

BOARD ORDER NO. MGB 083/09

FILE: AN07/REDD/C-01

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

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

BEFORE:

Members:

D. Thomas, Presiding Officer
J. Acker, Member
R. Strauss, Member

MGB Staff:

R. Duncan, Case Manager
K. Lau, Case Manager

SUMMARY

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

Recommendation

That the annexation be approved in accordance with the following:

The Lieutenant Governor in Council orders that

- (a) effective September 1, 2009, the land described in Appendix A and shown on the sketch in Appendix B is separated from Red Deer County and annexed to the City of Red Deer,
- (b) any taxes owing to Red Deer County at the end of August 31, 2009 in respect of the annexed lands are transferred to and become payable to the City of Red Deer together with any lawful penalties and costs levied in respect of those taxes, and

BOARD ORDER NO. MGB 083/09

FILE: AN07/REDD/C-01

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

- (c) any taxes transferred under clause (b) to the City of Red Deer in respect of manufactured homes must remain in the City of Red Deer's collection process for a period of one year from the date of the first tax notice or other invoice sent by Red Deer County, after which period they must, if not collected, be written off as uncollectable, and
- (d) the assessor for the City of Red Deer must assess, for the purpose of taxation in 2010 and subsequent years, the annexed land and the assessable improvements to it,

and makes the Order in Appendix C.

Dated at the City of Edmonton, in the Province of Alberta, this 21st day of August 2009.

MUNICIPAL GOVERNMENT BOARD

(SGD.) J. Acker, Member

BOARD ORDER NO. MGB 083/09

FILE: AN07/REDD/C-01

**APPENDIX A
DETAILED DESCRIPTION OF THE LANDS SEPARATED FROM
RED DEER COUNTY AND ANNEXED TO THE CITY OF RED DEER**

ALL THAT PORTION OF SECTION EIGHTEEN (18), TOWNSHIP THIRTY-EIGHT (38), RANGE TWENTY-SEVEN (27), WEST OF THE FOURTH MERIDIAN NOT WITHIN THE CITY OF RED DEER LYING EAST OF THE EASTERLY BOUNDARY OF PLAN 852 2017 AND EXCLUDING ALL THAT PORTION OF THE EAST-WEST ROAD ALLOWANCE ADJACENT TO THE SOUTH SIDE OF SAID SECTION LYING WEST OF THE PRODUCTION SOUTH OF THE EASTERLY BOUNDARY OF PLAN 852 2017 AND INCLUDING PLAN 852-2017 EXTRA LAND "A" AND INCLUDING PLAN 852-2017 EXTRA LAND "B".

ALL THAT PORTION OF THE SOUTHWEST QUARTER OF SECTION NINETEEN (19), TOWNSHIP THIRTY-EIGHT (38), RANGE TWENTY-SEVEN (27), WEST OF THE FOURTH MERIDIAN NOT WITHIN THE CITY OF RED DEER.

ALL THAT PORTION OF THE WEST HALF OF SECTION FIVE (5), TOWNSHIP THIRTY-NINE (39), RANGE TWENTY-SEVEN (27), WEST OF THE FOURTH MERIDIAN LYING EAST OF THE EASTERLY BOUNDARY OF PLAN 2058 LZ.

ALL THAT PORTION OF THE NORTHEAST QUARTER OF SECTION THIRTY ONE (31), TOWNSHIP THIRTY-EIGHT (38), RANGE TWENTY-SEVEN (27), WEST OF THE FOURTH MERIDIAN NOT WITHIN THE CITY OF RED DEER EXCLUDING PLAN 2082 LZ AND EXCLUDING ALL LANDS WEST OF THE PRODUCTION NORTH OF THE MOST EASTERLY POINT OF PLAN 2082 LZ.

ALL THAT PORTION OF THE SOUTHEAST QUARTER OF SECTION FIVE (5), TOWNSHIP THIRTY-NINE (39), RANGE TWENTY-SEVEN (27), WEST OF THE FOURTH MERIDIAN LYING NORTH OF THE NORTH BOUNDARY OF PLAN 2058 LZ AND LYING EAST OF THE PRODUCTION NORTH AND THE PRODUCTION SOUTH OF THE MOST EASTERLY POINT OF PLAN 2058 LZ.

ALL THAT PORTION OF THE NORTHEAST QUARTER OF SECTION FIVE (5), TOWNSHIP THIRTY-NINE (39), RANGE TWENTY-SEVEN (27), WEST OF THE FOURTH MERIDIAN LYING SOUTHEAST OF THE EASTERLY BOUNDARY OF PLAN 2058 LZ.

ALL THAT PORTION OF THE SOUTHEAST QUARTER OF SECTION EIGHT (8), TOWNSHIP THIRTY-NINE (39), RANGE TWENTY-SEVEN (27), WEST OF THE FOURTH MERIDIAN LYING EAST OF THE EASTERLY BOUNDARY OF PLAN 2058 LZ AND

BOARD ORDER NO. MGB 083/09

FILE: AN07/REDD/C-01

LYING SOUTH OF THE SOUTH BOUNDARY OF CANADIAN NATIONAL RAILWAY PLAN 2712 AK.

ALL THAT PORTION OF SECTION NINE (9), TOWNSHIP THIRTY-NINE (39), RANGE TWENTY-SEVEN (27), WEST OF THE FOURTH MERIDIAN SOUTH OF THE SOUTH BOUNDARY OF CANADIAN NATIONAL RAILWAY PLAN 2712 AK.

SECTION FOUR (4), TOWNSHIP THIRTY-NINE (39), RANGE TWENTY-SEVEN (27), WEST OF THE FOURTH MERIDIAN.

ALL THAT PORTION OF SECTION THIRTY TWO (32), TOWNSHIP THIRTY-EIGHT (38), RANGE TWENTY-SEVEN (27), WEST OF THE FOURTH MERIDIAN NOT WITHIN THE CITY OF RED DEER.

ALL THAT PORTION OF SECTION THIRTY THREE (33), TOWNSHIP THIRTY-EIGHT (38), RANGE TWENTY-SEVEN (27), WEST OF THE FOURTH MERIDIAN NOT WITHIN THE CITY OF RED DEER.

ALL THAT PORTION OF SECTION THREE (3), TOWNSHIP THIRTY-NINE (39), RANGE TWENTY-SEVEN (27), WEST OF THE FOURTH MERIDIAN NOT WITHIN THE CITY OF RED DEER.

THE SOUTH HALF OF SECTION TEN (10), TOWNSHIP THIRTY-NINE (39), RANGE TWENTY-SEVEN (27), WEST OF THE FOURTH MERIDIAN.

ALL THAT PORTION OF THE SOUTH HALF OF SECTION ELEVEN (11), TOWNSHIP THIRTY-NINE (39), RANGE TWENTY-SEVEN (27), WEST OF THE FOURTH MERIDIAN LYING WEST OF THE LEFT BANK OF THE RED DEER RIVER.

ALL THAT PORTION OF THE WEST HALF OF SECTION TWO (2), TOWNSHIP THIRTY-NINE (39), RANGE TWENTY-SEVEN (27), WEST OF THE FOURTH MERIDIAN NOT WITHIN THE CITY OF RED DEER.

ALL THAT PORTION OF THE SOUTHEAST QUARTER OF SECTION TWO (2), TOWNSHIP THIRTY-NINE (39), RANGE TWENTY-SEVEN (27), WEST OF THE FOURTH MERIDIAN NOT WITHIN THE CITY OF RED DEER.

ALL THAT PORTION OF THE NORTHEAST QUARTER OF SECTION TWO (2), TOWNSHIP THIRTY-NINE (39), RANGE TWENTY-SEVEN (27), WEST OF THE FOURTH MERIDIAN EXCLUDING THOSE LANDS LOCATED IN THE NORTHEAST PART OF

BOARD ORDER NO. MGB 083/09

FILE: AN07/REDD/C-01

SAID QUARTER SECTION LYING NORTHEASTERLY OF THE LEFT BANK OF THE RED DEER RIVER.

ALL THAT PORTION OF SECTION THIRTY FOUR (34), TOWNSHIP THIRTY-EIGHT (38), RANGE TWENTY-SEVEN (27), WEST OF THE FOURTH MERIDIAN NOT WITHIN THE CITY OF RED DEER AND INCLUDING THE EAST-WEST ROAD ALLOWANCE ADJACENT TO THE NORTH OF SAID QUARTER SECTION.

ALL THAT PORTION OF THE WEST HALF OF SECTION ONE (1), TOWNSHIP THIRTY-NINE (39), RANGE TWENTY-SEVEN (27), WEST OF THE FOURTH MERIDIAN LYING WESTERLY OF THE LEFT BANK OF THE RED DEER RIVER.

SECTION THIRTY-FIVE (35), TOWNSHIP THIRTY-EIGHT (38), RANGE TWENTY-SEVEN (27), WEST OF THE FOURTH MERIDIAN INCLUDING THE NORTH-SOUTH ROAD ALLOWANCE ADJACENT TO THE EAST OF SAID SECTION AND INCLUDING THE EAST-WEST ROAD ALLOWANCE ADJACENT TO THE NORTH SIDE OF SAID SECTION.

ALL THAT PORTION OF SECTION TWENTY-SIX (26), TOWNSHIP THIRTY-EIGHT (38), RANGE TWENTY-SEVEN (27), WEST OF THE FOURTH MERIDIAN NOT WITHIN THE CITY OF RED DEER.

THE WEST HALF OF SECTION TWENTY-FIVE (25), TOWNSHIP THIRTY-EIGHT (38), RANGE TWENTY-SEVEN (27), WEST OF THE FOURTH MERIDIAN.

ALL THAT PORTION OF THE WEST HALF OF SECTION TWENTY-FOUR (24), TOWNSHIP THIRTY-EIGHT (38), RANGE TWENTY-SEVEN (27) WEST OF THE FOURTH MERIDIAN NOT WITHIN THE CITY OF RED DEER.

ALL THAT PORTION OF SECTION THIRTEEN (13), TOWNSHIP THIRTY-EIGHT (38), RANGE TWENTY-SEVEN (27), WEST OF THE FOURTH MERIDIAN NOT WITHIN THE CITY OF RED DEER INCLUDING ALL LANDS ADJACENT TO THE NORTH SIDE OF SAID SECTION LYING SOUTH OF THE NORTH BOUNDARY OF PLAN 1176MC AND INCLUDING PLAN 822 0763 AND INCLUDING THE NORTH-SOUTH ROAD ALLOWANCE ADJACENT TO THE EAST SIDE OF SAID SECTION.

ALL THAT PORTION OF SECTION TWELVE (12), TOWNSHIP THIRTY-EIGHT (38), RANGE TWENTY-SEVEN (27), WEST OF THE FOURTH MERIDIAN NOT WITHIN THE CITY OF RED DEER AND INCLUDING THE NORTH-SOUTH ROAD ALLOWANCE ADJACENT TO THE EAST SIDE OF SAID SECTION.

BOARD ORDER NO. MGB 083/09

FILE: AN07/REDD/C-01

ALL THAT PORTION OF THE EAST HALF OF SECTION ONE (1), TOWNSHIP THIRTY-EIGHT (38), RANGE TWENTY-SEVEN (27), WEST OF THE FOURTH MERIDIAN NORTH OF THE NORTH BOUNDARY OF PLAN 012 1685 INCLUDING ALL THAT PORTION OF THE NORTH-SOUTH ROAD ALLOWANCE ADJACENT TO THE EAST SIDE OF SAID HALF SECTION LYING NORTH OF THE PRODUCTION EAST OF THE NORTH BOUNDARY OF PLAN 012 1685.

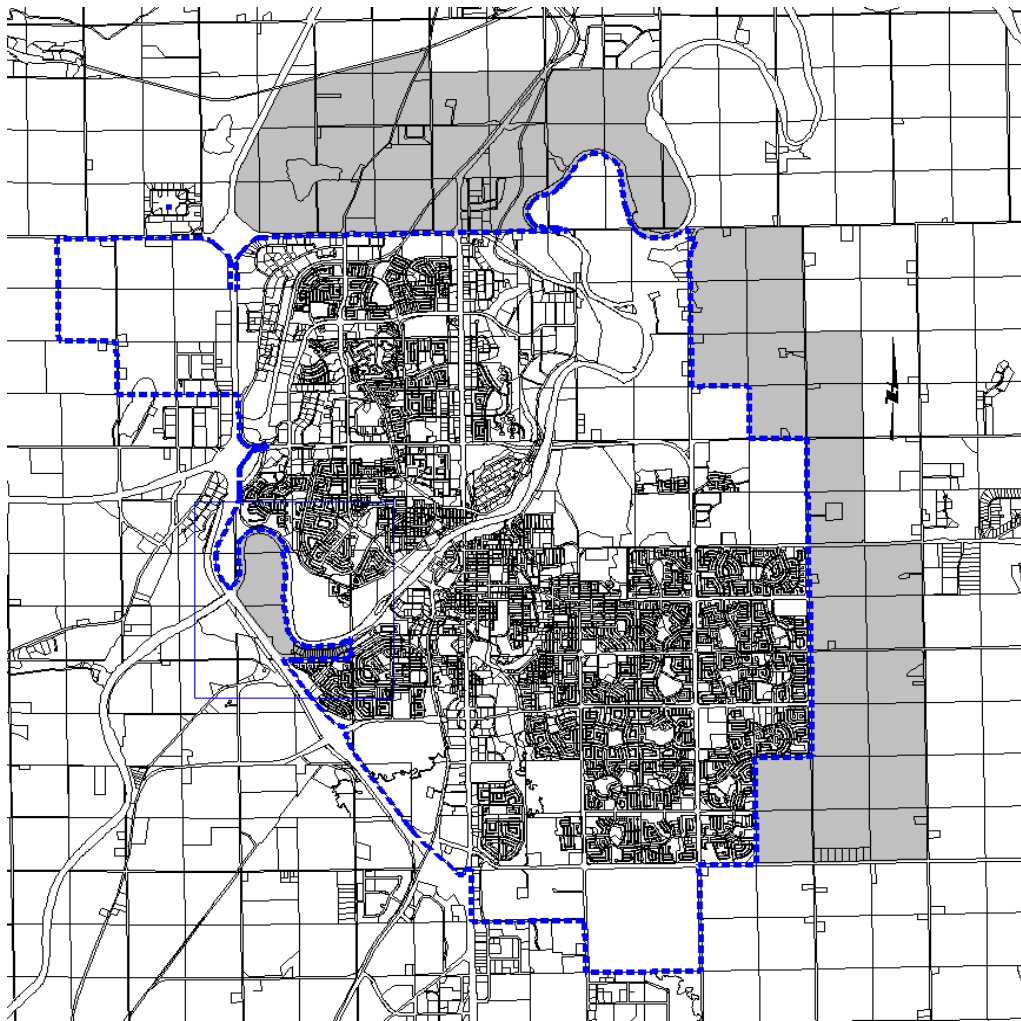
ALL THAT PORTION OF THE WEST HALF OF SECTION ONE (1), TOWNSHIP THIRTY-EIGHT (38), RANGE TWENTY-SEVEN (27), WEST OF THE FOURTH MERIDIAN NORTH OF THE SOUTH BOUNDARY OF PLAN 6782 KS LOTS A THROUGH H AND EXCLUDING THAT PORTION OF THE NORTH-SOUTH ROAD ALLOWANCE ADJACENT TO THE WEST SIDE OF SAID HALF SECTION LYING SOUTH OF THE PRODUCTION WEST OF THE SOUTH BOUNDARY OF PLAN 6782KS LOT A.

ALL THAT PORTION OF SECTION TWO (2), TOWNSHIP THIRTY-EIGHT (38), RANGE TWENTY-SEVEN (27), WEST OF THE FOURTH MERIDIAN NOT WITHIN THE CITY OF RED DEER INCLUDING ALL LAND ADJACENT TO THE SOUTH SIDE OF SAID SECTION LYING NORTH OF THE SOUTH BOUNDARY OF PLAN 032 0638 AND INCLUDING ALL THAT LAND LYING NORTH OF THE PRODUCTION WEST OF THE SOUTH BOUNDARY OF PLAN 032 0638.

APPENDIX B

**A SKETCH SHOWING THE GENERAL LOCATION OF THE AREAS
ANNEXED TO THE CITY OF RED DEER**

AFFECTED AREA(S)



Legend



Existing City Boundary



Annexation Area

BOARD ORDER NO. MGB 083/09

FILE: AN07/REDD/C-01

**APPENDIX C
ORDER**

1 In this Order,

- (a) “annexed farm land” means annexed land in respect of which the assessment class of farm land has been assigned under section 297(1) of the *Municipal Government Act*;
- (b) “annexed land” means the land described in Appendix A and shown on the sketch in Appendix B;
- (c) “annexed non-farm land” means annexed land in respect of which an assessment class other than farm land has been assigned under section 297(1) of the *Municipal Government Act*;
- (d) “farm building” means an improvement located on annexed farm land, to the extent it is used for farming operations;
- (e) “farming operations” has the meaning given to it in the *Matters Relating to Assessment and Taxation Regulation* (AR 220/2004);
- (f) “farm residence” means a residence in a farm unit that
 - (i) meets the criteria set out in sections 21 and 22 of the *Matters Relating to Assessment and Taxation Regulation* (AR 220/2004), and
 - (ii) is located on annexed farm land;
- (g) “farm unit” has the meaning given to it in the *Matters Relating to Assessment and Taxation Regulation* (AR 220/2004).

2(1) If the Red Deer County mill rate is less than the City of Red Deer mill rate in the year of annexation, the City of Red Deer must provide all residential, industrial and commercial properties a one-time, non-refundable tax credit.

(2) To calculate the tax credit referred to in subsection (1) for a property, the City of Red Deer shall determine the difference between the City of Red Deer and Red Deer County mill rates that would be applicable to the property in the year of annexation. The difference between the two mill rates is to be applied to the assessed value of the property as determined by Red Deer County for the purposes of taxation in the year of annexation. The difference is to be multiplied by ten. The result is the one time, non-refundable credit for the property.

BOARD ORDER NO. MGB 083/09

FILE: AN07/REDD/C-01

(3) A tax credit determined for a property under this section must be applied first to any arrears and then to any other amount owing under a tax notice for the property. Any remainder is to be retained by the City and applied against future tax notices for the property until the credit is exhausted. The first application of the tax credit must occur after September 1, 2009 and before April 1, 2010.

(4) The tax credit attaches to the property and has no cash value.

(5) If the property is subdivided, the tax credit or that portion of it which remains at the date of subdivision is to be divided in the same manner as for outstanding tax balances.

(6) The City of Red Deer shall keep a record of the application and ongoing balance of a tax credit and shall provide that information to the taxpayer on request.

3(1) For taxation purposes in 2010 and in each subsequent year up to and including 2034, annexed property that is farm land, farm residences or farm buildings

- (a) must be assessed in the same manner as if the property were located in a county or municipal district, but valuations for that property must be determined by the assessor for the City of Red Deer,
- (b) shall continue to receive the exemptions applicable to the property under the *Matters Relating to Assessment and Taxation Regulation*, and
- (c) must, in respect of each assessment class that applies to that property, be taxed by the City of Red Deer using the municipal tax rates established by Red Deer County.

(2) Subsection (1) applies to all annexed farm land, farm residences and farm buildings until the expiry of December 31, 2034, except that subsection (1) ceases to apply

- (a) to a parcel of less than 16 hectares (40 acres) that is created by a subdivision of title, and
- (b) to a parcel that, at the request of, or on behalf of the landowner(s) or a purchaser, is redesignated under the City of Red Deer Land Use Bylaw to a designation other than agricultural

at the end of the taxation year in which the subdivision or redesignation occurs.

4 Notwithstanding section 3, on and after January 1, 2010 the annexed land is to be subject to the supplementary assessment and supplementary tax bylaws of the City of Red Deer.

BOARD ORDER NO. MGB 083/09

FILE: AN07/REDD/C-01

5 Red Deer County is responsible for all property assessment appeals related to 2009 assessment notices for property within the annexed land.

6 The City of Red Deer shall provide compensation to Red Deer County as follows:

- (a) \$601,919.00 on or before July 31, 2010,
- (b) \$722,303.00 on or before July 31, 2011,
- (c) \$541,728.00 on or before July 31, 2012,
- (d) \$361,152.00 on or before July 31, 2013, and
- (e) \$180,576.00 on or before July 31, 2014.

BOARD ORDER NO. MGB 083/09

FILE: AN07/REDD/C-01

APPENDIX “D”

**MUNICIPAL GOVERNMENT BOARD REPORT
TO THE MINISTER OF MUNICIPAL AFFAIRS
RESPECTING THE CITY OF RED DEER’S PROPOSED ANNEXATION OF TERRITORY
FROM RED DEER COUNTY**

Table of Contents

I	Introduction.....	13
II	Role of the MGB, the Minister and the Lieutenant Governor in Council	13
III	Annexation Application	14
	Annexation Areas	14
	Development Plans.....	15
	Provision of Municipal Services	16
	The Landowner and Public Consultation Process.....	19
	Identified Landowner and Public Issues	20
	Consultation with Local Authorities and Agencies.....	20
	The Annexation Agreement with the County.....	20
	Compensation	20
	Proposed Assessment and Taxation Conditions.....	21
IV	MGB Application Processing Methodology and Public Hearing	22
	MGB Application Processing.....	23
	The November 4, 2008 Preliminary Hearing	24
	The December 18, 2008 Public Hearing	24
	City’s Submission.....	24
	County’s Submission.....	26
	Landowner/Public Submissions	27
	City’s Response to Landowner/Public Submissions	30
	Submissions Received Subsequent to the MGB Hearing	31
V	MGB Recommendations.....	31
VI	Reasons.....	31

BOARD ORDER NO. MGB 083/09

FILE: AN07/REDD/C-01

Summary

The City of Red Deer (City) is located in Central Alberta, approximately halfway between Edmonton and Calgary along the Queen Elizabeth II Highway. On June 27, 2008 the Municipal Government Board (MGB) received an annexation application from the City to annex territory from Red Deer County (County).

The City and County were in agreement with respect to the annexation application. However, correspondence was received from several affected landowners indicating that they opposed the proposed annexation. Because of these objections, the MGB held a public hearing on December 18, 2008 in order to receive information, evidence and argument on the annexation application.

After reviewing the documentation provided prior to the hearing, as well as listening to the presentations by the parties affected by the proposed annexation, the MGB finds that the purpose of the annexation and amount of land being requested by the City is reasonable and that the concerns of affected landowners have been given proper consideration. The MGB is also satisfied that the agreed to compensation over a five year period is not excessive and will not cause financial hardship for the City or the County.

The MGB recommends changes to the assessment and taxation conditions as proposed by the City and the County in the Annexation Agreement and at the December 18, 2008 hearing. The proposed taxation and assessment conditions provide for a tax credit to be provided to residential landowners equal to ten times the difference between City and County taxes in the year of annexation. In addition to this, the MGB recommends that this tax credit be extended to non-residential property owners as well. The conditions also provide for exemptions for farm operations to be maintained for a period of 25 years or until the occurrence of a triggering event. While the City indicated that it would adjust its mill rate for farm properties to closely reflect that of the County, the MGB recommends that farming operations be taxed at the County's municipal tax rate during the transition period. With these changes, the assessment and taxation conditions will better serve to address the concerns brought forward by affected landowners.

Moreover, the MGB reviewed the arguments and evidence of all the parties and concluded that it was in the greater public interest to recommend approval of the proposed annexation. The collaboration between the two municipalities meets the objectives of intermunicipal cooperation outlined in the Provincial Land Use Policies, the annexation principles set out by the MGB, and the *Municipal Government Act* (Act).

BOARD ORDER NO. MGB 083/09

FILE: AN07/REDD/C-01

I Introduction

The City is located in Central Alberta, approximately half-way between Edmonton and Calgary along the Queen Elizabeth II Highway. The City is bounded by the County and has a current population of 87,816.

The City has experienced a substantial rate of growth. Census data indicates that the population increased by 37.8% between 1996 and 2006, and by 22% between 2001 and 2006. More recently, there was 3.5% growth during 2007 and 2.46% growth in 2008. A 2006 analysis conducted for the City projects that its population could increase to 151,182 by the year 2031.

The City is seeking to acquire sufficient land to meet its growth needs, allow for the adequate planning of future development and provide for geographically balanced growth. The annexation will also incorporate into the City a County enclave which is only accessible via City streets. The City estimates that the proposed annexation territory will bolster its supply of land in order to meet its needs for approximately the next 20 to 30 years.

On June 27, 2008 the MGB received a formal annexation application from the City. The proposed annexation includes three areas which constitute an approximate total of 3,029 hectares (7,485 acres).

The City and County were in agreement with the annexation application, and the application indicates that there were no matters that had not been agreed upon by the two municipalities. However, since the application contained objections and concerns from affected landowners, the MGB held a public hearing on December 18, 2008 to receive information, evidence and argument on the annexation application in accordance with section 20 of the Act.

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

The MGB became active in the annexation process once the City filed its negotiation report with the MGB and requested the MGB to proceed with the annexation, pursuant to section 119(2) of the Act. Although the City and the County were in agreement with the proposed annexation, the MGB determined that the application submitted by the City contained objections. Moreover, additional objections were filed with the MGB. In accordance with section 120(3)(b) of the Act, the MGB conducted a hearing. The MGB is now required to prepare a written report of its findings and provide a recommendation to the Minister of Municipal Affairs (Minister) and the Lieutenant Governor in Council (LGC).

The Minister and the LGC have the authority to accept in whole or in part or completely reject the findings and recommendations of the MGB report.

BOARD ORDER NO. MGB 083/09

FILE: AN07/REDD/C-01

III Annexation Application

The MGB received the City's annexation application on June 27, 2008. The following section describes the proposed annexation areas, the current state of development plans, indicates how municipal services will be provided to the proposed annexation area, outlines the public consultation process used to develop the application, highlights the concerns expressed by landowners and the public during the City's consultation process, describes the Annexation Agreement between the City and the County, and states the proposed compensation provisions and assessment and taxation conditions agreed to by the municipalities.

Annexation Areas

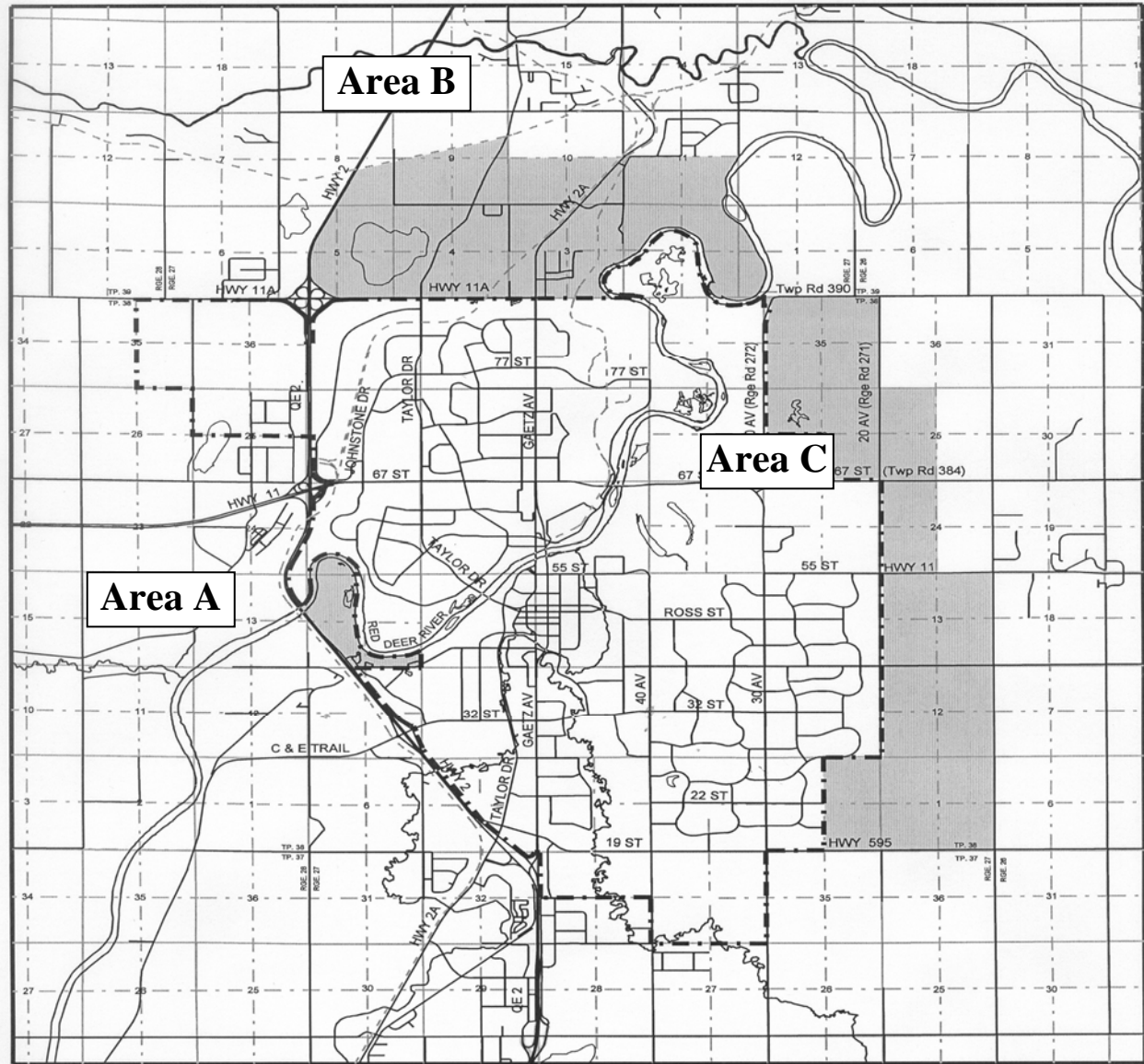
The proposed annexation includes three distinct areas which are briefly described below and illustrated on Map 1.

Area A (West): This area is approximately 108 hectares (267 acres) in size and includes the land south of the Red Deer River and east of the Queen Elizabeth II Highway. Existing land uses in this area include the Heritage Ranch Park, the Alberta Sports Hall of Fame and Museum, and the Riverview Park residential area.

Area B (North): This area is approximately 1,318 hectares (3,257 acres) in size and is located along the north side of the City's current boundary. Existing land uses in this area are primarily agricultural with industrial uses in the east portion (the IPSCO and Chiles industrial areas). There are also a number of acreages in the area, both individual and grouped.

Area C (East): This area is approximately 1,603 hectares (3,960 acres) in size and is located along the east side of the City's current boundary. Existing land uses in this area are primarily agricultural; however there are some country residential developments.

Map 1: City of Red Deer Proposed Annexation Area



Source: City of Red Deer

Development Plans

An Intermunicipal Development Plan (IDP) was created between the City and County in July 2007. The IDP was intended to address, among other things, long term growth areas for both municipalities. The IDP identifies future growth areas for both the City and the County, and the proposed annexation area is situated within the designated City growth area. Section 3.6 of the

BOARD ORDER NO. MGB 083/09

FILE: AN07/REDD/C-01

IDP states that the County and City agree that it is desirable for the City to annex all of the City Growth Areas within ten years. The IDP also states that the two municipalities agree that it is desirable for any annexation application to be for large areas of land. The municipalities believe this will reduce the time, effort, and repetition required to pursue smaller but more numerous applications.

Provision of Municipal Services

The annexation application indicates that the proposed annexation area can be fully serviced by the City. Details are included with respect to water, sanitary sewer, storm drainage, transportation, electrical power, emergency services, and public works.

Water

Area A (West) will be serviced by mains recently constructed along Cronquist Drive, which bounds the south limits of the area. Provision for this servicing has been identified and constructed within the development of the Westlake neighbourhood immediately to the south.

Treated City water will be supplied to Area B (North) by tying into the North Red Deer River Water Services Commission regional transmission trunk that follows Highway 2A north to Blackfalds, Lacombe and Ponoka. Trunks extending westerly along Highway 11A and north into this area will also be required. A reservoir and booster station will be required to service the area.

To service Area C (East), a dedicated transmission trunk will be constructed along 67 Street to a new pressure zone reservoir and booster station, to be located in the vicinity of 20 Avenue. This reservoir facility will be stage constructed and will have design provisions for cell expansions as future East Hill growth requires. As this area develops and the trunks are extended southward, a second reservoir and booster station will be required towards the south limits of the area.

Sanitary Sewer

The annexation application indicates that Area A (West) will be serviced by a sanitary main constructed within Cronquist Drive, which bounds the southern limit of the area. The existing and proposed trunks have been sized to provide for the sanitary discharge from this proposed annexation area.

The servicing of Area B (North) will require the construction of a lift station, forcemain and gravity trunk along Highway 11A and Northland Drive to the Wastewater Treatment Plant. The forcemain section will need to be sized to accommodate flows from future lands to the north, for

BOARD ORDER NO. MGB 083/09

FILE: AN07/REDD/C-01

industrial lands west of the Queen Elizabeth II Highway and potentially for regional flows from the Town of Sylvan Lake and surrounding summer villages.

Trunks to service Area C (East) will be constructed across the Red Deer River and easterly along the Northland Drive and 20 Avenue roadway alignments. Lateral trunks will extend from the 20 Avenue primary trunk as development occurs. Depending on the viability and timing of the South Red Deer Regional Wastewater Initiative, the 20 Avenue and Northland Drive trunks can be constructed cooperatively, sharing capital, operating and maintenance costs. Trunks will be sized to accommodate future growth to the east within practical and cost effective limits.

Storm Drainage

Stormwater drainage from the proposed annexation areas currently flows overland via existing natural drainage courses including swales, ditches, wetland depressions, creeks and ravines into the Red Deer River and Piper Creek.

Although current drainage patterns are not well defined in Area A (West), runoff generally flows toward the river. When and if this area redevelops, storm drainage patterns would be redefined and routed to detention facilities. The stormwater would eventually be released to the appropriate river outlets.

Drainage from development within Area B (North) will be conveyed to the Red Deer River via a central trunk main system that will follow the alignment of the existing Hazlett Lake overflow drainage route. Stormwater ponds, typically constructed within each quarter section, will address local water quality and flow rate parameters before drainage is discharged into Hazlett Lake or the downstream trunk. The City will initiate and maintain a long term Management Plan and Monitoring Program to ensure that the quality of the Hazlett Lake habitat is sustained or enhanced. Due to natural grade separation, a large portion of the lands east of Highway 2A will require separate drainage outlets to the Red Deer River.

Drainage from Area C (East) is split with a divisional ridge line falling approximately along the projection of 32 Street to the east. The north seventeen quarter sections will drain northwards towards the Red Deer River and via a trunk system that will follow the 20 Avenue and Northland Drive alignments. Storm ponds will typically be constructed on each quarter section to reduce rainfall runoff rates and to address stormwater quality before discharging into the Red Deer River. South of the 32 Street divide, the remaining eight quarters drain southward into the headwaters of Piper Creek or in to the existing Vanier Woods drainage system. Detention ponds and storm trunks will manage the urban drainage from this area to acceptable Piper Creek predevelopment flow rates.

BOARD ORDER NO. MGB 083/09

FILE: AN07/REDD/C-01

Transportation

Area A will continue to be accessed via Cronquist Drive. The City is currently completing functional designs for the Highway 11A/Northland Drive/20 Avenue Corridor to provide an expressway linking Area B (North) across the Red Deer River Valley to Area C (East), continuing all the way to 19 Street (Highway 595 or Delburne Road). This Corridor will initially be constructed as a two lane roadway, but will ultimately function as a six lane expressway including grade separations at key intersections.

This Corridor will form the backbone of the transportation network for Area B (North) and Area C (East). Arterial extensions into the annexation areas will be provided at Taylor Drive, Gaetz Avenue, 40 Avenue, 55 Street, 39 Street, 19 Street, 30 Avenue, 67 Street, Ross Street, 32 Street and 22 Street. These extensions will interconnect Area B (North) and Area C (East) with the existing city as well as with the proposed Corridor.

As a result of the proposed annexation, certain portions of Highways 11A and 2A will come under the jurisdiction of the City. The City has discussed this with Alberta Transportation (AT), who expressed no concerns. AT has certain improvements planned for the affected portions of these highways and has agreed that it will continue to implement and complete these improvements, regardless of any change in municipal jurisdiction.

Electrical Power

The portion of Area A (West) that is populated is already serviced by the City's Electric Light and Power Department (EL&P). The remaining portion is currently located in Fortis Alberta's service area. EL&P will extend its existing wires to cover the entire area as necessary upon approval by the Alberta Utilities Commission.

Area B (North) is currently serviced by Fortis Alberta. EL&P has a feeder on the south side of Highway 11A that can be used to feed new developments in the area. EL&P has sufficient capacity at its substation #14 to service the entire Area B (North). Existing customers fed by Fortis Alberta will continue to be serviced by Fortis Alberta until it is necessary to change the ownership. These customers will be transferred to EL&P based on an incremental approach when development has progressed to a level necessitating the transfer.

Area C (East) is currently serviced by Fortis Alberta. EL&P has feeders on 20 Avenue and on 30 Avenue. These lines will be used to feed major new developments in the area. Existing developments fed by Fortis Alberta will continue to be serviced by Fortis Alberta until it is necessary to change ownership. This area will be connected to substation #17 in the southeast region of the City, which has sufficient capacity to service all of Area C (East).

BOARD ORDER NO. MGB 083/09

FILE: AN07/REDD/C-01

In both Area B (North) and Area C (East), the City will need to extend its electric system service territory through the Alberta Utilities Commission process following annexation.

Emergency Services

The City Emergency Services Department is well positioned to provide emergency services to the proposed annexation areas. The County currently contracts with the City to provide ambulance services to these areas, so that no change to that aspect of service delivery would be required due to the proposed annexation.

With respect to fire and hazardous material response, the City's current stations can effectively handle the requirements using five Emergency Services stations. In response to current and projected growth, additional stations are scheduled to be built in the next five years. These will also help to ensure that the entire proposed annexation area receives timely emergency services response.

Public Works

The City is working with the County to ascertain the current level of service provided by the County for such things as road grading and snow plowing within the proposed annexation areas. Once this is completed, the City will formulate a service plan that will strive to provide a level of service at or above that currently provided by the County.

The Landowner and Public Consultation Process

The public consultation process conducted by the City provided opportunities for affected landowners and the public/adjacent landowners to become informed about the proposed annexation and to express their opinions.

Landowners were sent a letter informing them of the City's Notice of Intent to Annex. The letter included information on relevant documents, the proposed timeline, input opportunities, and City contacts. The letter also invited landowners to open house meetings, which were held on September 5, 12, and 13, 2007.

A question and answer document was also sent to landowners along with an invitation to a landowner and public open house held on December 4, 2007. Members of the public were notified of the open house through newspaper advertisements. At the open house, landowners and members of the public were provided information on the proposed annexation through formal presentations and individual discussions. Comment sheets were also utilized to allow for feedback.

BOARD ORDER NO. MGB 083/09

FILE: AN07/REDD/C-01

Mines and Mineral Right Holders

The owners of mineral rights were not initially included in the public consultation process. On May 1, 2008 the City sent a letter to the owners of mineral rights in order to inform them of the ongoing annexation process and request written feedback.

Identified Landowner and Public Issues

The City received input from landowners and the public through the consultation process outlined above. The annexation application indicates that the majority of landowner concerns that were identified relate to the perceived potential for property tax increases without a corresponding increase in municipal services.

Consultation with Local Authorities and Agencies

The annexation application indicates that affected agencies were sent a copy of the Notice of Intent letter along with a cover letter welcoming feedback regarding any issues or concerns.

In an email dated December 16, 2008, AT indicated that it had reviewed the proposed annexation and had no objections. AT also indicated that it was in the process of developing a transition agreement with the City to address outstanding commitments for planned capital improvements and for the transition of maintenance responsibilities for the portions of both Highway 11A and Highway 2A that will fall within the City's post-annexation boundaries.

The Energy Resources Conservation Board (ERCB) provided a letter dated August 15, 2008 in which it identified ERCB wells and pipelines in the vicinity of the proposed annexation. Information respecting recommended and required setback distances from wells, abandoned wells, and pipelines were also included.

The Annexation Agreement with the County

The City and the County came to full agreement regarding the annexation details. A negotiation process was conducted, leading to agreement as to the proposed annexation area, tax and assessment provisions, and transfer date. The annexation application was signed by both the City and County, indicating their approval of the Negotiation Report. A final agreement with respect to compensation was later signed on November 3, 2008.

Compensation

The annexation application indicated that the City and County were completing an annexation compensation study which would form the basis for annexation compensation. The City and

BOARD ORDER NO. MGB 083/09

FILE: AN07/REDD/C-01

County subsequently came to a final agreement with respect to compensation on November 3, 2008. The agreement contains the following provisions with respect to compensation for the Phase I annexation under consideration in the subject application:

1. The effective date of Phase I Annexation shall be September 1, 2009 with the City assuming the provision of all municipal services for the annexation area effective this date.
2. The City shall pay the County by way of compensation for the annexation of Phase I area as shown in Schedule "1" hereto, as follows:
 - i) \$902,879 payable to Red Deer County by July 31, 2010, less \$300,960 which represents services to be provided in the last four months of 2009 to the annexed area by the City of Red Deer;
 - ii) \$722,303 payable to Red Deer County by July 31, 2011;
 - iii) \$541,728 payable to Red Deer County by July 31, 2012;
 - iv) \$361,152 payable to Red Deer County by July 31, 2013;
 - v) \$180,576 payable to Red Deer County by July 31, 2014.
3. The County shall retain all taxes payable in the year that the annexation order becomes effective. Any taxes that are still owing on the effective date of annexation in respect of the annexed land are transferred to and become payable to the City of Red Deer together with any lawful penalties and costs levied in respect of those taxes and the City of Red Deer upon collecting those taxes, penalties and costs must pay them to Red Deer County,
4. No additional or other compensation of any nature or kind will be payable by the City to the County with respect to the Phase I Annexation area.

Proposed Assessment and Taxation Conditions

The annexation application indicates that the proposed assessment and taxation conditions would include City tax rates being applied to all properties for the tax year following the year of annexation. The application also includes proposed special conditions for residential and agricultural properties.

Residential

If the County mill rate is less than the City mill rate in the year that annexation takes effect, all properties taxed at residential mill rates would receive a one-time non-refundable tax credit. To calculate the credit, the City would establish the difference between the City and County mill rates in the year that annexation becomes effective. The difference between the two mill rates

BOARD ORDER NO. MGB 083/09

FILE: AN07/REDD/C-01

would be applied to the assessed value as completed by the County for the purposes of taxation in the effective year of annexation. The difference would then be multiplied by ten, as this credit is intended to be provided in lieu of maintaining the lower of the two mill rates for a ten year period.

The calculation would be the basis for a one-time, non-refundable tax credit that would be applied to the City property tax account by March 31, 2010. The credit would be applied to the first City tax bill and all subsequent tax bills until the credit is exhausted. The credit would attach to the property and have no cash value.

If the property is subdivided, any remaining credit balance would be divided in the same manner as that of outstanding tax balances.

Agricultural

Agricultural related properties would continue to receive the exemptions set out in section 22 of the *Matters Relating to Assessment and Taxation Regulation* (MRAT) as if they had remained within the County for a period of 25 years following annexation.

For farm operations, as defined in MRAT, farm buildings would be exempt from taxation, primary residences associated with farming would have an exemption up to \$61,540 of assessed value, and each additional residence associated with farming would have an exemption up to \$30,770 of assessed value.

The City proposes to move farmland to City mill rates upon annexation, but would adjust its farmland mill rate to closely reflect the County's rate. This would serve to ensure that taxes remain relative to those paid in the County.

These agricultural exemptions would remain in effect for 25 years after the annexation unless any of the following occurs:

- a) subdivision or separation of title of less than 16 hectares (40 acres)
- b) a parcel is rezoned to a non-agricultural land use district at the request of, or on behalf of, the landowner(s) or a purchaser.

Any legislated changes to MRAT would also be applied to annexed property.

IV MGB Application Processing Methodology and Public Hearing

The following provides a description of the method used by the MGB to process the City's annexation application and describes the public hearing held December 18, 2008.

BOARD ORDER NO. MGB 083/09

FILE: AN07/REDD/C-01

MGB Application Processing

In accordance with section 116 of the Act, the City submitted its notice of intent to annex to the County, the MGB and other local authorities on July 18, 2007. The City indicated that the reasons for the proposed annexation were to:

- a) acquire additional land inventory in order to respond to growth needs and enable long term planning,
- b) reflect the contents of the IDP recently adopted with the County, and
- c) bring lands owned by the City, such as Heritage Ranch, within City limits.

In accordance with section 118 of the Act, the required Negotiation Report was received by the MGB on June 27, 2008. The application submitted by the City included a copy of the Annexation Agreement between the City and the County, and a cheque for the annexation fees.

Although the City and County were in agreement with the annexation, the application contained objections from landowners. The Act requires that if the MGB receives an objection regarding an annexation application, the MGB must conduct one or more hearings in respect of the annexation.

A hearing on this matter was scheduled to begin at 10:00 a.m. on November 4, 2008 at the Holiday Inn located at 6500 - 67 Street in Red Deer. In accordance with section 122(1) of the Act, notice of this hearing was published in local newspapers. Letters were also sent to the City and County with copies to affected landowners in order to provide notice. At the commencement of the November 4, 2008 hearing, a preliminary issue was raised. It was submitted to the MGB that several holders of mineral rights within the proposed annexation area had not received letters providing notice of the hearing. As a result, the MGB granted a request to reschedule the full hearing to a later date in order to allow for additional notice to be given to all affected parties.

The MGB merit hearing was rescheduled to commence at 10:00 a.m. on Thursday, December 18, 2008 at the Holiday Inn located at 6500 - 67 Street in Red Deer. In accordance with section 122(1) of the Act, the MGB published a notice of hearing in the **Red Deer Advocate**, a local newspaper, on November 28, 2008 and December 5, 2008. A notice was also published in another local publication, the **Red Deer Express**, during the weeks of November 24, 2008 and December 1, 2008 to notify the public. The MGB also sent letters to the City and County with copies to each of the affected landowners to notify the parties of the December 18, 2008 hearing. The letters and notices requested that any person who planned to attend the hearing, or make a submission at the hearing, notify the MGB by December 8, 2008.

BOARD ORDER NO. MGB 083/09

FILE: AN07/REDD/C-01

The November 4, 2008 Preliminary Hearing

Several letters were received by the MGB from owners of mineral rights in the annexation area stating that they had not been notified or included in the initial public consultation process by the City. Additionally, at the November 4, 2008 hearing, it was submitted to the MGB that holders of mineral rights within the proposed annexation area had not received letters providing notice of the hearing.

The MGB found that, while it had met the notice requirements set out in the Act, it had not provided notice to mineral title holders and utility companies. As a result, the MGB granted a request to reschedule the full hearing to December 18, 2008, as set out in MGB Decision Letter DL 126/08, which was issued subsequent to the November 4, 2008 preliminary hearing. It was identified by the MGB that expanding any notice requirement of the Act can cause uncertainty in future applications; however, in this specific case the MGB found it reasonable to delay the hearing and provide additional notice to the mineral rights landowners and utility companies.

The December 18, 2008 Public Hearing

Thirty-eight people attended the December 18, 2008 hearing. At the hearing, the MGB received oral submissions from the City, the County, adjacent landowners, and other affected landowners.

City's Submission

Intermunicipal Development Plan

The City explained that the IDP adopted with the County in 2007 focuses on setting out future growth areas for both municipalities. Section 3.6.1(1) of the IDP notes that it is intended to promote "the expeditious annexation of the entire City of Red Deer Growth Area to ensure the long term growth of the City can be accommodated." It also states that the County supports the City's annexation of the City Growth Areas within ten years of the IDP being adopted.

Annexation Areas

The City briefly described the three proposed annexation areas. Area A (West) was described as including approximately 108 hectares (267 acres), 24 private parcels, and 24 landowners. Area B (North) was explained to include approximately 1,318 hectares (3,257 acres), 119 private parcels, and 84 landowners. Finally, it was submitted that Area C (East) includes approximately 1,603 hectares (3,960 acres), 74 private parcels, and 60 landowners. In total, the three proposed annexation areas were cited to include 3,029 hectares (7,485 acres), 215 private parcels, and 168 landowners.

BOARD ORDER NO. MGB 083/09

FILE: AN07/REDD/C-01

Reasons for Annexation

The City outlined several of its objectives with respect to the proposed annexation. First, the City submitted that the annexation would allow for the inclusion of the Riverview Park and Heritage Ranch developments within its limits. Additionally, it was submitted that the annexation would allow the City to meet its growth requirements, balance growth geographically, and fulfill the policies set out in the IDP adopted in conjunction with the County.

Servicing

The City indicated that it is satisfied that municipal services can be provided to the proposed annexation area. The annexation application was stated to include details on future servicing as it relates to municipal water, sanitary sewer, storm drainage, transportation, electrical power, emergency services, and public works.

Consultation Process

The City submitted that it had completed a consultation process that included seeking input from affected landowners, local authorities and agencies, and the general public.

Three landowner open house meetings were explained to have been held in September 2007 in order to inform landowners of the proposal and identify any issues and concerns. The City also invited landowners to the December 4, 2007 public open house and provided follow-up on a one-on-one basis as needed. In January 2008, an information package was sent to landowners along with consent forms.

The December 4, 2007 public open house was explained to have been advertised in local newspapers and to have included a formal presentation along with kiosks manned by City staff to answer questions. Comment sheets were distributed at the open house.

The City explained that a list of the local authorities consulted is included in the annexation application. The affected authorities were invited to attend the December 4, 2007 public open house. Additionally, copies of the annexation application were sent to the local authorities.

The City submitted that three major areas of concern were identified through the consultation process. These concerns related to the extension of municipal services, tax implications for landowners, and the impact of annexation on current land uses.

BOARD ORDER NO. MGB 083/09

FILE: AN07/REDD/C-01

Proposed Assessment and Taxation Provisions

The City provided an overview of the proposed assessment and taxation provisions agreed to by the municipalities. The proposed provisions include a 25 year assessment and annexation period for farmland. Rather than providing a transition period, the municipalities have proposed a one-time non-refundable tax credit for residential properties amounting to ten times the difference between the County and City tax rates in the year of annexation. The City indicated that the one-time tax credit is basically equivalent to the traditional ten year assessment and taxation condition transition provisions. No transition period or tax credit was outlined for industrial or commercial properties. The City also identified that it would adjust its mill rate for farming operations to closely reflect that of the County.

Compensation

The City also reviewed the terms included in the compensation agreement signed on November 3, 2008. The agreement contains provisions for the City to provide the County with decreasing amounts of compensation annually for a period of five years. The estimated cost of services to be provided to the annexed area by the County in the last four months of 2009 is to be subtracted from the first year's compensation.

Proposed Effective Date of Annexation

The proposed effective date of the annexation was explained to be September 1, 2009.

County's Submission

The County indicated that it had faced a number of annexation applications in recent years and in all cases worked cooperatively with its urban neighbours. The County explained that joint economic development areas, joint planning areas, and regional servicing models have been developed to collectively maintain a viable economic climate within the area.

With respect to the subject application, the County submitted that the two municipalities have worked diligently to ensure that both of their needs are being met, and that landowners are being treated in a fair and equitable manner. Agreement has been reached on the continued provision of some services by the County past the effective annexation date in order to ensure a seamless transition from one municipality to the other. The compensation agreement was stated to be fair compensation for the loss of tax revenues within the annexation area. The County submitted that it was in full support of the annexation proceeding.

BOARD ORDER NO. MGB 083/09

FILE: AN07/REDD/C-01

Landowner/Public Submissions

At the hearing the MGB received presentations from several landowners and members of the public. A summary of each presentation is provided below, along with brief summaries of written submissions received by the MGB prior to the hearing.

Florence and John Pomerleau

A letter was received from Florence and John Pomerleau on December 11, 2007. The Pomerleaus indicated that they were landowners in the proposed Annexation Area B (North) and that they would oppose any change in zoning which would adversely affect the value of their land.

Ankedo Enterprises Ltd

On October 24, 2008 the MGB received a letter from Reynolds Mirth Richards & Farmer LLP, solicitors for Ankedo Enterprises Ltd (Ankedo). The letter indicated that Ankedo owns the fee simple rights to lands located in proposed Annexation Area C and opposes the proposed annexation. It was stated that Ankedo is concerned that the City plans to attempt to place the burden for reclamation and remediation of existing sour gas wells and transmission facilities upon the owners of surface lands should annexation be approved.

Patricia E. Bourget and Gordon G. Kirkley

A letter was received by the MGB from Patricia Bourget and Gordon Kirkley, on behalf of the Estate of Myrtle Hallgren, on November 24, 2008. Ms. Bourget and Mr. Kirkley indicated that, as owners of mineral rights within the proposed annexation, they were concerned that oil companies would no longer be permitted to operate, resulting in a loss of future royalty revenues. Additionally, the mineral owners noted that they had recently turned down an offer to purchase their mineral rights, and may have decided differently had they been made aware of the ongoing annexation process. It was argued that allowing the annexation would amount to effectively extinguishing mineral rights without compensation. Ms. Bourget and Mr. Kirkley therefore expressed their opposition to the annexation.

A separate letter was received from Gordon G. Kirkley on November 24, 2008 in which he expressed many of the same concerns articulated in the above joint letter.

An additional letter was also received from Patricia E. Bourget on November 27, 2008 in which she also expressed many of the same concerns articulated in the above joint letter.

BOARD ORDER NO. MGB 083/09

FILE: AN07/REDD/C-01

Kerry Ann Grigg, Joel E. Grigg, Vicki Grigg, Rina L. Gill & Families

The MGB received a letter from Kerry Ann Grigg and family, on behalf of the Walter Hallgren and Myrtle Hallgren estates, on December 8, 2008. The letter expressed that the family owned mines and mineral rights within the proposed annexation territory and was in full opposition to the annexation proceeding. Ms. Grigg indicated concern over the fact that the annexation could lead to a disruption of oil royalties. It was suggested that the effect of the proposed annexation on the owners of mines and mineral rights should be taken into account and that compensation should be considered.

Additional letters, identical to the above, was also received by the MGB from: Joel E. Grigg and family on December 8, 2008, Vicki Grigg and family on December 8, 2008, and Rina L. Gill (nee Grigg) and family on December 8, 2008.

Harlan C. Hulleman

The MGB received an email from Harlan C. Hulleman on December 8, 2008. Mr. Hulleman indicated that he was in favour of the annexation, especially with respect to the annexation of land north of Highway 11A and east of Highway 2. It was submitted that this aspect of the annexation proposal would help to balance the City's growth. Mr. Hulleman outlined recent and planned developments in the area north of the river and suggested that the construction of a high school in the area would also make sense.

Reynolds Mirth Richards & Farmer LLP

A letter from Reynolds Mirth Richards & Farmer LLP was received by the MGB on December 9, 2008. The letter referred to MGB Decision Letter (DL 126/08), which was issued subsequent to the preliminary hearing held on November 4, 2008. It was submitted that the firm's clients recognize that their ownership of mines and minerals will continue if their lands are annexed. The primary concern held by the firm's clients was stated to be that land intensification following the annexation would lead to the potential for continued production and new development associated with these rights to be greatly diminished. Additionally, it was indicated that the firm's clients, as a fee simple owner of surface interests, were concerned that there would be an attempt to impose responsibility on the owner of the surface for reclamation costs subsequent to annexation.

Don Blyth

At the MGB hearing, Don Blyth explained that he represented the owner of freehold mineral rights for land in the proposed annexation area. He submitted that free hold mineral rights are real property in law, yet he had not received any correspondence from the City. It was Mr.

BOARD ORDER NO. MGB 083/09

FILE: AN07/REDD/C-01

Blyth's position that the area has a lot of oil and gas activity and that annexing the land into the City will affect royalty rights. Mr. Blyth submitted that if there is a suspension on oil and gas activity until a development plan is put in place it will adversely affect mineral rights holders. It was his position that compensation should be awarded as annexation in effect will sterilize mineral rights holders.

Cameron Wallace

Cameron Wallace explained that he owns two properties of approximately 50 and 87 acres in the proposed Annexation Area B (North) and is in general support of the annexation.

Paul Meloche

Paul Meloche, a representative of Overwaitea Food Group, indicated that the company owns two quarter sections in the proposed Annexation Area C (East). Mr. Meloche explained that Save On Foods Group is in support of the annexation. The company has been working to build a shopping centre with mixed use, residential and a Save On Foods Store.

Michelle Charlton

Michelle Charlton, a representative of Overwaitea Food Group, indicated that the company owns a quarter section south of 20 Avenue and Ross, and is in support of the annexation.

Norman Chiles

Mr. Chiles indicated that he owns Chiles Industrial Park in proposed Annexation Area B (North). Mr. Chiles submitted that commercial and industrial lands should be assessed as if they were in the County in order to be consistent with past MGB Orders.

Taras and Dorothy McRee

Taras and Dorothy McRee were explained to be the owners of approximately 400 acres of land within the proposed annexation territory. Mr. McRee submitted that landowners should only be required to pay taxes at the lower rate of the two municipalities. It is Mr. McRee's position that since they will not have the same services, they should not be paying the same taxes as property in the City. Mr. McRee submitted that the wording in this Annexation Order should be the same as it was in 2004 Order.

BOARD ORDER NO. MGB 083/09

FILE: AN07/REDD/C-01

Robert Northey

Mr. Northey's position is that the tax credit proposed by the City should be denied and that the same procedure from the 2004 Order should be applied. In the alternative that the proposed tax credit is to be approved, Mr. Northey submitted that the properties should be assessed as if under County jurisdiction. It was his position that landowners should not be financially burdened by annexation. Mr. Northey also submitted that free hold mineral rights are a concern as they have working wells and that there have been no compensation discussions. He submitted that surface rights are not the only relevant rights to be considered.

Melcor Developments Ltd

A written submission from Melcor Developments was received by the MGB on October 29, 2008. Melcor Developments indicated that it was the owner of approximately 840 acres of land within the proposed annexation boundary and that it was in strong support of the planned annexation proceeding.

City's Response to Landowner/Public Submissions

While it was unable to provide exact statistics, the City reiterated that it is close to running out of land available for development. This was cited as creating a strong need for the City to increase its land inventory. The City indicated that it expects the proposed annexation to provide an adequate land supply for 20 to 30 years of growth. The City further submitted that the land is required ahead of time in order to properly plan for infrastructure needs.

The City explained that it has had discussions with AT with respect to the proposed annexation. It was the City's understanding that AT did not object to the annexation proceeding. The City submitted that it was aware of the costs of constructing interchanges and other transportation related infrastructure.

Respecting the concerns over assessment and taxation, the City responded by explaining that this annexation represents an attempt to remain consistent with the 2004 annexation. However, instead of providing yearly compensation, as was the past practice, there will be a one-time upfront tax credit, which was suggested to achieve the same goal. The City submitted that this is a fair and equitable approach. The reason for no assessment and taxation conditions or compensation being proposed for the Industrial/Commercial lands within the annexation area was explained to be that the City did not want to provide some businesses within the City boundaries with a tax advantage. The City submitted that Industrial/Commercial businesses have options available to them that residential properties do not as far as spreading the associated costs.

BOARD ORDER NO. MGB 083/09

FILE: AN07/REDD/C-01

The City further explained that the one-time credit will be easier to administer than different tax rates over 10 years and that current landowners will see the full benefit of the tax credit instead of the benefit being shared with potential subsequent owners.

Submissions Received Subsequent to the MGB Hearing

On April 8, 2008 the MGB received a written submission from Norman Chiles, President of Chiles Development Corporation. The letter requested that the proposed annexation not be permitted to proceed until a zoning change was made to land owned by the corporation. Mr. Chiles alleged that he had only recently learned that the land had been rezoned in 2007.

V MGB Recommendations

After reviewing the documentation provided prior to the hearing, as well as listening to the presentations by the parties affected by the proposed annexation, the MGB recommends that the annexation of the lands applied for proceed with an effective date of effective September 1, 2009.

Further, the MGB recommends that the proposed assessment and taxation provisions be amended so that the one-time tax credit to be provided for residential property is also extended to commercial and industrial property within the annexation area. Additionally, the assessment and taxation conditions should be amended so that, during the transition period, farmland is taxed at the County rate rather than the City rate.

VI Reasons

Intermunicipal Cooperation

The IDP created between the City and County in 2007 contained long term growth areas for both municipalities. The proposed annexation area is situated within the growth area identified for the City. The IDP further states that the two municipalities agree that it is desirable for any annexation application to be for large areas of land, which is consistent with the considerable scope of the proposal.

The MGB is satisfied that the annexation will allow both the City and the County to achieve rational growth strategies and directions as identified in the 2007 IDP. As stated above, the demonstrated intermunicipal cooperation in this annexation proposal furthers the objectives of each municipality. This spirit of cooperation has been further demonstrated through the creation of joint economic development areas, joint planning areas, and regional servicing models which have been developed to collectively maintain a viable economic climate within the area. Both

BOARD ORDER NO. MGB 083/09

FILE: AN07/REDD/C-01

municipalities have demonstrated that they can carry out the mandate required of them under the Act, and that the annexation will not have a negative impact on their operations.

Accommodating Growth

The MGB was presented with evidence showing that the City has experienced significant growth during recent years. A 2006 analysis conducted for the City projects that its population could increase to 151,182 by the year 2031, demonstrating a legitimate need for additional lands. The MGB accepts that this need can be met through the addition of the three annexation areas. Additionally, the MGB accepts that the annexation of Area B (North) will assist in achieving a geographically balanced approach to growth. The MGB also finds that the inclusion of Area A (West) makes good planning sense, as the area is currently isolated from the County.

Extension of Services

The MGB is satisfied with the details provided with respect to extending various types of servicing, including water, sanitary sewer, storm drainage, transportation, electrical power, emergency services, and public works. The MGB accepts that the proposed annexation area can be fully serviced by the City, and that it represents a logical extension of existing servicing and infrastructure. Further, the MGB is satisfied that the City is in an adequate financial position to allow it to pay for costs associated with the extension of servicing.

Environmental Impacts

The MGB recognizes that the City has addressed potential environmental concerns relating to stormwater drainage. The MGB is satisfied that the creation of a long term Management Plan and Monitoring Program will serve to ensure that the quality of the Hazlett Lake habitat is sustained or enhanced. The MGB also understands that any discharge to Hazlett Lake and/or the rivers in the area would have to conform to Alberta Environment regulations.

Landowner and Public Consultation

The MGB finds that the consultation process conducted by the City prior to submitting the annexation application was comprehensive. Affected landowners, the public, other local authorities and AT were given opportunities to provide input regarding the annexation process through a series of open house and one-on-one meetings. Although mineral rights holders as a group were not initially included in the City's public consultation, the MGB finds that this oversight was corrected once it was brought to the City's attention. The MGB notes that the City did take steps to notify the general public of the December 4, 2007 public hearing through newspaper advertisements. Further, the MGB is satisfied that the City sent a letter to the owners

BOARD ORDER NO. MGB 083/09

FILE: AN07/REDD/C-01

of mineral rights on May 1, 2008 providing them with information on the annexation process and an opportunity for them to provide feedback.

Overall, the MGB found relatively little opposition to the annexation. During the City's consultation process, most issues were identified as relating to the extension of municipal services, tax implications for landowners, and the impact of annexation on current land uses.

With respect to the letter received from Norman Chiles subsequent to the hearing, the MGB notes that implementing zoning changes through local Land Use Bylaws is a power granted to municipalities under the Act. The MGB therefore does not believe that a requested zoning change provides grounds for a delay of the annexation process.

Mineral Rights

Issues with respect to mineral rights were raised by several landowners, both at the hearing and through prior written submissions. The MGB notes that subsurface mineral rights are regulated by the Energy Resources Conservation Board (ERCB). As such, mineral rights are not directly affected by a change in municipal jurisdiction. Further, the MGB notes that land use intensification can occur regardless of whether the lands in question are located in a rural or urban municipality. The owners of the mines and mineral rights as well as the surface landowners have an opportunity to make their concerns known prior to the issuing of a subdivision, and/or development permit as well as amendments to any statutory plan.

Section 127(a) of the Act outlines that an order to annex land to a municipal authority may "require a municipal authority to pay compensation to another municipal authority...". Because the Act clearly refers to compensation within the context of a transfer between two municipalities, the MGB finds that it does not have jurisdiction to consider whether compensation should be awarded to an individual, as suggested by Mr. Blyth.

Compensation and Financial Considerations

The MGB accepts the final agreement reached between the municipalities with respect to compensation. The agreement contains provisions for the City to provide the County with decreasing amounts of compensation annually for a period of five years.

Both municipalities demonstrated that the proposed annexation was part of a rational strategy to manage growth between the City and the County. The MGB accepts that each of the municipalities has given due consideration to the anticipated fiscal impacts of the annexation, including the compensation agreement. The compensation figure agreed to is not excessive and no serious concerns were identified with respect to the annexation's expected impact on the financial state of either municipality.

BOARD ORDER NO. MGB 083/09

FILE: AN07/REDD/C-01

BOARD ORDER NO. MGB 083/09

FILE: AN07/REDD/C-01

Assessment and Taxation

The MGB finds that the City has taken reasonable steps to address concerns raised by residential landowners through the addition of a one-time tax credit for residential properties into the Annexation Agreement. However, the MGB recommends an alteration from the Annexation Agreement's proposed provisions in order to extend the same tax credit to commercial and industrial landowners.

At the hearing the MGB heard a request from landowners in the annexation area to use the same assessment and taxation conditions as in the City's 2004 annexation. The City responded by informing the MGB that it did not wish to extend protective transition provisions to commercial and industrial properties, because to do so would create an unlevel playing field for businesses within its boundaries. To better understand the position of the landowners and the City, the MGB considered the City's 2004, 2007 and current annexations. The 2004 Board Order MGB 058/04 recommended that approximately 819 hectares (2,025 acres) of land be annexed to the City. The Board Order included a provision that would allow all "annexed non-farm land", (residential, non-residential and machinery and equipment assessment classes) to be assessed and taxed by the City as if it had been in the County for a ten year period. The 2007 Board Order MGB 119/07 recommended the annexation of industrial land on the west side of the City, adjacent to the Queen Elizabeth II Highway. As a condition of the 2007 annexation, the City suggested a one-time tax credit be used instead of the traditional assessment and taxation condition period. The tax credit would in effect provide the same benefit as a ten year transition period. In contrast to the 2004 annexation, no tax credit was offered to the "annexed non-farm land" and no such credit was requested by the landowners. In regard to the current annexation, the City has again requested that a one-time tax credit be used instead of the traditional assessment and taxation condition period. Consistent with the 2007 Order, but unlike the 2004 Order, the City does not want to extend the tax credit to non-farm assessment classes, other than residential.

The MGB notes that the current annexation will surround most of the lands annexed in 2004. Furthermore, one of the landowners requesting the assessment and taxation transition benefits be included as part of the current annexation owns industrial/commercial land in both the 2004 and the current annexation area. Given that the current annexation will effectively encircle the 2004 annexation area, the fact that the MGB did not receive an objection to the assessment and taxation provisions from non-farm landowners involved in the 2007 annexation, and the fact that all three annexations provide assessment and taxation condition benefits to different groups, the MGB does not accept the argument that not extending transition conditions would create an unfair advantage to the existing City businesses. Moreover, the MGB believes that this change will serve to ensure fairness between adjacent properties within the same assessment class.

The MGB recommends that the City use the County's tax rate for farming operations. During the hearing the City indicated that the assessment provisions available to County farming operations

BOARD ORDER NO. MGB 083/09

FILE: AN07/REDD/C-01

would be extended to the farming operations within the annexation area for a period of 25 years. The City stated that it would adjust its tax rate to closely reflect that of the County. The MGB finds that this recommendation will ensure tax stability for farming operations within the annexation area.

The MGB finds that the use of the one-time tax credit instead of the traditional assessment and taxation transition period is reasonable. Although somewhat unique, the MGB accepts that the City's assertion that the tax credit should provide basically the same benefits as the 10 year assessment and taxation condition transition period that was provided for in the City's 2004 annexation. The MGB is satisfied that the tax credit combined with the recommendations made by the MGB balances the requests of the landowners within this annexation area with the growth needs of the City.

Summary

The MGB finds that the Annexation Agreement meets the criteria of outlining conditions that are certain, enforceable, and time specific. The annexation application presented, along with the testimony of the City and County, indicate the criteria for annexation are met. As such, the MGB recommends approval of the proposed annexation with the specified changes to the recommended assessment and taxation provisions.