



DECISION NO. LPRT2023/MG0502
FILE: AN19/POPL/SV-01

The Municipal Government Board (“MGB”) is continued under the name Land and Property Rights Tribunal (“Tribunal”), and any reference to Municipal Government Board or Board is a reference to the Tribunal.

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 Summer Village of Poplar Bay, in the Province of Alberta, to annex certain territory lying immediately adjacent thereto and thereby its separation from the County of Wetaskiwin No. 10.

BEFORE:

Members:

D. Thomas, Presiding Officer

G. Newcombe, Member

E. Williams, Member

R. Duncan, Case Manager

R. Torres, Case Coordinator

SUMMARY

After examining the submissions from the Summer Village of Poplar Bay, County of Wetaskiwin No. 10, affected landowners, and other interested parties, the Tribunal makes the following recommendation for the reasons set out in the Tribunal report, shown as Schedule 3 hereof.

Recommendation

That the annexation be approved in accordance with the following:

The Lieutenant Governor in Council orders that

- 1** In this Order, “annexed land” means the land described in Schedule 1 and shown on the sketch in Schedule 2.
- 2** Effective January 1, 2024, the land described in Schedule 1 and shown on the sketch in Schedule 2 is separated from the County of

Wetaskiwin No. 10 and annexed to the Summer Village of Poplar Bay.

3 Any taxes owing to the County of Wetaskiwin No. 10 at the end of December 31, 2023 in respect of the annexed land and any assessable improvements to it are transferred to and become payable to the Summer Village of Poplar Bay together with any lawful penalties and costs levied in respect of those taxes, and the Summer Village of Poplar Bay on collecting those taxes, penalties and costs must pay them to the County of Wetaskiwin No. 10.

4 For the purpose of taxation in 2025 and subsequent years, the assessor for the Summer Village of Poplar Bay must assess the annexed land and the assessable improvements to it.

DATED at the City of Edmonton, in the Province of Alberta, this 3rd day of October 2023.

LAND AND PROPERTY RIGHTS TRIBUNAL

(SGD) D. Thomas, Presiding Officer

Schedule 1

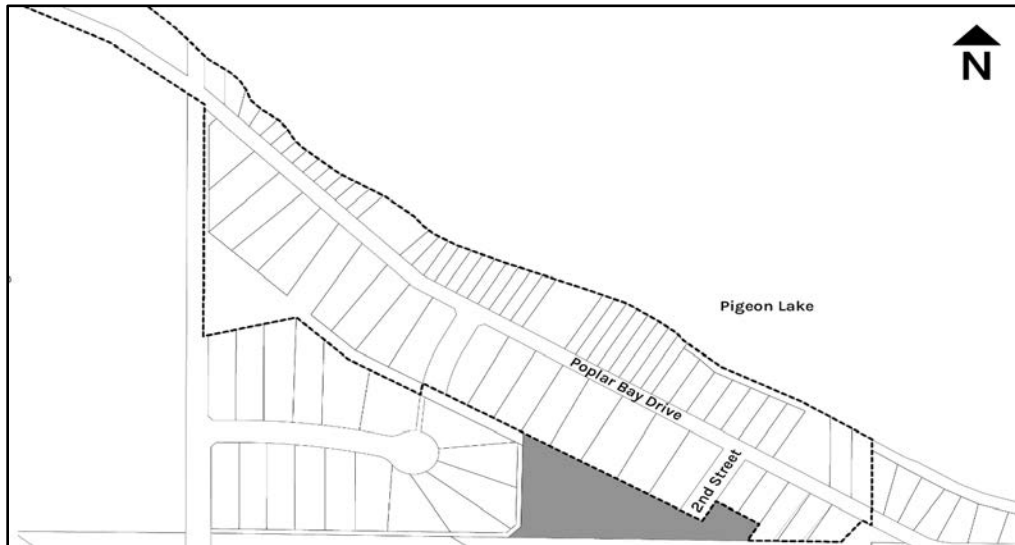
**DETAILED DESCRIPTION OF THE LANDS SEPARATED FROM
THE COUNTY OF WETASKIWIN NO. 10 AND ANNEXED
TO THE SUMMER VILLAGE OF POPLAR BAY**

ALL THAT PORTION OF THE NORTH HALF OF SECTION
TWENTY-EIGHT (28), TOWNSHIP FORTY-SIX (46), RANGE
ONE (1), WEST OF THE FIFTH (5) MERIDIAN WHICH LIES
SOUTHWEST OF THE SOUTHWESTERLY LIMIT OF ROAD
PLAN 6542KS EXCEPTING THEREOUT:


- (A) PLAN 5128TR SUBDIVISION
- (B) PLAN 7921318 SUBDIVISION
- (C) PLAN 9721788 SUBDIVISION
- (D) PLAN 9721790 DESCRIPTIVE

Schedule 2

**SKETCH SHOWING THE GENERAL LOCATION OF THE LANDS
SEPARATED FROM THE COUNTY OF WETASKIWIN NO. 10 AND
ANNEXED TO THE SUMMER VILLAGE OF POPLAR BAY**



Legend

- Existing Summer Village of Poplar Bay Boundary
-  Annexation Area

Schedule 3

LAND AND PROPERTY RIGHTS TRIBUNAL REPORT TO THE MINISTER OF MUNICIPAL AFFAIRS RESPECTING THE SUMMER VILLAGE OF POPLAR BAY PROPOSED ANNEXATION OF TERRITORY FROM THE COUNTY OF WETASKIWIN NO. 10

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Acronyms/Abbreviations

Annexation recommendations often include many acronyms and abbreviations. For ease of reference, the following table lists the acronyms and abbreviations used multiple times in this recommendation.

Acronym/Abbreviation	Full Description
<i>Act</i>	<i>Municipal Government Act</i>
Affected Landowner Group	A group of affected resident property owners in the Summer Village
Annexation Agreement	Summer Village of Poplar Bay/County of Wetaskiwin No. 10 Agreed upon Issues/Non-Agreement Issues Document
Annexation Landowner	The owner of the property in the proposed annexation area
Biophysical Survey	CPP Environmental Poplar Biophysical Survey dated March 4, 2019
Consent Agreement	Landowner Consent Agreement dated 21 December 2022
County	County of Wetaskiwin No. 10
County LUB	County of Wetaskiwin No. 10 Land Use Bylaw
County MDP	County of Wetaskiwin No. 10 Municipal Development Plan
IDP	South Pigeon Lake Intermunicipal Development Plan
LGC	Lieutenant Governor in Council
LDR District	Low Density Residential District
MGB	Municipal Government Board
Minister	Minister of Municipal Affairs

Acronym/Abbreviation	Full Description
MPS	Municipal Planning Services (2009) Ltd.
Notice	Notice of Intent to Annex
R District	Residential District
Rules	Tribunal Annexation Procedure Rules
Summer Village	Summer Village of Poplar Bay
Summer Village LUB	Summer Village Land Use Bylaw
Summer Village MDP	Summer Village Municipal Development Plan
Tribunal	Land and Property Rights Tribunal

EXECUTIVE SUMMARY

[1] On September 3, 2019, the Municipal Government Board (MGB), now known as the Land and Property Rights Tribunal (Tribunal), received an application from the Summer Village of Poplar Bay (Summer Village) to annex approximately 2.2 hectares (5.4 acres) of land from the County of Wetaskiwin No. 10 (County). The proposed annexation will provide the Summer Village with control over future development of land that is accessed via the Summer Village road network.

[2] On December 4, 2019, in accordance with the Annexation Procedure Rules, the MGB returned the document to the Summer Village. The Summer Village was informed that additional information was required before the Tribunal could process the request.

[3] On March 21, 2023, the Summer Village submitted a revised annexation application to the Tribunal. Objections to the proposed annexation required the Tribunal to conduct a public hearing regarding this matter. In accordance with the *Municipal Government Act (Act)*, the Tribunal held a public hearing on June 23, 2023.

RECOMMENDATIONS

[4] After considering the oral and written submissions received from the parties during the proceedings, the Tribunal recommends the annexation area requested by the Summer Village with an effective date of January 1, 2024.

MAJOR ISSUES AND CONSIDERATIONS

[5] When making an annexation recommendation, the Tribunal considers the annexation principles summarized by Board Order MGB 123/06 as well as the issues identified by the parties. To reduce repetition, these principles and issues have been addressed under the following broad headings: consultation, land use planning, infrastructure, financial matters and effective date.

Consultation

[6] The negotiations between the Summer Village and the County were satisfactory as the two municipalities were able to negotiate an Annexation Agreement and there are no outstanding issues. The public and affected landowner consultation process conducted by the Summer Village was reasonable and appropriate and in keeping with the *Act*. General public consultation events conducted by the Summer Village consist of questionnaires, FAQs, letters, public meetings, open houses, website information, emails, and media releases.

[7] The Summer Village conducted separate activities and events from 2019 to 2021 to solicit input from the public and keep affected landowners informed about the progress of the annexation. The second phase of the public consultation was better than the first one. Despite some concerns that the residents learned about the annexation process at the last minute, the Summer Village made best efforts to consult with the public. The residents and those who made objections were able to voice their concerns in the process and the Summer Village's consultant MPS has incorporated them in the "What We Heard" Reports.

[8] Given the extended consultation period and the number of activities undertaken to solicit input, the Tribunal is satisfied the Summer Village met the requirements for public participation and open communications with the affected landowners specified by the *Act*.

Land Use Planning

[9] The proposed annexation area is a logical and reasonable extension of the Summer Village's boundary. The Tribunal finds that the annexation is consistent with the IDP, Summer Village MDP, Summer Village LUB, County MDP, and County LUB. The IDP forms the basis of a cooperative effort between the Summer Village and the County and identifies the growth areas for both municipalities. Given the annexation area represents only 0.000007% of its land area and the County did not identify any issues with the annexation during the public hearing, the Tribunal accepts the annexation will not impact future growth for the County. There is no evidence to suggest that the annexation will affect the growth areas of the other municipalities that are part of the IDP. Since the County supports the annexation, the Tribunal concludes that both municipalities agree that the Summer Village can best provide the services and access to the property as required by the IDP. The Tribunal acknowledges that the Summer Village and the County will ensure that the annexation area is reflected in the new IDP being developed.

[10] The Tribunal accepts that the proposed amendments to the Summer Village LUB identified by MPS will extend the Summer Village's LDR and R District designations to the proposed annexation area and limit the types of permitted uses. Since the proposed amendments are incorporated into the application, the Tribunal accepts the Summer Village will adopt the amendments in a timely manner. The bylaw amendment process will provide an opportunity for landowners and residents to bring forward concerns about permitted uses, density levels and lot size in the annexation area. Since the *Act* gives municipalities the authority to create and amend planning related bylaws to address issues at the local level, it would be inappropriate for the Tribunal to recommend changes to the Summer Village LUB.

[11] A concern was expressed during the proceedings with regard to the number of subdivisions allowed in the annexation area. The subdivision process is beyond the scope of an annexation proceeding. Moreover, the concerns raised would not be sufficient for the Tribunal to not recommend the annexation. The Tribunal accepts that if developed in the future, the proposed annexation area will have a very minimal impact on the Summer Village's overall population. There is no evidence to suggest that the total area of the proposed annexation will have a negative impact on the County's future development prospects.

[12] The Tribunal is satisfied that the Summer Village is sensitive to the key natural features in the annexation area. The existence of policies within the Summer Village MDP are designed to respect the lake and other natural features within the municipality. The Biophysical Survey submitted by MPS identifies the natural features of the Summer Village as well as a 50 metre buffer area that includes most of the annexation area. There is no evidence to suggest that the annexation will impact wildlife corridors or migratory bird habitat in the municipality or the region. The Tribunal accepts that any future development will proceed in accordance with the IDP, Summer Village MDP, Summer Village LUB as well as all provincial legislation and regulations that are designed to protect wildlife and the environment.

Infrastructure

[13] The Tribunal is confident the Summer Village can provide wastewater, stormwater, and transportation services to the annexation area.

[14] The Tribunal recognizes that the landowners in the Summer Village are responsible for providing private on-site water systems to their own properties either via individual private wells and cisterns or is brought from other locations, compliant with all provincial and municipal policies and regulations. The Tribunal accepts that wastewater collection can be provided to the proposed annexation area since the Summer Village's wastewater system is connected to the South Pigeon Lake Regional Wastewater System. The Summer Village and the Annexation Landowner agreed that the Annexation Landowner will be required to install a holding tank. The Annexation Landowner will pay for the connection to the Summer Village's system to bring the subject site into compliance with the Summer Village's Wastewater Local Improvement Levy Bylaw and the Municipal Wastewater Utility Bylaw. The Summer Village can also provide stormwater services to the annexation area, and as to the concerns about drainage from any future development in the annexation area, the Summer Village LUB requires that a grading plan be included with an application for subdivision and development.

[15] The Tribunal accepts that the Summer Village can extend its transportation system to the annexation area. A number of concerns were expressed about the impact of construction and additional residential traffic as well as the ongoing road maintenance costs to Poplar Bay Drive and 2nd Street resulting from the annexation. There will be some construction traffic on Poplar Bay Drive at the development stage; however, the additional road use is temporary in nature. Although development in the annexation area needs to be addressed at the subdivision stage, it is unlikely that the annexation area would increase traffic levels to the extent that it would significantly increase the amount of road maintenance required on Poplar Bay Drive. The Tribunal was also convinced that 2nd Street in its current location complies with the *Act*. Although 2nd Street may have originally been located in another part of the Summer Village, information provided by MPS identifies that the Summer Village followed the process to close the road and transfer it to another location. Although it was alleged that the road closure process was flawed, there is not enough evidence for the Tribunal to conclude that the process did not comply with the *Act*.

[16] The Tribunal understands that although the Annexation Landowner may be required to assist with upgrades to the road as a condition of the subdivision or development permit process, it is reasonable to expect that the Summer Village will maintain 2nd Street in the future. The Tribunal also notes that the other services that the Summer Village provides to residents include snow clearing and emergency services. These services are provided by the Summer Village via Summer Village public works, local service providers, and intermunicipal agreements with other Summer Villages and the County. There is no reason to expect these services cannot be extended to the annexation area.

Financial Matters

[17] The annexation area (approximately 2.2 hectares (5.38 acres)) represents approximately 0.000007% of the County's total land area. The potential financial impact of the annexation would be minimal. The annexation area is currently undeveloped and the site does not contain any significant revenue generating opportunities that would create the need for revenue sharing. As a result, no revenue sharing or compensation provisions are included with the Annexation Agreement between the Summer Village and the County. The Tribunal concludes that the financial impact of the annexation on the Summer Village is also minimal as the land is vacant and would not generate significant tax revenue for the Summer Village. This confirms that the annexation is not a tax initiative.

Effective Date

[18] The effective date of April 1, 2023 requested by the two municipalities is not recommended. Giving a retroactive effective date will not be practical as it will not be tied to the assessment period which starts at January 1. Thus, the Tribunal recommends a January 1, 2024 effective date.

CONCLUSION

[19] The Tribunal finds that the proposed annexation complies with the *Act* and addresses the 15 annexation principles established by Board Order MGB 123/06. The two municipalities demonstrated a significant level of intermunicipal collaboration and cooperation. The Summer Village conducted a number of activities to engage affected landowners and the public. The changes to the annexation area as well as the Annexation Agreement demonstrate the municipalities attempted to mitigate concerns of the affected landowners. The annexation area is logical and the amount of land is acceptable. The conditions of annexation are certain, unambiguous, enforceable, and time specific. Therefore, the Tribunal recommends the annexation.

I INTRODUCTION

[20] The Summer Village of Poplar Bay (Summer Village) is a lakefront community established in 1967. The Summer Village is bounded to the north and northeast by Pigeon Lake, to the east by the Summer Village of Grandview, and to the south and west by lands in the County of Wetaskiwin No. 10 (County). Pigeon Lake Provincial Park is adjacent to the west boundary of the Summer Village, but not directly accessible from it. Access from Highway 771 to the west side of the Summer Village is through the County via Township Road 470. Township Road 470 becomes Poplar Bay Drive in the Summer Village and is the primary thoroughfare for the vast majority of residential lots in the community.

[21] On September 3, 2019, the Municipal Government Board (MGB) received an application from the Summer Village to annex land from the County. The Tribunal reviewed the application and on September 5, 2019 requested the Summer Village to provide additional information to address issues with the documentation. The Summer Village did not provide a response, so on December 4, 2019, in accordance with the *Annexation Procedure Rules*, the Tribunal returned the documentation to the Summer Village. The Summer Village was informed that additional information was required before the Tribunal could process the request. It was also noted that since the documentation contained two objections and additional objections had been filed with the Tribunal, the Tribunal would be required to conduct a public hearing.

[22] On March 21, 2023, the Summer Village submitted a revised annexation application to the Tribunal. The application makes clear that the proposed annexation will provide the Summer Village with control over future residential development that is accessed via the Summer Village road network. Since the application includes objections to the proposed annexation, the Tribunal was required to conduct a public hearing regarding this matter. In accordance with the *Act*, the Tribunal held a public hearing on June 23, 2023.

[23] This report describes the role of the Tribunal and the Lieutenant Governor in Council, summarizes the public hearing process and submissions received by the Tribunal, and provides the Tribunal's recommendations and reasons. This report fulfills the Tribunal's responsibility under the *Act* regarding this annexation.

II ROLE OF THE TRIBUNAL, THE MINISTER, AND THE LIEUTENANT GOVERNOR IN COUNCIL

[24] The Tribunal is an independent and impartial quasi-judicial board established under the *Act* to make decisions about land-use planning and assessment matters. Section 488(1)(f) of the *Act* gives the Tribunal the authority to "deal with annexations". Section 523 of the *Act* allows the Tribunal to "establish rules regulating its procedures". The *Tribunal Annexation Procedure Rules (Rules)* have been adopted to provide information about annexation hearings, ensure a fair, open and accessible process, and increase the efficiency and timeliness of annexation proceedings. These *Rules* recognize that municipalities and persons affected by a proposed annexation should have a fair opportunity to voice their concerns to the Tribunal before it makes its recommendation to the Minister of Municipal Affairs (Minister).

[25] Pursuant to section 116 of the *Act*, a municipality initiates the annexation process by sending a Notice of Intent to Annex (Notice) to the municipal authority from which the land is to be annexed, the Minister, the Tribunal, and all other local authorities having jurisdiction to operate or provide services in the initiating municipality or in the municipality from which the land is to be annexed. The Notice must describe the land proposed for annexation, identify the reasons for the proposed annexation, and include proposals for consulting with the public as well as meeting with the affected landowners. Once the Notice has been filed, the municipalities involved with the proposed annexation are required to meet and negotiate in good faith. If the municipalities are unable to reach an agreement, they must attempt mediation to resolve any outstanding matters.

[26] At the conclusion of the consultation process and the intermunicipal negotiations, the initiating municipality is required to prepare a negotiation report. In accordance with section 118 of the *Act*, the report is required to include a description of the public and affected landowner consultation process, as well as provide a summary of the views expressed during this process. The report must also include a list of issues that have been agreed to by the municipalities and identify any matters the 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 is then signed by both municipalities. Should one of the municipalities not wish to sign the report, it has the option of including its rationale for not signing the report.

[27] The negotiation report is then submitted to the Tribunal. If the initiating municipality requests the Tribunal to proceed, pursuant to section 119 of the *Act*, the report becomes the annexation application. If the Tribunal is satisfied that the affected municipalities and public are generally in agreement, the Tribunal may notify the parties of its findings and state that unless objections are filed by a specific date, the Tribunal will make its recommendation to the Minister without holding a public hearing. If an objection is filed or if the Tribunal is not satisfied all parties are in agreement with the proposed annexation, the Tribunal must conduct one or more public hearings. If the Tribunal is required to conduct a hearing, section 122(1) of the *Act* specifies the Tribunal must publish a notice of hearing at least once a week for two consecutive weeks in a newspaper or other publication circulating in the affected area, the second notice being not less than six days before the hearing.

[28] The Tribunal 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 Tribunal must allow any affected person to appear and make a submission. After reviewing the evidence and submissions from the parties, the Tribunal is to prepare a written report of its findings and recommendations and send it to the Minister. The Minister has the authority to accept in whole or in part or completely reject the findings and recommendations made by the Tribunal. 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.

III ANNEXATION PROCEEDINGS

[29] The following section provides an overview of the annexation process as well as a summary of the oral and written submissions received by the Tribunal during the proceedings.

Process Overview

[30] The Summer Village filed a Notice of Intent to Annex (Notice) with the Tribunal on May 31, 2019. The Notice stated that letters would be sent to the Summer Village ratepayers with a description of the proposed annexation area, reasons for the annexation and information about a public meeting to be held on June 26, 2019 to discuss the proposal. The proposed annexation would allow the owner of the property in the proposed annexation area (Annexation Landowner) to access a municipal sanitary sewer connection, and allow the property to be subdivided for the construction of a home with access from 2nd Street on to Poplar Bay Drive.

[31] On June 11, 2019, the Tribunal acknowledged receipt of the Notice and provided information to assist the Summer Village in developing its annexation application. The Summer Village was advised that in order to avoid a delay in the processing of its eventual annexation request, it should ensure the application contains the information identified by the Application Checklist and addresses all 15 Annexation Principles.

[32] On September 3, 2019, the Tribunal received an application from the Summer Village to annex land from the County. The Tribunal reviewed the documentation, and on September 5, 2019, the Summer Village was requested to provide additional information to address issues with the documentation. The Summer Village did not provide a response.

[33] On December 4, 2019, in accordance with the *Annexation Procedure Rules*, the Tribunal returned the annexation application to the Summer Village. The Summer Village was informed that additional information was required before the Tribunal could process the request. The Summer Village was also informed that the two objections in the documentation as well as the additional objections that had been filed with the Tribunal would require the Tribunal to conduct a public hearing.

[34] On March 21, 2023, the Tribunal received a revised annexation application from the Summer Village along with a request for the Tribunal to proceed with the annexation. The proposed annexation will provide the Summer Village with control over future residential development that is accessed via the Summer Village road network. The application identifies that the Summer Village and the County were able to negotiate an agreement. Given the revised application contained objections to the proposed annexation, the Tribunal scheduled a public hearing for June 23, 2023.

[35] In accordance with section 122 of the *Act*, the Tribunal published hearing notifications in the **Pipestone Flyer**, a newspaper circulating in the Summer Village area the weeks of June 5 and June 12, 2023. Although not required by the *Act*, the Tribunal also mailed hearing notification letters to the parties that had filed objections with the Tribunal as well as those individuals that had been identified by the Summer Village as part of its consultation process. Both the newspaper and letter notifications stated that anyone wishing to participate in the hearing and/or wanting to make

an oral submission during the proceedings should notify the Tribunal by 12:00 noon on June 15, 2023. Written submissions should also be received by the Tribunal no later than 12:00 noon on June 15, 2023. The notifications identified that the public hearing would commence at 10:00 am on June 23, 2023 and be conducted via the WebEx videoconferencing platform.

Summary of Submissions

[36] During the proceedings, the Tribunal received written and oral submissions from affected landowners and the public, the Summer Village, and the County.

Affected Landowners and Public Submissions

[37] During the hearing, the Tribunal received oral submissions from a group of affected resident property owners in the Summer Village (Affected Landowner Group), C. Oshry, and C. Hayne. Written submissions were also received from D. and G. Terriff, C. and H. Oshry, C. Hayne, K. and K. Thorsell, E. and C. Magas, B. and I. Wilson, L. and S. Denham, E. Knox, K. Johner and P. Norrie, J. Porter, and D. Dyck. A summary of these submissions is provided below.

Affected Landowner Group Submission

[38] At the public hearing, D. Terriff made an oral submission on behalf of the Affected Landowner Group. The Affected Landowner Group consists of the following property owners: D. and G. Terriff (*owner of two residential properties*), C. and H. Oshry (*owner of two residential properties*), K. and K. Thorsell, W. Chichak, B. Wilson, E. Magas, L. Rogers, D. Dyck, K. Johner, L. and K. Thiessen, C. and A. Hayne, L. Denham, J. Porter, E. Knox, S. and D. Dunphy, M. Reids, A. and M. Yurechuk, and M. Lerohl. In his presentation, D. Terriff reiterated and explained the matters indicated in their group submission dated June 7, 2023. A summary of the submissions is provided below.

[39] D. Terriff stated that the Affected Landowner Group understood that the Annexation Landowner originally intended to construct a new house and small storage area in the annexation area. Based on their group's due diligence, they discovered that in 2004 the Annexation Landowner had proposed a 14 property subdivision for this same property. The Annexation Landowner also owns a 147 acre subdivision within the County that is immediately south of the Summer Village's boundary.

[40] It was explained that the Summer Village Mayor met with some of the Affected Landowner Group members and promised that the conditions needed for the group to support the annexation would be met. However, the Affected Landowner Group was surprised to find the current annexation documents show that all of the conditions were not fulfilled. It was because of this alleged secrecy and mistrust in the process as well as with several parts of the annexation application that they persisted with their opposition. D. Terriff also expressed concern that the adjacent landowners in the Summer Village did not hear about the annexation process until the last minute.

[41] The Affected Landowner Group identified three conditions to withdraw their opposition to the proposed annexation. One of these conditions is satisfied by the annexation documents and the Landowner Consent Agreement dated 21 December 2022 (Consent Agreement) between the Annexation Landowner and the Summer Village that prevent the use of 2nd Street to access the lands beyond the annexation area. However, D. Terriff confirmed two conditions remain unfulfilled:

- 1) Restriction of the development to only two (2) Low Density Residential (LDR) District properties; and
- 2) All costs for the upgrading and development of 2nd Street and all costs associated sewage treatment for the properties in the annexation area will be borne by the landowner.

[42] The Affected Landowner Group claims the annexation documents show that the word “may” has been used instead of “will” in regard to the Annexation Landowner bearing the costs for the extension of 2nd Street. This is ambiguous and if the Annexation Landowner does not shoulder the entire costs, these expenses will become a burden to the tax paying residents of the Summer Village. The group contends that the road has deteriorated. Since 2nd Street only allows access to this property, the group suggests that the landowner should pay for upgrades.

[43] The annexation documents also show that the annexation area “may” be designated for two LDR properties with a minimum size of two acres each, with no more than 10% coverage with buildings, “plus” a third higher density Lakeshore Residential (R) District 0.7 acre property (smaller parcel). The Affected Landowner Group finds the development of the smaller parcel to be unacceptable. It was originally understood that the smaller parcel of land in the annexation area would be used as small storage area. This belief is supported by the two roadside sewage connection tie-ins already in place. However, this smaller parcel could be developed for uses like a multi-story bed and breakfast, portable trailers, recreational vehicles, and guests homes that will potentially be a densely populated and commercial venture. The Affected Landowner Group insists that only two LDRs should be developed immediately after annexation.

[44] The Affected Landowner Group also wanted assurance that the storm drainage issues will be addressed through ditching to prevent the low lying properties along the southern edge of lots 2, 6, 10, 14 and 18 from being flooded as a result of foliage stripping and site grading of the annexation area.

[45] It was emphasized that agreements to address the concerns brought forward by the Affected Landowner Group need to be in writing as part of the agreement with the Annexation Landowner for this annexation request to proceed.

C. Oshry

[46] C. Oshry made oral submissions during the public hearing and agreed with D. Terriff’s presentation. C. Oshry explained that while they respect the Province’s desire to increase density generally throughout the Province through an environmentally responsible means, they object to the annexation for two reasons: one from a tax perspective and the other from an environmental perspective. He stated that their primary concern is not the annexation itself, but rather the eventual

development of the large parcel of land adjacent to the proposed annexation area without a restrictive covenant governing the access to and through the annexation area. The concern is that this development might lead to a situation where a large number of people using the Summer Village's roadway and infrastructure are not paying for that service. He contended that having a restrictive covenant in place will eliminate this unfairness.

[47] C. Oshry also commented he is unsure if there has been a study of the effects on environmentally sensitive features in the area, including wildlife, a bird habitat, migrating birds, and a watershed. With regard to the roadway infrastructure, he expressed concern that the access will be through the lake road which is already restricted in size. The ratepayers will eventually have to pay for the road maintenance resulting from an increase in traffic in that portion of the Summer Village.

[48] In response to questions from the Tribunal about the creek identified by C. Hayne, C. Oshry confirmed that it is a seasonal creek but it also runs through the summer and fall and it is running now.

C. Hayne

[49] C. Hayne stated the application does not seem to address surface water run-off or how the annexation area is connected to the watershed table. He noted there is a creek that borders the south and east side of the annexation area, which is a significant environmental consideration. Although the creek is primarily seasonal, development in the annexation area will eliminate some of the marshy areas causing significantly more run-off through this creek.

[50] Correspondence dated April 5, 2021 indicates C. Hayne objects to the proposed annexation and expresses concerns about the previous attempt to subdivide the annexation area into 14 separate lots. He does not believe the current proposal to limit the development to two lots will be followed, and suggests there be a formal and binding commitment in that respect. The Summer Village residents should not be burdened by the substantial construction traffic required to develop 2nd Street and the new lots in the annexation area. New development in the proposed annexation area will add to the load on utilities and increase maintenance costs.

[51] C. Hayne also expressed concerns about the vulnerable state of the Pigeon Lake Watershed, and mentioned the established due process for the approval of the annexation does not appear to have been followed.

D. and G. Terriff

[52] As part of his oral presentation, D. Terriff identified that they own property adjacent to the proposed annexation area. In addition, the Tribunal received three written submissions from D. Terriff and G. Terriff.

[53] The March 13, 2021 and March 22, 2021 correspondence from the Terriffs state the Annexation Landowner's real intent is to develop more than two properties in the annexation area; gaining access through the 2nd Street will serve this purpose. They contended the development should be restricted to two property subdivisions and this restriction should be confirmed in a

written formal agreement. The Summer Village's waterfront is already burdened and future access will continue to negatively impact their shoreline due to excessive piers and boat moorings. Clearing brush and trees for development will aggravate issues surrounding run off and drainage from the annexation area to their properties and cause more flooding.

[54] The March 23, 2021 correspondence from the Terriffs stated the Summer Village has not demonstrated any need for this land and that the annexation is being requested to accommodate the Annexation Landowner's desire to develop his property. The Summer Village has not provided any studies or other information that sets out the impact of this annexation on existing Summer Village property owners. There are no studies to demonstrate this land can be properly serviced by the Summer Village or that the transportation network is adequate to handle development on this land. Moreover, the Summer Village has not addressed any environmental considerations.

C. and H. Oshry

[55] Correspondence dated March 10, 2021 identifies that C. and H. Oshry opposed the annexation of their property during the public consultation process and expressed concerns that appropriate consultation has not taken place.

[56] The March 24, 2021 correspondence from the Oshrys states they object to the subject annexation, but gives no further detail.

K. and K. Thorsell

[57] In correspondence dated June 12, 2023, K. and K. Thorsell submitted they disagree with the proposed annexation. They contend that 2nd Street is an illegal development, and there was no notification, consultation or agreement by the residents. The history of this development has created distrust, and the residents do not trust the current Summer Village Council. The Thorsells claim that the Summer Village has not addressed many of the residents' concerns or objections; further, the annexation will be a burden to the existing Summer Village residents and ratepayers and the addition of the development of a 3rd lot is not acceptable.

[58] The March 23, 2021 submission from the Thorsells included letters previously sent to the Summer Village on June 7, 2019, March 12, 2021, March 17, 2021, and March 22, 2021. The Thorsells claim the proposed annexation will only benefit the Annexation Landowner, and there will be excess road traffic with resultant noise and safety concerns. The annexation, in their view, will have an environmental impact within the Pigeon Lake Watershed area due to the possible increase of residential properties.

E. and C. Magas

[59] Correspondence from E. and C. Magas dated March 25, 2021 objects to the annexation. They stated the annexation will benefit the Annexation Landowner and be detrimental to the Summer Village ratepayers and adjacent property owners. Increased road maintenance costs due to construction vehicles and additional public traffic will need to be offset by additional taxes. An increase in traffic will also cause safety concerns, noise issues, and will ultimately lower the value of adjacent properties. The Magases contend that the commitment of the Annexation Landowner

to build only residential properties on his land in the annexation area is not reliable and they suggest that he intends to further subdivide the land to 10 or more lots. This will increase the number of people using the public reserve lot to access to the lakeshore. Moreover, this will negatively impact the watershed area and waterfront as well as result in the significant deforestation of the annexed lands.

B. and I. Wilson and L. and S. Denham

[60] B. and I. Wilson and L. and S. Denham objected to the proposed annexation in correspondence dated March 29, 2021. They contend that development in the annexation area will increase traffic, causing safety concerns and lowering the value of adjacent properties. There is also the potential of the annexation area being subdivided into smaller parcels, creating additional construction traffic and local traffic on 2nd Street. An increase in the number of people in the annexation area wanting access to the lakeshore through the public reserve lot will damage the already fragile watershed area and environmentally sensitive waterfront. The significant deforestation in the annexation area resulting from development will cause additional stress to the environmentally sensitive waterfront.

E. Knox

[61] Correspondence from E. Knox dated March 31, 2021 indicates he objects to the proposed annexation. He contended the Summer Village does not need any more developments as there are other subdivisions near the lake area which are not being built on for several years already. The Annexation Landowner's previous attempt to subdivide his property into multiple lots should not be repeated. The lake road will be impacted greatly and will need to be repaired once construction begins on 2nd Street. There will be overuse of the reserve access in the Summer Village which will complicate the problems the lake is experiencing. The development of the land will have an impact on storm drainage and ground water runoff on the present infrastructure in the area.

K. Johner and P. Norrie

[62] Correspondence from K. Johner and P. Norrie dated March 30, 2021 states they object to the proposed annexation. The proposed access through 2nd Street will increase traffic and wear and tear on the Summer Village's existing roads resulting in higher taxes to maintain the roads. They saw proof of this during the new wastewater construction with excess equipment on the Summer Village's roads. Concern was also expressed that the Summer Village has not provided any detailed information about the number of lots to be added in future and if the existing wastewater system can accommodate this development. Moreover, the Summer Village has not presented any environmental reports.

J. Porter

[63] Correspondence from J. Porter dated April 4, 2021 identifies concerns about the proposed annexation. J. Porter expressed concern that the annexation will increase the traffic on the main road causing health and safety risks for those who use the road on a daily basis. The development of 2nd Street will cause multiple issues such as the storage and usage of construction equipment, the financial burden that the community will have to assume for the construction of this communal

road and the probable damage to the main road due to heavy equipment transport. He is interested to hear how the Summer Village believes this annexation will benefit the community as a whole. J. Porter could not believe that the only access point to the proposed annexation area would be 2nd Street because there are multiple entry points that could better serve the location without causing disruption to 2nd Street and its main residents. He requested information on the original land swap deal that took place between the Summer Village and the Annexation Landowner. He expressed concern that the proposed annexation and subdivision will also affect other residents not adjacent to the annexation area. He expressed concerns about possible destruction to the forestry and wildlife around the lake. Lastly, he described the annexation as a gentrification of the Summer Village which will affect its residents in the years to come.

D. Dyck

[64] Correspondence from D. Dyck dated April 5, 2021 indicates opposition to the proposed annexation. D. Dyck stated that the landowner has previously intended to create at least 14 lots in the annexation area. She explained that developing the annexation area would create traffic during and after construction that would be a safety issue for pedestrians. It would also increase use of the fragile reserve land which accesses the lake in front of 2nd Street. In addition, there would be significant road maintenance costs to the existing Summer Village from construction vehicles - which are very hard on roads - as well as from the increase in public traffic. She claimed that the annexation area already has an access road to 771 so there is no need for the traffic to spill out onto Poplar Bay Road. She contended that the annexation has no benefit to the Summer Village and this would affect the tranquility and safety of neighboring residents like herself.

L. Rogers

[65] Correspondence dated May 8, 2020 from L. Rogers objects to the proposed annexation. She asserted the development of 2nd Street does not comply with the *Act's* provisions on closure of roads notice to the adjoining landowners. She also claimed the annexation will result in excessive traffic and noise in the area.

The Summer Village

[66] The following section summarizes the Summer Village's annexation application as well as the oral submissions received during the June 23, 2023 public hearing. An overview of the intermunicipal negotiations, public consultation, proposed annexation area, infrastructure and servicing are provided below.

Intermunicipal Negotiations

[67] Although the Notice was issued in 2019, the Summer Village has been negotiating with the County regarding this potential annexation since 2017, as shown by correspondence between the two municipalities. The correspondence from the County dated August 15, 2017 indicated that the County has no objection to the proposed annexation.

[68] The Summer Village's Resolution #2023-061 directed Administration to submit the Report to the Tribunal. The Summer Village provided a copy of the Report to the County and this was presented to County Council at its regular meeting on February 21, 2023. County Council resolved to support the annexation application and authorize the Reeve of the County to endorse it. The County supported the Summer Village's annexation via County Resolutions #CG20230221.014 and #CG20230221.015 on February 21, 2023.

[69] The annexation application states there are no outstanding matters that have not been agreed to by the Summer Village and the County. The Annexation Agreement certifies that the annexation application accurately reflects the negotiations between the Summer Village and the County.

Consultation with the Affected Landowners and Public

[70] The proposed annexation is based on an extensive consultation process. An overview of the consultation activities undertaken to support the proposed annexation and a summary of the concerns expressed during the consultation as well as the responses from the Summer Village are provided below.

Consultation Activities

[71] The "What We Heard" Reports in the annexation application identifies that activities and events were undertaken by the Summer Village from 2019 to 2021 to engage with affected landowners and the public. Public engagement for this annexation application was undertaken in two phases.

[72] The first phase of consultation occurred in 2019 and early 2020 and was led by a consultant of the Summer Village who ceased involvement with the application in 2020. The Summer Village Council authorized Summer Village Administration to formally proceed with a Notice of Annexation in 2019. A formal Notice was sent on May 2019 to the County and the Tribunal. Notification of the proposed annexation application was provided to Summer Village ratepayers on May 23, 2019. The notification letter included a description of proposed annexation area, reasons for the proposed annexation, and information about a public meeting to discuss the proposed annexation.

[73] The first phase of the consultation consisted of a public meeting held on June 26, 2019 to provide information to the community and stakeholders regarding the proposed annexation. Only one person attended the public meeting. Prior to the public meeting, two submissions noting objections to the proposed annexation were submitted to the Summer Village.

[74] Affected agencies such as Alberta Transportation, David Thompson Regional Health Authority, Wetaskiwin Regional Public Schools and Pigeon Lake Regional Emergency Management Agency were notified of the proposed annexation in 2020. The February 19, 2020 correspondence from Alberta Transportation states that it has no objection to the proposed annexation. No responses were received from any of the other affected agencies.

[75] The second phase of consultation began in 2020. Municipal Planning Services (2009) Ltd. (MPS) was retained by the Summer Village to compile completed materials and information related to the proposed annexation, undertake a second phase of engagement with community residents and local referral agencies, and prepare the annexation application report for submission to the Tribunal. As part of MPS' review of past engagement materials and feedback, MPS noted the low response and attendance rate by Summer Village ratepayers/residents. MPS recommended that the Summer Village undertake an additional round of public consultation to ensure community members were properly notified/aware of the proposed annexation, and to address any concerns or issues that may be raised.

[76] On March 10, 2021, annexation information published on the Summer Village website provided residents and community members with an update on the Summer Village's proposed annexation. Concurrently, letters were mailed to adjacent landowners of the proposed annexation area (both within the Summer Village and the County). The letter included a brief questionnaire to gauge if adjacent landowners were in favor of the proposed annexation, and if there were any concerns, comments, or questions regarding the proposed annexation.

[77] Both the website notice and the letter to adjacent landowners included information about the proposed annexation (FAQ) and a map of the proposed annexation area. The response level during the second phase of public consultation was significantly higher than what was reported in the first phase of public consultation. Of the responses received from residents/community members, 100% indicated that they either have objections or did not support the proposed annexation.

[78] MPS reviewed the feedback with the Summer Village in April 2021. At that time, the Summer Village decided to support MPS hosting a second public meeting. Due to COVID-19 public gathering and health restrictions, the public meeting was held online via zoom as an online open house.

[79] On May 20, 2021, MPS hosted the online open house for residents and community members of the Summer Village. People could attend via a mobile/computer device or call in via their phone. The meeting was attended by approximately 25-30 persons. Summer Village Council, Administration, and the Annexation Landowner attended the online open house to hear public feedback. During and after the presentation, MPS addressed questions and comments through the platform's chat function. Following the session, a recording of the online open house was hosted on MPS' YouTube channel and shared with Summer Village residents that were unable to attend the session live.

[80] From the feedbacks received, MPS and the Summer Village revised the annexation application to address potential concerns/issues raised by Summer Village community members. Table 1 provides a summary of the concerns raised by affected landowners and the public expressed during the consultation activities as well as the responses from the Summer Village.

Table 1: Affected Landowner/Public Concerns and Summer Village Responses

Concern	Summer Village Response
<p><i>Procedural Concerns</i> Consultation/notification/inadequate follow-up</p>	<p>Summer Village re-notified community members and undertook an additional open house.</p>
<p><i>Traffic Road Concerns</i> Increased traffic, road/pedestrian safety, access should be provided through the County</p> <p>Future extension of 2nd Street to provide access to other lands in the County.</p>	<p>Maximum residential density achievable after the Summer Village of Poplar Bay Land Use Bylaw (Summer Village LUB) amendment is 3 LDR lots.</p> <p>The annexation will not result in a significant increase in traffic.</p> <p>The Summer Village and the landowner acknowledge and agree that the extension of 2nd Street through the annexation lands for the purpose of providing road access to the County lands adjacent to the southern boundary of the site will not be allowed.</p>
<p><i>Community Concerns</i> Not in the best interest of Summer Village residents, could result in additional infrastructure costs to upgrade 2nd Street and to extend services to the proposed annexation area, increased noise, loss of property value, future construction concerns, increased use of lake and lake front reserve lot.</p>	<p>Costs required to connect to utilities will be the sole responsibility of the Annexation Landowner.</p> <p>Summer Village Public Works has confirmed the wastewater system and municipal road network can support the potential additional lots.</p> <p>The Annexation Landowner will be required to install a holding tank, and the Summer Village will install a connection line to the Summer Village's wastewater system to the holding tank at the Annexation Landowner's sole cost, to bring the subject site into compliance with the Summer Village's Wastewater Local Improvement Levy Bylaw (No. 250) and the Municipal Wastewater Utility Bylaw (No. 253).</p> <p>The Annexation Landowner has agreed to be responsible for the costs of upgrading the access road to the lands, (2nd Street), to the standards mutually agreed to in the Consent Agreement.</p> <p>The provision of franchise utilities/services to the proposed annexation area (e.g. power, communications, etc.) will be at the Annexation Landowner's sole cost.</p>

<p><i>Environmental Concerns</i></p> <p>Environmental reports/studies not provided, new development may impact the lake and watershed, concerned about loss of tree cover, concerned about impacts and management of stormwater drainage and ground water runoff.</p>	<p>Site does not exhibit characteristics that would justify the provision of a biophysical assessment or geotechnical report at this time.</p> <p>Site is small, and is not observed to be affected by waterbodies, water course, wetlands, steep slopes, historic resources or historic developments that may result in site contamination.</p> <p>The proposed annexation area will be subject to the policies of the 2013 South Pigeon Lake Intermunicipal Development Plan (IDP) and Summer Village of Poplar Bay Municipal Development Plan (Summer Village MDP) with respect to landscaping and the retention of vegetation.</p> <p>The proposed annexation area will be subject to the ‘Site Drainage’ regulations of the Summer Village LUB which requires that any grading of a lot ensure that water flows into the lake, a soakaway, or the drainage system of a street/lane.</p> <p>The Summer Village LUB requires that a grading plan be included with an application for development of a new building.</p>
<p><i>Intensity/Density of Use Concerns</i></p> <p>Concerned about the number of lots that will be developed, that in the future this site will connect to additional development in the County, that additional lots are not required, many vacant lots available.</p>	<p>No road access shall be provided through the proposed annexation area to adjacent County lands.</p> <p>Amend the Summer Village LUB to redistrict (‘rezone’) as follows:</p> <ul style="list-style-type: none"> a. Lands west of 2nd Street to LDR District b. Lands east of 2nd Street to R District <p>The intended future land use of the proposed annexation area will be a two-lot subdivision. The Summer Village has committed to implementing this future use through amendments to the Summer Village LUB to redistrict the proposed annexation area. Maximum residential density achievable after the Summer Village LUB amendment is 3 LDR lots.</p>

Annexation Area and Planning Document Compliance

[81] The annexation area requested by the Summer Village was determined in collaboration with the County. The annexation area was shaped by the IDP which involves the County and the Summer Villages of Poplar Bay, Crystal Springs, Grandview and Norris Beach. Although the municipalities are in the process of preparing a new IDP, there is no time estimate for its completion. If the annexation application is successful, the County and the Summer Village will ensure that the proposed annexation area is properly addressed in the new IDP.

[82] The current Summer Village MDP was approved in 2021. If the annexation application is successful, the Summer Village MDP will be amended to include the proposed annexation area in the Residential Development Area. The Summer Village LUB will also be amended to ensure that the proposed annexation area is included in the Land Use Districts identified in Section 3.2.2 of the annexation application.

[83] The IDP's annexation policy identifies that "land should remain in whichever municipality is best able to provide services and access to it and its owners" (Policy 28). Further, it establishes (as a "general rule") that lots five acres and under in size should be under the jurisdiction of whichever municipality provides legal road access (Policy 28). Additionally, the IDP identifies that the County will not contest annexation applications (Policy 30) made by a Summer Village,

1. For lots that are already subdivided... or lots [that] have legal access to the Summer Village road; and
2. For un-subdivided land [where]:
 - a. The land is the subject of an application to subdivide into two or more lots; and
 - b. The lot or lots have legal access to the Summer Village road.

[84] The IDP forms the basis of a cooperative effort between the Summer Village and the County to identify growth areas for both municipalities.

[85] The Summer Village MDP identifies two future land use designations: 'Residential Area' and 'Parks and Environment Area.' The intended future development of the proposed annexation area would be consistent with the Residential Area designation.

[86] Policies in the Summer Village MDP guide the future development of residential areas, and include requirements for environmental stewardship, infrastructure, and servicing that would apply to all lands in the Summer Village.

[87] Map 9.2 – Local Features of the Summer Village MDP identifies future development constraints and important local features (within and near the Summer Village). No development constraints have been identified within (or immediately adjacent to) the proposed annexation area. When the annexation is complete, the Summer Village MDP will be amended to include the annexation area as part of the Summer Village.

[88] The Summer Village LUB does not specifically address the proposed annexation area. All privately-owned residential lots adjacent to the proposed annexation area are within the Residential District. However, the Summer Village LUB does anticipate the future annexation of lands where

typical lakefront densities may not be suitable. In this scenario, annexed lands may be re-districted to the LDR District, which requires all lots to be at least 8,000 m² (2.0 acres), and further restricts how much of the area of the lot may be developed (a maximum of 10%).

[89] The County of Wetaskiwin Municipal Development Plan (County MDP) (Bylaw 2010/34, as amended) identifies the proposed annexation area as within the IDP area (Figure 8 of the County MDP), as well as an area for growth potential (Figure 9 of the County MDP). Policy 7.2.1 of the County's MDP states: "Development adjacent to the City of Wetaskiwin and Summer Villages at Pigeon Lake will follow the respective Intermunicipal Development Plans."

[90] The County of Wetaskiwin Land Use Bylaw (County LUB) identifies the proposed annexation area as being within the Lakeshore Residential District. The purpose of this district is to 'allow for the subdivision and development of residential uses adjacent to County lakes.' When the annexation is complete, this Land Use District will continue to apply to the proposed annexation area until the Summer Village repeals the County LUB as it applies to the annexation lands and redistricts the subject lands to a residential district(s) in the Summer Village LUB.

[91] The proposed annexation area is currently undeveloped. The intended future land use is residential development.

[92] The Summer Village and Annexation Landowner have worked together to develop and endorse a Consent Agreement. The parties have agreed to the following:

Annexation Conditions for Future Subdivision and Development

- 1) The Annexation Landowner acknowledges that the Subdivision Authority is an external entity which assesses all subdivision applications on behalf of the Summer Village and that the Summer Village cannot guarantee the success of the subdivision application. The Annexation Landowner acknowledges that the Summer Village cannot influence the outcome of the application beyond acknowledging its support.
- 2) The Annexation Landowner acknowledges and agrees that any costs required to connect any development on the lands to existing utilities will be the sole responsibility of the Annexation Landowner or any successor landowner of the lands. In the event a subdivision application or development permit application is submitted with regards to any proposed development or subdivision of the lands, as part of the conditions of said development permit or subdivision approval, the Annexation Landowner may be responsible for the costs of upgrading the access road to the lands (2nd Street), to the standards mutually agreed to in the Consent Agreement.
- 3) The Annexation Landowner acknowledges and agrees that, in the event the Subdivision Application or development permit application is submitted with regards to any proposed development or subdivision of the Lands, as part of the conditions of said development permit or subdivision approval, the Annexation Landowner or any successor landowner will be required to install a holding tank, and the Summer Village will install a connection line to the Summer Village's wastewater system to the holding tank at the Annexation Landowner's sole cost, to bring the subject site into compliance with the Summer Village's Wastewater local Improvement levy Bylaw (No. 250) and the Municipal Wastewater Utility Bylaw (No. 253).

- 4) The Summer Village and the Annexation Landowner acknowledge and agree that the extension of 2nd Street through the annexation lands for the purpose of providing road access to the County lands adjacent to the southern boundary of the site will not be allowed.
- 5) The Summer Village and the Annexation Landowner acknowledge and agree that the property assessment category for the property will be 'vacant residential.' The County's current assessed value will apply to the property until the next assessment cycle (following annexation), at which time the Summer Village's assessment of the property will be used.
- 6) The Annexation Landowner acknowledges and agrees that, in the event the Subdivision Application or development permit application is submitted with regards to any proposed development or subdivision of the Lands, as part of the conditions of said development permit or subdivision approval, the Annexation Landowner may be responsible for the costs of upgrading the access road to the Lands, municipally described as 2nd Street and legally described as set out in Schedule "B" of the Consent Agreement (the "Road"), as follows:
 - a) Applying at least 6 inches of gravel (of at least 20 mm size) to the entire surface of the Road, as it extends from Poplar Bay Drive to the Road's termination at the lands;
 - b) Ensuring the surface of the Road is cleaned of trees and shrubs;
 - c) The Annexation Landowner shall not be responsible for any other upgrades to the Road except as described above;
 - d) The Annexation Landowner shall not be responsible for ongoing maintenance of the Road.

Implementation Action Items

The following implementation actions are intended to be undertaken following the annexation (if approved), to address issues raised by community members regarding the future use of the proposed annexation area. If the annexation is approved, the Summer Village intends to amend to the Summer Village MDP and Summer Village LUB as identified below.

Implementation Action 1 – Amendment to the Summer Village MDP

If the proposed annexation application is approved by the Tribunal, MPS recommends that the Summer Village amend the Summer Village MDP to include the proposed annexation area in the 'Residential Area' on Map 9.2 – Future Land Use and update all other maps accordingly to properly identify the area's inclusion in the Summer Village.

Implementation Action 2 – Amendment to the Summer Village LUB (Redistricting)

If the proposed annexation application is approved by the Tribunal, the current land use district applied to the proposed annexation area in the County LUB (the "Lakeshore Residential District") will continue until such time as the Summer Village LUB is amended. The Summer Village intends to (if the proposed annexation is approved) amend the Summer Village LUB as follows:

- a. Portions of the proposed annexation area that are generally west of 2nd Street be redistricted to the “Low Density Residential (LDR) District”; and
- b. Portions of the proposed annexation area that are generally east of 2nd Street be redistricted to the “Residential (R) District.”

Implementation Action 3 – Amendment to the Summer Village LUB (Revisions to the Low Density Residential (LDR) District)

To accommodate the future use of the LDR District for the portion of the proposed annexation generally west of 2nd Street, the Summer Village intends to make amendments to the LDR district to accommodate the unique size and shape of the lot. The change to the purpose statement in the LDR district is to remove reference to ‘land not yet annexed’, which is not within a municipality’s jurisdiction to do, and to clearly reflect that it is intended to be applied to larger lots within the Summer Village, such as the proposed annexation area.

Environmental

[93] During the public hearing and in response to concerns expressed about an intermittent creek, MPS submitted the CPP Environmental Poplar Biophysical Survey dated March 4, 2019 (Biophysical Survey) that was commissioned by the Summer Village. This document includes a terrestrial assessment to classify land features such as ecosites and streams as well as an aquatic survey to document shoreline and in-lake aquatic conditions.

[94] The Biophysical Survey identifies that the Summer Village is located in the Dry Mixed wood Subregion of the Boreal Forest Natural Region. Ecosites were identified within natural areas of the Summer Village and the 50 meter buffer. Ecosite classification included the identification of plants and soils to determine the three levels of ecosite classification (ecosite phase, plant community type, and soil classification). A potentially rare ecosite that contains ostrich fern was documented within a small depression located at the eastern project boundary and north of Sir William Crescent.

[95] Two watercourses were documented by the Biophysical Survey within the Summer Village: a large permanent and an intermittent stream. Riparian areas are the transitional ecological zones bordering aquatic ecosystems. In 2008, riparian health improved slightly as a result of purchases by the Government of Alberta. Pigeon Lake’s riparian impairment is largely a result of extensive riparian vegetation removal and shoreline modification. Five species of sport fish inhabit Pigeon Lake. Fish habitat is subject to environmental and anthropogenic pressures. The aquatic survey indicates that the majority of the Poplar Bay shoreline (53.5%) is moderately or highly impaired by human disturbance.

[96] Wildlife habitat is available throughout the Summer Village natural areas but is limited along the lake edge as forest habitat is scattered amongst built-up areas. The larger areas of natural riparian areas are important wildlife habitat as the natural shoreline provides foraging and nesting opportunities for wildlife. The Pigeon Lake shoreline along the Summer Village provides an important resting and foraging habitat for migratory waterfowl. The Biophysical Survey identifies that maintaining natural areas within the Summer Village and increasing (in lots and along

watercourses) the percent cover of natural vegetation overall will attract birds and other wildlife within the municipality.

Infrastructure

[97] The Summer Village has capacity to administer services to the proposed annexation area.

[98] The proposed annexation area is accessed through the Summer Village via the southern extent of 2nd Street. 2nd Street intersects with Poplar Bay Drive (the primary transportation route through the Summer Village) approximately 100 meters north of the proposed annexation area.

[99] The future development of the proposed annexation area for residential use will require improvements to 2nd Street to achieve Summer Village standards. The responsibility of improvements to (and future maintenance of) 2nd Street have been agreed to by the Summer Village and Annexation Landowner, as identified in the Consent Agreement.

[100] The Summer Village does not operate a municipal potable water distribution system, and there are no current plans to develop one in the future. Landowners in the Summer Village are responsible for providing private on-site water systems to their own properties. Private on-site water is currently provided via individual private wells and cisterns or is brought from other locations.

[101] Landowners in the Summer Village are responsible for providing private on-site water systems that are safe, efficient, and comply with all provincial and municipal policies and regulations.

[102] Wastewater collection is provided by the Summer Village. The system is connected to the South Pigeon Lake Regional Wastewater System. The Summer Village and the Annexation Landowner agreed that the later will be required to install a holding tank, and the Summer Village will install a connection line to its wastewater system to the holding tank at the Annexation Landowner's sole cost, to bring the subject site into compliance with the Summer Village's Wastewater local Improvement levy Bylaw (No. 250) and the Municipal Wastewater Utility Bylaw (No. 253).

[103] Stormwater run-off from individual residential lots is intended to drain into ditches adjacent to developed roadways or directly into the lake (as per Regulation 3 of Schedule B of the Summer Village LUB). Future residential developments within the proposed annexation area will be required to control stormwater runoff onsite and direct any offsite run-off to ditches adjacent to 2nd Street, consistent with regulations of the Summer Village LUB.

[104] Services provided in the Summer Village include road maintenance, snow clearing, and emergency services. These services are provided by Summer Village public works, local service providers, and intermunicipal agreements with other Summer Villages and the County. Residents and landowners who own seasonal and/or fulltime residential properties expect the Summer Village to continue to provide these services at existing or increased levels of service. The Summer Village contends that proposed annexation will not have a negative impact on the Summer Village's ability to provide these services to residents the future.

Land Requirements and Growth Projection/Accommodation

[105] The Summer Village stated that the proposed annexation area will not have a negative effect on the County's residential, commercial, or industrial development prospects. There are no County Hamlets, country residential subdivisions, or growth nodes within the proposed annexation area. The annexation area will permit efficient and effective residential development, reserve/park use, and transportation in the Summer Village.

[106] This proposed annexation does not stand to increase the population or number of residential lots or in the Summer Village or decrease the population of the County as the subject site is currently undeveloped.

[107] Should residential development occur in the future, it is anticipated (based on current regulations in the Summer Village LUB restricting maximum parcel sizes for lots located away from Pigeon Lake) that the future density of the proposed annexation will have a very minimal impact on the Summer Village's overall population.

[108] It was explained that since the proposed annexation area is currently vacant and undeveloped, the annexation will not create a significant amount of municipal taxes for the Summer Village. The annexation area only represents approximately 0.000007% of the County's total land area and there will be no financial impact on the County's municipal revenues. As agreed to by the Summer Village and the County in the Annexation Agreement, no compensation will be made for any lost revenue given the size of the proposed annexation area.

The County

[109] At the public hearing, the County commended the comprehensive and complete presentation by the Summer Village which also covered the County's position. The County confirmed that the municipalities have negotiated an Annexation Agreement and the proposed annexation is consistent with the IDP and the County MDP. The County is supportive of the proposed annexation.

IV TRIBUNAL RECOMMENDATION

[110] The Tribunal recommends approval of the annexation area requested by the Summer Village. The recommended effective date is January 1, 2024.

V REASONS

[111] When making an annexation recommendation, the Tribunal considers the annexation principles summarized by Board Order MGB 123/06 as well as the issues identified by the parties. To reduce repetition, these principles and issues have been addressed under the following broad headings: intermunicipal collaboration, land use planning, infrastructure, financial matters and effective date.

Intermunicipal Collaboration

[112] The Tribunal accepts that the Summer Village and the County demonstrated a significant level of intermunicipal collaboration during the negotiations that lead to their Annexation Agreement.

[113] The annexation application and the oral submissions by the Summer Village and the County during the public hearing identify that the two municipalities have been discussing the possibility of this annexation since 2017. The amount of time taken by the two municipalities to reach the final Annexation Agreement demonstrates that there was a significant level of collaboration throughout the negotiation process. The Annexation Agreement certifies that the annexation application accurately reflects the negotiations between the two municipalities and identifies that there are no outstanding matters that have not been agreed to by the Summer Village and the County. The IDP adopted by the two municipalities that includes the Summer Village of Crystal Springs, the Summer Village of Grandview, and the Summer Village of Norris Beach verifies that municipalities in this area are working together for the benefit of the region.

Consultation

[114] Although the activities conducted by the Summer Village extended from 2019 to 2021 and were conducted in two phases, the Tribunal finds the consultation process undertaken by the Summer Village was reasonable and appropriate.

[115] The Tribunal understands that the first phase of the Summer Villages public consultation process was limited. The Summer Village retained a consultant to develop its annexation application. Information was sent to the Summer Village residents advising them of the proposed annexation and inviting them to a public meeting. The Summer Village only received one oral and two written submissions in response to these consultation activities; after the public meeting, a number of written submissions were filed with the Summer Village and the Tribunal objecting to the public consultation process.

[116] The Summer Village recognized the first phase of the public consultation was insufficient and contracted a new consultant. The second phase of the public consultation was more comprehensive and included a combination of questionnaires, FAQs, letters, public meetings, open houses, website information, emails, and media releases. Despite concerns from some of the residents about being notified of the proposed annexation at the last minute, the activities undertaken in the second phase demonstrates that the Summer Village did attempt to solicit input and consult with the public. The oral and written submissions of the adjacent landowners and other residents received during the second phase of public consultations were summarized in the “What We Heard” Reports developed by MPS.

[117] The Tribunal finds that the second phase of the public engagement was thorough. In response to the input received, the Summer Village conducted a second open house. Placing a recording of this open house on the MPS YouTube channel for the public to view demonstrates an attempt by the Summer Village to keep residents and the public informed about the annexation process. The fact that a representative of the 20-person Affected Landowner Group and two other individuals made presentations during the hearing shows that the public notification process was

effective. Even though there were objections, the extended consultation period and the number of activities undertaken to solicit input demonstrate the Summer Village met the requirements for public participation and open communications specified by the *Act*.

[118] The two phased approach used by the Summer Village may have caused some Summer Village residents and landowners to question the transparency of the consultation process. However, there were numerous opportunities for people to provide input and the “What We Heard” Report shows the Summer Village did attempt to respond to the issues raised. The Tribunal finds that this confirms the strong commitment by the Summer Village to an open consultation process.

[119] The *Act* facilitates an open and transparent process by requiring the Summer Village to solicit input from affected landowners and the public. However, objections to the proposed annexation does not prohibit the Summer Village from submitting its application and requesting the Tribunal to proceed with the proposed annexation. The unanimous agreement of all parties is also not required for the Tribunal to recommend an annexation.

Land-Use Planning Matters

[120] The land-use planning matters examined by the Tribunal included an assessment of the area requested by the Summer Village and a review of the annexation’s compliance with statutory plans.

Annexation Area

[121] The land in the annexation area is reasonable extension of the Summer Village’s boundary. The property being annexed is within the Summer Village’s growth area identified by the IDP. The north and east borders of the annexation area are contiguous with the boundary of the Summer Village. There are no existing buildings or other man-made constraints in the annexation area to hamper future development. Although the size of the parcel being annexed is larger than the other lots in the municipality, there is no evidence to conclude that the annexation will provide the Summer Village with an excessive amount of additional land.

Planning Document Compliance

[122] The Tribunal finds that the annexation is consistent with the IDP, Summer Village MDP, Summer Village LUB, County MDP, and County LUB.

IDP

[123] The IDP forms the basis of a cooperative effort between the Summer Village and the County and identifies the growth areas for both municipalities. As previously acknowledged, the land being annexed is within the IDP area. Given the annexation area represents only 0.000007% of its land area and the County did not identify any issues with the annexation during the public hearing, the Tribunal accepts the annexation will not impact future growth for the County. There is no evidence to suggest that the annexation will affect the growth areas of the other municipalities that are part of the IDP. Since the County supports the annexation, the Tribunal concludes both municipalities agree that the Summer Village can best provide the services and access to the

property as required by the IDP. The Tribunal acknowledges that the Summer Village and the County will ensure the annexation area is reflected in the new IDP being developed.

Summer Village MDP

[124] Since the IDP addresses growth issues for the Summer Village and the County, the *Act* does not require the Summer Village MDP future land use policies to extend beyond the Summer Village boundary. The Summer Village has indicated that it will amend the Summer Village MDP to include the new area if the annexation is approved. The Summer Village MDP identifies two future land use designations, Residential Area and Parks and Environment Area. The Tribunal accepts that the proposed development in the annexation area is consistent with the Residential Area Designation and understands that amendments will be made to the Summer Village MDP that will expand this land use designations to the annexation area.

Summer Village LUB

[125] A major concern brought forward during the proceedings is related to land use. The *Act* identifies that the County LUB will still apply to the land in the proposed annexation area until such time as amendments are made to the Summer Village LUB. In this case, the Lakeshore Residential District of the County LUB would still permit the development of things like Bed and Breakfasts, portable trailers, recreational vehicles, and guest homes. However, the Tribunal accepts that the proposed amendments to the Summer Village LUB identified by MPS will extend the Summer Village's LDR and R District designations to the proposed annexation area and limit the types of permitted uses. Since the proposed amendments are incorporated into the application, the Tribunal accepts the Summer Village will adopt the amendments in a timely manner. The bylaw amendment process will provide an opportunity for landowners and residents to bring forward concerns about permitted uses, density levels and lot size in the annexation area. Since the *Act* gives municipalities the authority to create and amend planning related bylaws to address issues at the local level, it would be inappropriate for the Tribunal to recommend changes to the Summer Village LUB.

[126] Another concern expressed during the proceedings was the number of subdivisions allowed in the annexation area. The Consent Agreement between the Summer Village and the Annexation Landowner identifies that the annexation area will be limited to two lot subdivisions. The *Act* gives municipalities natural person powers and the autonomy to enter into contracts with other parties. MPS was candid in pointing out that the proposed annexation area has a maximum residential density of three lots after the Summer Village LUB amendment. There was also considerable concern about the subdivided lots being assigned as LDR or R Districts. The subdivision process is beyond the scope of an annexation proceeding. Moreover, the concerns raised would not be sufficient for the Tribunal to not recommend the annexation. The Tribunal notes that an external entity assesses all subdivision applications on behalf of the municipality and the Consent Agreement states that the Summer Village cannot take any steps to influence the outcome of the application. The independent subdivision process is another opportunity for the concerned property owners to express their views.

[127] The Tribunal encourages municipalities to adopt higher density development to reduce urban sprawl. In this case, the proposed development and density of the annexation area is

consistent with the rest of development contemplated by the Summer Village LUB. The Tribunal accepts that if developed in the future, the proposed annexation area will have a very minimal impact on the Summer Village's overall population. There is no evidence to suggest that the total area of the proposed annexation will have a negative impact on the County's residential, commercial, or industrial future development prospects.

[128] The efforts made by the Summer Village to comply with the IDP and MDP ensures that the intermunicipal infrastructure being planned for the annexation area will integrate with that of the other municipalities in the region. The Tribunal is also satisfied that the Summer Village has developed what they believe are reasonable amendments to MDP and LUB in the future.

[129] The Affected Landowner Group identified a number of issues in the Consent Agreement between the Summer Village and the Annexation Landowner that they did not agree with. The objectors are of the opinion that the conditions they imposed to agree with the annexation are reasons in themselves for the annexation not to proceed. It was also suggested that the previous annexation and subdivision attempt by the Annexation Landowner shows an intent to develop more lots on the annexation area. However, the previous annexation and subdivision efforts did not proceed and the LPRT views them as irrelevant. The *Act* gives municipalities the autonomy to enter into contracts with other persons. The Summer Village has done so with the Annexation Landowner, and there is no evidence to suggest were not acting in good faith when they entered into their agreement. Although the Summer Village and its residents disagree about the wording of the Consent Agreement, this disagreement is not sufficient for the Tribunal to recommend denial of the annexation application. As stated previously, the *Act* encourages all parties to collaborate and cooperate, but unanimous agreement is not a requirement of an annexation.

Environmental Considerations

[130] The Tribunal is satisfied that the Summer Village is sensitive to the key natural features in the annexation area. The existence of policies within the Summer Village MDP are designed to respect the lake and other natural features within the municipality. This shows that the Summer Village is attempting to protect the natural features within its boundary and in the region.

[131] During the public hearing, MPS identified that the annexation area does not have any significant water bodies, wetlands, or steep slopes that would justify the provision of a biophysical assessment at this time. The Biophysical Survey submitted by MPS identifies the natural features of the Summer Village as well as a 50 metre buffer area that includes most of the annexation area. Although concerns were expressed about the Pigeon Lake Watershed, the Biophysical Survey identified only two watercourses within the Summer Village that flow into the Pigeon Lake. The maps within the Biophysical Survey do not show that water from the annexation area would flow into either of these two watercourses. Since it is not adjacent to Pigeon Lake, it is unlikely that the annexation will increase the footprint of the Summer Village significantly enough to impact the riparian area of the lake. The inventory of the plants and trees as well as the wildlife observations of the Biophysical Survey shows that the Summer Village is sensitive to terrestrial features. Although a potentially rare ecosite was identified in the Sir William Crescent, there is nothing to suggest these rare biophysical features extend to the land being annexed. There is also no evidence to suggest that the annexation will impact wildlife corridors or migratory bird habitat in the municipality or the region. The Tribunal accepts that any future development will proceed in

accordance with the IDP, Summer Village MDP, Summer Village LUB as well as all provincial legislation and regulations that are designed to protect wildlife and the environment.

Infrastructure

[132] The Tribunal finds that the Summer Village can provide wastewater, stormwater, and transportation services to the annexation area.

Water

[133] With regard to the municipal potable water distribution system, the Tribunal notes that the Summer Village does not operate one and there are no current plans to develop the same in the future. The Tribunal recognizes that the landowners in the Summer Village are responsible for providing private on-site water systems to their own properties either via individual private wells and cisterns or brought from other locations, compliant with all provincial and municipal policies and regulations.

Wastewater

[134] The Tribunal accepts that wastewater collection can be provided to the proposed annexation area. The Tribunal notes that the Summer Village's wastewater system is connected to the South Pigeon Lake Regional Wastewater System. The wastewater lines can easily be extended to annexation area and there is sufficient capacity. The Summer Village and the Annexation Landowner agreed that the Annexation Landowner will be required to install a holding tank. The Annexation Landowner will pay for the connection to the Summer Village's system to bring the subject site into compliance with the Summer Village's Wastewater Local Improvement Levy Bylaw and the Municipal Wastewater Utility Bylaw.

Stormwater

[135] The Summer Village can provide stormwater services to the annexation area. In accordance with Regulation 3 of Schedule B of the Summer Village LUB surface water run-off from the annexation area will drain into ditches adjacent to 2nd Street. In regard to concerns about drainage from any future development in the annexation area, the Summer Village has commissioned a contractor to assess all subdivision applications on behalf of the Summer Village. The Summer Village LUB requires that a grading plan be included with an application for subdivision and development.

Transportation

[136] The Tribunal accepts that the Summer Village can extend its transportation system to the annexation area.

[137] A number of concerns were expressed about the impact of construction and additional residential traffic as well as the ongoing road maintenance costs to Poplar Bay Drive and 2nd Street resulting from the annexation.

[138] There will be some construction traffic on Poplar Bay Drive at the development stage; however, the additional road use is temporary in nature. There was no evidence to conclude that the amount of traffic would be any different than if a building was constructed on any other vacant lot in the Summer Village. Although not specifically discussed during the proceeding, the Tribunal understands that the Summer Village has traffic bylaws that it can use to limit the weight and size of vehicles using its transportation system. The Tribunal heard that the annexation area would only be able to accommodate a maximum of three lots. Although development in the annexation area needs to be addressed at the subdivision stage, it is unlikely that the annexation area would increase traffic levels to the extent that it would significantly increase the amount of road maintenance required on Poplar Bay Drive.

[139] There was considerable disagreement about whether 2nd Street is a legal road, upgrades required to 2nd Street, and the ongoing maintenance costs of this road.

[140] The Tribunal was convinced that 2nd Street in its current location complies with the *Act*. Although 2nd Street may have originally been located in another part of the Summer Village, information provided MPS identifies that the Summer Village followed the process to close the road and transfer it to another location. Although it was alleged that the road closure process was flawed, there is not enough evidence for the Tribunal to conclude that the process did not comply with the *Act*. Given 2nd Street is a road within the municipality, the Tribunal accepts the Summer Village can extend its transportation system to the annexation area.

[141] The Tribunal notes that section 3(c) of the *Act* identifies that one of the purposes of a municipality is to develop and maintain safe and viable communities. With regard to roads, section 18(1) of the *Act* provides that subject to other legislation, a municipality has the direction, control and management of all roads within the municipality. Section 532(1) deals specifically with the repair of roads:

Every road or other public place that is subject to the direction, control and management of the municipality, including all public works in, on or above the roads or public place put there by the municipality or by any other person with the permission of the municipality, must be kept in a reasonable state of repair by the municipality having regard to

- (a) the character of the road, public place or public work, and
- (b) the area of the municipality in which it is located.

[142] Section 532(2) of the *Act* makes municipalities liable for damage caused by failure to perform their duties under section 532(1). Although the Summer Village can establish maintenance levels for the roads within its boundary, the Tribunal understands that maintenance standards for 2nd Street may not be at the same level as the other roads in the Summer Village. While this may have reduced municipal expenditures and taxes for the Summer Village's residents, increasing the maintenance levels on 2nd Street may benefit the Summer Village in the long term.

[143] The Tribunal understands that the Annexation Landowner may be responsible for upgrades to 2nd Street at the subdivision or development permit stage and the Summer Village is to be

responsible for the ongoing maintenance of the road. The Affected Landowner Group contends that since the annexation area is the only land that will benefit from 2nd Street, the Annexation Landowner should be responsible for the upgrades and the ongoing maintenance of the road. As already identified, 2nd Street is a public road and, in accordance with the *Act*, the Summer Village is responsible for the control and management of public roads. Although the Annexation Landowner may be required to assist with upgrades to the road as a condition of the subdivision or development permit process, it is reasonable to expect that the Summer Village will maintain 2nd Street in the future.

[144] The Tribunal accepts that the Consent Agreement restricts the extension of a road from the annexation area to an existing subdivision in the County, which addresses one of the concerns of the Affected Landowner Group. Moreover, the February 19, 2020 correspondence from Alberta Transportation confirms it has no objection to the proposed annexation.

Other Municipal Services

[145] The Tribunal also notes that the other services that the Summer Village provides to residents include snow clearing and emergency services. These services are provided by the Summer Village via Summer Village public works, local service providers, and intermunicipal agreements with other Summer Villages and the County. There is no reason to expect these services cannot be extended to the annexation area.

Financial matters

[146] The Tribunal concludes that the financial impact of the annexation on the Summer Village is minimal. Currently, the land in the annexation area is vacant would not generate significant tax revenue for the Summer Village. This confirms that the annexation is not a tax initiative. The Consent Agreement allows the Summer Village to work with the Annexation Landowner to upgrade 2nd Street. Moreover, future development in the annexation area may increase the municipal revenues for the Summer Village.

[147] The Tribunal accepts that the annexation area (approximately 2.2 hectares (5.38 acres)) represents approximately 0.000007% of the County's total land area, so the financial impact on the County's municipal revenues should be minimal. The Summer Village is not compensating the County for lost municipal revenue. Due to the amount of land being transferred to the Summer Village, the annexation does not warrant revenue sharing. The Tribunal accepts that there are no stranded County assets within the proposed annexation area.

[148] Concern was expressed about the maintenance and operation of 2nd Street increasing taxes. As indicated earlier, the Summer Village may need to address the maintenance of 2nd Street to ensure this road is maintained properly. However, given the Summer Village does not intend to allow extension of the road to serve developments in the County, the LPRT does not anticipate excessive road maintenance costs for 2nd Street. Therefore, the Tribunal was not convinced that the annexation will significantly impact tax burden on the existing landowners of the Summer Village.

Effective Date

[149] The effective date of April 1, 2023 requested by the two municipalities is not recommended. A retroactive effective date is not practical as it will not be tied to the assessment period which starts at January 1. Thus, the Tribunal recommends a January 1, 2024 effective date.

CONCLUSION

[150] The Tribunal finds that the proposed annexation complies with the *Act* and addresses the 15 annexation principles established by Board Order MGB 123/06. The two municipalities demonstrated a significant level of intermunicipal collaboration and cooperation. The Summer Village conducted a number of activities to engage affected landowners and the public. The changes to the annexation area as well as the Annexation Agreement demonstrate the municipalities attempted to mitigate concerns of the affected landowners. The annexation area is logical and the amount of land is acceptable. The conditions of annexation are certain, unambiguous, enforceable, and time specific. Therefore, the Tribunal recommends the annexation.