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Wednesday 4 June 2003

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des débats
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Mercredi 4 juin 2003

**Standing committee on
regulations and private bills**

**Comité permanent des
règlements et des projets
de loi d'intérêt privé**

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Clerk: Trevor Day

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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

**STANDING COMMITTEE
ON REGULATIONS
AND PRIVATE BILLS**

**COMITÉ PERMANENT DES
RÈGLEMENTS ET DES PROJETS DE LOI
D'INTÉRÊT PRIVÉ**

Wednesday 4 June 2003

Mercredi 4 juin 2003

The committee met at 1007 in committee room 1.

**THUNDER BAY COMMUNITY
FOUNDATION ACT, 2003**

Consideration of Bill Pr20, An Act respecting the Thunder Bay Foundation.

The Acting Chair (Mr Morley Kells): I'd like to call the meeting to order. I notice our friends the NDP are not here, but I'm sure we can proceed. First of all, we're going to have Bill Pr20. I don't quite understand what teleconferencing is, but we're going to have it. Would the honourable member Mr Gravelle sit in? Is there anybody else with you, Mr Gravelle?

Mr Michael Gravelle (Thunder Bay-Superior North): I believe that the applicant, Mr Atwood, is on the line in Thunder Bay.

The Acting Chair: With the wonders of teleconferencing, would you please introduce it first, Mr Gravelle, and then we'll chat.

Mr Gravelle: Thank you very much, Mr Chair. The Thunder Bay Foundation was constituted as a body corporate by a special act of the Ontario Legislature in 1971. Since that time, there have been several changes to the various acts that govern how a public foundation can operate.

The Trustee Act has been changed by one of the many red tape reduction acts. As a result, trustees are no longer tied to the old investment provisions of the prior Trustee Act but are now governed by the prudent investor rule. Without a new act, the Thunder Bay Foundation continues to be bound by the old Trustee Act investment provisions. As a result of this bill, the trustees will now be governed in their investment decisions by the prudent investor rule and will be able, if they choose, to invest in mutual funds for the first time.

Time and events have moved on and changes are required of the foundation. Nationally, there has been a growth in the number and size of community foundations, such that the word "community" now has a significance to donors and recipients. This new special act of the Ontario Legislature will rename the foundation the Thunder Bay Community Foundation, a better reflection of the activities of the foundation in the district of Thunder Bay.

I have been working with Mr Atwood, a former member of the foundation, for a couple of years, and I know the clerk has as well. I have a particular interest in this as well because my late father was the executive director of Thunder Bay Foundation for many years. So I'm pleased to be here today and hope that we can move forward and have this legislation passed.

The Acting Chair: Thank you. I can't imagine a better recommendation than yours and your father's.

Mr Gravelle: Absolutely.

The Acting Chair: Is Mr Atwood on the telephone with us?

Mr John Atwood: Yes, good morning, Mr Chair.

The Acting Chair: Would you proceed, Mr Atwood?

Mr Atwood: As our member, Mr Gravelle, has indicated, I was on the board of the foundation and have been involved for a couple of years in putting together what's before you this morning. In particular, what you have as a part of your package is a compendium of background information. I put that together, its purpose being to summarize for the members of your committee just exactly what is proposed in this amendment. I think in large measure, Mr Gravelle has given you a summary of what the amendment proposes.

The main motivating factor was the fact that this private bill is from 1971. There have been changes over the years in the manner in which monies are invested. Now we have the prospect of professional money managers. The general thinking these days seems to be that it's useful for boards to work with professional money managers to maximize the return, in a conservative sense, available with respect to invested monies. The board of the Thunder Bay Foundation really felt that the words of the existing legislation tied the hands of the board and didn't clearly allow the board to make use of these new techniques. So that's what got the discussion started about perhaps an amendment. A little committee was formed of the board members.

In addition to recognizing the changes from an investment perspective, it was thought we would do a few housekeeping things as well, one of which was the renaming of the foundation. It really is quite central to what goes on here in Thunder Bay. I'm grateful to be able to participate by telephone from Thunder Bay—not that I mind coming to Toronto, but to be able to do it this way is really useful for me and I'm grateful for it. We

had our meetings, and one of the thoughts was to call the foundation the Thunder Bay Community Foundation.

From its text, it looks to raise funds. It started from an anonymous donation back in 1971. It's grown to something more than \$3 million, verging on \$4 million in its account. It provides money every year for good purposes here in Thunder Bay and in the district of Thunder Bay. One of the housekeeping changes was the notion of changing the name to the Thunder Bay Community Foundation, and a few other little housekeeping items.

For example, there was a provision in the existing act that we publish our financial statements annually in the newspaper. I have to admit that for the years I was on the board, it just didn't happen; it had stopped happening. So when we did this we recognized that and that we wanted to do things by the book. We thought, "Let's propose a change that still makes the information available to the public but in a more cost-effective sense." So you'll see one of the changes is that there will be financial statements. With the auditor for the foundation, I reviewed the text, the words that are in the proposed amendment. What is proposed is that a notice be put in the local newspaper every year announcing the fact that the financial statements are complete and that they're available for inspection at the offices of the Thunder Bay Foundation. So again, that's just an example of a housekeeping change.

I think apart from that, I'm here, available, and have been quite involved in the process for the last couple of years. I've had the able assistance of a number of your legislation assistants, Susan Klein in particular. She's been a tremendous wordsmith in helping us put all of this together. When we had a draft, I then worked with the office of the public guardian and trustee. I had to make some adjustments to satisfy a few concerns that the office of the public guardian and trustee had and, in particular, Mr Nick Hedley. But we've done that, so as best I know, what you're looking at is wording that is acceptable to the legislative assistants that we worked with, certainly acceptable to us, representing the Thunder Bay Foundation, and also acceptable to the office of the public guardian and trustee.

Apart from that, questions? I'm happy to try to answer them.

There is a request that I've enclosed as well. Because we're a non-profit group, recognized as such by Canada Customs and Revenue, you have the power as well to waive the fees. So as an adjunct to what we're doing, I wanted that request to be brought forward as well. But I've said enough.

The Acting Chair: Thank you, Mr Atwood. I would say that's a very detailed explanation of what we're about today. We're pleased to have you on the telephone. It's only Air Canada that probably isn't as happy. It seems a sensible way to do business. Thank you very much. If you'll just stand by as we roll through a little more detail here.

Mr Atwood: Sure. Thank you very much.

The Acting Chair: Besides pinch-hitting as the Chair, I am also the parliamentary assistant to the Minister of Municipal Affairs, and we have no objection from that point of view, obviously, and as you mentioned, the public trustee's office has no objection. So we have no objection from either government ministries or other parts of the system. The next thing we do is move on to ask our members if they have any questions of Mr Atwood or Mr Gravelle.

I think you've been so straightforward and detailed, Mr Atwood, that this is a slam dunk. Thank you very much.

Mr Raminder Gill (Bramalea-Gore-Malton-Springdale): If I may, I know one of the subtle requests that Mr Atwood made was to waive the fees. I have no objection to that if the committee so decides.

The Acting Chair: You're anticipating what I'm going to ask you, but we'll move forward. First of all, are you ready to vote?

Shall section 1 carry? Carried.

Shall section 2 carry? Carried.

Shall section 3 carry? Carried.

Shall section 4 carry? Carried.

Shall section 5 carry? Carried.

Shall section 6 carry? Carried.

Shall the preamble carry? Carried.

Shall the title carry? Carried.

Shall the bill carry? Carried.

Shall I report the bill to the House?

Thank you.

We have a request to waive fees and printing costs and I certainly would like a motion in that regard.

Mr Gravelle: Could I ask, Mr Chair, that the committee give consideration to waiving the fees and printing costs associated with Pr20, An Act respecting the Thunder Bay Foundation, under standing order 80(d) for charitable organizations?

The Acting Chair: Yes, that's in order. Would one of you honourable members move that?

Mr Pat Hoy (Chatham-Kent Essex): I would move that.

The Acting Chair: Moved by Mr Hoy, seconded by Mr Gill.

All in favour? Carried.

It's been a pleasure to do this kind of business. Thank you, Mr Atwood.

Mr Atwood: Thank you, Mr Gravelle, Mr Chair and members of the committee. It was a pleasure participating in this fashion.

Mr Gravelle: Thank you very much, Mr Atwood and members of the committee. I wish all things went as smoothly as this. I hope we can get this through third reading before the spring session rises.

The Acting Chair: I think with a little help from the House leaders, we could get that done.

Mr Gravelle: I understand that's how it works, Mr Chair. Thank you.

MUNICIPALITY OF
CHATHAM-KENT ACT, 2003

Consideration of Bill Pr12, An Act respecting the Municipality of Chatham-Kent.

The Acting Chair: The next order of business is Pr12. Mr Beaubien, will you please introduce the gentleman with you.

Mr Marcel Beaubien (Lambton-Kent-Middlesex): Thank you very much, Mr Chair. I have with me Mr Chris Masterson, general manager of engineering and water and waste water services in the community of Chatham-Kent.

It's also my pleasure this morning to introduce Bill Pr12, An Act respecting the Municipality of Chatham-Kent. Mr Chair, this bill was introduced last fall. If I recall, there was no objection from anyone on this particular issue. I'll read the explanatory note on the back of the first page. It says, "The restructuring order that created the municipality of Chatham-Kent specified that certain bylaws and resolutions of the former municipalities and their local board ceased to be in force on December 31, 2002. The bill changes this date to December 31, 2004. The bill is made retroactive to December 31, 2002."

As I pointed out, the bill was introduced last fall but, because of a technical glitch, it was not presented to the House for final reading. Consequently, when the House was prorogued, the bill died on the order paper.

I'm sure Mr Masterson is quite willing to answer any questions if any of the members have some.

1020

Mr Hoy: I wonder if I might ask what the technical glitch was. Was the bill in order at the time?

Mr Beaubien: Yes. It's my understanding that the bill was in order, but on the last day that the House was sitting, it was missed for some reason by whoever was presenting bills at the time. Consequently, it was left lying on the sidelines and it died on the order paper. But the bill itself was proper.

The Acting Chair: It appears to be a government error or omission, one or the other.

Mr Beaubien: I'm not going to point my finger at anyone. My mother always told me that if I point my finger at somebody, three will be pointing back directly at me.

The Acting Chair: Any other questions, Mr Hoy?

Mr Hoy: No. I just wanted clarification on why this bill didn't proceed.

The Acting Chair: Do the government members have any questions? Well, with that in mind, Mr Masterson, are there a few words you'd like to say just to complement Mr Beaubien's explanation?

Mr Chris Masterson: I'd just like to thank Mr Beaubien for bringing the bill forward. Basically, the municipality is diligently working to finalize and alter its bylaws, and we hope the extension can go through.

The Acting Chair: You've gained two years out of it anyway, haven't you?

Are the members prepared to vote? We're going to shorten it this time.

Shall sections 1 through 5 carry? Carried.

Shall the preamble carry? Carried.

Shall the title carry? Carried.

Shall the bill carry? Carried.

Shall I report the bill to the House? Shall it carry? Carried.

Let's get it passed this time.

KITCHENER-WATERLOO
FOUNDATION ACT, 2003

Consideration of Bill Pr23, An Act respecting the Kitchener and Waterloo Community Foundation.

The Acting Chair: We'll have just a slight delay here until we find the honourable member, Mr Wettlaufer.

Mr Wettlaufer, please be seated. We are now moving on to Bill Pr23. Would the honourable member provide us with his comments and introduce his helper, if I may use that term?

Mr Wayne Wettlaufer (Kitchener Centre): You'll have to excuse me. I was in another committee room and I had to run down here because I knew you were in a hurry.

We are sponsoring a bill for the Kitchener-Waterloo Community Foundation. I have Teresa de Haan with me. She will go through all the particulars with the committee.

Ms Teresa de Haan: The Kitchener-Waterloo Community Foundation was first incorporated by a private member's act in 1984, and there have been two amendments since.

Similarly to Thunder Bay, one of the key things they'd like to do is to make themselves subject to the prudent investor test. Again, similar to Thunder Bay, the requirement that they imposed on themselves to publish the financial statements in the paper wasn't happening.

In addition to those things, as I've outlined in the compendium, there are some housekeeping items they wanted to include in the amendments. First of all, they wanted to simplify their act by deleting the examples in subsection 4(1). They wanted to simplify it by omitting those examples.

The second amendment is they'd like to not constrain themselves to a fixed range of directors, so they'd like to have a minimum of nine but the maximum number being open.

The third amendment they'd like is to allow the past president to continue on as a voting member, even if he or she has had three consecutive terms, so that there is a continuity of leadership.

The fourth amendment is they'd like to just update the language. Instead of referring to the "president," they'd like to refer to the "chair" with respect to people on the nominating committee.

The next amendment they'd like is, in combination with the prudent investor test, to give themselves the

freedom to use a money manager or an investment manager.

The next amendment is to section 12(g). They wanted to clarify the language so they could retain monies to offset the effects of inflation on capital.

The next one is specifically regarding the prudent investor test.

The second-last amendment in the compendium is to give themselves the ability to direct donations out of the country if a donor specifically directed them to do so. However, the intent of the foundation is to primarily service the local area, and that hasn't changed.

The last amendment in the compendium is regarding the publication of financial statements in the newspaper. They wanted to delete the requirement to publish donors' names. So they'll still be publishing the financial statements; it'll just be a different format.

I believe you have in front of you a final amendment. This one is to be done as a motion. It's just a house-keeping one to make it crystal clear that board members can only sit for three consecutive terms, not one plus three consecutive terms. That's in the motion you have before you.

The Acting Chair: We haven't moved it yet, but we shall. May I ask if any of the members have questions before we proceed further? It appears to be pretty straightforward, and thank you for your detailed explanation.

I would ask the government member, Mr Gill, if you would move the motion, and please read it.

Mr Gill: Do we want to go to section 2; pass 1 first?

The Acting Chair: You want to wait until we get to it. OK, I hear you.

We're going to vote if you're ready. Shall section 1, as amended, carry?

Interjection.

The Acting Chair: I'm getting some new instructions here. Let's start again.

Shall section 1 carry? Carried.

So for section 2, we're going to have a motion.

Mr Gill: I've got a motion for the amendment, and if you will recognize me, I will—

The Acting Chair: Yes, please proceed.

Mr Gill: I move that subsection 6(6) of the Kitchener-Waterloo Foundation Act, 1984, as set out in section 2 of the bill, be struck out and the following substituted:

“Reappointment

“(6) Directors are eligible for reappointment for such consecutive terms, not exceeding two, as determined by by-law of the board, so that no person may serve for more than three consecutive terms, but a person may be reappointed after one year has elapsed after he or she ceased to hold office.”

The Acting Chair: Are there any questions on the amendment? That being the case, shall section 2, as amended, carry?

Interjection.

The Acting Chair: We want to vote on it first. OK. Let's vote. Can we vote on the motion?

All in favour? Carried.

Now can I say shall section 2, as amended, carry? Carried.

We're on target now. Let's try this one.

Shall sections 3 through 8 carry? Carried.

Shall the preamble carry? Carried.

Shall the title carry? Carried.

Shall the bill, as amended, carry? Carried.

Shall I report the bill, as amended, to the House, before I get stabbed to death here with this pen? Carried. Thank you very much.

Ms de Haan: I'd like to also request, similar to Thunder Bay, that the fees and related printing costs be waived. Similar to Thunder Bay, it's not-for-profit.

The Acting Chair: I would entertain a motion to that.

Mr Beaubien: I'll move it.

The Acting Chair: Mr Beaubien moves that we waive the costs. Will you second that, Mr Hoy?

Mr Hoy: Yes.

The Acting Chair: All in favour? Carried.

You got that in just in time. Thank you very much, everybody.

Mr Gill: Are we adjourned?

The Acting Chair: Yes, we're adjourned.

The committee adjourned at 1030.

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