate that, you know, we have the Land and Property Rights Tribunal established; not quite a year since it's been established, and I think it's imperative that we get a good baseline understanding of what's acceptable in these decisions and these undertakings. The government has put a substantial amount of resources, money towards reducing the backlog with regard to the Surface Rights Board history of cases. So I just feel that it's important that we recognize, it being a relatively new entity, the Land and Property Rights Tribunal and try and understand what would be an acceptable expectation of timelines and try and move that in a direction where that can be an expectation going forward.

**The Chair:** Excellent. Thank you, MLA van Dijken.

Is there any further discussion to this motion? I see MLA Hanson. Please go ahead.

**Mr. Hanson:** Yeah. Just a quick comment to kind of support what Mr. Nielsen was saying, that this is just a recommendation to government and that if it requires changes in legislation, they would probably throw that into one of the wonderful omnibus bills that we like to put forward. I just wanted to reiterate that, yeah, this is just a recommendation to government, and whether they put it into regulation or legislation is for further study.

Thanks.

**The Chair:** Is there any other further discussion to this motion?

Seeing and hearing none, we will call the question. On the motion as proposed by MLA Rowswell on behalf of MLA van Dijken, in person, all those in favour, please say aye. In person, all those

opposed, please say nay. Moving online, all those in favour, please say aye. Online, all those opposed, please say nay.

That motion is carried.

Moving on, I see hon. MLA Schmidt. Please go ahead.

**Mr. Schmidt:** Thank you. I'd like to move a motion, if I could, please, Mr. Chair.

**The Chair:** Yes. Please proceed.

**Mr. Schmidt:** I move that the Select Special Committee on Real Property Rights recommend that the minister consider commodity prices for oil and gas as a factor in its determination of the mandatory closure spend targets under the government's liability management framework.

**The Chair:** Excellent. We'll just wait for that to get up on the screen. Excellent. That is up on the screen.

Please proceed with your rationale.

**Mr. Schmidt:** Really good. Thank you, Mr. Chair. I mean, as all committee members are aware, we heard from landowners all across the province significant concerns around oil and gas companies not dealing with their remediation and reclamation liabilities in a timely fashion. I know that this is a problem that has plagued the government for a really long time. I'm really pleased that the government has amended their liability management framework to require mandatory spends, but I think that everybody can agree that that's probably not enough to tackle the problem, especially right now when we've got oil trading at over \$100 a barrel. Gas is \$9 a cubic foot. Now is really the opportunity to capture some of the value that is being generated by these oil and gas companies and dedicate it towards dealing with these remediation and reclamation liabilities in a timely fashion.

I would urge that all committee members vote in favour of this and respond meaningfully to the concerns from landowners that we heard about the timeliness of remediation and reclamation.

5:40

**The Chair:** Excellent. Thank you for that, MLA Schmidt. Is there any discussion to this motion?

**Mr. Milliken:** Very briefly, I'd just note that I was looking through some of the notes that I made and some of the documents that were prepared by research services, and I couldn't find a mention that had to do with the government's liability management framework, so I just think that perhaps we may want to consider ensuring that our recommendations kind of stick to the original goals, I think, of this. And I would just go so far as to say I think that this tangentially at best could arguably be maybe within the mandate, but I just don't see it, and we never really heard on it. For those reasons, I'd probably just say that I think they're outside the scope, and I'd probably just recommend that people don't vote in favour of this.

**The Chair:** Is there any further discussion on this motion?

**Mr. Schmidt:** Well, I think landowners will be upset to hear that government members voted against this on a technicality. I think it's well within the scope. We certainly heard from landowners all across the province that this is an issue. It's a shame that government members are going to use some technical definitions of the work that the committee is doing to excuse themselves from tackling this significant issue.

**Mr. Hanson:** No. I beg to differ with you, Mr. Schmidt. I deal with this out in my constituency quite often, but at no time has anybody recommended that we tie it to the prices of oil and gas. You know,

we have supported through legislation the gas operators, giving them a break, I guess, on royalties and that kind of thing to help them survive the downturns. As a landowner I've got a gas well on my own property. We renegotiate that every five years. It's something that is part of the contract that we sign with the oil and gas companies.

Although I realize that there are issues that some people are having in some areas of the province, especially with some of the companies not paying even their linear taxes to municipalities, that's not the mandate of this committee. We were to take recommendations based on what we heard from the public and in the public submissions, and nowhere did I see anything to do with tying it to the oil and gas prices.

**The Chair:** Next I have MLA Dach. Please go ahead.

**Mr. Dach:** Thank you, Mr. Chair. I think it's very clear that the discussions that we heard as part of this committee from the public was that they're extremely concerned about the responsibility or lack thereof of corporations for paying their appropriate share of fees and taxes and also that they would be coming, cap in hand, to landowners or municipalities when times were tough and looking for leniency or looking for a reduction or delay in their payments that were due.

It's a two-way street, in my view, Mr. Chair. When we have royalty windfalls or we have the prices of our resources, our oil and natural gas – corporations have been able to reap very, very significant profits. Then I think the government and the public has a right to say: look, times are good now; we are going to recapture some of that and pay some of the costs that have been neglected over time periods by companies that have orphaned these wells. The public very clearly said that they want a solution to it. We're offering one, and I think it's a fair one. It's a two-way street.

**The Chair:** Any other speakers to the motion?

Seeing and hearing none, I will call the question on the motion as proposed by hon. MLA Schmidt. In person, all those in favour, please say aye. In person, all those opposed, please say nay. Online, all those in favour, please say aye. Online, all those opposed, please say nay.

That motion is defeated.

Next I have MLA Milliken. Please go ahead.

**Mr. Milliken:** I would also like to move a motion surrounding the constitutionalization of property rights. The wording would be as such: I, Member Milliken, move that

the Select Special Committee on Real Property Rights recommend that the Ministry of Justice and Solicitor General (a) identify the textual changes to the Constitution of Canada that would be required to constitutionally entrench the protection of an individual's rights in respect of real property located in Alberta, (b) identify the process and associated steps that would be taken to effect the changes identified in clause (a), and (c) report its findings to the Legislative Assembly by July 15, 2023.

Any comments?

**The Chair:** I see the clerk already has that up on the screen, so please go ahead with your rationale.

**Mr. Milliken:** Yeah. I think that we heard from a lot of Albertans with regard to their desire to have real property rights more strictly entrenched and protected. I think that it was Ross Ford on, I believe, April 12 that mentioned that he was recommending or they wanted us, obviously, to recommend that the "government constitutionally enshrine [property rights] both federally and provincially."

We actually managed to hear from several levels of government on this, including in support of constitutionally entrenching property rights. It was Damien Kurek, a federal MP, that stated that he

encourage[s] the committee to hear from the many experts on U.S. constitutional law that [he has] no doubt would be happy to share their findings with [the committee]... Canada's acknowledgement of property rights falls behind its peers in the democratic world.

The reason why I actually quoted him on this point is because of the fact that I think it's been pretty well established anyways, I think, or arguably established that Canada's Constitution many times has been described as an outlier among liberal constitutions.

That last one – actually, I'm just going to give a shout-out to my own constitutional law prof from way back in the day, an individual by the name of Dwight Newman. I'm no constitutional lawyer, but I know there are amending formulas, the general formula, unanimous, things of that nature, to potentially do that. Going back to Dwight Newman, I think in recent writings concerning the possible use of the bilateral amending formula to achieve property rights clauses, in particular provinces that are currently seeking them – sometimes it's just specifically for the province. Sometimes it would be something for the whole country. But I think that from what we heard throughout all of the engagement on this topic specifically, there was a resounding yes to try to see if there was some way to further entrench the rights of Albertans.

**The Chair:** Excellent. Thank you, MLA Milliken.

**Mr. Dach:** Briefly, Mr. Chair, on this issue of entrenchment, I'm not sure how loud those voices were about seeking to change the Canadian Constitution via a vehicle of this particular committee and the legislative recommendations we might make. We all know that a province can't change the Canadian Constitution, and while this current government really likes to be focused more on federal matters than Alberta matters in many cases, we deserve a government here that's focused locally on matters that can be achieved at hand. We've seen this repeatedly, that the government is looking to deflect. I'm not certain that this is what we should be recommending to the Legislature, another impossible measure that the province can't take on its own, simply begging the federal government for something that we don't really have a lot of call for, from my reading of the representations that were made to the committee. I'm not supportive of it.

**The Chair:** Thank you.

Next for speaking I have MLA Milliken. Please go ahead.

**Mr. Milliken:** Yeah. Just in friendly response, I would give a quick shout-out to research services for the documents that they provided. Ross Ford was only one individual from the 12th that brought it up. There was Nemeth on the 16th, Bjorkman on the 16th as well of February, Lowry, Broen, Newton, Murfin, Young. This was throughout; on February 16, on the 14th of April, on the 12th of April, virtually at every single committee. On the 13th that's when the MP spoke out about those recommendations. Also, with regard to potential proposals that were even produced, Murfin was one of them, Broen, Bjorkman, Lowry, McCanna, Newton, Kurek, Young, on the 14th, with regard to the government constitutionally enshrining property rights both federally and provincially.

5:50

I think it was pretty clear, from my experiences, throughout the process of listening to Albertans, and again I would just recommend that everybody, hopefully, will be willing to vote for this because I think it encapsulates very clearly what we heard through public

engagement with the province with regard to their desire to entrench their property rights constitutionally. Again, I hope everybody votes in favour.

**The Chair:** Any further discussion?

Seeing and hearing none, I will call the question. All those in person in favour of the motion as proposed by MLA Milliken, please say aye. In person all those opposed, please say nay. Online all those in favour, please say aye. Online all those opposed, please say nay.

That motion is carried.

Next I have hon. MLA Schmidt again. Please go ahead.

**Mr. Schmidt:** Thank you very much, Mr. Chair. Let me just quickly find the motion here that I wanted to bring forward. I will keep talking so that I'm not skipped over or passed over. Ah, yes. Right. I move that

the Select Special Committee on Real Property Rights recommend that the Responsible Energy Development Act be amended to specify the classes or types of persons that are considered to be directly and adversely affected, as that expression is used in that act, by an application or decision made under that act relating to the use of a body of water.

**The Chair:** That is up on the screen now.

Please go ahead with your rationale.

**Mr. Schmidt:** Yeah. I think that's one of the things that really stood out to me in listening to the people who presented to the committee. Again, it is identified as an issue in the report that landowners want to be included in the regulatory processes that should be open to them, but they find that they aren't because the definition of directly affected that is applied by the appropriate regulators is so narrow that people who feel that they are directly affected or will be directly affected aren't considered as such for the purposes of the regulatory processes that are open to them. This is particularly underlined by issues relating to bodies of water.

You know, we've dealt with issues related to projects that could potentially contaminate sources of water upstream or divert sources of water upstream of potential landowners, but those people downstream are not considered directly affected by the regulators that are charged with making decisions on these projects. People are very frustrated with that state of affairs, and I think that by making this recommendation, we can make some significant advances in the regulatory processes by expanding the scope of people directly affected to better include people who are directly affected by these processes.

Thank you.

**The Chair:** Is there any discussion on this motion as proposed?

**Mr. Hanson:** I'd just like to . . .

**The Chair:** MLA Hanson, go ahead.

**Mr. Hanson:** Sorry. Thank you, Chair. Just kind of a clarification. As an example I would use, you know: if Edmonton wants to rework or build a new water treatment plant, do you consult with every city on the North Saskatchewan River in Saskatchewan through Manitoba to the Hudson Bay? Like, where does this start and where does it stop, I guess, would be my question.

**Mr. Schmidt:** Well, as Mr. Hanson knows, the construction of those kinds of works that he listed as an example wouldn't be considered under the Responsible Energy Development Act, but there is an extensive legal framework behind the apportionment of water downstream. You know, Alberta has agreements with

Saskatchewan. We have agreements with Montana. We have agreements with the Northwest Territories. There are methods in place for arbitrating those disputes between jurisdictions when it comes to water apportionment, but within the province of Alberta there is nothing, right? People could potentially be directly affected, and they don't have a meaningful way to engage in these processes. To Mr. Hanson's point, if we want to treat Alberta's own citizens with the same respect that we treat people in Saskatchewan, Montana, and the Northwest Territories, this would be a good place to start.

**The Chair:** Thank you.

**Mr. Hanson:** If I could just add to that. I mean, it opens up to the point where you may not be able to do any development at all. I guess my question is: where is this motion coming from? Is this coming from some specific presentation that was brought forward to us, or is this a political statement that you're trying to make?

**Mr. Schmidt:** Well, again I would refer Mr. Hanson to the research documents that were provided, that clearly indicate that people feel that they are being excluded from these regulatory processes. I'm using a body of water, I think, as a particular example of an area where people are excluded where they rightly have a place. You know, I don't think it's unrealistic to say that people will have potential significant negative impacts on bodies of water that they rely upon for a whole host of uses, and we need to recognize that one person's ability to use or impact a body of water, for example, does impact somebody else's availability. It doesn't mean that there will be no industrial development allowed. Of course, that's a ridiculous suggestion that I think Mr. Hanson is using to sink this motion, but I do think that there are overlapping demands on our water resources in particular, in particular in southern Alberta, where we need a better system of arbitrating these disputes.

**The Chair:** Thank you.

Next I have MLA Milliken. Please go ahead.

**Mr. Milliken:** Yeah. With respect, I don't have the answer here to this, but what I'm worried about is that what we might inadvertently be doing is perhaps creating some sort of new property right. As you know, use and ownership are two different things. It's the Crown that owns the water. I'm just worried that we might be maybe opening the door to some sort of a new property right on this, so on those grounds, I think that that goes well beyond any kind of a mandate that I think this committee was given. Just a thought.

**Mr. Schmidt:** Well, with respect to the suggestion from Mr. Milliken I am not suggesting that we are creating a property right. I am suggesting that we expand the use of directly affected. I appreciate that, you know, all water is the property of the Crown, for example, but we do give what are colloquially called water rights to users downstream, and those need to be respected, I think. By so narrowly defining adversely affected, we're causing negative impacts to those people who have water rights, in the colloquial sense of the term, downstream, and they aren't included here. Anyway, I hold out hope that I've been able to persuade my friends from across the way here.

**The Chair:** MLA Hanson.

**Mr. Hanson:** Yeah. Sorry, Chair; but I can't help but point out that this just looks like a political move. It specifically mentions the Responsible Energy Development Act. It doesn't talk about

municipalities or anything like that. I just think it's part of the member's Leap Manifesto aspirations and . . .

**Mr. Schmidt:** Point of order.

**The Chair:** Please go ahead with your point of order.

**Mr. Schmidt:** Well, under 23(h), (i), and (j) I think the member is using language that's likely to cause disorder. He knows full well that I've had nothing to do with the Leap Manifesto. This has nothing to do with the Leap Manifesto, so I think that he should apologize and withdraw those comments. We are here to have a serious, respectful deliberation, and those comments aren't helpful to the process.

**The Chair:** Thank you.

Go ahead, MLA Rutherford.

6:00

**Mr. Rutherford:** Thank you, Chair. I don't think that this is a point of order. I think it's a matter of debate, and I don't think that those comments have reached a threshold of causing disorder, as the member has suggested, but I will leave it to you, Chair, to make a final ruling.

Thank you.

**The Chair:** What I will do is – at this point in time I don't believe this is a point of order, but I would caution everybody to be clearer on their words, make sure they relate to the committee work that we're tasked to do here today, and please just try to ensure that your comments are directly related towards that.

MLA Hanson, please proceed. Go ahead.

**Mr. Hanson:** Yeah. Okay. Thank you. That was the end of my comments. You know, in the interest of time, if I've ruffled feathers over there by pointing that out, like I said, my comments were that the motion was directly aimed at the energy development industry, and it's a consistent path that the opposition has followed through for many, many years. The party has signed on to that, so I just assumed that was part of their political aspirations. I will withdraw that comment.

**The Chair:** Next I have MLA Nielsen. Go ahead.

**Mr. Nielsen:** Well, thanks, Mr. Chair. I guess I'll draw the parallel. We've just passed a motion to consider changes around the Constitution of Canada, which is not something that Alberta can just arbitrarily do if it so chooses; it's going to require a whole lot of other work. So if we're ready to take on that and potentially any implications of that as well, I think looking at trying to determine who's directly or indirectly adversely affected within our own province certainly doesn't seem quite as daunting a task as trying to change the Canada Constitution. You know, I think that if we can as a committee decide to take that on, we should be able to take this on. Our government should be able to take this on and do the work necessary to ensure that there are no unintended consequences.

**Mr. Schmidt:** If I could respond to Mr. Hanson's comment as well, I mean, he knows that the Responsible Energy Development Act is one of the few acts that's under the scope of this committee. This is one of the ones that we can amend, to make recommendations to what the definition of directly and adversely affected are. That's why I'm bringing this forward.

To his concerns that we are leaving municipalities and other potential users of water or people who are impacting water: it just

so happens that I have another motion, and I hope that he votes to allow me to bring it forward when the time comes.

Thank you, Mr. Chair.

**The Chair:** Any further speakers to the motion?

Seeing and hearing none, I will call the question on the motion as it is up on the screen. All those in person in favour of the motion as proposed, please say aye. All those in person opposed, please say nay. Online, all those in favour of the motion, please say aye. All those opposed to the motion, please say nay.

That motion is defeated.

Next I see MLA Yao. MLA Yao, please go ahead.

**Mr. Yao:** Thank you so much, Chair. I'd like to put forward a motion. The motion is to move that

the Select Special Committee on Real Property Rights adopt the recommendations of the Alberta Law Reform Institute set out in its final report on Adverse Possession and Lasting Improvements to Wrong Land, dated April 2020, summarized generally as follows: (a) that the Land Titles Act be amended to abolish any future claims of adverse possession, (b) that the Law of Property Act be amended to provide that an assign does not have to prove the belief of the person who made an improvement, and (c) that the Limitations Act be amended to provide for the following: (i) no limitation period for a claim to recover possession of real property, (ii) no limitation period for a claim respecting lasting improvements under the Law of Property Act, and (iii) the continuation of the 10-year limitation period for a claim to recover possession of real property in respect of a claim based on adverse possession that commences before adverse possession is abolished.

**The Chair:** That motion is up on the screen, so please proceed with your rationale.

**Mr. Yao:** My rationale, sir, is that this is a pretty straightforward and common-sense recommendation. We heard from constituents loud and clear right across the province on this very issue. In a nutshell, people do not care for the law that is known as squatters' rights. We are really just following the recommendations of the Alberta Law Reform Institute, which was tasked with reviewing this law of adverse possession, and we would be passing a motion based on their recommendations.

**The Chair:** Excellent.

On the motion proposed by MLA Yao, for discussion I have MLA Hanson. Please go ahead.

**Mr. Hanson:** Thank you, Chair. I'd just like to thank the member for putting forward a motion that actually reflects what we heard from the public.

Thank you.

**The Chair:** Next I have MLA Nielsen. Please go ahead.

**Mr. Nielsen:** I thought I had a little bit more time before I had to step up next here.

I appreciate Member Yao bringing the recommendation forward. You know, I'm prepared to support it with one very big caution, that I would like to make sure that the government addresses as they go forward around how this is going to look. There needs to be very, very serious consultation with Indigenous peoples around this. We do know that on occasion it's been kind of used as a bit of an excuse to burn down Indigenous cabins. The government needs to move forward very carefully on this. The consultations need to be very, very robust with Indigenous peoples around the removal of adverse

possession. Hopefully, those are taken into consideration when they look at this motion and recommendation from the committee.

**Mr. Dach:** Just briefly, as a long-term, past real estate agent I know that industry members and the public involved with transactions that had property with adverse possession, attachments to title, see this as a long-standing thorn in the side and would be glad to see this anachronism gone. But I do echo Member Nielsen's comments that there are structures on lands that could be affected by this legislation that are owned or were installed or put up by Indigenous people, who should be consulted with respect to how it might affect these properties, these structures. It should be treated with care and due consideration. But the general thrust of this to get rid of the concept of adverse possession is welcome.

**The Chair:** Is there any further discussion on the motion as proposed by MLA Yao?

Seeing and hearing none, I will call the question. All those in person in favour of the motion proposed by MLA Yao, please say aye. In person if you're opposed, please say nay. Online, all those in favour, say aye. Online, all those opposed, say nay.

That motion is unanimously carried.

Moving on, next I have MLA Hanson. Please go ahead.

**Mr. Hanson:** Thank you very much, Chair. I'd like to take this opportunity to propose a motion myself if I may.

**The Chair:** Please proceed.

**Mr. Hanson:** My motion would read: Mr. Hanson to move that the Select Special Committee on Real Property Rights recommend that the government examine its compensation process in respect of the expropriation of real property, specifically with respect to determining the fair market value of that property.

**The Chair:** That motion is up. Please proceed with your rationale, MLA Hanson.

**Mr. Hanson:** The rationale is that this is something that's been really big in our area, specifically with the overbuild of electrical infrastructure in the province. It caused a lot of consternation with many of my farmers and landowners. At the St. Paul public meeting committee members heard a consistent message from the public. I think you guys were all there. I tested positive that morning, so I had to miss the meeting right in my own hometown, unfortunately, but I did listen in on it.

Transmission lines had gone through years before, and landowners are still feeling disrespected and put out by the process. So I think it's very important that we address this. They often felt bowled over by these utility companies, and folks in my area are scared it's going to happen again with wind turbines. It's something I think is very important that we address. Currently we do have a wind turbine project that's never been applied for, but it's causing division between neighbours because the landmen are out there trying to buy up and secure land for that process. I think it's super important that we deal with this.

**The Chair:** Thank you, MLA Hanson.

Is there any discussion to the motion as proposed?

**6:10**

**Mr. Nielsen:** I'm all for good government processes, right? At the end of the day, people should feel that they've been heard, their concerns have been addressed, and when indeed those things are

being violated, that they get treated appropriately. So I'm happy to support this.

**The Chair:** Any further discussion?

There seems to be some consensus on this one, so I'll move to call the question. On the motion as proposed by MLA Hanson, all those in person in favour of the motion, please say aye. In person opposed, please say nay. Online, those in favour, please say aye. And any opposed?

Hearing none,  
that motion is also carried.

Next, in the interest of fairness, I will move back over. MLA Nielsen, please go . . .

**Mr. Nielsen:** How about that? I don't even have the hon. in front of my name, so I appreciate that. I also have a motion, Mr. Chair, that . . .

**The Chair:** Please go ahead, MLA Nielsen.

**Mr. Nielsen:** I'm sure they'll find that up there, that the Select Special Committee on Real Property Rights recommend that the Auditor General conduct a performance audit of the Alberta Energy Regulator and the Alberta Utilities Commission in respect of those public bodies' significant delays in adjudicating matters involving owners of real property that are brought before them under their respective enabling legislation.

**The Chair:** That is up on the screen, so please go ahead with your rationale.

**Mr. Nielsen:** Yeah, thanks. You know what?

**Mr. Hanson:** Sorry; but is this motion in order? We just passed one that addressed exactly that from Mr. van Dijken.

**The Chair:** I'll just pause briefly. Just to give clarification, MLA Hanson and MLA Nielsen, I will pause briefly just to consult with the clerk to see if this is in order.

Just to be clear, you're referring to the motion that was passed relating to the Land and Property Rights Tribunal, correct?

**Mr. Hanson:** Mr. van Dijken's motion was presented in . . .

**The Chair:** I know. I just needed that for clarification. Thank you.

**Mr. Hanson:** Yeah.

**The Chair:** They have ruled that this motion proposed by MLA Nielsen is in order, so I am going to allow it.

MLA Nielsen, please go ahead with your rationale and explanation.

**Mr. Nielsen:** Yeah. Just pretty straightforward. You know, it's always good to audit these things, make sure everything's doing what it's supposed to do, people are getting treated the way they're supposed to be treated, and any improvements that could be made, those recommendations are therefore coming from a professional. There are no kinds of political motivations or anything like that. This is just about making sure that we have the processes, as we were talking about a little bit earlier, that are good processes that people can trust, so I hope that members of the committee will support this.

**Mr. Hanson:** Just a point of clarification, Chair. The only difference I see is that the motion that was passed recommends that the government do the audit and make the changes or recommendations, and this is

asking that the Auditor General, who is an arm's-length commission, looks into it. Is that basically the difference that we're talking about?

**The Chair:** Sorry. Just one sec. I'm actually going to get a better explanation here in the interest – I'm going to refer to Nancy Robert, who will comment on this for me. Thank you, Nancy.

**Ms Robert:** Thanks, Mr. Chair. I realize they're both dealing with periods of time, but one deals with a regulator and a commission; the other deals with the Land and Property Rights Tribunal, which is different. That's one of the differences. Then, of course, yes, the government reviewing and then the Auditor General, two different bodies, but I would say the main difference is the bodies that would be reviewed and the legislation also that would be reviewed.

**The Chair:** MLA Hanson, does that clarify your questions? Do you have any additional points?

**Mr. Hanson:** Yeah, it does. That's fine. As long as we're, you know, not just rehashing the same issue, I'm fine with that.

**The Chair:** Excellent.

Is there any further discussion on the motion as proposed by MLA Nielsen?

Seeing and hearing none, I will call the question. On the motion as proposed by MLA Nielsen, all those in person in favour, please say aye. All those in person opposed, please say nay. Online all those in favour, please say aye. Online all of those opposed, please say nay.

That motion is defeated.

We are moving on. Are there any further motions? I have MLA Rowswell. Please go ahead.

**Mr. Rowswell:** Yeah. I'd like to move that the Select Special Committee on Real Property Rights recommend that the government develop a comprehensive compensation structure by which owners of real property are compensated if regulatory changes result in the removal of reasonable uses of real property.

We did see some of these on our tour, where people had bought land under the zoning that was there at the time to build their retirement home and then it changed. The person understood that, but they said, "You know, I'd like to be compensated because the value has been affected." That can be devastating financially for people. Some kind of made sense because they are in flood zones, but some left people kind of scratching their heads wondering, like: why was this changed? So I think we need to deal with regulatory issues that create problems for people.

**The Chair:** Excellent. Thank you for that. Thank you for the motion and the rationale.

Is there any discussion on the motion as proposed by MLA Rowswell?

Seeing and hearing none, we will call the question. On the motion as proposed by MLA Rowswell that is on the screen for everyone, all those in person in favour of the motion, please say aye. All those in person opposed, please say nay. Online all those in favour, please say aye. Online all those opposed, please say nay.

That motion is carried.

Next we have hon. MLA Schmidt. Please go ahead.

**Mr. Schmidt:** Yes. Thank you, Mr. Chair. I'd like to move that the Select Special Committee on Real Property Rights recommend that the Environmental Protection and Enhancement Act be amended to specify the classes or types of persons that are considered to be directly affected, as that expression is used in

that act, by a proposed activity, designation, release, decision, or any other matter as specified in that act relating to the use of a body of water.

Now . . .

**The Chair:** Just before we get to rationale, I just have to consult with the clerk briefly because I do believe that this may be out of order. If we could just pause briefly, I'll consult, and then if it is ruled in order, we'll proceed with your rationale. Just pause for a second.

I'll actually have the clerk's office address this, give an explanation on the ruling with relation to this motion. Please go ahead.

**Ms Govindarajan:** Yes. Our understanding is that this act was not included in the scope of the committee's review. That would be the advice.

**The Chair:** Excellent. Thank you.

I do concur that when I'm looking at this right now, hon. MLA Schmidt, the act which is relating to your motion, under 93, is not included under the scope, so that would rule this out of order.

Are there any additional motions to propose to the committee? Sorry. MLA Nielsen, go ahead.

**Mr. Nielsen:** Yeah. Of course, my colleague – I don't know if she's managed to join us online yet. Member Ganley?

**The Chair:** Which motion are you referring to, MLA Nielsen?

**Mr. Nielsen:** Let me find that exact number for you, Mr. Chair. Motion 90.

6:20

**The Chair:** I would just comment that because the Oil and Gas Conservation Act is as well not under the scope, this motion 90 is as well out of order at this time.

Are there any additional motions?

Seeing and hearing none, the report of the committee to the Assembly: we are now on (b). With the committee having now concluded its deliberations, we can proceed to directing research services to prepare a draft report containing the recommendations that the committee has approved this evening. At this time I would ask that Ms Robert provide us with a brief overview of this process and what the draft report will contain.

**Ms Robert:** Thank you, Mr. Chair. Certainly. I think that most of you are fairly familiar with what final reports from committees such as this contain, but I'll just give you a very quick, high-level overview. The report will contain an executive summary that contains all of the motions that were agreed to this evening. It'll also contain, you know, the committee mandate, so: the motion that was passed, introductory remarks on real property rights, acknowledgements of ministerial and other officials who were involved in the committee's process, the work that was done, that the committee did, with respect to consultation and review, and then, again, the committee recommendations but with some contextual information and rationale built into each of the recommendations, and then, of course, appendices with lists of written submitters, oral presenters. If there are any minority reports, minority reports would be added in the appendix as well.

That's basically it. I'm happy to answer any questions, though. Thanks.

**The Chair:** Thank you, Ms Robert.

Are there any questions from committee members? I see MLA Hanson. Please go ahead.

**Mr. Hanson:** Yeah. Thank you, and thank you, Ms Robert. One thing I'd just like – I did bring up the question in the House, and I understand that the acts aren't included in our committee mandate, but one thing that we heard very, very commonly was around access to public lands and the enforcement of the Wildlife Act and the Public Lands Act. I'm just hoping that that would be part of the discussion that's brought forward, because it was brought up at three different public meetings.

**Ms Robert:** Do you recall if you discussed it this evening, when you were making recommendations?

**Mr. Hanson:** Yes. I do recall that we did not discuss it because those two acts are not part of it, but it was something that we did hear quite consistently. I'm not talking about any changes to the acts; just the ask from the public was the enforcement of existing regulations.

**Ms Robert:** Typically, you know, the part of the report that's just the consultation or review process will be more basic. The description will be: "We went here. We heard from this." It might get into, "These were the general areas of discussion that we heard," but typically not. Then any other contextual information like that that you specifically want included, typically that would come up in a meeting such as this, and the committee would agree: "Yes, we want this expressed. Even though we don't have a recommendation, we want this thought or idea or feeling expressed in the report."

**Mr. Hanson:** If I could just – I didn't want to bring it forward as a recommendation because it would have been out of order because these aren't part of our mandate. I'll just continue to pursue it with Environment and Parks on my own, and we can kind of forget about it. Just it was something that was brought up quite significantly at the public meetings.

**Ms Robert:** In other committees even though recommendations were made, committees would specifically say, "Listen, we're not going to make any recommendations, but we do want to have this reflected in the report," and research services is happy to do that if the committee decides that that's what it wants. I'll just leave that there.

**The Chair:** Sorry. MLA Nielsen. I apologize.

**Mr. Nielsen:** That's okay, Mr. Chair. If I'm jumping the starting bell here, just let me know. It was mentioned in the comments, around the minority report. What would be the submission date on that?

**The Chair:** I do have comments getting there, but we'll address just now the main committee process for the draft report at this time.

Are there any further questions for Ms Robert?

**Mr. Milliken:** You said this better or more eloquently than I'm going to, but essentially what you're saying is that if we had a meeting, like we're having, and the committee decided, of course, not a recommendation but just to make note of something that perhaps got brought up several times throughout when we were doing our public engagement – just to build off what MLA Hanson had said, what does it look like? What's the process? Would it just be a motion from the floor, or would it be a majority of the committee saying: yes, we would all like that? Can we do that here and now?

**Ms Robert:** The committee can do it by consensus, or if they don't feel they maybe have consensus, certainly a motion from the floor

could come forward. Typically it's a consensus-based thing. I mean, you've already kind of gone beyond your deliberations. If you want to go back, I suppose you could make a motion to go back to that item on the agenda and discuss whether you'd accept a motion or have a discussion to say: we want to add this to the report. That's up to the committee to decide.

**The Chair:** MLA Milliken, a follow-up. Go ahead.

**Mr. Milliken:** I would like to make a motion from the floor to go back to have such a discussion.

**The Chair:** I will just briefly review to make sure I have this process perfectly done and just make sure I get this correct before we proceed. I'm just going to pause briefly.

At this point in time there seems to be a bit of consensus on this, that you want to push back to get this on record. It's an administrative motion request, which I will allow at this time.

Please, MLA Hanson, go ahead at this time.

**Mr. Hanson:** Yeah. So just for clarity, because I understand that possibly you weren't at all the meetings . . .

**Mr. Milliken:** I made a motion.

**The Chair:** Oh, sorry. You did make the motion. I apologize to the committee members.

The motion as proposed by MLA Milliken: of course, we don't need approval to hear it, so please give your rationale to the reasoning on your motion, and then we'll go to discussion and voting on this motion.

**Mr. Milliken:** Yeah. Very briefly, the rationale is because Member Hanson brought up something that I think maybe we should try to ensure is within the report but not necessarily a recommendation per se. That's the rationale.

**The Chair:** Are there any further committee members that would like to speak to the motion by Mr. Milliken to move back into the deliberations portion?

Seeing and hearing none, I will put it to a vote. All those in person in favour of this motion, please say aye. All those in person opposed to this motion, please say nay. Online all those in favour, please say aye. Online all those opposed, please say nay.

That motion is carried.

Please go ahead, MLA Hanson, and then I think I saw MLA Schmidt. Is that correct? Oh. Sorry. MLA Hanson, go ahead.

**Mr. Hanson:** Okay. Thanks. So just the rationale behind it, because we did hear it very consistently at three of the six meetings: it was about access to public lands. Some of the rationale was that especially hunters and some people that wanted to recreate on public lands felt that some of the leaseholders of public lands were unfairly blocking them from access. It's just a matter of asking Environment and Parks to consistently enforce the regulations that already exist under the Public Lands Act and the Wildlife Act, because these are two areas that folks were quite adamant about. It's simply about fair and equal access to public lands by all Albertans. That's all they were asking for, and I have, like I say, brought it up as a question in the House. It's something that we heard quite consistently. I know it doesn't fall within the mandate as it was laid out to this committee, but being that we heard it so significantly and consistently, I just thought it would be something that we could discuss briefly and have it so that it's part of the report.

**The Chair:** Thank you, MLA Hanson.

I will just go back to Ms Robert for comments. Please go ahead.

6:30

**Ms Robert:** Thank you, Mr. Chair. Just so I'm clear, what you're proposing and hoping to get support for from the committee is to include some contextual information in the report about your thoughts and beliefs on access to public lands as you've described.

**Mr. Hanson:** Yes. Just equal, fair access for all Albertans to public lands, just under the law of what's already there in the Wildlife Act and the Public Lands Act.

**Ms Robert:** Okay. Thank you.

**The Chair:** Thank you, Ms Robert.

Are there any additional comments in relation to this? I am going to go to the committee, too, to make sure that we do have consensus on this, MLA Hanson, if that's fair. I want to make sure that we do have fair consensus on having this included as a part of the deliberations portion of the committee.

Are there any other comments in relation to this? MLA Schmidt.

**Mr. Schmidt:** Yeah. Thank you, Mr. Chair. While it's unclear to me what Mr. Hanson is asking for specifically to be in the report, it's just a reminder to the committee that neither the Public Lands Act nor the Wildlife Act are technically within the scope of the committee. I hope that the report sticks to the scope and that whatever references Mr. Hanson is looking for with respect to the issue of hunting on public land, which, I will agree, is something that is a problem but, again, is not within the scope – I certainly hope that the report doesn't go outside of the scope, because we've been very careful about sticking to the scope that the committee has given itself.

**The Chair:** I will briefly pause here, too, after some additional comments from the clerk. This could potentially be a part of a minority report submitted as well.

Next to speak I have MLA van Dijken. Please go ahead.

**Mr. van Dijken:** Yeah. Thank you, Chair. I'm just looking at the committee's mandate. I understand the concern, but I can't see that it falls within our mandate. It's not a real property concern. It is an access concern with regard to Crown land, so I would have to agree that it falls outside of the scope of the duties of this committee and should be addressed through different means.

**The Chair:** Anybody additional that wants to speak to this? MLA Hanson, go ahead.

**Mr. Hanson:** I will. Thank you, Chair, and thank you, Mr. van Dijken and Mr. Schmidt, for your comments. I do agree a hundred per cent with your comments, but it was something that we did hear quite consistently. That's why I didn't bring it forward as a motion, because I knew it would be ruled out of order. I just wanted to put on the record that it was something that we heard quite avidly from a lot of folks in their presentations. I want to recognize the folks that came forward, took the time out of their days to come and present to our committees.

**The Chair:** Seeing as how we're getting a little bit of mixed impressions on this right now, of course, to have this included as a part of the deliberations, I would need to see some strong consensus to have this included at this time. I will actually call the question on this. All those in favour in person – sorry. MLA Schmidt, go ahead.



**Mr. Schmidt:** Sorry, Mr. Chair. Just for clarity, what exactly are we voting on?

**Mr. Milliken:** There's no motion.

**Mr. Hanson:** I'm good.

**The Chair:** You're good? Okay.

Anything additional?

We are now moving back to the report of the committee to the Assembly. We were with Ms Robert on questions on the report.

Now, I would also note that the committee may wish to streamline the process and avoid another meeting by authorizing the chair and the deputy chair to approve the draft report after it has been made available for committee members to review. What are the members' thoughts on this issue? MLA Hanson.

**Mr. Hanson:** I would make a motion to that effect if that's required.

**The Chair:** Yes. There is a draft motion here that you can review, and if it fits with what your intentions are, please go ahead.

**Mr. Hanson:** Absolutely. Mr. Hanson to move that the Select Special Committee on Real Property Rights direct research services to prepare a draft report on the committee's review pursuant to Government Motion 69 containing the recommendations approved by the committee and authorize the chair and deputy chair to approve the report after making it available to committee members for review.

**The Chair:** Are there any additional comments or questions as to the motion moved by MLA Hanson?

Seeing and hearing none, all those in person in favour of the motion as proposed, please say aye. All those in person opposed, please say nay. All those online in favour, please say aye. All those online opposed, please say nay.

That motion is carried.

I'll note that minority reports should be submitted to the committee clerk no later than noon on June 17 so that they can be appended to the committee's report.

I'm going to just comment now, of course, on the approval of the final minutes after deliberations. Hon. members, as this may well

be the final meeting of this committee, the practice in similar select special committees has been to authorize the chair to approve the minutes of the final meeting after members have had an opportunity to review them for the records of the Assembly. I would like to open the floor to discussion on this matter, and if there is agreement to this, we do have a proposed motion that could be moved.

MLA Rutherford, please go ahead.

**Mr. Rutherford:** I will move that motion if there's one prepared. I move that

the Select Special Committee on Real Property Rights authorize the chair to approve the minutes of the May 26, 2022, meeting of the committee after they have been circulated to committee members for review.

**The Chair:** Excellent. Are there any questions or comments?

Seeing and hearing none, all those in person in favour of the motion as proposed, please say aye. All those opposed in person, please say nay. Online, all those in favour, please say aye. Online, all those opposed, please say nay. Thank you.

That motion is carried.

Moving on to item 6, other business, are there any other items that the members would like to discuss at this time?

Seeing and hearing none, the date of the next meeting. Having completed our deliberations and provided instructions for drafting the final report of the committee, once the report is provided to the Assembly, that will conclude the mandate of this committee. Therefore, no further meetings of the committee are anticipated.

Moving on to adjournment, if there's nothing else for the committee's consideration, I'll call for a motion to adjourn. I see MLA Rutherford. Please go ahead.

**Mr. Rutherford:** Thank you, Mr. Chair. Given that there is a very pressing Oilers game this evening, I move that we adjourn.

**The Chair:** All those in person in favour of adjournment, please say aye. All those in person opposed, please say nay. All those online in favour, please say aye. All those online opposed, please say nay. That motion is carried.

Thank you, everyone. This meeting is adjourned.

[The committee adjourned at 6:38 p.m.]





