

BOARD ORDER NO. MGB 063/08

FILE: AN/07/INNI/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 Innisfail, in the Province of Alberta, to annex certain territory lying immediately adjacent thereto and thereby its separation from Red Deer County.

BEFORE THE MUNICIPAL GOVERNMENT BOARD

Members:

J. Acker, Presiding Officer
T. Robert, Member
A. Savage, Member

Secretariat:

R. Duncan

This annexation hearing was heard by three members, one of them being A. Savage. However, Mr. Savage did not continue his appointment with the Municipal Government Board (MGB) prior to the completion of this recommendation to the Minister of Municipal Affairs. The remaining two members of the panel rendered the recommendation as a quorum of the MGB pursuant to sections 489 and 490 of the Act.

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

Recommendation

That the annexation be approved in accordance with the following:

The Lieutenant Governor in Council orders that

- (a) effective June 1, 2008, the land described in Appendix A and shown on the sketch in Appendix B is separated from Red Deer County and annexed to the Town of Innisfail,
- (b) any taxes owing to Red Deer County at the end of May 31, 2008 in respect of the annexed land are transferred to and become payable to the Town of Innisfail together with any lawful penalties and costs levied in respect of those taxes, and

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the Town of Innisfail upon collecting those taxes, penalties and costs must pay them to Red Deer County,

- (c) taxes payable in 2008 in respect of the assessable land and any improvements to it are to be paid to and retained by Red Deer County,
- (d) the assessor for the Town of Innisfail must assess, for the purpose of taxation in 2009 and subsequent years, the annexed land and the assessable improvements to it,
- (e) any taxes owing to Red Deer County at the end of December 31, 2008 in respect of the annexed land are transferred to and become payable to the Town of Innisfail together with any lawful penalties and costs levied in respect of those taxes and the Town of Innisfail upon collecting those taxes, penalties and costs must pay them to Red Deer County,

and makes the Order in Appendix C.

Dated at the City of Edmonton, in the Province of Alberta, this 3rd day of June 2008.

MUNICIPAL GOVERNMENT BOARD

(SGD.) J. Acker, Presiding Officer

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APPENDIX A

**DETAILED DESCRIPTION OF THE LANDS SEPARATED
FROM RED DEER COUNTY
AND ANNEXED TO THE TOWN OF INNISFAIL**

THE NORTHEAST QUARTER OF SECTION (18), TOWNSHIP THIRTY-FIVE (35), RANGE TWENTY-EIGHT (28), WEST OF THE FOURTH MERIDIAN INCLUDING THAT PORTION OF ROADWAY PLAN 012 2423.

THE SOUTHEAST QUARTER OF SECTION NINETEEN (19), TOWNSHIP THIRTY-FIVE (35), RANGE TWENTY-EIGHT (28), WEST OF THE FOURTH MERIDIAN INCLUDING THAT PORTION OF ROADWAY PLAN 012 2423.

THE NORTHEAST QUARTER OF SECTION NINETEEN (19), TOWNSHIP THIRTY-FIVE (35), RANGE TWENTY-EIGHT (28), WEST OF THE FOURTH MERIDIAN INCLUDING THAT PORTION OF ROADWAY PLAN 012 2423 AND EXCLUDING BLOCK 1, LOT 1, PLAN 922 0322 AND EXCLUDING LOT 1, PLAN 822 1653.

LOT 2ER, BLOCK 2, PLAN 012 4685.

LOT 1, BLOCK 1, PLAN 942 0564.

BLOCK A, PLAN 782 1400.

THE REMAINING PORTION OF THE SOUTHWEST QUARTER OF SECTION THIRTY-TWO (32), TOWNSHIP THIRTY-FIVE (35), RANGE TWENTY-EIGHT (28), WEST OF THE FOURTH MERIDIAN BETWEEN ROAD PLAN 2387JY AND LOT 1, BLOCK 6, PLAN 072 9064 NOT CURRENTLY WITHIN THE TOWN BOUNDARY.

LOT 1, BLOCK 4, PLAN 072 9064.

LOT 1, BLOCK 5, PLAN 072 9064.

LOT 1, BLOCK 6, PLAN 072 9064.

THE NORTHERLY 1650 FEET IN UNIFORM WIDTH THROUGHOUT ALL THAT PORTION OF THE SOUTHWEST QUARTER OF SECTION THIRTY-THREE (33), TOWNSHIP THIRTY-FIVE (35), RANGE TWENTY-EIGHT (28), WEST OF THE FOURTH MERIDIAN WHICH LIES WEST OF THE CALGARY AND EDMONTON TRAIL AS SHOWN ON ROAD PLAN 4805NY.

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LOT A, PLAN 802 0269.

ALL THAT PORTION OF THE SOUTHWEST QUARTER OF SECTION THIRTY-THREE (33), TOWNSHIP THIRTY-FIVE (35), RANGE TWENTY-EIGHTY (28) WEST OF THE FOURTH MERIDIAN LYING WEST OF THE CALGARY AND EDMONTON TRAIL AS SHOWN ON ROAD PLAN 4805NY.

ALL THAT PORTION OF THE SOUTHWEST QUARTER OF SECTION THIRTY-THREE (33), TOWNSHIP THIRTY-FIVE (35), RANGE TWENTY-EIGHT (28), WEST OF THE FOURTH MERIDIAN WHICH LIES EAST OF THE WESTERLY LIMIT OF THE ROAD AS SHOWN ON ROAD PLAN 4805NY.

THE SOUTHEAST QUARTER OF SECTION THIRTY-THREE (33), TOWNSHIP THIRTY-FIVE (35), RANGE TWENTY-EIGHT (28), WEST OF THE FOURTH MERIDIAN.

ALL THAT PORTION OF THE SOUTHWEST QUARTER OF SECTION THIRTY-THREE (33), TOWNSHIP THIRTY-FIVE (35), RANGE TWENTY-EIGHT (28), WEST OF THE FOURTH MERIDIAN COMMENCING AT THE SOUTHEAST CORNER OF THE SAID QUARTER SECTION THENCE NORTHERLY ALONG THE EASTERN BOUNDARY THEREOF 40 FEET THENCE WESTERLY PARALLEL WITH THE SOUTHERN BOUNDARY OF THE SAID QUARTER SECTION TO THE SURVEYED ROAD KNOWN AS THE CALGARY AND EDMONTON TRAIL THENCE SOUTHERLY ALONG THE EAST BOUNDARY OF THE SAID TRAIL TO THE POINT WHERE THE SAID TRAIL AND SOUTHERN BOUNDARY OF THE SAID QUARTER SECTION INTERSECTS THENCE EASTERLY ALONG THE SAID SOUTHERN BOUNDARY TO THE POINT OF COMMENCEMENT.

ALL THAT PORTION OF THE SOUTHWEST QUARTER OF SECTION THIRTY-FOUR (34), TOWNSHIP THIRTY-FIVE (35), RANGE TWENTY-EIGHT (28) WEST OF THE FOURTH MERIDIAN WHICH LIES TO THE WEST OF THE CALGARY AND EDMONTON RAILWAY AS SHOWN ON RAILWAY PLAN C&E NO.1.

THE MOST SOUTHERLY SIXTY-SIX (66) FEET OF THAT PORTION OF THE SOUTHWEST QUARTER OF SECTION THIRTY-FOUR (34), TOWNSHIP THIRTY-FIVE (35), RANGE TWENTY-EIGHT (28) WEST OF THE FOURTH MERIDIAN WHICH LIES TO THE EAST OF THE CALGARY AND EDMONTON RAILWAY AS NOW CONSTRUCTED ACROSS THE SAID LAND.

ALL THAT PORTION OF THE SOUTHWEST QUARTER OF SECTION THIRTY-FOUR (34), TOWNSHIP THIRTY-FIVE (35), RANGE TWENTY-EIGHT (28) WEST OF THE

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FOURTH MERIDIAN WHICH LIES TO THE EAST OF THE CALGARY AND EDMONTON RAILWAY AS NOW CONSTRUCTED ACROSS THE SAID LAND.

ALL THAT PORTION OF THE SOUTHEAST QUARTER OF SECTION THIRTY-FOUR (34), TOWNSHIP THIRTY-FIVE (35), RANGE TWENTY-EIGHT (28) WEST OF THE FOURTH MERIDIAN LYING WEST OF THE WEST BOUNDARY OF ROAD PLAN 912 1121.

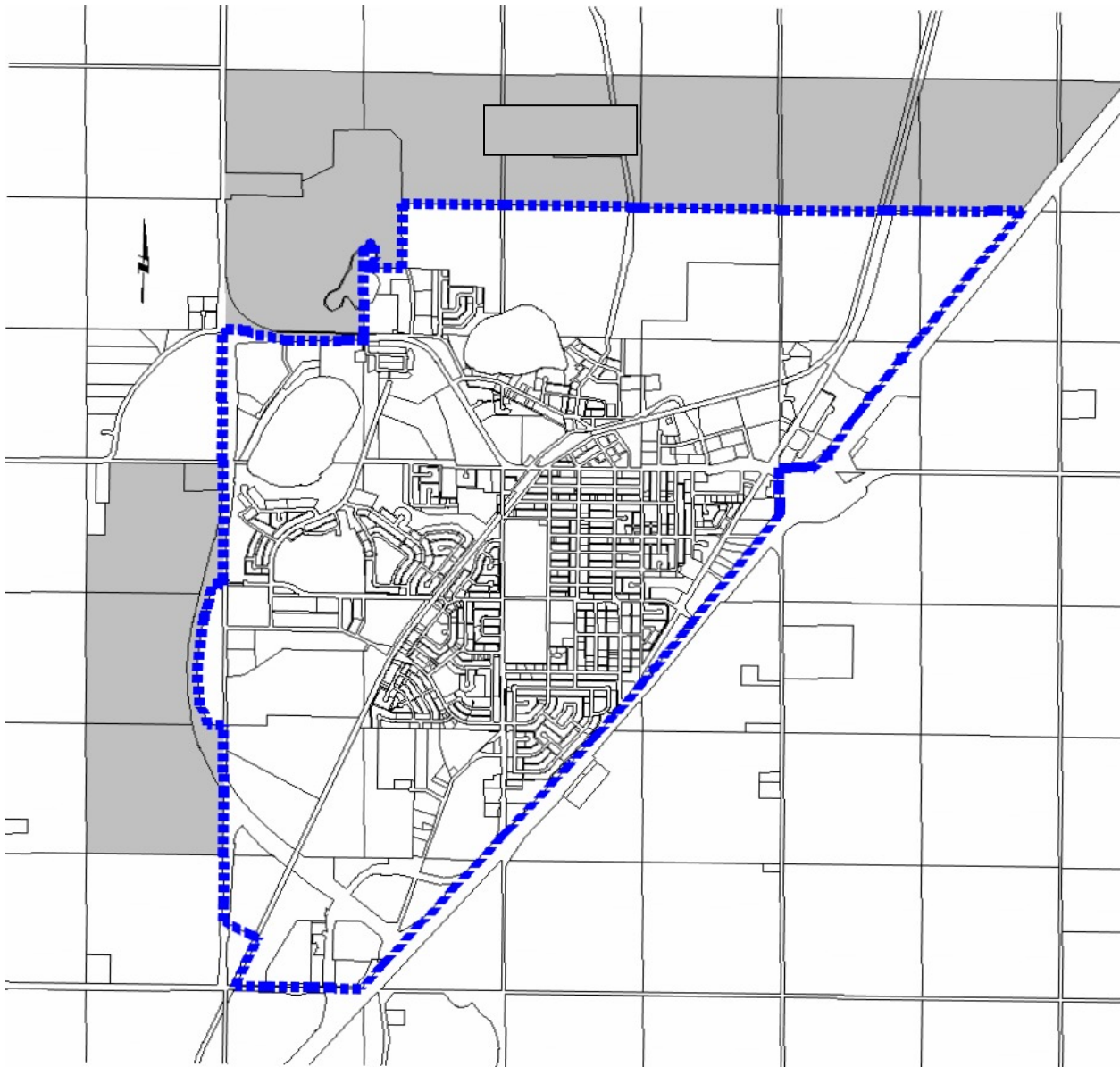
THE NORTHERLY 198.4 FEET THROUGHOUT OF THE SOUTHEAST QUARTER OF SECTION THIRTY-FOUR (34), TOWNSHIP THIRTY-FIVE (35), RANGE TWENTY-EIGHT (28), WEST OF THE FOURTH MERIDIAN.

ALL THAT PORTION OF THE SOUTHWEST QUARTER OF SECTION THIRTY-FIVE (35), TOWNSHIP THIRTY-FIVE (35), RANGE TWENTY-EIGHT (28) WEST OF THE FOURTH MERIDIAN LYING WEST OF THE WEST BOUNDARY OF ROAD PLAN 912 1121.

IN ADDITION TO THE TITLED LANDS DESCRIBED ABOVE, ALL INTERVENING ROAD ALLOWANCES, WATER BODIES AND RIGHTS-OF-WAY INCLUDING ALL PORTIONS OF THE C&E NO. 1, HIGHWAY 54 AND HIGHWAY 2A RIGHTS-OF-WAY BETWEEN THE AREAS IDENTIFIED FOR ANNEXATION AND THE TOWN'S CURRENT BOUNDARY.

APPENDIX B

**A SKETCH SHOWING THE GENERAL LOCATION OF THE AREA
ANNEXED TO THE TOWN OF INNISFAIL**



ANNEXATION AREAS



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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 2009 and subsequent years, up to and including 2018, the annexed land and the assessable improvements to it

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

3(1) 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,
- (b) is redesignated at the request of, or on behalf of the landowner under the Town of Innisfail Land Use Bylaw to another designation, or
- (c) is connected to the water or sanitary sewer services provided by the Town of Innisfail,

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.

(2) Notwithstanding subsection (1)(a), section 2 does not cease to apply in respect of a portion of the annexed land that is redesignated under the Town of Innisfail Land Use Bylaw to the designation “Reserved for Future Development (RD)”.

(3) In all cases, section 2 ceases to apply after 10 years have passed from the date of the annexation.

4 After section 2 ceases to apply to a portion of the annexed land in a taxation year, that portion of the annexed land and the assessable improvements to it must be assessed and taxed for

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the purposes of property taxes in the following year in the same manner as other property of the same assessment class in the Town of Innisfail is assessed and taxed.

5(1) In this section, “compensation amount” means the amount of municipal property taxes payable in 2008 to Red Deer County under Part 10 of the Municipal Government Act in respect of the annexed land.

(2) The Town of Innisfail must pay to Red Deer County

- (a) 100% of the compensation amount on or before July 31, 2008,
- (b) 80% of the compensation amount on or before July 31, 2009,
- (c) 60% of the compensation amount on or before July 31, 2010,
- (d) 40% of the compensation amount on or before July 31, 2011, and
- (e) 20% of the compensation amount on or before July 31, 2012.

6(1) Any application for a development permit or subdivision filed with Red Deer County before June 1, 2008 must be processed and decided by Red Deer County.

(2) An appeal from a decision made by Red Deer County pursuant to subsection (1) must be made to the Red Deer County Subdivision and Development Appeal Board unless there is authority under section 678(2)(a) of the Municipal Government Act to make the appeal to the Municipal Government Board.

APPENDIX D

**MUNICIPAL GOVERNMENT BOARD REPORT
TO THE MINISTER OF MUNICIPAL AFFAIRS
RESPECTING THE TOWN OF INNISFAIL PROPOSED ANNEXATION OF TERRITORY
FROM RED DEER COUNTY**

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Summary

The Town of Innisfail (Town) is located in central Alberta, approximately 30 kilometres south of Red Deer. On October 16, 2007, the Municipal Government Board (MGB) received an annexation application from the Town to annex approximately 620 hectares (1,531 acres) of land from Red Deer County (County). The annexation will allow the Town to plan for and attract residential and industrial development as well as facilitate the implementation of key directions of the Red Deer County/Town of Innisfail Intermunicipal Development Plan and the Town's Municipal Development Plan.

Although there was general agreement with the proposed annexation, the application contained two objections from affected landowners. In accordance with the *Municipal Government Act* (Act), the MGB held a public hearing on December 7, 2007 to receive information, evidence and argument on the annexation proposal. The MGB received four presentations at the hearing.

After reviewing the documentation provided prior to the hearing, as well as listening to the presentations by the parties affected by the proposed annexation, the MGB finds that the purpose of the annexation and amount of land being requested by the Town is reasonable and that the extension of the assessment and taxation condition period from five to ten years, as recommended by the Town at the hearing, will substantially address the tax increase concerns brought forward by the affected landowners. Moreover, the MGB reviewed the arguments and evidence of all the parties and concluded it was in the greater public interest to recommend approval of the annexation. The collaboration between the two municipalities meets the objectives of intermunicipal cooperation outlined in the Provincial Land Use Policies. Intermunicipal cooperation is also emphasized in the annexation part of the Act.

The MGB does not recommend that the assessment and taxation conditions be removed upon the transfer of the land. The MGB acknowledges that the annexation provisions of the Act provide municipalities with substantial freedom to resolve local issues with local solutions and recognizes that the principles established in the St. Albert/Sturgeon County annexation identify that the MGB is to give a great deal of weight to the annexation agreement between the two municipalities. However, the MGB accepts that the planning provisions of the Act and Provincial Land Use Policies require a balance to be struck between the rights of an individual and the greater public good. The MGB finds that it would not be equitable to future landowners if the assessment and taxation adjustment period were to end simply due to the transfer of the land and does not recommend the inclusion of the clauses removing these conditions.

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I Introduction

The Town of Innisfail (Town) is located in central Alberta, approximately 30 kilometres south of Red Deer. This growing community of 7,691 offers residents a wide variety of recreational opportunities, a modern health care facility, and an excellent education system. Easy access to the Queen Elizabeth II Highway as well as the Canadian Pacific Railway main line has allowed the Town to enhance its economic base by attracting a number of large manufacturing companies.

On April 24, 2007, the Town provided written notification to Red Deer County (County), the Municipal Government Board (MGB) and other local authorities of the Town's intent to annex approximately 620 hectares (1,531 acres) of land from the County. The notification listed the legal descriptions of the lands being proposed for annexation and provided a proposal for soliciting landowner and public input. The notification stated the annexation would allow the Town to plan for and attract residential and industrial development as well as facilitate the implementation of key directions of the Red Deer County/Town of Innisfail Intermunicipal Development Plan and the Town's Municipal Development Plan.

The MGB received the formal annexation application from the Town on October 16, 2007. The Town and the County had reached an agreement regarding the annexation application and there were no matters that had not been agreed upon by the two municipalities. The Town held a public meeting on August 2, 2007 to provide the general public and affected landowners the opportunity to express their views and ask questions. Landowner consultation consisted of written correspondence and two landowner meetings. Based on the information provided during the landowner consultation process, two parcels of land were identified in which geographical barriers would make it difficult for the Town to provide access. As a result, the Town did not include these parcels as part of their application.

Although there was general agreement with the proposed annexation, the annexation application contained two objections from affected landowners. In accordance with the *Municipal Government Act* (Act), the MGB held a public hearing on December 7, 2007 to receive information, evidence and argument on the annexation proposal.

The following report outlines the role of the MGB, the Minister and the Lieutenant Governor in Council, provides a brief overview of the Town's annexation application, summarizes the MGB application processing methodology and the December 7, 2007 public hearing, and provides a recommendation to the Minister regarding this matter.

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

The MGB becomes active in the annexation process once the initiating municipality has filed its negotiation report with the MGB, pursuant to section 119(1) of the Act. If the initiating

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municipality requests the MGB to proceed with the annexation, the report becomes the application for annexation. If the MGB is satisfied that the affected municipalities and public are generally in agreement, the MGB notifies the parties of its findings and unless there are objections to the annexation filed with the MGB by a specific date, the MGB will make its recommendation to the Minister without holding a public hearing. In this specific case an objection was filed with the MGB.

If the MGB finds that there are objections to the proposed annexation, the MGB must notify the parties of its finding and conduct one or more public hearings (section 120(3) of the Act). The MGB must make findings and provide a recommendation to the Minister of Municipal Affairs (Minister) and the Lieutenant Governor in Council (LGC). The Minister and the LGC have the authority to accept in whole or in part or completely reject the findings and recommendations of the MGB report.

III Annexation Application

On October 16, 2007, the MGB received the annexation application submitted by Parkland Community Planning Services on behalf of the Town. The following section describes the public consultation process used to develop the application, the annexation agreement between the Town and the County, the proposed assessment and taxation conditions requested by the Town, and the issues identified by the affected landowners.

The Public Consultation Process

The Town of Innisfail public consultation process provided opportunities for affected landowners and the public to become informed about the proposed annexation and to express their opinions.

Landowner Consultation

Landowners within the proposed annexation area were sent a letter on March 12, 2007 indicating the Town's interest in annexing their land. The letter briefly outlined the annexation process and was accompanied by an information package that provided background information on key issues such as assessment, taxation, and the status of existing uses and development. The letter invited the landowners to attend a meeting on March 29, 2007 to learn more about the annexation.

On March 29, 2007, Town Council hosted a public meeting which allowed the landowners the opportunity to share their thoughts about the annexation. Landowners representing approximately two thirds of the parcels within the annexation area attended this meeting. The meeting resulted in additional information being sent to the landowners.

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A second meeting with the landowners was held on August 2, 2007. This landowner meeting was held in conjunction with the public meeting and included representatives from both the Town and County Councils. Prior to the meeting, the Town sent a form to the landowners to solicit their views and comments.

Twenty-one parcels of land were identified to be part of the proposed annexation. The Town was able to obtain signed landowner consent forms for only nine of these parcels.

Public Consultation

On August 2, 2007, the Town and the County Councils hosted a public meeting to present information about the proposed annexation and to solicit public input. The public meeting was advertised in the local newspaper and attracted approximately 19 people. Information was provided regarding the annexation process as well as the results of the negotiations between the Town and the County. A question and answer session allowed landowners and the public to ask specific questions. The public and the landowners were provided forms at the meeting, which they could complete to provide additional comments.

Identified Landowner/Public Issues

Written concerns were presented to the Town and County during the course of the landowner meetings and open houses. Each written concern provided by the Town in the annexation application is summarized below.

Tom Wagers stated he was opposed to the annexation and was uncertain as to the reasons why his land was required at this time. Mr. Wagers questioned whether the Town was attempting to increase its tax revenue and suggested it would be more appropriate for the Town to annex land to the west where the soil was sandy.

Terry Wagers stated he was opposed to the annexation. Mr. Wagers indicated that the Town had enough land west of the Old Herford Centre and suggested the annexation was a tax grab.

George and Marie Prestlien stated they were opposed to the annexation and identified that their land and the land belonging to Gerry and Brenda Meding was located on the top of a hill, which created geographical issues regarding access. The Prestliens suggested it would be more advantageous to develop these lands in conjunction with the lands located to the west. The correspondence from the Medings indicated they were fine with things the way they were, but would not oppose the annexation.

Laurie and Ian Stuart stated that they were generally in favour of the annexation, but requested more information about how they would be impacted by Town bylaws and the impact on taxation after the annexation.

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During the consultation process, the Town received input from one municipal authority. The David Thompson Health Region provided a letter to the Town on April 27, 2007 indicating that future development in the annexed area should not be in areas previously used for landfill or industrial purposes without an environmental site assessment and a buffer zone around the railway should be provided due to hazardous goods.

The Town solicited input from Alberta Transportation (AT). AT had no objections to the annexation but suggested that Queen Elizabeth II Highway and Highway 54 not be included in the annexation.

The annexation application contained two unsigned written comments from the public. The first comment form questioned the size of the annexation area and suggested the Town attempt to annex marginal agricultural land rather than prime agricultural land. The second comment form suggested the Town undertake a study to consider growth to the east of the Queen Elizabeth II Highway.

As a result of the landowner and public consultation process, the Town identified that Prestlien and Meding lands had low development potential. The Town did not include these lands in the annexation application. Furthermore, in response to the letter from AT, the application did not include that portion of Highway 54 adjacent to the west side of the annexation area or the portion of Queen Elizabeth II Highway east of the annexation area.

The Annexation Agreement with Red Deer County

Representatives from the Town and County met several times to discuss the proposed annexation and were able to negotiate an agreement. The application states there are no matters related to the annexation application that have not been agreed upon by the Town and County.

The Town and County have agreed to the following:

- 1) All of the lands illustrated on the Figure 1: Town of Innisfail – Proposed Annexation Map and shown in the Town’s March 2007 Notice of Intent are to be annexed to the Town.
- 2) The date that will be requested as the effective date of annexation will be January 1, 2008, assuming the decision made by Cabinet regarding the annexation occurs within the 2007 calendar year or early in the 2008 calendar year.
- 3)
 - a. In this section, “compensation amount” means the amount of taxes payable to Red Deer County under Part 10 of the *Municipal Government Act* in respect of the annexed land for the 2008 taxation year.
 - b. The Town of Innisfail will pay Red Deer County
 - i) 100 percent of the compensation amount on or before July 31, 2008;

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- ii) 80 percent of the compensation amount on or before July 31, 2009;
 - iii) 60 percent of the compensation amount on or before July 31, 2010;
 - iv) 40 percent of the compensation amount on or before July 31, 2011; and
 - v) 20 percent of the compensation amount on or before July 31, 2012.
- 4) a. Any application for development permit or subdivision filed with Red Deer County before December 31, 2007 must be made by Red Deer County.
- b. An appeal from a decision made by Red Deer County pursuant to subsection (a) must be made to the Red Deer County Subdivision and Development Appeal Board unless there is authority under section 678(2)(a) of the Municipal Government Act to make the appeal to the Municipal Government Board.

Proposed Assessment and Taxation Conditions

Based on the negotiations with the County and responses to concerns raised by the landowners, the Town requested the following assessment and taxation conditions be attached to the Order in Council.

1. Annexed land means the land described in Appendix F of the Town's annexation application and shown on Figure 3 of the application.
2. For taxation purposes in 2008 and subsequent years, up to and including 2018, the annexed land and the assessable improvements to it
 - (a) must be assessed by the Town of Innisfail on the same basis as if they had remained in Red Deer County, and
 - (b) must be taxed by the Town of Innisfail in respect of each assessment class that applies to the annexed land and the assessable improvements to it using the tax rate established by Red Deer County.
3. (a) Where in any taxation year, a portion of the annexed land
 - (i) 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,
 - (ii) is transferred to a new landowner,
 - (iii) is redesignated at the request of, or on behalf of the landowner under the Town of Innisfail Land Use Bylaw to another designation, or
 - (iv) is connected to the water or sanitary sewer service provide by the Town of InnisfailSection 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.
 - (b) Notwithstanding subsection (a)(ii), section 2 does not cease to apply if title to a portion of the annexed land is transferred as a result of inheritance.
 - (c) Notwithstanding subsection (a)(iii), section 2 does not cease to apply in respect of a portion of the annexed land that is redesignated under the Town of Innisfail Land Use Bylaw to the designation "Reserved for Future Development (RD)".

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- (d) In all cases, section 2 ceases to apply after 10 years have passed from the date of the annexation
- 3 After section 2 ceases to apply to a portion of the annexed land in a taxation year, that portion of the annexed land and the assessable improvements to it must be assessed and taxed for the purposes of property taxes in the following year in the same manner as other property of the same assessment class in the Town of Innisfail is assessed and taxed.

A letter to the MGB dated February 26, 2008 and signed by both the Town and County advises that the value of the total municipal property taxes levied in the proposed annexation for the 2007 tax year was \$35,800.69. The letter states that the total value of the municipal property taxes to be levied in 2008 has not been determined, however the municipalities expect the amount will not be significantly higher or lower than those of the 2007 tax year. Table 1, as provided by the municipalities, estimates the amount of compensation to be paid by the Town to the County over the five year period.

Table 1		
Compensation to Red Deer County		
Red Deer County has identified that the value of the total municipal property taxes levied in the proposed annexation area for the 2007 tax year was \$35,800.69.		
Year	%	\$
a) 2008 – 100% of the County’s 2007 municipal tax levy	100	\$35,800.69
b) 2009 – 80% of the County’s 2007 municipal tax levy	80	\$28,640.55
c) 2010 – 60% of the County’s 2007 municipal tax levy	60	\$21,480.41
d) 2011 – 40% of the County’s 2007 municipal tax levy	40	\$14,320.27
e) 2012 – 20% of the County’s 2007 municipal tax levy	20	\$7,160.14
f) No compensation thereafter		
Total Amount to be Paid over the Five Years		\$107,402.06

IV MGB Application Processing Methodology and Public Hearing

The following provides a description of the method used by the MGB to process the Town’s annexation application and describes the public hearing held December 7, 2007.

MGB Application Processing

In accordance with section 119 of the Act, Parkland Community Planning Services submitted the required Negotiation Report on behalf of the Town to the MGB on October 10, 2007. A letter requested the MGB to accept the Report and accompanying package as the Town’s official annexation application. The package submitted by the Town included a copy of: the Town of Innisfail Municipal Development Plan, the Red Deer County/Town of Innisfail Intermunicipal Development Plan, the North Area Structure Plan, the West Expansion Area Study, the

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A.D. Williams Engineering Conceptual Servicing Report, resolutions passed by the Town and County Councils approving the negotiation report, and a cheque for the annexation fees.

Although both the Town and the County were in agreement with the annexation, the application contained objections from landowners. The Act requires that if the MGB receives an objection regarding an annexation application, the MGB must conduct one or more hearings in respect of the annexation. The hearing regarding this matter was scheduled to commence at 9:30 a.m. on Friday December 7, 2007 at the Innisfail Golf Course/Tournament House, two kilometres west of Innisfail on Highway 54.

The MGB sent letters to the Town and the County with copies to each of the affected landowners to notify the parties of the December 7, 2007 hearing. The letter requested any affected landowner who planned to attend the hearing or make a submission at the hearing to notify the MGB by November 30, 2007. The MGB also published a notice of hearing in the **Innisfail Province**, a local newspaper, the weeks of November 19 and 26, 2007.

The MGB received one written submission in response to the advertisement and landowner letters.

In an e-mail sent to the MGB on Friday November 30, 2007, Lorna Gresham indicated that she owns property in the County as well as the Town. Ms. Gresham stated that “she is active in the role of Alberta Municipal Affairs” and wishes to keep herself up to date with the Provincial Land Use Framework (PLUF) focus group. Ms. Gresham expressed concern about the timing of the proposed annexation of agricultural land. Ms. Gresham is of the opinion that annexations should be put on hold until the completion of the PLUF.

The Public Hearing

At the hearing, the MGB received submissions from the Town, the County, and the affected landowners/general public. Twenty people completed the registration form at the December 7, 2007 hearing. The Presiding Officer identified that the hearing binder provided by the MGB Case Manager to the panel contained the information provided by the Town and other parties prior to the hearing.

Town’s Submission

Ken Graham, Mayor, Dale Mather, Chief Administrative Officer, and Craig Teal, Parkland Community Planning Services, made the Town’s presentation to the MGB.

The Town’s current population is 7,691. An analysis of the population growth over the past 50 years identified that the Town has experienced an annual growth rate of 2.75 percent. Using this growth rate, the Town projects its population will expand to 17,300 by 2037. This growth will

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require the number of housing units to increase by 4,027, which will require an estimated 329 hectares of residential land. The Town estimates it currently has between 53 and 167 hectares of economically serviceable land available within its boundary. Moreover, the Town estimates it will require an additional 78 hectares of industrial land to accommodate the projected population growth. The annexation being proposed by the Town is for 620 hectares of land.

The Red Deer County/Town of Innisfail Intermunicipal Development Plan (IDP) was adopted by both municipalities in December 2006. The IDP takes a long-term view of future changes in the fringe area and anticipates growth within the Town up to a population of 56,000. The IDP encourages less frequent and larger annexations in recognition of the time and frustration that the annexation process can create. The IDP requires the Town to maintain a land inventory of 30 years and that annexations are to occur no more than once every five years. The large initial annexation will address the IDP requirements by providing the Town with a 30 to 40 year residential and industrial land supply. The Town is of the opinion this will provide the flexibility required for growth in an economical manner and allow the municipalities to work on other intermunicipal initiatives.

The annexation involves three quarter sections west and seven quarter sections north of the existing Town boundary.

The lands to the west of the Town have been identified primarily for residential development. The Town is of the opinion these lands could be developed quickly and would provide a short-term increase in the amount of available residential land. These lands could be planned and developed as a single neighbourhood. Roads could be planned to complement the existing transportation system. Existing water and sanitary services could easily be extended to service this area. Stormwater management would be accomplished by constructing ponds that would eventually be drained into Buffalo Creek. The Town explained that expansion in this direction would provide for a more balanced growth pattern in the long-term.

The lands to the north have been identified for residential and industrial development. The Town indicated the land to the northwest will increase the amount of serviceable residential land supply. The industrial lands, located generally to the northeast, will allow the Town to respond to requests for larger industrial parcels. The Town indicated that the size of industrial lots being requested by developers is increasing and it is common for industrial sites to be larger than ten acres. Currently, a large amount of the industrial land available within the Town is controlled by two landowners. The Town believes that the additional industrial land will increase competition and spur development. Existing municipal water and sanitary services could be extended into the north annexation area. The large tract of industrial lands to the north will also allow the Town to realize economies of scale by reducing the number of required sewage lift stations. Stormwater would eventually drain into Waskasoo Creek.

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It is expected that eventually all existing development will connect to the municipal water and sanitary sewer systems. Landowners being annexed to the Town can continue to use their existing systems; however, the Town will take no responsibility for these private systems. Municipal water and sanitary sewer services will be extended as development occurs. Landowners requesting water and sanitary sewer services prior to development in the area must be willing to bear the extension costs.

The Town indicated that farming operations that are in existence as of the date of the annexation will be allowed to continue. The Town will use the County Land Use Bylaw (LUB) or will amend its Reserved for Future Development District to match the uses allowed under the County LUB. Other bylaws that may be in conflict with normal farming operations will be considered on a case-by-case basis and the Town will use its discretion in applying these bylaws. The Town stated it has used the case-by-case method in previous annexations and has found it to work well.

The Town produced a map as part of their presentation that identifies the soil classification of the land around the municipal boundary. The map shows the growth area identified by the Town contains the least productive agricultural land.

The Town stated that it had negotiated an annexation agreement with the County and there were no issues in which the two municipalities have not reached agreement.

Subsequent to the submission of the annexation application, the Town reviewed the assessment and taxation condition period. Upon review, the Town agreed to increase the length of time of the assessment and taxation conditions from five to ten years. All other assessment and taxation conditions would continue to apply.

The Town indicated that market value assessment would continue to apply in relation to assessment. The Town will use the lower tax rate for municipal property taxes for up to ten years after the annexation. The Town is requesting that the assessment and taxation conditions cease to apply after ten years, upon the transfer of the land to another party, after a subdivision or redesignation to allow more development or when the property is connected to Town water and/or sanitary sewer.

County's Submission

Curtis Herzberg, Red Deer County Chief Administrative Officer, made the County's presentation to the MGB. Mr. Herzberg confirmed that the two municipalities had negotiated an annexation agreement and were in favour of the annexation. The County has developed an IDP with the City of Red Deer and is working on a similar agreement with the Towns of Sylvan Lake, Penhold and Bowden. The County generally asks that an annexation request be fairly large to ensure any industrial development within the County will not be annexed to an urban area within a short

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time. Moreover, the County recognizes that both the County and its urban neighbours need a tax base large enough to ensure the sustainability of the municipality.

Landowner/Public Submissions

At the hearing, the MGB received presentations from Lorna Gresham, Ian Stuart, Terry Wagers, and Jim Romane.

Lorna Gresham

Lorna Gresham indicated that she owns property in the County as well as the Town, but not in the proposed annexation area. Ms. Gresham stated she is actively involved with the PLUF Framework as well as the Central Alberta Regional Partnership and is concerned about future development in the area. She has identified the possibility for a “cultural crash” which she believes will create conflict between the urban areas, agriculture and the oil and gas industry. Ms. Gresham is of the opinion the annexation is developer driven and indicated there are 2,200 lots available in the City of Red Deer. Ms. Gresham’s position is that the annexation should be delayed until the PLUF Framework is completed. Ms. Gresham provided the MGB with the following background documents: Provincial Land-use Framework: Understanding Land Use in Alberta, the November 30, 2007 e-mail from L. Gresham to the MGB, Dialogs: What is TILMA, The Standard: Environmental Standards for Alberta’s Livestock Industry, The Fiscal Implications of Land Use in a Rural Municipality, Groundwater Protection and Coalbed Methane Development, and Rural Matters Forging Healthy Canadian Communities July 5-8, 2008 Conference.

Ian Stuart

Ian Stuart indicated that he and his wife own three parcels of property located in the north annexation area. Mr. Stuart provided a letter to the MGB stating he was in favour of the annexation. Mr. Stuart indicated that the soil in the area is extremely sandy and that growth of the Town to the north will remove a minimal amount of prime agricultural land from production.

At the hearing, Mr. Stuart informed the MGB that he had two concerns regarding the annexation. The first concern was the increase in property taxes to his residence. Mr. Stuart’s position is that assessment should reflect the fact that the property does not have municipal services. The letter provided by Mr. Stuart at the hearing requests the phrase “Where full municipal services are not available to a property, such as municipal water and sanitary sewer, this is reflected in the assessed value of the property for the purposes of calculating municipal taxes”. The second concern relates to the continuation of current uses. Mr. Stuart requests that the phrase “Uses and developments that exist as of the date annexation becomes effective will be accepted “as is” and allowed to continue”.

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Terry Wagers

Terry Wagers and his father, Tom Wagers, both own property in the north annexation area. Terry Wagers made a presentation to the MGB on behalf of both landowners. Mr. Wagers questioned the phasing of the annexations and the reasons his land was being bought into the Town at this time. Mr. Wagers also asked why the tax and assessment would change after ten years. Mr. Wagers stated his land had Number 1 Topsoil and questioned why this land was being annexed to the Town and taken out of production. Mr. Wagers also indicated that development in the northern annexation area would cause Dodds Lake to flood.

Jim Romane

Jim Romane is the General Manager for the Innisfail Golf Course. Mr. Romane stated the Golf Course was in favour of the annexation. The Golf Course was expanding and wanted to tie into municipal services. Mr. Romane indicated the Golf Course has worked with the Town and Chamber of Commerce on various projects.

Town Response to the Landowner Submissions

Delay of Annexation

In response to the request from Ms. Gresham to slowing down of the annexation and the “culture crash”, the Town stated it has worked with the County to develop a long range plan for growth in the area. Both the Town and the County are committed to an IDP agreement, which identifies where growth will happen and the type of development that will be allowed in each area. Both parties believe this is a mutually beneficial way to address the intense growth pressures. Moreover, the Town stated it looks forward to proceeding with the annexation and being able to welcome the people residing in the proposed annexation area into the town.

Previous Annexation Assessment and Taxation Condition

In response to the concerns of Mr. Wagers and Mr. Stuart regarding the differences between the current and previous annexation assessment and taxation conditions, the Town stated that the last annexation was in 2002 and at that time there was no time limit requirement for assessment and taxation conditions. In 2004, the MGB changed this practice and necessitated assessment and taxation conditions to have a finite end point. Moreover, the Town stated that open-ended conditions caused administrative problems. The Town had chosen a five-year assessment and taxation condition period; however, to address the concerns brought forward by the landowners, the Town is requesting the MGB to increase the assessment and taxation condition period from five years to ten years.

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Farmland Assessment and Taxation

In response to concerns expressed by Mr. Stuart regarding farmland assessment and the taxation of farm residences, the Town indicated the assessment regulations are the same for both the Town and the County. The Town stated there was very little difference in farmland assessment between the Town and the County. However, assessment of residences on farmland was lower in the County than in the Town. To address this concern, Town is requesting MGB to increase the assessment and taxation condition period from five years to ten years.

Future Annexations

In response to the question posed by Mr. Wagers regarding future annexations, the Town confirmed that it had identified a third annexation area. The IDP between the Town and County allows only one annexation in every five years. Under this agreement, the next annexation may be possible in 2013. The Town stated that the amount of land and the direction of growth would depend on the amount of development in the next five years.

Land Use Conflicts

In response to the concern from Ms. Gresham regarding the possible conflict between current agricultural uses and urban uses, the Town stated that the land could continue to be used for agricultural purposes after the annexation. Changing how the land is used and deciding when or if the land would be developed is a landowner decision. Bylaws that may have an impact on farm operations will be considered on a case-by-case basis. The Town indicated that it has successfully used this approach in previous annexations.

Drainage

In response to the concern from Mr. Wagers regarding drainage, the Town stated that development cannot increase the amount of pre-development run off. In 2002, approvals were obtained for drainage to Waskasoo Creek. The Town believes this will address the flooding issue and reduce the impact to the lake.

County Response to the Landowner Submissions

The County did not provide any comments to the landowner submissions.

V MGB Recommendation

After reviewing the documentation provided prior to the hearing as well as listening to the presentations by the parties affected by the proposed annexation, the MGB makes the following recommendations:

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1. The annexation of the lands applied for proceed with an effective date of June 1, 2008.
2. The assessment and taxation conditions timeframe be increased from 5 years to 10 years.
3. The Order in Council not include the clauses removing the assessment and taxation conditions upon the transfer of the land.

VI Reasons

The reasons for each of the MGB recommendations are provided below.

1. The annexation of the lands applied for proceed with an effective date of June 1, 2008.

The MGB finds that this annexation should not be delayed. The MGB recognizes that the Province is working on the PLUF that will put a process in place for balancing the competing economic, social and economic aspirations of Albertans. The MGB cannot anticipate with any degree of certainty what changes this framework will bring in terms of land use planning in Alberta until it has been adopted by the Province. Moreover, the MGB recognizes that the process to develop and implement the new framework can be lengthy. When faced with situations like this in the past, the MGB has based its findings on the existing regulations, legislations or policies. The existing PLUF and the planning section of the Act guide the decision of the MGB in annexation matters.

The MGB is satisfied with the amount of residential land being requested by the Town. The MGB accepts the Town's projection that it will expand to 17,300 by 2037 and will require an additional 162 to 276 hectares of land to accommodate this growth. The projections provided by the Town are based on a historical trend calculation which considers population growth over the past 50 years. The Fiscal Implications of Land Use in a Rural Municipality document provided by Ms. Gresham states that the Town is located in one of the fastest growing regions in the country. The MGB finds that the growth rate suggested by the Town may not reflect current market realities and may underestimate demand for residential property within the Town. Moreover, the MGB understands that 88 hectares of land owned by the Innisfail Golf Course has been identified as part of the residential annexation area and it is unlikely that this land will be used to accommodate residential development.

The MGB is satisfied with the amount of industrial land being requested by the Town. The Town indicated that the size of industrial lots being requested by developers is increasing and it is common for industrial sites to be larger than ten acres. Moreover, the Town stated that the industrial land within the municipality is limited in terms of the size of parcels that can be created and the number of locations available for consideration. The MGB accepts that the additional industrial land being requested will allow the Town to respond to prospective industrial investment and assist the Town to diversify its assessment base.

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The MGB understands the amount of land being requested and the direction of growth is the result of a negotiated agreement between the Town and County, the growth provisions established in the IDP, and the desire of the County for larger annexations. The MGB finds the land being requested complies with PLUF and is encouraged with the amount of intermunicipal cooperation shown by the two municipalities.

The MGB finds the direction of growth is rational and will allow the logical provision of municipal services. The West Expansion Area Study Plan, the North Area Structure Plan, and the Conceptual Servicing Report provided to the MGB with the annexation application confirm that the Town is attempting to grow in a cost effective and efficient manner. The Town has demonstrated that municipal services can be provided by extending existing infrastructure. Moreover, the Town has indicated that it can realize economies of scale by planning and servicing the areas that have been proposed for this annexation. The MGB did not hear any concerns from the Town, the County, the affected landowners or the public regarding the financial capability of the Town to accommodate the annexation.

The MGB considers the continuation of existing uses after the lands have been annexed to the Town to be a local issue and is of the opinion these matters should be addressed at the local level. The information provided to the MGB at the hearing and in the annexation application confirms that the Town intends that uses and developments that exist as of the date the annexation becomes effective will be accepted “as is” and allowed to continue. Moreover, the MGB is satisfied with the process identified by the Town to mitigate possible conflicts between Town bylaws and normal farming operations. In the past, the Town has allowed exceptions to bylaws that affect farming operations on a case-by-case basis. At the hearing, the Town stated it will continue this practice.

The MGB finds that the Town has attempted to grow in a manner that will minimize the removal of prime agricultural land from production. The MGB recognizes the Town is located in a prime agricultural area. The soil classification map produced by the Town at the hearing shows that all the land adjacent to the Town is classified as being fair or good. This map also shows that the direction of the annexation includes a large proportion of land with a “fair” rather than “good” soil classification. The MGB is satisfied that the Town has attempted to grow in a direction that will minimize the loss of agricultural lands that are classified as “good”.

The MGB finds that the consultation process conducted by the Town prior to submitting the annexation application was comprehensive. Affected landowners, the public, other local authorities and AT were given opportunities to provide input regarding the annexation. Modifications made by the Town to the annexation application demonstrate that the input obtained through the consultation process was given serious consideration.

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2. The assessment and taxation conditions timeframe be increased from five years to 10 years.

The MGB is satisfied the Town's response to the concerns brought forward by Mr. Stuart and Mr. Wagers regarding the length of time for the assessment and taxation conditions. The MGB did not hear any concerns from the landowners regarding these conditions after the Town suggested the assessment and taxation conditions period be increased from five years to ten years. Moreover, the MGB finds that the ten year assessment and taxation condition period is a reasonable solution that will provide all parties with specific time horizons and assist landowner transition.

The MGB considers the valuation of property that lack water and sanitary sewer services to be a matter that should be addressed through the normal assessment process. The MGB is satisfied that the Assessment Regulations, which guide assessment in Alberta, can be used to address this matter. Moreover, the Act provides a method for landowners to appeal their assessment on a yearly basis should they believe their property has not been assessed correctly.

The MGB does not find this annexation to be an attempt by the Town to unduly increase its assessment base. The municipal taxes levied by the County in 2007 was \$35,800.69. The MGB does not consider that this amount will unduly affect the financial viability of either the Town or the County.

3. The Order in Council not include the clauses removing the assessment and taxation conditions upon the transfer of the land.

The MGB recommends the Order in Council not include the clause requiring the taxation and assessment conditions to be removed after the transfer of the land and the clause allowing the assessment and taxation conditions to continue if the land is transferred due to inheritance.

The MGB acknowledges that the annexation provisions of the Act provide municipalities with substantial freedom to resolve local issues with local solutions. Moreover, the principles established in the St. Albert/Sturgeon County annexation identify that the MGB is to give a great deal of weight to the annexation agreement between the two municipalities. However, the MGB accepts that the planning provisions of the Act and PLUF require a balance to be struck between the rights of an individual and the greater public good. The MGB also acknowledges that the assessment and taxation system is legislated to ensure fairness in the taxation of property. The MGB considers the assessment and taxation conditions contained an annexation agreement to be an attempt to treat the owners of the land being annexed in a fair and equitable manner. Differences in rural and urban assessment rules usually result in a higher assessed value when an urban municipality annexes a parcel of land that is being used for agricultural purposes. Furthermore, the mill rate is generally higher in an urban municipality. The assessment and taxation conditions proposed by the Town and County can be seen as an attempt to balance the

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ability of the owner to enjoy the land in its current form and use with the greater public interest. The MGB finds that it would not be equitable to future landowners if the assessment and taxation adjustment period were to end simply due to the transfer of the land.

Moreover, the MGB requires that assessment and taxation conditions requested by a municipality have a finite end point and suggests the inclusion of clauses that will allow the conditions to lapse prior to the identified end date. The cancellation clauses typically relate to a change in land use and can be identified by such things as amendments to the land use bylaw, issuance of development permits, subdivision of property or the provision of municipal services. These actions are initiated at the request of the landowner and result in a change in population density or allow the land to be used in other ways. The MGB accepts that these actions may require the provision of additional municipal services and may result in an increase in expenditures for the municipality. The removal of the assessment and taxation conditions at that point would allow the municipality to recoup some of the costs associated with the provision of the additional services without burdening the existing landowners. However, the MGB is unconvinced that a simple land transfer would result in additional costs to the municipality.

Furthermore, the MGB does not consider the transfer of land to be a change in land use. Although the transfer of the land is usually initiated at the request of a landowner and may signal a desire to develop the property in the future, the actual transaction does not automatically change the density or allowable land use. Depending on the differences between the urban and rural mill rates, the inclusion of this clause may unnecessarily impact a landowner's ability to sell the property to someone wishing to continue the existing use of the land. The MGB finds that the removal of the assessment and taxation conditions because of a transfer may unnecessarily impact the rights of the individual.

The MGB concludes that the removal of the transfer of land cancellation clause allows the assessment and taxation conditions to continue if the land changes ownership as the result of an inheritance. Therefore the MGB finds this clause should not be included in the order in council.