

BOARD ORDER NO. MGB 055/10

FILE: AN09/SUND/T-01

IN THE MATTER OF THE *Municipal Government Act* being Chapter M-26 of the Revised Statutes of Alberta 2000 (Act).

AND IN THE MATTER OF an application by the Town of Sundre, in the Province of Alberta, to annex certain territory lying immediately adjacent thereto and thereby its separation from Mountain View County.

BEFORE:

Members:

H. Kim, Presiding Officer
W. Kipp, Member
R. Strauss, Member

MGB Staff:

R. Duncan, Case Manager

SUMMARY

After careful examination of the submissions from the Town of Sundre (Town), Mountain View County (County), affected landowners, and other interested parties, the Municipal Government Board (MGB) makes the following recommendation for the reasons set out in the MGB report, shown as Appendix D of this Board Order.

The Lieutenant Governor in Council orders that

- (a) effective January 1, 2010, the land described in Appendix A and shown on the sketch in Appendix B is separated from Mountain View County and annexed to the Town of Sundre,
- (b) any taxes owing to Mountain View County at the end of December 31, 2009 in respect of the annexed land are transferred to and become payable to the Town of Sundre together with any lawful penalties and costs levied in respect of those taxes, and the Town of Sundre upon collecting those taxes, penalties and costs must pay them to Mountain View County,
- (c) the assessor for Mountain View County must assess the annexed land and the assessable improvements to it for the purposes of taxation in 2010,

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- (d) taxes payable in 2010 in respect of the annexed land and any assessable improvements to it are to be paid to Mountain View County and Mountain View County must remit those taxes to the Town of Sundre, and
- (e) the assessor for the Town of Sundre must assess the annexed land and the assessable improvements to it for the purposes of taxation in 2011 and subsequent years,

and makes the Order in Appendix C.

Dated at the City of Edmonton, in the Province of Alberta, 6th day of May 2010.

MUNICIPAL GOVERNMENT BOARD

(SGD.) H. Kim, Presiding Officer

APPENDIX A

**DETAILED DESCRIPTION OF THE LANDS SEPARATED FROM
MOUNTAIN VIEW COUNTY AND ANNEXED TO THE TOWN OF SUNDRE**

ALL THAT PORTION OF THE SOUTHWEST QUARTER OF SECTION THIRTY-THREE (33), TOWNSHIP THIRTY-TWO (32), RANGE FIVE (5) WEST OF THE FIFTH MERIDIAN NOT WITHIN THE TOWN OF SUNDRE.

ALL THAT PORTION OF THE NORTHEAST QUARTER OF SECTION THIRTY-FOUR (34), TOWNSHIP THIRTY-TWO (32), RANGE FIVE (5) WEST OF THE FIFTH MERIDIAN NOT WITHIN THE TOWN OF SUNDRE EXCLUDING PLAN 781 1450 AND EXCLUDING PLAN 901 2366 AND EXCLUDING PLAN 901 1174 AND EXCLUDING PLAN 851 0367 AND EXCLUDING PLAN 841 0635.

ALL THAT PORTION OF THE SOUTHEAST QUARTER OF SECTION THREE (3), TOWNSHIP THIRTY-THREE (33), RANGE FIVE (5) WEST OF THE FIFTH MERIDIAN NOT WITHIN THE TOWN OF SUNDRE LYING EAST OF THE PRODUCTION SOUTH OF THE WEST BOUNDARY OF PLAN 071-0018 AND LYING NORTH OF THE SOUTH BOUNDARY OF PLAN 841-0635 AND INCLUDING PLAN 071-0018.

ALL THAT PORTION OF THE SOUTH HALF OF SECTION TWO (2), TOWNSHIP THIRTY-THREE (33), RANGE FIVE (5) WEST OF THE FIFTH MERIDIAN NORTH OF THE SOUTH BOUNDARY OF PLAN 841 0635 AND INCLUDING THAT PORTION OF THE NORTH-SOUTH ROAD ALLOWANCE ON THE WEST SIDE OF SAID HALF SECTION LYING NORTH OF THE PROJECTION WEST OF THE SOUTH BOUNDARY OF PLAN 841 0635.

ALL THAT PORTION OF PLAN 891 1424 LYING WITHIN THE NORTHWEST QUARTER OF SECTION TWO (2), TOWNSHIP THIRTY-THREE (33), RANGE FIVE (5) WEST OF THE FIFTH MERIDIAN.

ALL THAT PORTION OF SECTION NINE (9), TOWNSHIP THIRTY-THREE (33), RANGE FIVE (5) WEST OF THE FIFTH MERIDIAN NOT WITHIN THE TOWN OF SUNDRE INCLUDING ALL LANDS ADJACENT TO THE WEST SIDE OF SAID SECTION LYING EAST OF THE WESTERLY BOUNDARY OF PLAN 861 0295.

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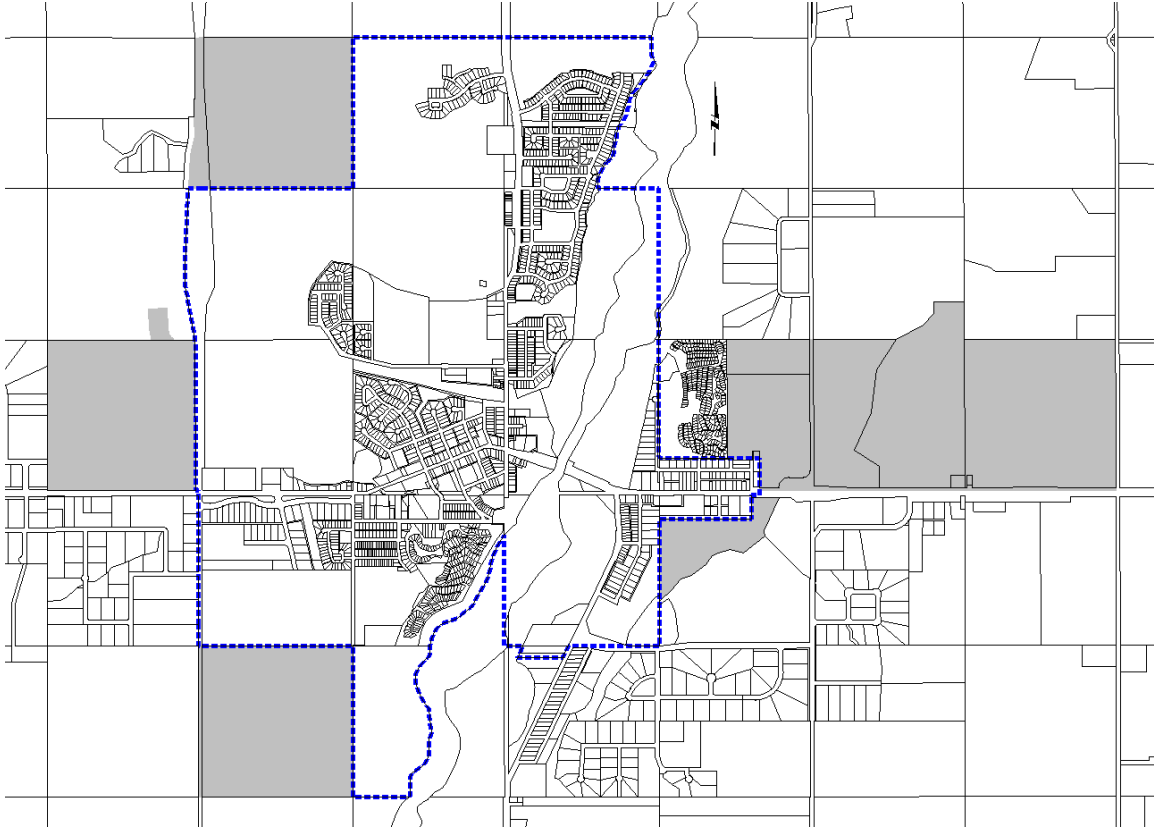
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ALL THAT PORTION OF THE SOUTHEAST QUARTER OF SECTION FIVE (5), TOWNSHIP THIRTY-THREE (33), RANGE FIVE (5) WEST OF THE FIFTH MERIDIAN NOT WITHIN THE TOWN OF SUNDRE LYING NORTH OF THE NORTH BOUNDARY OF PLAN 6615 JK.

ALL THAT PORTION OF PLAN 811 0479 LYING WITHIN THE NORTHEAST QUARTER OF SECTION FIVE (5), TOWNSHIP (33), RANGE FIVE (5) WEST OF THE FIFTH MERIDIAN.

APPENDIX B

A SKETCH SHOWING THE GENERAL LOCATION OF THE AREAS ANNEXED TO THE TOWN OF SUNDRE



Legend



Existing Town of Sundre Boundary



Annexation Area

APPENDIX C

ORDER

1 In this Order, “annexed land” means the land described in Appendix A and shown on the sketch in Appendix B.

2 For taxation purposes in 2010 and in each subsequent year up to and including 2019, the annexed land and the assessable improvements to it

- (a) must be assessed by the Town of Sundre on the same basis as if they had remained in Mountain View County, and
- (b) must be taxed by the Town of Sundre in respect of each assessment class that applies to the annexed land and the assessable improvements to it using
 - (i) the municipal tax rate established by Mountain View County, or
 - (ii) the municipal tax rate established by the Town of Sundre,

whichever rate is lower.

3 Where, in any taxation year, a portion of the annexed land

- (a) becomes a new parcel of land created as a result of subdivision or separation of title by registered plan of subdivision or by instrument or any other method that occurs at the request of, or on behalf of, the landowner, except for the subdivision of an existing farmstead from a previously unsubdivided quarter section,
- (b) becomes a residual portion of 16 hectares or less after a new parcel referred to in clause (a) has been created,
- (c) is redesignated, at the request of or on behalf of the landowner, under the Town of Sundre Land Use Bylaw to a designation other than “Agricultural” or “Urban Reserve”,
- (d) is provided with water and sewer services by the Town of Sundre pursuant to a local improvement tax bylaw at the request of or on behalf of the landowner, or
- (e) is connected to water or sewer services provided by the Town of Sundre,

section 2 ceases to apply at the end of that taxation year in respect of that portion of the annexed land and the assessable improvements to it.

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4 After section 2 ceases to apply to the annexed land or any portion of it, the annexed land or portion of it and the assessable improvements to it must be assessed and taxed for the purposes of property taxes in the same manner as other property of the same assessment class in the Town of Sundre is assessed and taxed.

5 The Town of Sundre shall, in addition to any amounts paid before the date this Order in Council is signed by the Lieutenant Governor in Council, pay to Mountain View County the amount of thirty-four thousand nine hundred and twenty-six dollars and thirty-four cents (\$34,926.34) on or before September 15, 2010 and on or before September 15 of every year thereafter up to and including 2019.

APPENDIX D

**MUNICIPAL GOVERNMENT BOARD REPORT
TO THE MINISTER OF MUNICIPAL AFFAIRS
RESPECTING THE TOWN OF SUNDRE PROPOSED ANNEXATION OF
TERRITORY FROM MOUNTAIN VIEW COUNTY**

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Executive Summary

The Town of Sundre (Town) is located in southern Alberta at the intersection of the Red Deer River and Highway 27, approximately 42 kilometres west of Highway 2. On September 3, 2009, the Municipal Government Board (MGB) received an application from the Town to annex 1,223 acres (495 hectares) of territory from Mountain View County (County). The purpose of the proposed annexation is to provide the Town with land for residential, industrial and commercial growth for 20 years.

The two municipalities identified that the proposed annexation is a result of four years of work resulting in a Memorandum of Agreement (MOA) and a draft Intermunicipal Development Plan (IDP) between the Town and the County.

Objections Received

A review of the annexation application determined that there was an objection from one of the affected landowners. On October 5, 2009, the Town provided a letter from the affected landowner to confirm this objection. In accordance with section 120(3) of the *Municipal Government Act* (Act), the MGB held a public hearing on November 26, 2009 to receive information, evidence and argument regarding the proposed annexation. During this hearing presentations were received by the MGB from the Town, the County, the representatives of the landowner that filed the objection, other affected landowners and the public.

Recommendation

After reviewing all the written and oral submissions, the MGB recommends that the annexation be approved as applied for by the Town.

Reasons

The MGB finds that the purpose of the annexation as well as the amount of land being requested by the Town is reasonable and that the concerns of the affected landowners have been given proper consideration.

The detailed analysis and reasons of the MGB are contained in Part VI of this report.

Part I Introduction

The Town is located at the base of the Rocky Mountain Foothills on the banks of the Red Deer River, with a business and recreational base. The Town is 42 kilometres west of Highway 2 on Highway 27.

On April 23, 2009, the MGB received a notice of intent from the Town to annex lands from the County. On September 3, 2009, the MGB received the required Negotiation Report from the Town to annex 1,223 acres (495 hectares) of territory from the County. The Town also submitted the required application fee and a letter requesting the MGB to proceed with the annexation.

After reviewing the annexation application submitted by the Town, the MGB discovered that the application contained an objection to the proposed annexation. On October 5, 2009, the Town provided the MGB with a letter from the affected landowner to confirm the objection. In accordance with section 120(3) of the Act, the MGB held a public hearing on November 26, 2009 to receive information, evidence and argument on the annexation proposal.

The following report outlines the role of the MGB, provides a brief overview of the Town's annexation application, summarizes the public hearing of November 26, 2009, and provides a recommendation to the Minister regarding this matter.

Part II Role of the MGB, the Minister and the Lieutenant Governor in Council

Pursuant to section 116 of the Act, a municipality seeking annexation must first initiate the process by giving written notice to the municipal authority from which the land is to be annexed, the MGB and any other local authority the initiating municipality considers may be affected. The notice must describe the land proposed for annexation, set out the reasons for the annexation and include proposals for consulting with the public and meeting with the landowners. Once the notice of intent has been filed, the municipalities involved with the proposed annexation must negotiate in good faith. If the municipalities are unable to reach an agreement, they must attempt mediation to resolve the outstanding matters.

At the conclusion of the negotiations, the initiating municipality must prepare a report. This report must include a list of issues that have been agreed to by the two municipalities and identify any issues the two municipalities have not been able to agree upon. If the municipalities were unable to negotiate an annexation agreement, the report must state what mediation attempts were undertaken or, if there was no mediation, give reasons why. The report must also include a description of the public consultation process and provide a summary of the views expressed during this process. The report is then signed by both municipalities. Should one of the municipalities not wish to sign the report, it has the option of including in the reasons it did not sign.

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The report is then submitted to the MGB and, pursuant to section 119, becomes the annexation application. If the MGB is satisfied that the affected municipalities and public are generally in agreement, the MGB notifies the parties of their findings and unless objections are filed with the MGB by a specific date, the MGB makes its recommendation to the Minister without holding a public hearing. If an objection is filed, the MGB must conduct one or more public hearings.

The MGB has the authority to investigate, analyze and make findings of fact about the annexation, including the probable effect on local authorities and on the residents of an area. If a public hearing is held, the MGB must allow any affected person to appear and make a submission. After hearing the evidence and submissions from the parties, the MGB must prepare a written report of its findings and recommendations and send it to the Minister of Municipal Affairs (Minister). The Minister has the authority to accept in whole or in part or completely reject the findings and recommendations made by the MGB. The Minister may bring a recommendation forward for consideration to the Lieutenant Governor in Council (LGC). After considering the recommendation, the LGC may order the annexation of land from one municipality to another.

Part III Annexation Application

The application submitted to the MGB on September 3, 2010 identified that the annexation request was a result of four years of effort, in which a Memorandum of Agreement (MOA) and draft Intermunicipal Development Plan (IDP) were approved by the Town and the County. The application contends that creation of these documents demonstrates the amount of collaboration between the two municipalities. The following provides a brief summary of the Town's application.

Future Development Plans

The annexation application estimates the Town's current population to be 2,672. The Sundre Growth Strategy identifies that projected population growth for the next twenty years is based on the assumption that lack of available land has hampered growth in the community. It is expected that in the five years following the proposed annexation there will be renewed interest in developing lands within the community, resulting in an annualized growth rate of 6%. From 2014 to 2029 it is predicted that the annual growth rate for the Town will be 3.75%. Using these projections, the Town predicts its population will be 6,211 by 2029. The application states that this growth rate is similar to that experienced in other communities such as Canmore and Cochrane which have similar geographic location elements.

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The Town estimates that it currently has 342 acres of vacant residential land and 44 acres of commercial/industrial land within its boundary. In order to accommodate its 20 year projected population of 6,211, the Town identified that it needs an additional 692 acres of developable land. This assumes a permanent residential density level of 4.86 units per acre with 2.25 people per unit and the seasonal occupied residences to be 67% of the total number of permanent residences. The Town has also included 110 acres of industrial/commercial land for each population increase of 1,000 people and an additional 20% for other land uses. However, the Town explains that a larger annexation area has been requested because a significant portion of the lands being annexed will be used for recreational purposes (golf course) and/or environmental open spaces. Moreover, the Town estimates that 1,054 of the 2,475 projected new dwelling units will be for non-permanent residents. The Town contends that the 1,223 acres of land being requested will ensure it has a twenty year land inventory, which will allow it to accommodate a variety of residential, industrial, commercial, public and park uses.

The annexation application states that the short term growth is to be on the west side of the Red Deer River, adjacent to the Town's boundaries. This area can be developed easily by extending the existing Town transportation, water and wastewater systems. The potential for growth on the east side of the Town is subject to infrastructure improvements, including regional water and wastewater services. Constraints to the proposed land use concept include the Tall Timbers subdivision adjacent to the Town (not included in the annexation lands), a planned County gravel extraction operation on the western portion, several multi-parcel subdivisions adjacent to the Town, the Red Deer River and its associated floodplain and valley. The majority of the developable lands being requested by the Town in this annexation are designated for residential purposes. However, the Town, in an effort to diversify its tax base, included significant lands projected for commercial and industrial use.

The IDP developed by the two municipalities identified growth nodes for both the Town and the County. This included a 40-year growth area for the Town north of Highway 27 and adjacent to Highway 22 as well as two primary growth areas for the County west and southeast of the Town. Both municipalities identified an interest in growth east of the Town adjacent to Highway 27. The IDP helped to define the annexation area and will ensure that both municipalities have future growth opportunities. The IDP will also be instrumental in guiding development, economic growth, servicing and environmental stewardship for the Town and the surrounding area.

As mentioned previously, a significant portion of the annexation lands are recreational (golf course) or environmental open space and cannot be developed. Both the Town and the County recognize the need to protect and enhance existing open spaces including those adjacent to the river system. The IDP envisions the protection of these areas by the identification of Environmental Reserve at the subdivision application stage and by establishing appropriate development setbacks from water bodies and watercourses.

Provision of Municipal Services

As was noted earlier, the annexation area west of the Town can be easily be serviced by extending the existing road, water and sewer infrastructure. Water lines can be extended to the annexation areas from existing mains in adjacent neighbourhoods. New sewer trunk lines can be also be extended to service the annexation lands.

Infrastructure improvements are required to facilitate growth on the east side of the Town. The Town and the County have identified the need to work cooperatively to develop services east of the Red Deer River. The Town has applied for and received approval for funding under the Build Canada Program to extend water and wastewater services across the river to provide these services to the annexation area as well as the adjacent area within the County.

Stormwater management plans for all annexed areas are required as part of an Area Structure Plan or as an update to the current stormwater management plan. There are existing natural drainage features in some of the areas that can provide a framework for the development of the future drainage system.

Compensation

The lands within the annexation area are assessed as either farmland, residential or non-residential. The effect this annexation will have on the County's assessment base will be minimal, while the Town will gain modestly from all assessment classes.

Through the development of the MOA, the Town and the County discussed revenue sharing and agreed to the concept of the Town providing water and wastewater services to developments in the County. The MOA identifies that the County will pay to the Town 10% of the municipal taxes collected for any developments serviced with Town water and 10% for any developments served by town wastewater services, from the time of service connection for a maximum total of 20% of municipal property taxes.

The Town agreed to pay the County \$34,926.34 per year for 10 years, based on the 2008 assessment and tax rates on the land and improvements, excluding electric power and pipe assessment. The County agreed that the portion of the annual tax dollars collected from the lands on the east side of the river (\$295,896.00) will be repaid by the County to the Town to help offset the costs of bringing the water and wastewater services across the river to serve the lands in the Town and County.

Proposed Assessment and Taxation Conditions

There is a significant disparity between the municipal taxes in the Town compared to the County. The treatment of annexed properties is an issue for the affected landowners, and the Town proposes 10 years' transitional provision for the annexed lands as follows:

1. For taxation purposes in 2010 and in subsequent years until December 31, 2019, the annexed lands and the assessable improvements to it:
 - a. must be assessed by the Town on the same basis as if they had remained in the County, and
 - b. must be taxed by the Town using,
 - i. the municipal tax rates established by the County, or
 - ii. the municipal tax rates established by the Town, whichever is lower.
2. Section 1 ceases to apply to a portion of the annexed land and the assessable improvements to it in the taxation year immediately following the taxation year in which
 - a. the portion becomes a new parcel of land created as a result of subdivision or separation of title by registered plan of subdivision or by instrument or any other method that occurs at the request of, or on behalf of, the landowner, except for the subdivision of an existing farmstead from a previously un-subdivided quarter section,
 - b. becomes a residual portion of 16 hectares or less after a new parcel referred to in clause (a) has been created,
 - c. the portion is redesignated, at the request of or on behalf of the landowner, under the Town of Sundre Land Use Bylaw to a designation other than agricultural or urban reserve,
 - d. the portion is the subject of a local improvement project described in a local improvement bylaw initiated by or with the support of the landowner pursuant to which the Town water and sewer services are made available to the land, or
 - e. the portion is connected to the water or sanitary sewer services provided by the Town.

Local Authorities and Provincial Government Comments

The Chinook Edge School District, Alberta Health Services and Mountain View Regional Waste Management Commission were notified of the proposed annexation at the notice of intent stage. Although these municipal authorities were requested to provide comment as part of the public and affected landowner consultation process, the annexation application did not contain any correspondence from these organizations.

Alberta Transportation (AT), in its letter of May 4, 2009, stated it has no major concerns with the annexation application. However, AT noted that the Highway 27 functional planning study was just being finalized in May 2009. The letter advised that AT would expect access to the highway

within the annexation area in accordance with the recommendations of the functional planning study. Moreover, AT identified that the preferred bypass alignment, also within the annexation area, would require additional study should development become imminent.

Public Consultation

Three main groups were identified for the public consultation process: owners of land within the annexation areas; owners of neighbouring properties within 1.6 kilometres of the annexation areas; and the general public. The process consisted of placing information on the internet, distributing an annexation notice and information package by mail, a public information meeting, a public hearing, and discussions with individual landowners.

The public information meeting was held on April 22, 2009 and attended by 10 of the 18 landowners in the annexation area as well as 45 other persons. The Town and the County held a joint Public Hearing on July 14, 2009 to discuss the IDP. Several landowners took the opportunity to state their positions concerning the annexation.

Landowner concerns from the public consultation process focused on timelines, the process of developing plans and the costs associated with bringing in servicing as well as rates of taxation. The Town was successful in obtaining consent letters from almost all of the affected landowners subject to assurances including protection from tax increases and allowing existing land uses to continue.

The annexation application identified that one of the affected landowners, Alma Pederson, objected to the proposed annexation. However, the application did not contain any correspondence to confirm this. At the request of the MGB, the Town provided a letter from Ms. Pederson on October 5, 2010 to confirm her objection.

Part IV Public Hearing

As a result of the objection, and in accordance with section 120(3) of the Act, the MGB held a public hearing on November 26, 2009 to receive information, evidence and argument on the proposed annexation. Pursuant to section 122(1), the MGB published hearing notifications in the **Sundre Round Up**, a newspaper circulating in the affected area, the weeks of October 26, November 2 and November 9, 2009. The following section summarizes the submissions made by the municipalities and the affected landowners and public during the November 26, 2009 hearing.

Town and County Presentation

The Town and the County made a joint presentation highlighting their MOA and IDP. The municipalities believe the MOA and IDP will form the basis of a cooperative effort between the two municipalities to work together to serve the needs of their communities. The identification of

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growth areas in the IDP provides a level of certainty which will allow both municipalities to grow. These documents will help to ensure the municipalities are developed in a manner that is equitable and fair.

The municipalities identified that this application is similar to those of other towns that recently annexed lands from the County: Didsbury, Olds, Carstairs and Cremona. Existing farm uses will be permitted to remain and farming practices will be protected through the Town's Land Use Bylaw, which considers farming a permitted use within the Urban Reserve district. The regulated farmland assessment rates would be the same in the Town as in the County. Landowners within the annexation area will be protected from fluctuating tax rates by receiving the lowest of either the Town or the County municipal tax rate for a period of ten years. The assessment regulations within an urban municipality are different from a rural municipality; however, the Town has requested that the annexed lands be assessed as if they remained in the County for a period of ten years. Both municipalities believe the use of these transition provisions over the ten year period will assist the affected landowners in adjusting to the change in jurisdiction.

The annexation of the land east of the Red Deer River was considered crucial to the Town's growth plans, as water and wastewater services to the east side of the Town could not be supported without additional land for growth and utilization of the services. There are currently no services east of the River. To address this issue, the Town has secured a substantial grant to provide water and wastewater services. Cooperation between the two municipalities in the development of this infrastructure will allow the municipalities to provide services for existing and future residences. This will also facilitate the expansion of commercial uses. It was identified that there had been some preliminary discussions regarding a proposal for a hotel on the east side of the river. The Town explained that the two municipalities discussed the inclusion of the existing subdivision of Recreational Vehicle lots on the east bank of the Red Deer River (Tall Timbers). However, this subdivision was not included in the application as the Town determined that it could not afford to annex that property.

The Town identified that it consulted with the required agencies during the preparation of the Growth Strategy as well as during the annexation process. The Town accepts that the access issues identified by AT will have to be addressed prior to any development adjacent to the highways. The Town also recognizes that there will be a need for a school on the east side of the Red Deer River and will work with the Chinooks Edge School District to facilitate this future requirement.

The growth projection provided by the Town anticipates a large number of new dwelling units for non-permanent residents. It was explained that this was because of the large number of people from other areas using recreational lands in the area. The Town acknowledged that the gross residential density levels were somewhat low, but identified that this was due to land constraints as well as the recognition that some lands may be held off the market due to current use. The commercial/industrial land requirements were established by allocating 110 acres per

1,000 population. The Town believes this ratio will allow it to achieve the non-residential assessment it needs to remain viable.

Landowner Presentations

A summary of the presentations made to the MGB by affected landowners and the public is provided below.

Ms. Pederson

Ms. Pederson's letter of October 5, 2009 to the Town and subsequent letter of November 11, 2009 to the MGB objected to the inclusion of her property in the annexation application. Ms. Pederson identified that she wishes to continue farming the property without dealing with the ongoing issues/rules or taxation issues of the Town. Further, she objected to her productive farm being annexed when the Town did not include the Tall Timbers subdivision. She did not believe there would be demand for development within the 10 year transitional tax provision period and stated that the northern deeded portion of land was so far away from the Town that it should not be considered in the annexation.

At the hearing, Blair Jensen made a presentation on behalf of his mother, Ms. Pederson. Mr. Jensen confirmed that his mother's property is located on the east side of the Red Deer River, adjacent to the east side of the Tall Timbers subdivision. Mr. Jensen expressed concerns that once his mother's farm was part of the Town there would be complaints about odours, unregistered vehicles, and the provision for garbage. He suggested that a portion of the land could be annexed but the balance left in the County so that the farm activities could continue. Upon questioning Mr. Jensen explained that including only a portion of his mother's property in the annexation had not been discussed with the Town during the public consultation process or prior to the hearing.

Lillian and Michael Leussink

Lillian and Michael Leussink stated that they are not opposed to the proposed annexation and that they signed the landowner consent form after being assured that Town Council would protect them from any bylaws that could hinder their agricultural operation and way of life. During the hearing the Leussinks emphasized this desire and requested "absolute protection in writing from harassment against all farm related activities, including shooting to control predators and putting down of sick or injured livestock".

The Leussinks explained that they have a mixed farming operation which includes a saw mill and woodlot. Over the years they have purchased 480 acres of land in three separate parcels to help their operation remain viable. The Leussinks stated that they intended to finish raising their family before they would consider selling or developing the property.

The Leussinks identified that some of the landowners in the area wish to be annexed so they can sell their land. They stated that the quarter section adjacent to the north of their property is being considered for residential development, the neighbour to the south intends to develop fifty acres of land for a residential subdivision and that another neighbour to the south has already prepared eight acres to sell for commercial use. The Leussinks do not understand why the Town and County do not work with these people to annex their land.

During their presentation the Leussinks expressed concerns that their residential taxes would almost triple and that the ten years assessment and taxation condition transitional period was insufficient. However, they indicated they would not object to the proposed annexation if a 15 year transition period was provided and their farm buildings were not taxed.

Other Landowner/Public presentations

Concerns regarding the need for farming operations to comply with Town bylaws, the ability to continue farming, paying for water and sewer services, and zoning issues were brought forward in presentations by Les McKenzie, Gloria Jensen and Chris Huhn and Marge Burton.

Town Response

The Town stated that it was willing to work with the landowners to ensure there was minimal impact on their farming operation. Farming operations are a permitted use in the Town's Urban Reserve district. The Town currently has some farmland within its boundary; however, it does not restrict the amount of livestock on these lands. It was explained that animal control is restricted primarily to residential lands. The current animal bylaw is broad and, other than not allowing Confined Feedlot Operations/Intensive Livestock Operations, has very few restrictions. Moreover, the Town indicated that it would review its Land Use Bylaw to ensure that the definition for agricultural operations includes woodlots and the existing saw mill operations.

In response to questions about costs associated with mandatory garbage collection, the Town stated that this applied only to residential areas. Farming operations could continue to utilize their existing garbage removal methods. However, the Town identified that it may tighten up some of the farm related bylaws to ensure the ongoing farming operations.

The Town identified the need to amend its Municipal Development Plan to reduce conflicts between different types of land use. Moreover, changes to other bylaws may be needed to ensure off-site levies can be charged to developments wishing to access Town water and sewer services.

The Town has requested a ten year tax and assessment transition period for the landowners within the proposed annexation area. The Town contends that this is the standard that has been used in the other four municipalities within the County.

The Town stated that the suggestion that residential taxes would triple for the lands being annexed was not correct. The municipal tax rate for residential property in the Town is 5.34 while the residential tax rate for the County is 2.23. The Town identified that the requisitions for the two municipalities would be the same. Moreover, the farmland tax rate was the same in the Town as it was in the County. The Town also maintained that the assessment and taxation conditions would protect the landowners for a ten year period.

The Town contends that development to the east is essential to the viability of the municipality and considers these lands to be crucial to this annexation. The removal of these lands would reduce the future tax base that the Town could use to offset the cost of the provision of municipal services across the Red Deer River.

County Response

The County acknowledged that development adjacent to the Town has reduced the ability for the Town to grow. In recognition of this, the two municipalities have collaborated to develop a MOA and an IDP. Development to the east will assist the Town in remaining viable. The agreements between the Town and the County will ensure the two municipalities are not competing with each other and will lead to balanced growth in the area.

The County confirmed that the 10 year assessment and taxation transition period was used in the other recent annexations within its jurisdiction.

Part V MGB Recommendation

After reviewing the submitted documentation and hearing from the Town, the County and the affected landowners, the MGB finds the annexation application to be reasonable. Therefore, the MGB recommends the annexation of the land identified in the Town's annexation application as well as the requested assessment and taxation conditions.

Part VI Reasons

Both municipalities worked cooperatively over a four year period to develop a MOA that established collaboration between the two municipalities. From that MOA, the parties developed an IDP and the annexation application. The MGB finds that this effort supports Section 3.0 of the Provincial Land Use Policies (PLUP). The intent of this section of the PLUP is for two or more municipalities to work cooperatively on planning matters and to develop processes that will allow them to work together. The two municipalities have clearly demonstrated that they can work together and discuss a variety of issues that affect municipal growth.

The MGB is encouraged by the breadth of issues that both municipalities have discussed through this process. The Sundre Growth Strategy and the MOA show that the two municipalities are

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willing and able to work together to achieve shared goals and resolve issues. These documents combined with the IDP make it clear that the discussions between the Town and the County have covered all aspects of growth. The IDP establishes that both municipalities must have an opportunity to grow and identifies these growth areas. The annexed lands will allow commercial and industrial development that will support the diversification of the Town's tax base. Moreover, the two municipalities have discussed development, economic growth, servicing and environmental stewardship issues that will impact the Town and the surrounding area.

The MGB is satisfied that the population projections and land requirements identified in the Town's Growth Strategy are reasonable. The 3.75% annualized growth rate considers both the current economic realities as well as the local market conditions. The current mix of permanent and seasonal residents in the area is expected to prevail in the future. The availability of recreational opportunities in the area and the Town's relative proximity to larger population centres support these assertions by the Town.

The Red Deer River has been a factor in the limited growth and development in the Town. Much of the current vacant land within the Town is within the Red Deer River valley and is not easily developed. The Town's growth is somewhat constrained due to existing development in the County. Given the amount of development adjacent to the highway and the extent of County development adjacent to the west side of the Town, the lands identified in the annexation application represent a logical pattern of growth for the Town.

The Town has asserted that it can provide water and wastewater service to the west annexation area by extending its existing services. However, it is recognized that the Red Deer River poses a challenge for servicing the area east of the river. The Town has secured a portion of the funding necessary to extend water and wastewater servicing east across the Red Deer River. The County has agreed to assist in funding this eastern extension by giving the Town up to a maximum of 20% of the property taxes collected for properties in the County served by the extended water and wastewater services. The MGB accepts that the east and west annexation areas can be serviced by the Town and that this represents a logical extension of the Town's existing servicing and infrastructure.

The MGB finds that the consultation process followed by both municipalities was sufficient for this application. The public and the affected landowners as well as the government departments and agencies were informed of the annexation. All parties were provided opportunities to comment on the annexation and were able to discuss concerns with both municipalities. The hearing notification required by the Act allowed other individuals to bring their concerns regarding the proposed annexation forward to be heard by the MGB.

The MGB considered the objections brought forward by Ms. Pederson and her request to be excluded. The MGB accepts that the Town and County considered including the Tall Timbers subdivision, but that the Town could not afford to include this subdivision as part of the

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annexation. Section 114 of the Act does not allow an annexation to proceed if the land is not contiguous. The MGB notes that if Ms. Pederson's property were to be removed from the annexation, the lands on the east side of the river would no longer be contiguous with the Town boundary and would impede the growth of the Town to the east. The MGB also considered the solution suggested by Mr. Jensen at the hearing to only annex a portion of his mother's property. This option was not discussed with either of the municipalities before it was suggested at the hearing. An annexation must be certain and unambiguous, so the MGB is reluctant to recommend the annexation of land without having a legal land description or survey plan to clearly identify the boundary. The MGB accepts the Town's submission that it will work with the landowner to allow existing uses to continue.

Bylaws are a local matter and it is not within the jurisdiction of the MGB to provide assurances that they will not impact farming operations. However, the MGB notes that the Town stated that it was willing to work with the landowners to ensure there will be minimal impact on farming operations as a result of the annexation. In response to concerns raised by the Leussink family, the Town indicated that it will review its Land Use Bylaw to ensure that the definition for agricultural operations includes woodlots and the existing saw mill operations. The Town also identified that animal control bylaws were primarily for residential areas, not livestock. For other issues raised during the hearing that pertain to particular lands, the Town has stated it is willing to work with the various landowners, but that some of these issues are to be addressed either when the Town updates its planning documents or a subdivision or development proposal is submitted by one of the landowners.

The MGB also considered the landowner's request for fifteen (15) year transitional tax period rather than the 10 year transition period being proposed by the municipalities. Given the substantial investment to be incurred by the Town and the County in providing water and wastewater services to the east side of the Red Deer River, it was the opinion of the MGB that a ten (10) year transitional provision provided a reasonable balance between the needs of the landowners and the aspirations of the Town. With the proposed infrastructure in place, a ten year transitional period would allow for redevelopment to take place in a reasonable time frame to allow the efficient utilization of the services. This should also provide the Town with enough time to make urban type services available to the outlying annexation properties.

The MGB is satisfied that the highway access and bypass realignment issues identified by AT as well as the need for a school in the east annexation area will be addressed when these lands are developed.

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Summary

The MGB finds that the amount of land identified in the Town's annexation application is reasonable and that the joint submission by the Town and the County demonstrates a high level of collaboration and cooperation. The MGB is also satisfied that the Town will work with the affected landowners to reduce the impact of the annexation on farming operations. As such, the MGB recommends approval of the proposed annexation as requested with an effective date of January 1, 2010.