

**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 Village of Galahad, in the Province of Alberta, to annex certain territory lying immediately adjacent thereto and thereby its separation from Flagstaff County.

**BEFORE:**

Members:

L. Patrick, Presiding Officer  
M. Chilibeck, Member  
J. Dawson, Member

Secretariat:

R. Duncan, Case Manager

**SUMMARY**

After careful examination of the submissions from the Village of Galahad, Flagstaff County, affected landowners, and other interested parties, the Municipal Government Board (Board) makes the following recommendation for the reasons set out in the Board 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 January 1, 2012, the land described in Appendix A and shown on the sketch in Appendix B is separated from Flagstaff County and annexed to the Village of Galahad,
- (b) any taxes owing to Flagstaff County at the end of December 31, 2011 in respect of the annexed land are transferred to and become payable to the Village of Galahad together with any lawful penalties and costs levied in respect of those taxes, and the Village of Galahad upon collecting those taxes, penalties and costs must pay them to Flagstaff County, and

**BOARD ORDER NO. MGB 031/12**

**FILE: AN11/GALA-V 01**

- (c) the assessor for the Village of Galahad must, for the purposes of taxation in 2013 and subsequent years, assess 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, 12<sup>th</sup> day of June 2012.

MUNICIPAL GOVERNMENT BOARD

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(SGD.) L. Patrick, Presiding Officer

**APPENDIX A**

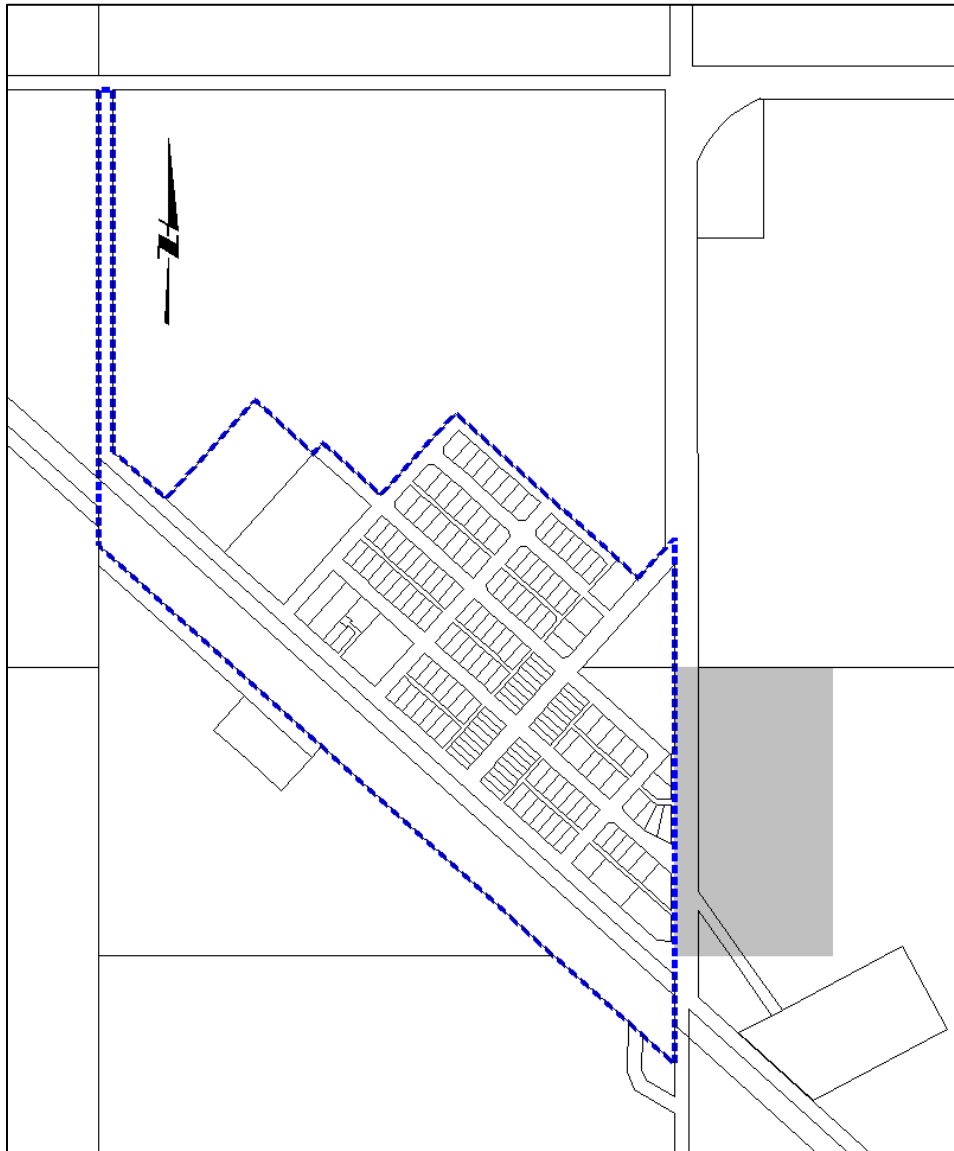
**DETAILED DESCRIPTION OF THE LANDS SEPARATED  
FROM FLAGSTAFF COUNTY AND ANNEXED TO  
THE VILLAGE OF GALAHAD**

THE WEST HALF OF LEGAL SUBDIVISION FIVE (5) OF SECTION ELEVEN (11), TOWNSHIP FORTY-ONE (41), RANGE FOURTEEN (14), WEST OF THE FOURTH MERIDIAN.

ALL THAT PORTION OF PLAN 782 1225 AND SECONDARY ROAD 861 LYING SOUTH OF THE PROJECTION WEST OF THE NORTH BOUNDARY OF THE WEST HALF OF LEGAL SUBDIVISION FIVE (5), OF SECTION ELEVEN (11), TOWNSHIP FORTY-ONE (41), RANGE FOURTEEN (14), WEST OF THE FOURTH MERIDIAN AND LYING NORTH OF THE PROJECTION WEST OF THE SOUTH BOUNDARY OF THE WEST HALF OF LEGAL SUBDIVISION FIVE (5) OF SECTION ELEVEN (11), TOWNSHIP FORTY-ONE (41), RANGE FOURTEEN (14), WEST OF THE FOURTH MERIDIAN.

APPENDIX B

A SKETCH SHOWING THE GENERAL LOCATION OF THE AREAS ANNEXED TO THE VILLAGE OF GALAHAD



Legend



Existing Village of Galahad Boundary



Annexation Area

**APPENDIX C**

**MUNICIPAL GOVERNMENT BOARD REPORT TO THE  
MINISTER OF MUNICIPAL AFFAIRS  
RESPECTING THE VILLAGE OF GALAHAD PROPOSED ANNEXATION  
OF TERRITORY FROM FLAGSTAFF COUNTY**

EXECUTIVE SUMMARY ..... 6

Introduction..... 9

Part I Role of the Board, the Minister and the Lieutenant Governor in Council ..... 9

Part II Annexation Application..... 10

    Notice of Intent to Annex ..... 10

    Application Summary ..... 10

        Consultation Process ..... 10

        Growth and the Need for Land ..... 11

        Financial Considerations..... 11

Part III Public Hearing ..... 12

    Village Presentation ..... 12

    County Presentation ..... 15

    Landowner/Public Submissions ..... 16

    Village Response to the Landowners/Public ..... 17

    County Response to Landowners and/or the Public ..... 18

Part V Board Recommendation ..... 18

Part VI Reasons ..... 18

    Annexation Process ..... 18

    Planning and Development ..... 20

    Environmental Considerations ..... 22

    Financial Impact..... 22

    Conditions of Annexation ..... 23

Summary ..... 23

**EXECUTIVE SUMMARY**

[1] On December 29, 2011, the Municipal Government Board (Board) received an application from the Village of Galahad (Village) to annex approximately 19 acres of land from Flagstaff County (County). The application states the proposed annexation is necessary for long term strategic planning and will provide the Village with opportunities for growth in all districting classifications.

[2] Although the two municipalities endorsed the proposed annexation, an objection from a resident of the Village was contained in the application. The objection asserted that an industrial development on the annexed land would reduce property values for homeowners, cause environmental hazards, result in health hazards, disturb wildlife habitat, and effect the esthetics by destroying the natural landscape. A subsequent letter to the Board from the resident expanded upon these issues to include concerns about noise, the consultation process, and access to information.

[3] In accordance with s. 120(3) of the *Municipal Government Act* (Act), the Board held a public hearing on February 29, 2012 to receive information, evidence, and argument regarding the annexation proposal. During the hearing, the Board received information from the Village, the County, and the landowner that filed the objection.

**Recommendation**

[4] After reviewing the submitted documentation and hearing from the parties, the Board finds the annexation application to be reasonable. Therefore, the Board recommends the annexation with an effective date of January 1, 2012.

**Reasons**

[5] The Board finds the annexation process undertaken by the Village was reasonable. The Village and the County were able to negotiate an annexation agreement. The Village conducted an open house regarding the proposed annexation on March 24, 2011. As an objection was filed with the Village two days prior to the open house, the Board concludes the notification process was undertaken in an appropriate and timely manner. Correspondence from Alberta Transportation (AT) identified it does not object to the proposed annexation; however, the Village understands it must comply with AT's Access Management Guidelines Adjacent to Provincial Highways prior to any subdivision or development. Notification of the February 29, 2012 public hearing was done in accordance with the Act.

[6] Despite the allocations of the objecting landowner, the Board was not convinced the Village withheld relevant information about the proposed developments for the annexation area prior to the February 29, 2012 hearing. As the development on the 1.69 acre parcel was within the County's jurisdiction, this development was approved by the County in accordance with its Land Use Bylaw. Since the person that filed the objection to annexation is aware of and is in favour of this development, the Board concludes her access to information about this

**BOARD ORDER NO. MGB 031/12**

**FILE: AN11/GALA-V 01**

development was reasonable. With regard to an agribusiness development proposal for the 17.04 acre parcel of land, the Board accepts the Village's statement that the status of this development is unknown. The Board notes that until such time as a proponent brings forward a development application for the 17.04 acre parcel, the range of uses that could be considered are constrained only by the applicable Land Use Bylaw. As the agribusiness proposal is uncertain and no other highly probable development plans have been identified for this parcel, the Board concludes the information provided by the Village is sufficient for this annexation.

[7] The Board recognizes that since the Village owns the 17.04 acre parcel it may be contacted by individuals or companies investigating the possibility of purchasing and/or developing the land. However, the Board expects that the Village will comply with the public information requirements and processes of the Act and the applicable Land Use Bylaw if a subdivision or development application is submitted for this parcel.

[8] The Board finds the amount of land requested by the Village is appropriate as it will provide the municipality sufficient area within its Light Industrial Business District to respond to any future demand. The Board accepts the servicing arrangements proposed by the Village are reasonable, as water, wastewater and gas services can be extended from existing municipal trunk lines. Moreover, the Board heard that transportation services within the Village's current boundary can be extended to the proposed annexation area.

[9] The Board notes that the Village's application stated that the annexation does not include any roads. However, during the hearing the Village clarified that the portion of Highway 861 between the current municipal boundary and the annexation area would be included as part of the annexation. .

[10] The Board accepts the Village's statement that it will change its Land Use Bylaw after the annexation to mirror the same uses which are discretionary in the County's Land Use Bylaw. The Board acknowledges the commitment by the Village that redistricting the annexation area will follow the normal public consultation processes.

[11] The Board understands that since the status of development on the 17.04 acre parcel is unknown at this time, the Village intends to continue its past practice of leasing this parcel as farm-land. As the effect of any future development contemplated for this parcel is speculative at best, the Board was not persuaded the annexation will cause a negative impact on the value of adjacent properties or create noise issues. If, at some time in the future, a development is brought forward, the Village will be in a better position to assess possible impacts and can specify conditions to protect the value of nearby properties. The Board trusts that at this point the Village will comply with the consultation process specified by the Act as well as the applicable Land Use Bylaw.

[12] In relation to the request that the entire annexation application be denied, the Board finds the Village has clearly demonstrated the need for additional lands within its boundary. To deny this request would restrict the Village's ability to achieve orderly, economical and beneficial development as identified by s. 617 of the Act.

**BOARD ORDER NO. MGB 031/12**

**FILE: AN11/GALA-V 01**

[13] As stated previously, the Board accepts the assertion by the Village that the status of the agribusiness proposal is unknown. As there is no development application for the 17.04 acre parcel, the Board understands any of the permitted or discretionary uses identified by the applicable Land Use Bylaw could be considered for this area. The health and safety of residents is paramount; however, the type of development, if any, is unknown at this time. Therefore, the Board finds it is premature to comment on a development that may or may not come to fruition.

[14] During the hearing the Village confirmed the 17.04 acre parcel contained a portion of a water body. As the Village has owned this property since 1936, the Board finds it reasonable to conclude the Village understands the sensitive nature of this key environmental feature. The Board trusts the Village will continue to be good stewards of the land as it has in the past by taking steps to mitigate the impact any future development may have on the land adjacent to this water body area as well as the associated wildlife and water fowl habitat.

[15] Board finds the proposed annexation will have minimal financial impacts on either municipality.

[16] The correspondence from the person that filed the objection states the only solution she considers acceptable is for the Village to purchase her property. During the hearing the Board heard that the Village does not wish to purchase the property. The Board accepts the two parties were unable to resolve their differences. The Board considers this to be local matter and beyond the scope of the annexation request and will not comment on this issue.

[17] The Board accepts no assessment and taxation transition conditions are required for this annexation. S. 138(1) of the Act allows for the retroactive application of an Order in Council. As the annexation will not significantly impact the owners of the lands in the annexation area, the Board recommends the effective date be January 1, 2012.

**Conclusion**

[18] The Board finds that the intent and purpose of this annexation application, as well as the quantity of land being requested by the Village is appropriate and reasonable. The Board is satisfied that the concerns of the affected landowners and the public have been given proper consideration. Therefore the Board recommends that this annexation application be approved.



## **Introduction**

[19] The Village of Galahad (Village) is situated approximately 110 kilometers southeast of Camrose. The municipality is a minor service center for the surrounding agriculture industry and is primarily a residential community with 119 residents.

[20] On December 29, 2011, the Municipal Government Board (Board) received a request from the Village to annex approximately 19 acres of land from Flagstaff County (County). Although the Village and the County were in agreement with the proposed annexation, an objection to the proposed annexation was contained in the application. In accordance with s. 120(3) of the *Municipal Government Act* (Act), the Board held a public hearing on February 29, 2012, to receive information, evidence and argument regarding the annexation proposal.

[21] The following report outlines the role of the Board, provides an overview of the Village's annexation application, summarizes the public hearing held on February 29, 2012, and provides a recommendation to the Minister of Municipal Affairs (Minister) regarding this matter.

## **Part I Role of the Board, the Minister and the Lieutenant Governor in Council**

[22] Pursuant to s. 116 of the Act, a municipality seeking annexation must initiate the process by giving written notice to the municipal authority from which the land is to be annexed, the Board and any other local authority the initiating municipality considers may be affected. The notice must describe the land proposed for annexation, set out the reasons for the proposed annexation, include proposals for consulting with the public, and identify how the initiating municipality intends to keep the owners of the land to be annexed informed of the progress of the negotiations between the two municipalities. Once the notice of intent to annex has been filed, the municipalities involved with the proposed annexation must negotiate in good faith. If the municipalities are unable to reach an agreement, they must attempt mediation to resolve any outstanding matters.

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

[24] The report is then submitted to the Board. If the initiating municipality requests the Board to proceed, pursuant to s. 119, the report becomes the annexation application. If the Board is satisfied that the affected municipalities and public are generally in agreement, the Board notifies the parties of its findings and unless objections are filed with the Board by a specific date, the

Board makes its recommendation to the Minister without holding a public hearing. If an objection is filed, the Board must conduct one or more public hearings.

[25] The Board 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 Board must allow any affected person to appear and make a submission. After hearing the evidence and submissions from the parties, the Board must prepare and submit a written report of its findings and recommendations 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 Board. The Minister may bring a recommendation forward for consideration to the Lieutenant Governor in Council (LGC). After considering the recommendation, the LGC may order the annexation of land from the one municipality to the other.

## **Part II Annexation Application**

[26] Part II is divided into two sections. The first section presents the notice of intent to annex information, while the second section provides a brief summary of the application submitted by the Village.

### **Notice of Intent to Annex**

[27] Pursuant to s. 116 of the Act, the Village gave written notice of the proposed annexation to the Board, the County, Alberta Health Services, the Battle River School Division, and Alberta Transportation annex on January 19, 2011. The planned public consultation process included notification on the Village website, advertising in the Village newsletter, and an open house. As the two parcels of land in the Southwest Quarter of Section 11, Township 41, Range 14 West of the 4<sup>th</sup> Meridian being proposed for annexation are owned by the Village, a process to inform the affected landowners was not required.

### **Application Summary**

[28] The following section will summarize the consultation process, land use planning matters, and financial considerations identified in the annexation application submitted by the Village.

### **Consultation Process**

[29] County Council reviewed the Village's notice of intent at its January 24, 2011 regular meeting. After considering the annexation request, County Council passed a resolution to work collaboratively with the Village for the consensual annexation of the lands identified by the Village. County Council also established that it would not require compensation for the annexation of these lands. A letter contained in the application confirms the two municipalities were able to negotiate an agreement, there are no outstanding issues regarding the proposed annexation, and the Village is not required to pay compensation to the County.

[30] In accordance with its notice of intent to annex, the Village held an open house on March 24, 2011. Notifications advising of the open house were placed on Village's web page as well as included in the Village's March 2011 Monthly Newsletter. The notices invited written submissions from the public regarding the proposed annexation.

[31] Although no one from the public attended the open house, the Village received a letter on March 22, 2011 from an affected landowner objecting to the proposed annexation. The objection asserts that industrial development on the land being proposed for annexation would reduce property values for homeowners, cause environmental hazards, result in health hazards, disturb wildlife habitat, effect aesthetics by destroying the natural landscape and result in a noise nuisance. The objection stated that the only acceptable alternative to the cancellation of all the planned industrial development would be for the Village to buy the affected landowner's property. The landowner also claimed that the Village had neglected to advise her of future plans and that Village officials hid information about plans for future industrial development near the property. Although Village Council met with a representative of the affected landowner, they were unable to reach a resolution. The Village's position is that the landowner's concerns would be considered at the time of any development application.

[32] The application also provided correspondence from Alberta Transportation (AT) regarding the proposed annexation. The Village was advised that annexations that cross highways can be problematic; however, AT stated it has no objections to the proposed annexation. The Village was also informed that access management guidelines adjacent to Provincial Highways shall limit the location and number of access locations to the proposed annexation area. Access to the parcels from the highway would have to be reviewed by AT prior to subdivision and/or development.

[33] The Village received no correspondence from either the Battle River School Division or Alberta Health Services regarding the proposed annexation.

### **Growth and the Need for Land**

[34] The Village believes the proposed annexation will ensure long term strategic planning opportunities and provide for growth in all districting classification. As the Village has a limited amount of vacant Light Industrial Business District land currently available within its jurisdiction, the annexation will allow the Village to prepare for future industrial development. The Village supposes this will benefit the municipality in terms of economic growth and its long term sustainability. Water, sewer and gas can easily be extended from existing trunk lines.

### **Financial Considerations**

[35] The annexation agreement specifies no compensation is to be paid by the Village to the County for lost municipal tax revenue. The application notes that as the land being proposed for annexation is owned by the Village, no special assessment and taxation conditions are required.

### **Part III Public Hearing**

[36] As a result of the objection from an affected landowner, and in accordance with s. 120(3) of the Act, the Board held a public hearing on February 29, 2012, to receive information, evidence and argument on the proposed annexation. Hearing notification letters were sent to all known landowners and interested parties on January 10, 2012. Hearing notices were also published in the **Community Press**, a newspaper circulating in the affected area, the weeks of February 6 and 13, 2012. The notices stated a copy of the annexation application could be viewed at the Village's municipal office during normal business hours.

[37] The following provides a summary of the written and oral submissions received by the Board from the Village, the County and the affected landowner.

#### **Village Presentation**

[38] During the public hearing, the Village presented an overview of the annexation application and provided additional information concerning the annexation proposal and the community as a whole.

#### **Governance and Intermunicipal Cooperation**

[39] The Village stated there is a substantial amount of intermunicipal cooperation between it and the County. For the past 13 years the Village has had a contract with the County for administrative and assessment services. This contract has allowed the Village to maintain the same governance model it had prior to the agreement and carry out all the duties assigned to a municipality by the Act. It was explained that the agreement benefits the Village by helping it attract and retain administrators, apply for government grants, develop the Village's annual budget, and prepare for the Village's annual audits. Additional benefits include supporting the Village with the implementation of new technology and providing municipal knowledge and expertise in other areas on an as required basis. Despite the Village only having 119 residents, a decline of 11% since the 2006 census, the assistance provided by the County has allowed the Village to remain sustainable.

#### **Planning**

[40] The Village contends that the proposed annexation is necessary in order to enable long-term planning and to provide for growth opportunities in all land use classifications. It was explained that in 2009 the Land Use Bylaw was revised and the Light Industrial District was limited to a thin strip of undeveloped land along the north side of the rail line as well as a small block of land. The small block of land was previously a service station and the owner has since informed the Village that it is unwilling to sell the property due to reclamation issues. Unfortunately, this has left the Village with a limited amount of Light Industrial District land available for development.

**BOARD ORDER NO. MGB 031/12**

**FILE: AN11/GALA-V 01**

[41] In 2010, the County transferred the title to a 1.69 acre block of land to the Village. This property is located in the County, adjacent to a 17.04 acre parcel of land in the County that is already owned by the Village. Although both parcels are within the County, they are adjacent to Highway 861, which acts as the boundary for a portion of the east side of the Village. Since the recognition that the Village had limited available vacant Light Industrial District land, it became a logical next step for the municipality to consider annexing the land it owns adjacent to the east of the municipality for this land use purpose.

[42] Early in 2011, the Village was approached with two different development proposals for the land adjacent to the east side of the municipality. The one proposal was from a Village resident who wished to build a new shop to accommodate his existing business. After obtaining the required permit from the County and fulfilling the adjacent landowner notification process, the development proposed for the 1.69 acre parcel was approved by the County.

The other proposal was from an agribusiness looking at expanding its existing operation to serve clients in the surrounding area. This proposal contemplated the construction of a building for chemicals and fertilizers. Although the Village believes the agribusiness may still be investigating this possibility, the status of the proposal is unknown at this time. The Village stated it does not have any other proposals for the remainder of the annexation area; however, the annexation of the 17.04 acre parcel will allow it to respond to any kind of future development opportunities. In the mean time, without any concrete future plans for this land, the Village will continue its practice of leasing the parcel out as farm-land.

[43] The Village stated that should the annexation be approved, any development within the 17.04 acre parcel would have to adhere to the permitted and discretionary uses specified in its Land Use Bylaw. In accordance with this Bylaw, a proponent would have to apply for a development permit. At that time, the Development Officer would have to take into consideration all aspects of the development – noise to adjacent land owners, the esthetics of the development, the environmental impact – including air pollution, water pollution, impact to wildlife/birds. The Village confirmed the annexation area was adjacent to a water body and that any development would have to consider this natural feature. All of these factors would not only be of concern to the Village, but would also fall under senior government regulations. In addition, an application for a development identified as a discretionary use under its Bylaw would require notification be sent to all adjacent landowners and would allow the adjacent landowners an opportunity to appeal the development.

[44] In response to a request from the Board, the Village provided a copy of its Land Use Bylaw. A review of the Bylaw identifies the purpose of the Light Industrial Business District is to provide for planned light industrial business areas containing clean industrial uses with compatible commercial areas. Table 1 (next page) provides a listing of the permitted and discretionary uses contemplated under this Land Use District. Section 48.3 of this Bylaw identifies site regulations, which specify lot width, site coverage, maximum building height, yard setbacks and parking requirements. The Village's Development Authority is required to consult with the Fire Department in situations where flammable or explosive materials are stored on site

and may increase lot sizes or setbacks to minimize danger to the public. Section 48.5 permits the Development Authority to require fenced or landscaped screening if deemed necessary.

**Table 1: Light Industrial Business District Uses**

<b>Permitted Uses</b>	<b>Discretionary Uses</b>
<ul style="list-style-type: none"><li>▪ Auction markets</li><li>▪ Automobile, truck, and farm implement sales and service</li><li>▪ Car and truck washing establishments</li><li>▪ Clubs, associations, churches, and lodges except those listed as discretionary</li><li>▪ Drive-in businesses</li><li>▪ Dwelling single detached - new</li><li>▪ Fabrication</li><li>▪ Government buildings</li><li>▪ Lumber yards</li><li>▪ Manufacturing</li><li>▪ Processing</li><li>▪ Professional, financial, and service businesses except those listed as discretionary</li><li>▪ Recreational vehicle sales and service</li><li>▪ Retail stores except those listed as discretionary</li><li>▪ Sectional home - new</li><li>▪ Service stations</li><li>▪ Services to agriculture</li><li>▪ Trade workshops</li><li>▪ Transportation, communications, and utilities industries</li><li>▪ Warehousing and storage</li><li>▪ Veterinary clinics</li><li>▪ Buildings and uses accessory to the above</li></ul>	<ul style="list-style-type: none"><li>▪ Auto body and paint shops</li><li>▪ Auto wreckers</li><li>▪ Bulk fuel sales</li><li>▪ Establishments selling or dispensing alcohol for consumption on or off the premises</li><li>▪ Gambling establishments</li><li>▪ Pawnbrokers</li><li>▪ Day care and group care facilities</li><li>▪ Dwelling single detached – moved in</li><li>▪ Hotels and motels</li><li>▪ Other commercial and industrial activities which in the opinion of the Development Authority are compatible with the purpose of the district and the surrounding land uses</li><li>▪ Recycling industries</li><li>▪ Residences</li><li>▪ Sectional home</li><li>▪ Buildings and uses accessory to the above</li></ul>

[45] During the hearing the Village noted that no boundary roads were to be included in this annexation. However, in response to questions from the Board, the Village stated that it understood that the portion of Highway 861 between the existing municipal boundary and the proposed annexation area would become part of the Village if the annexation were approved.

[46] The Village stated it will have no difficulty in servicing the proposed annexed lands. Gas, water and sewer services can be extended from the existing trunk lines. The Village has ample water supply, and an up to date water treatment facility. The Village identified it had received a letter from AT confirming that AT had no objections to the proposed annexation, but that AT would review access to the area at the subdivision/development stage. The Village also explained AT had indicated that the highway would continue to be maintained by AT.

### **Annexation Process**

[47] As mandated by the Act, the annexation process included public consultation. Despite Alberta Health Services, the Battle River School Division, and Alberta Sustainable Resources being notified of the proposed annexation, the Village received no responses from these entities. The Village's monthly newsletter as well as the Village's website were used to advise residents of an open house scheduled for March 24, 2011 to discuss the proposed annexation. Although no one from the public attended the open house, a letter of objection was received by the Village on March 22, 2012. The Village explained that the concerns identified in the letter were discussed with a representative of the objector. However, after considering the matter, the Village's position is that these concerns would be better addressed at the time of development, thereby safeguarding the rights of all Village residents.

[48] The Village reported that in accordance with the Board's public hearing notifications, a complete copy of the annexation application was available for public viewing at the Village office. It was also stated that a copy of the application was also made available at the County office in Sedgewick.

[49] The Village submitted that development in small communities is vital if these municipalities are to remain sustainable. Even the addition of one shop will have a positive impact on the assessment for the Village, and subsequently its overall tax base. If, in the future, any additional jobs are created, that too would have a positive impact on the community. The Village considers the proposed annexation to be an opportunity that can benefit its residents.

### **County Presentation**

[50] During its presentation the County confirmed that its Council had instructed administration to work collaboratively with the Village for the consensual annexation of the two parcels of land and that the annexation should proceed with no compensation being paid to the County for loss of municipal taxes.

[51] The County provided additional background information regarding the two parcels in the Southwest Quarter of Section 11, Township 41, Range 14 West of the 4th Meridian that make up the proposed annexation area. The larger of the two parcels, 17.04 acres, has been owned by the Village since 1936. The smaller parcel, 1.69 acres, lies adjacent to the north west side of the 17.04 acre parcel. Although the County had title to the 1.69 acre parcel it had no use for the property, so on September 16, 2010 County Council moved to transfer title to the Village.

[52] The County informed the Board that the Village had been approached by a business person inquiring about land available within the Village for industrial development. Although the Village has an area designated “light industrial”; access and servicing to these lots would have been an issue. In addition, the depth of these lots were not sufficient for this developer. However, the Village and the business person were able to come to an agreement regarding the 1.69 acre parcel of land within the County owned by the Village. A development permit was applied for from the County on Nov. 3, 2011 for a Commercial Shop under the discretionary use table within the County’s Land Use Bylaw “Agricultural District”. Although all adjacent landowners were informed of the development, the County received no appeals about this development and the development was approved November 3, 2011.

[53] The County reported that the business person involved with the development on the 1.69 acre parcel was in favour of the proposed annexation. The County stated this person was aware taxes in the County would be lower than in the Village; however, as he was a resident of the Village he wanted his municipal taxes to benefit the Village. Therefore, the annexation application does not request an assessment and taxation transition period. The County also reconfirmed that it is not requesting any compensation from the Village for the loss of municipal taxes.

[54] While there is no Intermunicipal Development Plan between the County and the Village; the County does recognize the need for urban expansion. The County attempts to work collaboratively with the urban municipalities within its jurisdiction to plan for and accommodate economic activity. Section 5.4 of the County’s Municipal Development Plan (Urban Areas) encourages industrial and commercial businesses to locate near urban areas with access to urban services, transportation and labour. The County also encourages multi-parcel residential developments to consider appropriate locations within existing communities and/or urban fringe areas which have the capacity to provide a range of utilities and services.

### **Landowner/Public Submissions**

[55] Only one member of the public made submissions regarding the proposed annexation. The following summarizes the written submissions and information provided by Ms. Armstrong, a resident of the Village.

[56] As mentioned previously, the Village’s application contained a letter from Ms. Armstrong objecting to the proposed annexation. This correspondence maintains that the industrial development on the annexed land would reduce property values for homeowners, cause environmental hazards, result in health hazards, disturb wildlife habitat, and spoil the aesthetics by destroying the natural landscape. The objection states the only acceptable solution would be for the Village to offer to buy out her property at an equitable price. She also alleged that officials neglected to advise her of future plans and may have deliberately hidden information about future industrial development near her property.

[57] In response to its public hearing notification, the Board received a letter from Ms. Armstrong objecting to the proposed annexation on January 27, 2012. This correspondence



thanked the Board for bringing her up-to-date, restated her objections to the proposed annexation, and reiterated her proposal for the Village to buy her property. The letter contained two attachments. The first attachment was a letter dated January 20, 2012 from Ms. Armstrong to the Village and the County. This letter expresses concerns about the February 29, 2012 public hearing, alleges that information about development in the proposed annexation area have been withheld from her, and repeats her proposal for the Village to purchase her property. The second attachment is a letter dated December 20, 2011. In this letter Ms. Armstrong expresses distress about the timing of a meeting with the Village held that day to discuss nearby land issues and the calls for the municipality to negotiate an equitable buyout of her property. In response to the attachment contained in her January 20, 2012 correspondence to the Board regarding the lack of information, the Board sent a letter to Ms. Armstrong on January 30, 2012 restating that a copy of the annexation application was available for public viewing at the Village office.

[58] Ms. Armstrong was in attendance at the February 29, 2012 public hearing, but stated that she was not prepared to make a presentation to the Board. However, in response to questions from the Board, Ms. Armstrong indicated that she does not object to the commercial shop development already being contemplated for the 1.69 acre parcel as the business person working on this development is her neighbour. However, she was concerned about the devaluation of her property as a result of development for the other annexation area. As her property is across Highway 861 from the proposed annexation area, Ms. Armstrong contends other development would create a health hazard and may be life threatening. She also repeated her concern that the Village had not been forthcoming with information. In conclusion, Ms. Armstrong suggested the only solutions would be cancellation of the development, or the purchase of her property by the Village at a value that recognized market value plus additional costs incurred.

### **Village Response to the Landowners/Public**

[59] In response to the landowner concerns about the process used to develop the annexation application, the Village stated the open house notifications had been placed in its monthly newsletter and on its internet site. The Village had met with a representative of Ms. Armstrong, in order to address the concerns, but no acceptable resolution was arrived upon. The Village's position is that the issues raised by Ms. Armstrong are better addressed during the development stage. The Village indicated it does not wish to purchase the property.

[60] With regard to the concern about withholding information, the Village explained the proposal from the agribusiness did not proceed and that there are no potential applications to discuss at this time. If the annexation is approved, any future development proposals considered by the Village would have to meet the requirements of the Village's Land Use Bylaw. This would require the developer to apply for a development permit and adhere to the permitted or discretionary uses specified by the Land Use Bylaw. Any discretionary use development would require the Village to notify all adjacent landowners, which would give them an opportunity to appeal the development. The Village emphasized the annexation would provide Ms. Armstrong and all other Village residents with a greater opportunity for input and eliminate the need for them to travel to Sedgewick to express concerns regarding a development application as is currently the case.

**BOARD ORDER NO. MGB 031/12**

**FILE: AN11/GALA-V 01**

[61] The Village confirmed that in accordance with the instructions of the Board a complete copy of the annexation application had been made available for viewing by the public at its municipal office and a map showing the annexation area had been placed on the Village website. Moreover, the Village had made copies of the application and was prepared to hand them out upon request. However, no one viewed the application or requested a copy of the document.

[62] The Village indicated that the land being annexed would be districted as Light Industrial Business. Any development would have to comply with the provisions specified by the Land Use Bylaw. Excerpts for the Light Industrial Business District from the Village's Land Use Bylaw were provided to the Board after the hearing. The excerpts provided by the Village identified the purpose, permitted uses, discretionary uses site regulations, flammable material storage considerations, and screening requirements pertaining to the Light Industrial Business District.

**County Response to Landowners and/or the Public**

[63] The County stated that although the proposed annexation area is within Agricultural District of its Land Use Bylaw, development similar to that contemplated by the Village's Light Industrial Business could be considered by the County for the proposed annexation area. In the County's opinion, allowing the proposed annexation would provide Village residents a greater opportunity to voice their concerns to the Village Council.

[64] The County confirmed that the land being proposed for annexation was adjacent to a water body; however, it was emphasized that the amount of land being annexed would not be large enough for any large scale development.

**Part V Board Recommendation**

[65] After reviewing the submitted documentation and hearing from the Village, the County, and the affected landowner, the Board finds the annexation application to be reasonable. Therefore, the Board recommends the annexation with an effective date of January 1, 2012.

**Part VI Reasons**

[66] The reasons for Board's recommendation are provided below.

**Annexation Process**

[67] The Board finds the annexation process used by the Village to be reasonable.

[68] The Act requires the municipal authority from which the land is to be annexed to meet with the initiating municipal authority to discuss the proposal and negotiate in good faith. The Village and the County complied with this requirement as they were able to negotiate an annexation agreement. The application contains a document that states there are no outstanding matters between the two municipalities. Therefore, the Board accepts the negotiation process was complete and effective.

**BOARD ORDER NO. MGB 031/12**

**FILE: AN11/GALA-V 01**

[69] The County and Village do not have an Intermunicipal Development Plan. However, the County's Municipal Development Plan encourages industrial and commercial businesses to locate near urban areas with access to urban services, transportation and labour. The Board accepts this policy has been instituted by the County in recognition of the need for urban expansion and in order to facilitate cooperative economic development. Moreover, the Board understands the Village contracts administrative services from the County. This clearly demonstrates the two municipalities are working together. Therefore the Board finds there is an acceptable degree of intermunicipal cooperation between the two municipalities.

[70] Although the Village did not receive any responses, the Board accepts that the proper local authorities were informed of the proposed annexation. The Board also notes that although not required by the Act, the Village also notified Alberta Sustainable Resources and AT of the proposed annexation.

[71] The Board acknowledges the statement by AT that annexations that cross highways can be problematic. However, correspondence from AT identifies it has no objections to the proposed annexation. The Board also accepts that the Village understands that it will have to seek approval from AT and comply with the Access Management Guidelines Adjacent to Provincial Highways prior to any subdivision or development.

[72] The Board is satisfied the Village effectively notified and consulted with affected landowners and the public. The Village owns both parcels of land within the proposed annexation area, so there was no need for additional activities to keep the owner of the land informed of the progress of the negotiations. The Village conducted a public open house regarding the proposed annexation and notified the public of the meeting. As an objection was filed with the Village prior to the open house the, Board concludes the notification process was undertaken in an appropriate and timely manner. Although no one attended the open house, the process described by the Village clearly demonstrates that an opportunity was available for the public to provide input.

[73] The Board finds that Village fulfilled its obligation to make available information about the proposed annexation. The Board accepts a complete copy of annexation application was available for viewing by the public at the Village office and that the Village was prepared to provide a hard copy of the document to anyone upon request. Despite correspondence from the Board to all affected landowners identifying that the annexation documents could be viewed at the Village Office, a follow up letter from the Board to the person that filed the objection reiterating the viewing information, and notices published in a newspaper circulating in the community restating the viewing process, no one took advantage of this opportunity. As the hearing notification process was in compliance with the Act, the Board finds reasonable measures were taken to make available the annexation information required in order to prepare for the February 29, 2012 public hearing.

[74] The provision and exchange of information by the parties is an important component of the hearing process. However, in this case the Board was not convinced information regarding industrial development on the annexation area has been withheld. With regard to development on

the 1.69 acre parcel of land, it is noted that the development proposal was processed by the County as it was still within the County's jurisdiction. The County issued a development permit for a discretionary use and notified the public and adjacent landowners of the proposed development in accordance with the County's Land Use Bylaw. No objections were received, so the County approved the development. As the person that filed the objection to this annexation acknowledged she is aware of and is in favour of the development on the 1.69 acre parcel, the Board concludes access to information was reasonable. With regard to the agribusiness development proposal received by the Village for the 17.04 parcel of land, the Board accepts the Village's statement the status of this development unknown. The Board received no submissions to persuade it a development of any kind is imminent on this land. The Board notes that until such time as a proponent brings forward an application for the 17.04 acre parcel, the range of uses that could be considered are constrained only by the applicable Land Use Bylaw. As the agribusiness proposal is uncertain and there were no apparent development plans for the 17.04 acre parcel, the Board concludes the information provided to the Board and the Public by the Village's application is sufficient for this annexation.

[75] The Board recognizes that since the Village owns the 17.04 acre parcel it may be contacted by individuals or companies investigating the possibility of purchasing and/or developing the land. S. 153(e) of the Act requires a Councillor to "keep in confidence matters discussed in private at a council meeting or council committee meeting until discussed at a meeting held in public". S. 197(2.1) of the Act allows Councils or Council Committees to close all or part of a meeting to the public "if the matter to be discussed is within one of the exceptions to disclosure in Division 2 part 1 of the *Freedom of Information and Privacy Act*". The Board trusts the Village will comply with both the Act and the *Freedom of Information and Privacy Act*. However, the Board expects that the Village will make public the relevant information at the appropriate time if either a subdivision or development application is submitted for this parcel.

### **Planning and Development**

[76] The Board accepts the Village has a limited amount of vacant Light Industrial Business District land within its jurisdiction. This quantity is further decreased by the fact that one parcel is owned by a reluctant seller. It is typical for an urban municipality to maintain inventory of vacant land in all Land Use Districts to facilitate effective planning and development. As a result, the Board finds the amount of land contemplated by the annexation application is appropriate as it will provide the Village sufficient area within this Land Use District to respond to any future demand.

[77] The Board agrees that the Village will be able to service the proposed annexation area in an effective and efficient manner. Servicing arrangements proposed by the Village are reasonable, as water, wastewater and gas services can be extended from existing municipal trunk lines. The water treatment facility has been upgraded, so the Village does have the capacity to provide potable water to the proposed annexation area in the future.

[78] The Board finds that the Village has considered road maintenance and transportation as part of its servicing arrangements. The Village explained that transportation services within the

**BOARD ORDER NO. MGB 031/12**

**FILE: AN11/GALA-V 01**

Village's current boundary can be extended to the proposed annexation area in a fiscally prudent manner. The Board notes that the Village's application stated that the annexation does not include any roads. However, during the hearing the Village clarified that the portion of Highway 861 between the current municipal boundary and the annexation area would be included as part of the annexation. The Village identified that it discussed this matter with AT and understands that AT will continue to maintain the highway. The Village is also aware that any concerns AT may have regarding access to Highway 861 will have to be addressed at the subdivision and/or development stage.

[79] The Board finds the direction of growth being proposed by the Village to be reasonable. Expansion to the east will facilitate the extension of water and wastewater services into the proposed annexation area. Although the Village will have to obtain approval from AT for access to Highway 861, the highway and its road allowances will act as a buffer that separates the proposed annexation area from the existing residential area. Moreover, the annexation area location may assist the Village to attract highway commercial development which can assist the municipality to expand its assessment base.

[80] The Village stated that changes to its Land Use Bylaw after the annexation will mirror the same uses which are discretionary in the County's Land Use Bylaw. Although the Village expects the annexation area to be designated as a Light Industrial Business District, the Board notes that s. 135(1)(d) of the Act states "bylaws and resolutions of the old municipal authority that apply specifically to the areas of land continue to apply to it until repealed or others are made in their place by the new municipal authority." Any change to the land use in the annexation area would require the Village to amend its Land Use Bylaw. S. 606 of the Act would necessitate the Village to conduct a public hearing. The public hearing process would afford affected landowners and Village residents an opportunity to bring forward their concerns regarding land use district changes as well as suggest improvements to the site regulations and other requirements of the Bylaw. The Board acknowledges the commitment by the Village at the hearing that redistricting the annexation area will follow the normal public consultation processes.

[81] The Board understands the Village had received a development proposal for the 17.04 acres of land, but that the status of the development is unknown at this time. The Village has stated that it intends to continue its past practice of leasing this parcel as farm-land. As the effect of any future development contemplated for this parcel can only be speculative at best, the Board is not convinced the annexation will have a negative impact on the value of adjacent properties or create a noise nuisance. If, at some time in the future, a development is brought forward, the Village will be in a better position to assess possible impacts and can specify conditions to protect the value of nearby properties. The Board trusts that at that time the Village will comply with the consultation processes specified by the Act as well as the applicable Land Use Bylaw.

[82] In relation to the request that the entire annexation application be denied, the Board finds the Village has clearly demonstrated the need for additional lands within its boundary. Consequently, the denial of the entire annexation application as suggested by the person

objecting to the annexation would restrict the Village's ability to achieve orderly, economical and beneficial development as identified by s. 617 of the Act.

### **Environmental Considerations**

[83] The Village advised that the agribusiness proposal that contemplated the storage of chemical fertilizer has not gone forward and that the status of this proposal is unknown at this time. As there is no development application for the 17.04 acre parcel, the Board understands any of the permitted or discretionary uses identified by the applicable Land Use Bylaw could be considered for development in this area. The health and safety of residents is paramount; however, the Board finds it is premature to comment on a development that may not come to fruition. The Board notes that if the chemical storage facility does proceed safeguards are in place to minimize risk. The Village's Land Use Bylaw requires the Development Officer to consult with the Fire Department if flammable or explosive materials are stored on the site. This Bylaw allows the Village to compel increased lot sizes, setbacks or other things to minimize public risk. Moreover, the *Alberta Safety Codes Act* as well as the Energy Resources Conservation Board policy Directives specify other requirements to minimize hazards associated with flammable or explosive material.

[84] During the hearing the Village confirmed the 17.04 acre parcel contained a portion of a water body. As the Village has owned this property since 1936, the Board finds it reasonable to conclude the Village understands the sensitive nature of this key environmental feature. The Board trusts the Village will continue to be a good steward of the land as it has in the past by taking steps to mitigate the impact any future development may have on the land adjacent to this water body area as well as the associated wildlife and water fowl habitat.

### **Financial Impact**

[85] Board recognizes the proposed annexation is relatively small and concludes the financial impact on either municipality will be minor. The County will lose a small amount of tax revenue through the proposed annexation. Conversely, the Village will gain tax revenue; however, it will have to provide services to the proposed annexation area. The Board accepts the Village's and the County's submission that the proposed annexation would benefit the Village and help make it remain viable.

[86] The correspondence from the Village resident that filed the objection states the only solution she considers acceptable is for the municipality to purchase her property. During the hearing the Board heard that the Village does not wish to purchase the property. The Board accepts the two parties were unable to resolve their differences. The Board considers the disagreement between the Village and its resident to be a local matter and beyond the scope of these annexation proceedings.

**Conditions of Annexation**

[87] The Board accepts no assessment and taxation transition conditions are required for this annexation. The Village owns the two parcels that are to be annexed, so there is no need for assessment and taxation conditions. The Board accepts the submission by both municipalities that the business person working with the Village to develop on the 1.69 acre parcel was in favour of the annexation. Moreover, the Board received no submission from him regarding assessment and taxation transition conditions. The two municipalities also confirmed that there is no requirement for intermunicipal compensation.

[88] S. 138(1) of the Act allows for the retroactive application of an Order in Council. As the annexation will not significantly impact the landowners, the Board recommends the effective date be January 1, 2012.

**Summary**

[89] The Board finds that the intent and purpose of this annexation application as well as the quantity of land being requested by the Village is appropriate and reasonable given all the circumstances surrounding this matter. The Board also finds and is satisfied that the concerns of the affected landowners and the public have been given proper consideration. Therefore, the Board recommends that this annexation application be approved.