



THE SAINT JOHN JEUX CANADA GAMES FOUNDATION, INC.  
LA FONDATION JEUX CANADA GAMES SAINT JOHN, INC.

206 King Street West, Saint John, NB E2M 1S6 (506) 634-1985

February 15, 2019

**DELIVERED BY HAND**

City of Saint John  
15 Market Square  
P.O. Box 1971  
Saint John, NB E2L 4L1

**Attention: Mayor and Members of Common Council**

Dear Mayor Darling and Councillors:

Re: Proposed Amendment of Letters Patent of The Saint John Jeux Canada Games Foundation, Inc. (the “**Foundation**”)

The Foundation was created by the attached Letters Patent under the *Companies Act* (New Brunswick) on July 28, 1986. The Foundation was created as a Canadian Amateur Athletic Association (A Charitable Organization) to receive, invest and distribute the surplus funds from the 1985 Canada Games for the general benefit and development of amateur athletics in Canada. The Foundation’s purpose is to assist in the development of amateur sport by making financial contributions to athletes, coaches, sport organizations, and educational institutions to assist them in the pursuit of excellence in sport, so that Canada, and New Brunswick in particular, will be well represented at the national and international level.

In 2016, the City of Saint John instituted an Agency, Board or Commission (an “**ABC**”) nomination process which has created problems with the efficient operation of the Foundation. Attached for your information is my letter of July 5, 2018 which illustrates the issues considered in this letter.

In particular, you will see on page 13 of the attached Letters Patent that the Governors shall consist of the Mayor or designate and 8 other Governors appointed by Common Council after taking into consideration of the Governors then in office.

The ABC process is not compatible with the efficient operation of the Foundation for several reasons including:

- (i) the 6 (six) year term limits are not practical in light of Governor meetings normally taking place two or three times a year;
- (ii) the Governors have traditionally been selected based on their background and experience to ensure the Foundation’s most efficient operation. The 6 year term limits are not conducive to capitalizing on the experience of the Governors as a whole;

(iii) the ABC process does not allow for a consultative procedure in nominations. Contrary to the Letters Patent requirements, appointments have been made without consultation; and

(iv) the Foundation does not, and will not, receive funding from the City.

The Foundation has its own nomination process in place to recommend replacements for retiring Governors. The Foundation proposes making amendments to the Letters Patent as set out in attached Schedule "A". The suggested additions are underlined, and the deletions are crossed out.

The Foundation seeks support from the City to these suggested amendments to remove the Foundation from the ABC process.

We thank you in advance for your time, and would be pleased to discuss with you further at your convenience.

Yours truly,

A handwritten signature in black ink, appearing to read "Jeff White", written in a cursive style.

Jeff White  
Chairman, Board of Governors

Schedule "A"

Letters Patent Excerpts:

[From pages 13 to 16]

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~~Thereafter t~~ The Governors of the Foundation shall consist of the Mayor of SAINT JOHN or a member of the Common Council of SAINT JOHN designated by the Mayor, together with eight (8) nine (9) Governors appointed by the Common Council of SAINT JOHN after taking into consideration the recommendation of the Governors of the Foundation then in office or, as appointed by the Common Council of SAINT JOHN in the event that there are no Governors then in office.

~~All Governors, other than the Mayor or member of Common Council of SAINT JOHN, shall be appointed for a term of three (3) years and shall hold office until their successors are appointed. The Mayor of SAINT JOHN shall hold office only while Mayor of SAINT JOHN and the Mayor's designate shall hold office at the pleasure of the Mayor.~~

All Governors shall be residents of New Brunswick to be eligible for appointment and to continue to hold the office of Governor of the Foundation. Other qualifications of a person to serve as a Governor of the Foundation may be established from time to time by by-law.

A Governor upon being appointed to, designated as or assuming the office of Governor shall be deemed to be a member of the Foundation and the Governors shall be the only members thereof.

~~A Governor, other than the Mayor of SAINT JOHN or the member of Common Council designated by the Mayor, may be removed (either with or without cause) at any meeting of the members called for that purpose by the vote of at least two thirds of all the members.~~

~~In case of a vacancy occurring on the Board for any cause or reason, other than a vacancy occurring as a result of a vacancy in the office of the Mayor of SAINT JOHN, the Common Council of SAINT JOHN, after taking into consideration the recommendation of the Governors of the Foundation then in office, shall appoint a Governor for the duration of the term of the Governor whose office was vacated.~~

Meetings of members and Governors of the Foundation may be held together.

The Governors and officers of the Foundation shall serve without remuneration.

~~The Governors of the Foundation shall report annually to the Common Council of SAINT JOHN on the operations of the Foundation for the past fiscal year within three (3) months of the end of such fiscal year.~~

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THE SAINT JOHN JEUX CANADA GAMES FOUNDATION, INC.

APPLICATION FOR INCORPORATION  
UNDER THE NEW BRUNSWICK COMPANIES ACT

TO: THE HONOURABLE MINISTER OF JUSTICE

THE APPLICATION of Elsie E. Wayne of the City of Saint John in the County of Saint John and Province of New Brunswick, James A. MacMurray of the said City of Saint John and Harry P. Gaunce of the said City of Saint John, RESPECTFULLY SHEWETH AS FOLLOWS:-

COMPANY NAME

The undersigned applicants are desirous of obtaining Letters Patent under the provisions of the COMPANIES ACT, constituting your applicants and such others as may become members in the Company hereby created, a body corporate and politic, under the name of THE SAINT JOHN JEUX CANADA GAMES FOUNDATION, INC. (hereinafter sometimes referred to as the "Foundation") or such other name as shall appear to you to be proper in the premises.

Transmitted herewith is the consent of THE CORPORATION OF THE CITY OF SAINT JOHN (hereinafter sometimes referred to as "SAINT JOHN") and THE SAINT JOHN 1985 CANADA SUMMER GAMES SOCIETY, INC. (hereinafter sometimes referred to as the "SOCIETY") to the use of the aforementioned name.

The undersigned have satisfied themselves and are assured that the proposed corporate name of the Company under which incorporation is sought is not the name of any other known corporation or association, incorporated or unincorporated, or of any syndicate or partnership, or of any individual or any name under which any known business is being carried on or so nearly resembling the same as to be liable to be confounded therewith or is otherwise on public grounds objectionable.

#### OBJECTS

The objects for which incorporation is sought are to receive and maintain a fund or funds and apply from time to time all or a part of the income therefrom.

and/or the capital thereof for the training and development of amateur athletes for the general benefit and development of amateur athletics in Canada, and to do all things necessary, incidental or conducive to the attainment of the aforementioned objects, and in particular, for the further attainment of the above objects:-

- (a) to receive the surplus funds of the SOCIETY, a company incorporated to conduct the 1985 CANADA SUMMER GAMES for the general benefit and development of amateur athletics in Canada, and to hold and utilize such funds for the aforementioned objects on the terms and conditions herein set out;
- (b) to use, apply, give, donate, devote, accumulate or distribute from time to time all or part of the income therefrom and/or capital thereof of the fund or funds of the Foundation for the objects aforementioned by such means or in such manner as the Governors

of the Foundation consider appropriate or expedient;

- (c) to promote the training and development of amateur athletes in Saint John, in New Brunswick, and in Canada through the provision of funds to athletes, amateur athletic associations, sports governing bodies, universities and others involved in the training and development of amateur athletes to be used for education, training, instruction or other similar programs for the development of amateur athletes where funding is not otherwise available from government, university or private sources, or to provide funds to enhance existing or future government, university or privately sponsored programs;
- (d) to enter into arrangements with any public or private authorities that may seem conducive to the attainment of the above objects and to

obtain from any such authority any arrangements, rights, privileges or concessions which the Foundation may think it desirable to obtain and to carry out, exercise and comply with any such arrangements, rights, privileges and concessions;

- (e) to acquire, accept, solicit or receive by purchase, lease, contract, donation, legacy, gift, grant, bequest, devise or otherwise any kind of property; and to enter into and carry out agreements, contracts, arrangements and undertakings incidental thereto;
- (f) to hold, manage, sell or convert any of the property from time to time owned by the Foundation, and to invest and reinvest any income or principal of the fund or funds of the Foundation as a trustee thereof in such manner as may from time to time be determined by the Governors exercising the judgment and



care that a man of prudence, discretion and intelligence would exercise as a trustee of the property of others;

- (g) to exercise all voting rights, or to authorize and direct the execution and delivery of proxies in connection therewith, attached to any shares, bonds, debentures or other obligations or securities in any corporation owned by the Foundation;
- (h) to demand, receive, sue for, recover and compel the payment of all sums of money that may become due and payable to the Foundation, and generally to sue and be sued;
- (i) to employ and pay such assistants, clerks, agents, representatives or employees, and to procure, equip and maintain such offices and other facilities, and to incur such reasonable expenses as may be necessary;

- (j) to draw, make, accept, discount, execute and issue bills of exchange, promissory notes and other negotiable instruments; and
- (k) to apply for registration as a Canadian Amateur Athletic Association, Charitable Organization or Charitable Foundation under the provisions of the Income Tax Act (Canada); and
- (l) to do all such other acts and things as may seem directly or indirectly to be incidental to or conducive to or convenient or proper for the attainment of the above objects, or necessary or expedient for the protection of the Foundation and its members.

POWERS

The Foundation may exercise all powers and shall be subject to the provisions of Section 18 of the COMPANIES ACT. The incidental and ancillary powers set out in subsection 14(1) of the Act are withheld from the Foundation.

The members of the Foundation and its officers and Governors, in relation to the Foundation, may employ and act upon the opinion or advice or information obtained from any lawyer, accountant, valuer, broker or other professional or expert, and shall not be responsible for any loss occasioned by acting or not acting thereon, and shall be entitled to employ such assistance as in their opinion may be necessary or desirable for the proper discharge of their duties, and pay proper and reasonable compensation for all such advice and assistance.

The Foundation shall not carry on any business or trade for the profit of its members, Governors or officers and any profit or other accretion to the Foundation shall be held in trust and used in promoting its objects.

PROPERTY

The Foundation is to have no capital stock and may acquire personal property to a cost value not

to exceed Ten Thousand Dollars (\$10,000.00) Canadian in ) - ?  
1986 dollars.

The Foundation shall hold all property or funds acquired by it by purchase, gift, bequest, devise or otherwise, and the income and profit arising therefrom, in trust for the objects aforementioned.

The surplus funds of the Society transferred to the Foundation shall be held in trust subject to the following terms and conditions:-

- (a) The capital of the funds shall not be spent for a period of ten (10) years; and
- (b) At least the minimum percentage of the income or profit therefrom required under the provisions of the Income Tax Act (Canada) shall be expended annually for the objects of the Foundation.

The Foundation is otherwise authorized to expend both income and capital in pursuit of its objects.

HEAD OFFICE

The Head Office of the Foundation within New Brunswick will be at the City of Saint John in the County of Saint John.

APPLICANTS

The following are the names in full and the addresses and callings of the applicants:-

APPLICANT AND  
ADDRESS

CALLING

Elsie E. Wayne  
25 Holland Street  
Saint John, N.B.  
E2H 1Z1

Mayor, The  
Corporation of the  
City of Saint John

James A. MacMurray  
Pelton Road  
R.R. #1  
Saint John, N.B.  
E2L 3W2

Executive

Harry P. Gaunce  
946 Manawagonish Road  
Saint John, N.B.  
E2M 3X1

Executive

Each of your applicants is of the full age of nineteen (19) years.

A company register has been opened and a Memorandum of Agreement by the applicants under seal in accordance with the statute has been executed in duplicate, one of the duplicates being transmitted herewith.

DIRECTORS/GOVERNORS

The directors of the Foundation shall be designated as Governors, and the Board of Directors shall be designated as the Board of Governors.

The applicants will be the first or provisional Governors and members of the Foundation and shall hold office until the 31st day of August, 1986.

The following are the names in full, the addresses and calling, and the terms for the

individuals who shall become Governors and members of  
the Foundation after the 31st day of August, 1986:-

NAME CALLING AND ADDRESS

TERM

Elsie E. Wayne  
Mayor of SAINT JOHN  
25 Holland Street  
Saint John, N.B.  
E2H 1Z1

While holding the office of  
Mayor of SAINT JOHN

James A. MacMurray  
Executive  
Pelton Road  
R.R. #1  
Saint John, N.B.  
E2L 3W2

From September 1, 1986 to  
December 31, 1989 and until  
his successor is appointed

Harry P. Gaunce  
Executive  
946 Manawagonish Road  
Saint John, N.B.  
E2M 3X1

From September 1, 1986 to  
December 31, 1989 and until  
his successor is appointed

Richard H. Oland  
Executive  
Almon Lane  
Rothesay, N.B.  
E0G 2W0

From September 1, 1986 to  
December 31, 1989 and until  
his successor is appointed

Patrick D. Darrah  
Executive  
27 Kelton Street  
Saint John, N.B.  
E2J 3A8

From September 1, 1986 to  
December 31, 1988 and until  
his successor is appointed

Application for Incorporation  
Jeux Canada Games Foundation

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Norman C. Sinclair  
Chartered Accountant  
124 Park Drive  
Renforth, N.B.  
E2H 1A8

From September 1, 1986 to  
December 31, 1988 and until  
his successor is appointed

Joseph E. Flynn  
Plant Manager  
66 Bay Street  
R.R. #7  
Saint John, N.B.  
E2L 3W7

From September 1, 1986 to  
December 31, 1988 and until  
his successor is appointed

Kenneth V. Cox  
Executive  
216 Roderick Row  
Saint John, N.B.  
E2M 4J8

From September 1, 1986 to  
December 31, 1987 and until  
his successor is appointed

George Bouchard  
Executive  
42 Reading Street  
Fredericton, N.B.  
E3B 6B9

From September 1, 1986 to  
December 31, 1987 and until  
his successor is appointed

Thereafter the Governors of the Foundation shall consist of the Mayor of SAINT JOHN or a member of the Common Council of SAINT JOHN designated by the Mayor, together with eight (8) other Governors appointed by the Common Council of SAINT JOHN after taking into consideration the recommendation of the Governors of the Foundation then in office.



All Governors, other than the Mayor or member of Common Council of SAINT JOHN, shall be appointed for a term of three (3) years and shall hold office until their successors are appointed. The Mayor of SAINT JOHN shall hold office only while Mayor of SAINT JOHN and the Mayor's designate shall hold office at the pleasure of the Mayor.

All Governors shall be residents of New Brunswick to be eligible for appointment and to continue to hold the office of Governor of the Foundation. Other qualifications of a person to serve as a Governor of the Foundation may be established from time to time by by-law.

A Governor upon being appointed to, designated as or assuming the office of Governor shall be deemed to be a member of the Foundation and the Governors shall be the only members thereof.

A Governor, other than the Mayor of SAINT JOHN or the member of Common Council designated by the

Mayor, may be removed (either with or without cause) at any meeting of the members called for that purpose by the vote of at least two thirds of all the members.

In case of a vacancy occurring on the Board for any cause or reason, other than a vacancy occurring as a result of a vacancy in the office of the Mayor of SAINT JOHN, the Common Council of SAINT JOHN, after taking into consideration the recommendation of the Governors of the Foundation then in office, shall appoint a Governor for the duration of the term of the Governor whose office was vacated.

Meetings of members and Governors of the Foundation may be held together.

The Governors and officers of the Foundation shall serve without remuneration.

The Governors of the Foundation shall report annually to the Common Council of SAINT JOHN on the

operations of the Foundation for the past fiscal year within three (3) months of the end of such fiscal year.

INDEMNITY TO GOVERNOR

Each and every Governor of the Foundation shall assume office on the express undertaking, agreement and condition that every Governor and his heirs, executors, administrators and estate shall from time to time and at all times be indemnified and saved harmless out of the fund or funds of the Foundation from and against all costs, losses, charges and expenses whatsoever which such Governor sustains or incurs in or about any action suit or proceeding which is brought, commenced or prosecuted against him for or in respect of any act, deed, matter or thing whatsoever made, done or permitted by him in or about the execution of the duties of his office, and also from and against all other costs, losses, charges and expenses whatsoever, including travelling and other expenses which he sustains or incurs in or about or in relation to the affairs of the Foundation, except such

costs, losses, charges or expenses which are occasioned by his own wilful neglect, misconduct or default.

LIABILITY OF GOVERNORS

No Governor, officer or member for the time being of the Foundation, as such, shall be liable to the Foundation, to its members, to SAINT JOHN or to any other person, firm, association or corporation:-

- (a) for the acts, receipts, neglects or defaults of any other Governor, officer, member or employee of the Foundation;
- (b) for the joining in any receipt or act for conformity;
- (c) for the loss, damage or expense happening to the Foundation through the insufficiency, or deficiency of title to any property acquired by order of the Board for or on behalf of the Foundation;

- (d) for the insufficiency or deficiency of any security in or upon which any of the funds of or belonging to the Foundation shall be placed out or invested;
- (e) for any loss or damage arising from the bankruptcy, insolvency or tortious act of any person, firm or corporation with whom or with which any money, securities or effects of the Foundation shall be lodged or deposited; or
- (f) for any other loss, damage or misfortune whatsoever which may happen to the Foundation in the execution of the duties of his office or in relation thereto;

unless the same shall happen by or through his own wilful or intentional neglect, misconduct or default.

No Governor, officer or member for the time being of the Foundation, as such, shall be liable for

any debts, obligations or liabilities of the Foundation.

RESOLUTIONS BY SIGNATURE

A resolution in writing signed by all the Governors entitled to vote on the resolution at a meeting of the Governors or a Committee thereof, is as valid as if it had been passed at a meeting of the Governors or Committee of Governors, and a copy of every such resolution shall be kept with the minutes of the meetings or proceedings of the Governors or Committee of Governors.

A resolution in writing signed by all the members of the Foundation entitled to vote on the resolution at a meeting of members is as valid as if it had been passed at a meeting of the members, and a copy of every such resolution shall be kept with the minutes of the meetings of members.

BORROWING

The Foundation may borrow money upon the credit of the Foundation to a maximum limit in the aggregate at any time of Ten Thousand Dollars (\$10,000.00) Canadian in 1986 dollars and may hypothecate, mortgage or pledge the property of the Foundation only for the purpose of securing the borrowing of the Foundation as authorized herein. The borrowing authorized hereunder shall be for the sole purpose of providing liquidity to the Foundation by way of an operating line of credit for use in the ordinary course of the operations of the Foundation.

The Foundation shall not issue bonds, debentures, debenture stock or other securities of the Foundation.

LIQUIDATION

On the liquidation or other dissolution of the Foundation the property, assets and funds of the Foundation shall be distributed to SAINT JOHN or to a corporate body or bodies designated and controlled by SAINT JOHN and in which SAINT JOHN holds at least a 90% interest, to be held in trust and to be used for the

objects of the Foundation in the manner hereinbefore set out.

The undersigned therefore request that a Charter may be granted constituting them and such other persons as hereafter become members in the Foundation a body corporate and politic for the objects set forth.

SIGNATURE OF WITNESS

John L. Nugent

John L. Nugent

John L. Nugent

SIGNATURE OF APPLICANT

Elsie E. Wayne

James A. MacMurray

Harry P. Gaunce

DATED at the City of Saint John in the County  
of Saint John this 11th day of ~~May~~, 1986.  
June





THE SAINT JOHN JEUX CANADA GAMES FOUNDATION, INC.  
LA FONDATION JEUX CANADA GAMES SAINT JOHN, INC.

206 King Street West, Saint John, NB E2M 1S6 (506) 634-1985

July 5, 2018

Mayor Don Darling  
Chair Nominating Committee  
City of Saint John  
P. O. Box 1971  
Saint John, NB E2L 4L1

Dear Mayor Darling:

On behalf of the Board of Governors of The Saint John Jeux Canada Games Foundation, Inc. I am writing concerning the appointment of Governors of the Foundation.

The By-laws of the Foundation state:

"The Governors of the Foundation shall consist of the Mayor of Saint John or a member of the Common Council of Saint John designated by the Mayor, together with eight other Governors appointed by the Common Council of Saint John after taking into consideration the recommendation of the Governors of the Foundation then in office."

In accordance with the above by-law, the Governors of the Foundation recommend to Common Council that Andrew Gaunce be re-appointed as Governor for a three year term ending in 2021 or until his successor is appointed. Mr. Gaunce was previously appointed by resolution of Common Council on August 4, 2015 for a three year term that will expire on August 4, 2018.

Although the reappointment of Mr. Gaunce would be his third term as Governor, we feel that it is extremely important that he continue for at least one more term. Mr Gaunce has many additional duties as Vice Chairman of the Foundation and Chair of the Fundy Sports Club Development Program. This program is a pilot project of the Foundation whose goal is to provide funding to select sports clubs in the Fundy region with the specific purpose of increasing participation and the continuation of strong leadership. Mr. Gaunce has been instrumental in the implementation and the operation of this program which is scheduled to continue in the next several months to assess past results, to select local organizations to participate in the fall 2018 program and to recommend the awarding of grants to assist in the development of the various sports. It would be difficult for someone to assume the ongoing and upcoming responsibilities and events of this committee from Mr. Gaunce.

We would appreciate confirmation from Common Council of this appointment in due course.

Respectfully submitted,

Jeff White  
Chairman, Board of Governors

JW/lfs



THE SAINT JOHN JEUX CANADA GAMES FOUNDATION, INC.  
LA FONDATION JEUX CANADA GAMES SAINT JOHN, INC.

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City of Saint John  
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Saint John, NB E2L 4L1

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Chairman, Board of Governors

JW/lfs