

IN THE MATTER OF THE "Municipal Government Act"

AND IN THE MATTER OF an application by the Town of Chestermere, in the Province of Alberta, to annex certain territory lying immediately adjacent thereto and thereby its separation from the Municipal District of Rocky View No. 44.

BEFORE:

G. Cornish, Presiding Officer
Municipal Government Board

C. Johnson, Member
Municipal Government Board

D. McDonald, Member
Municipal Government Board

SUMMARY

On July 4, 1994, the Town of Chestermere filed an annexation application under the provisions of the old Municipal Government Act with the then Local Authorities Board. The Board scheduled a hearing of the application for August 18, 1994, but was postponed at the request of the Town in order that an annexation agreement with the Municipal District of Rocky View No. 44 could be negotiated prior to proceeding with the application. As negotiations continued between the two parties, the Town realized that the annexation could not be completed prior to the new year. As the new Municipal Government Act was to come into force on January 1, 1995, altering the annexation process, the Town commenced public notice and meetings in order to comply with the new legislation. Following lengthy negotiations with the Municipal District of Rocky View No. 44, an agreement was concluded on May 16, 1995, and the Town filed a negotiation report requesting the Municipal Government Board to proceed with the application.

The annexation process began in 1993 with the Town of Chestermere meeting with the landowners surrounding the Town to determine interest in annexation. As a result of these discussions, a group of interested landowners agreed to work with the Town to determine the feasibility of the proposal. In early 1994, the Town and landowners retained a consultant to prepare an annexation application. In June of 1994, the application was accepted by council for the Town of Chestermere and submitted to the then Local Authorities Board. In addition, the application was considered by the Calgary Regional Planning Commission which supported annexation subject to a negotiated agreement between the Town and the Municipal District of Rocky View No. 44. In September of 1994, annexation committees were established by both municipalities and discussions continued until the middle of May, 1995. Late in the negotiation process an independent consultant was retained by both parties to provide an independent assessment of the need for annexation. During the negotiation process, both municipalities held public meetings to inform the public of the annexation and allow public input into the process.

As a result of the public input and independent assessment, the two municipalities entered into an annexation agreement. The Town prepared a negotiation report which has been signed by both municipalities. The report was filed with the Municipal Government Board on May 26, 1995.

The Town of Chestermere first informed the public of the June, 1994 decision to proceed with annexation immediately following council's decision by posting notice and making a copy of the proposal available for public view. When it became apparent that annexation could not be concluded before the new year, the Town held a public meeting on October 12, 1994. Notice was mailed to every resident of the Town and posted in the Town Office. The Town presented details of the annexation proposal and responded to questions. The Town also invited the public in attendance to comment and make suggestions. Of the approximately 29 people in attendance, one comment sheet was handed in, stating a need for more open space and dedication of land for church use.

The Municipal District of Rocky View No. 44 also held a public meeting on February 21, 1995, which was advertised in the Five Village Weekly in each of two consecutive weeks. A presentation was made to council on behalf of the Town of Chestermere and the public invited to speak. No comments were made in opposition to the annexation. A letter was submitted from an area residence regarding his concern with transportation in the area. The letter identified certain roads that may be effected by development in the annexation area and offered suggestions to limit possible negative effects.

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As part of the annexation application, the Town of Chestermere submitted letters of conditional consent from all but one of the landowners in the annexation territory. The only concern of the landowners is that assessment of their property remain at Municipal District levels until developed for urban purposes. The one landowner who has not filed a consent, has adopted a neutral position, neither consenting or objecting to the annexation. While the owner has not commented, the Town has advised that his concern relates to urban assessment of all his land if one first parcel subdivision is approved.

The negotiation committee, following an independent review of the annexation proposal, put forward an annexation agreement that has been ratified by both councils. The agreement committed the Municipal District of Rocky View No. 44 to support all aspects of the annexation proposal and addressed the following issues:

1. Roadway Maintenance

The Town of Chestermere to maintain the public roadways within the annexed lands to standards comparable to or better than the standards that presently exist.

2. Assessment and Taxation

The objective of the Town of Chestermere will be to assess and tax the annexed lands in the same manner as if they remained in the Municipal District of Rocky View No. 44 for a period of 30 years. The assessment and taxation provisions will remain in effect for a 30 year period unless certain events or circumstances occur which will have the effect of changing or facilitating the change or use of, or level of services to, such land and improvements, thereby altering the character of the lands and improvements from being rural in nature to urban in nature.

3. Transportation

The Town of Chestermere shall assist the Municipal District of Rocky View No. 44 in the formation of a committee consisting of the Town, Municipal District, City of Calgary and Alberta Transportation and Utilities to review joint transportation plans with respect to Highway 1A, Secondary Road 560 and interconnected roads.

4. Intermunicipal Cooperation

The Town of Chestermere and the Municipal District of Rocky View No. 44 use their best efforts to determine and implement a method for notification of further development of lands both inside and outside the Town's municipal boundaries.

5. Agricultural Policies

The Town of Chestermere shall use its best efforts to ensure that agricultural operations continue on the annexed lands until required for urban development. In connection thereto, the Town shall, subject to the appropriate permits and authorizations where necessary, permit agricultural burning, use of poisons and chemicals, continue the Municipal District's policies on animal control, provide weed control and amend bylaws, were reasonable, to allow agricultural operations to continue as if they had remained in the Municipal District.

6. Miscellaneous Policies

Allow the expansion of buildings required by businesses and farming operations existing at the time of annexation.

Provide police and fire protection comparable to or better than that presently provided to the Town.

Council for the Town of Chestermere approved the agreement on May 15, 1995 and the Council for the Municipal District of Rocky View No. 44 approved the agreement on May 16, 1995.

The annexation agreement entered into by the municipalities addresses the assessment and taxation concerns of the landowners and does permit a first parcel subdivision without affecting the assessment. In addition, the agreement recognizes the need of the region to jointly develop transportation plans for the Chestermere area.

Both the Town of Chestermere and the Municipal District of Rocky View No. 44 have requested that the effective date of annexation be July 1, 1995.

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The Board advised the local authorities by letter and the general public by notice published in the Five Village Weekly and Calgary Herald once in each two consecutive weeks that there is general agreement. In addition, the Board gave notice that unless objections were filed no later than August 1, 1995, the Board would make its recommendation to the Minister without holding a public hearing.

While no objections were filed by any party in response to the Board's notice, the City of Calgary advised that the Town had met with the City and Municipal District of Rocky View No. 44 Inter-Municipal Committee to propose removal of the Town's portion of Highway No. 1A from provincial jurisdiction. The City advised that any concerns would be forwarded directly to Alberta Transportation and Utilities, but that the Board should be aware that concerns may exist.

FINDINGS

After reviewing and considering the notification and negotiation report of the Town of Chestermere, the Board finds:

1. The Town of Chestermere filed an application with the Local Authorities Board on July 4, 1994, for the annexation of certain territory from the Municipal District of Rocky View No. 44 ;
2. A hearing scheduled for August 18, 1994, was postponed at the request of the Town of Chestermere in order that an annexation agreement could be negotiated with the Municipal District of Rocky View No. 44;
3. The Municipal Government Act was proclaimed on January 1, 1995, and the transitional provisions provided that any annexation application not completed would continue as if made under the provisions of the new Act;
4. The Town of Chestermere held a public meeting on October 12, 1994, to present in detail the annexation proposal and to allow the public to comment and offer suggestions. Notice of the public meeting was mailed to each residence in the Town of Chestermere and posted in the Town Office;
5. At the public meeting of October 12, 1994, held by the Town of Chestermere, no objections to the annexation proposal were raised;
6. The Municipal District of Rocky View No. 44 held a public meeting on February 21, 1995, to present in detail the annexation proposal and to allow the public to comment and offer suggestions. Notice of the public meeting was published the Five Village Weekly for two consecutive weeks.
7. At the public meeting of February 21, 1995, held by the Municipal District of Rocky View No. 44, no objections to the annexation were raised;
8. All the landowners, excepting one who refused to comment, filed consents to the annexation subject to assessment and taxation of their property remaining at the same level as if it had remained in the Municipal District of Rocky View No. 44 until developed for urban purposes.
9. The Town of Chestermere and the Municipal District of Rocky View No. 44 entered into an annexation agreement that recognizes the concerns of the landowners and the comments of area residents;
10. The Town of Chestermere and the Municipal District of Rocky View No. 44, in accordance with the terms of the annexation agreement, will be establishing a transportation committee composed of representatives from both parties and the City of Calgary and Alberta Transportation and Utilities,
11. There is general agreement on the annexation of the land to the Town of Chestermere.

RECOMMENDATIONS

In consideration of the above, the Board makes the following recommendations for the reasons set out below:

1. Effective July 1, 1995, the land described in Appendix A and shown on the sketch in Appendix B be separated from the Municipal District of Rocky View No. 44 and annexed to the Town of Chestermere,

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2. Authority for assessment and taxation shall remain with the Municipal District of Rocky View No. 44 until December 31, 1995, and any taxes owing to the Municipal District of Rocky View No. 44 on December 31, 1995, in respect of the annexed lands be transferred to and become payable to the Town of Chestermere together with any lawful penalties and costs levied in respect of those taxes, and the Town of Chestermere upon collecting those taxes, penalties or costs shall pay them to the Municipal District of Rocky View No. 44,
3. The assessor for the Town of Chestermere shall assess in 1995, for the purpose of taxation in 1996, the annexed land and the assessable improvements to it,
4. For taxation purposes in 1996 and subsequent years, the annexed lands and improvements thereon shall be assessed and taxed by the Town of Chestermere on the same basis and as if they had remained within the Municipal District of Rocky View No. 44,
5. Clause 4 shall cease to apply
 - (a) to any parcel of land and improvements within the annexation territory which is subject to both of the following having occurred after the effective date of annexation either at the request of or on behalf of the landowner;
 - (i) the parcel of land is the subject of a subdivision or separation of titled, whether by registered plan of subdivision, by instrument or any other method, whereby a new parcel of land, including the residual parcel, is created, except where such subdivision or separation of title is effected solely for the purpose of separating out one parcel from each parent parcel which exists as of July 1, 1995, and
 - (ii) the parcel of land is redesignated, pursuant to the Town of Chestermere Land Use Bylaw, to a use other than agricultural, urban reserve, or direct control with agricultural guidelines or urban reserve guidelines; and
 - (b) to any parcel of land and improvements within the annexation territory which is part of a local improvement project described in any local improvement bylaw initiated by or on the behalf of or with the support of the owner of such land and improvements, passed under the authority of the Municipal Government Act and which has Town of Chestermere water or sewer service made available to it pursuant to such bylaw; or
 - (c) to any parcel of land and improvements within the annexation territory which is hereafter connected to water or sewer service provided by the Town of Chestermere,
6. Subject to Clause 7 all land and improvements within the annexation territory with respect to which Clause 4 does not apply as of December 31, 1995, or with respect to Clause 5 ceases to apply, shall be assessed and taxed in like manner as other lands and improvements within the Town of Chestermere,
7. If Clause 4 ceases to apply to a parcel of land and improvements thereon, the assessment and taxation of the annexed lands and improvements on the same basis as other land and improvements in the Town of Chestermere shall take effect as of the first complete taxation year immediately following the taxation year in which the event or circumstance occurs which causes Clause 4 to cease to apply,
8. For so long as Clause 4 applies to a parcel of land within the annexation territory, businesses operated on such land as of December 31, 1995, shall not, for taxation purposes, be subject to a greater amount of business related taxes than would have been the case had the parcel remained within the jurisdiction of the Municipal District of Rocky View No. 44. For the purpose of this Clause, the phrase "business related taxes" shall mean business tax, machinery and equipment tax or any taxes enacted in substitution thereof,
9. Clauses 4 to 8, inclusive, shall cease to have any effect after December 31, 2025,
10. Subject to Clauses 4 to 9, the Minister of Municipal Affairs shall, for taxation or grant purposes commencing in the year 1996, reassess or revalue, as the case may be, all properties that are assessable or subject to valuation under the terms of Division 5 and 6 of Part 9 of the Municipal Government Act and which lie within the areas that are annexed to the Town of Chestermere, so that the assessment or valuation shall be fair and equitable with properties of a similar nature within the Town of Chestermere.

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REASONS

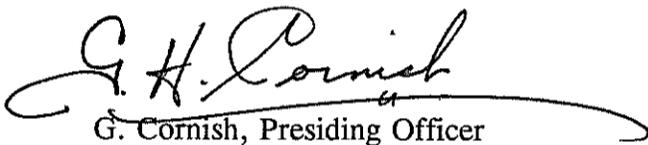
While the Town of Chestermere filed the application under the provisions of the old legislation, the Town did not want to proceed unless an agreement could be reached with the Municipal District of Rocky View No. 44. When it became apparent that the process could not be completed prior to the proclamation of the new Municipal Government Act, the Town commenced a public hearing process while continuing negotiations with the Municipal District. The Board is satisfied that the public and landowners are in general agreement with the annexation and the only areas of concern relate to assessment, taxation and transportation. The agreement entered into by the two municipalities recognizes and addresses these concerns and sets out the parameters for continued municipal cooperation.

With regard to the transportation concerns of the City of Calgary, the committee envisioned by the annexation agreement would appear to be the proper forum to resolve such issues. The ultimate decision regarding the status of Highway No. 1A lies with Alberta Transportation and Utilities and any decision would be based on negotiations between all concerned parties.

The Board gave notice of its finding that there is general agreement by letter to the affected local authorities and to the general public by publication in the two local newspapers. The notice also advised that if no objections were received by August 1, 1995, the Board would make its recommendations without holding a public hearing. No objections were received by August 1, 1995, and the Board must assume that there is complete support for the annexation.

Dated at the City of Calgary, in the Province of Alberta, this 25th day of September, 1995.

MUNICIPAL GOVERNMENT BOARD


G. Cornish, Presiding Officer

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APPENDIX "A"

DETAILED DESCRIPTION OF THE LANDS SEPARATED FROM THE MUNICIPAL DISTRICT OF ROCKY VIEW NO. 44 AND ANNEXED TO THE TOWN OF CHESTERMERE

ALL THAT PORTION OF THE EAST HALF OF SECTION TWO (2) TOWNSHIP TWENTY-FOUR (24) RANGE TWENTY-EIGHT (28) WEST OF THE FOURTH MERIDIAN CONTAINED IN PLAN I.R.R. 62 WHICH LIES NORTHERLY OF THE PRODUCTION EASTERLY OF THE SAID LIMIT OF THE SAID PLAN HAVING A BEARING OF S75°09'E

ALL THAT PORTION OF THE WEST HALF OF SECTION TWO (2) TOWNSHIP TWENTY-FOUR (24) RANGE TWENTY-EIGHT (28) WEST OF THE FOURTH MERIDIAN WHICH LIES NORTH OF THE NORTHERLY LIMIT OF RAILWAY PLAN R.W. 67 AND NOT WITHIN THE TOWN OF CHESTERMERE

ALL THAT PORTION OF SECTION THREE (3) TOWNSHIP TWENTY-FOUR (24) RANGE TWENTY-EIGHT (28) WEST OF THE FOURTH MERIDIAN WHICH LIES NORTH OF THE NORTHERLY LIMIT OF RAILWAY PLAN R.W. 67 AND EAST OF THE WESTERLY LIMIT OF ROAD PLAN 731367 AND NOT WITHIN THE TOWN OF CHESTERMERE

ALL THAT PORTION OF THE WEST HALF OF SECTION TEN (10) TOWNSHIP TWENTY-FOUR (24) RANGE TWENTY-EIGHT (28) WEST OF THE FOURTH MERIDIAN NOT WITHIN THE TOWN OF CHESTERMERE

ALL THAT PORTION OF THE SOUTH WEST QUARTER OF SECTION ELEVEN (11) TOWNSHIP TWENTY-FOUR (24) RANGE TWENTY-EIGHT (28) WEST OF THE FOURTH MERIDIAN NOT WITHIN THE TOWN OF CHESTERMERE

ALL THAT PORTION OF THE NORTHEAST QUARTER OF SECTION ELEVEN (11) TOWNSHIP TWENTY-FOUR (24) RANGE TWENTY-EIGHT (28) WEST OF THE FOURTH MERIDIAN CONTAINED IN ROAD PLAN 1691 L.K. AND LIES WEST OF A LINE DRAWN FROM SURVEY MARKER IR22MP TO SURVEY MARKER IR19MP BOTH AS SHOWN ON SAID PLAN 1691 L.K.

ALL THAT PORTION OF THE SOUTH HALF OF SECTION FOURTEEN (14) TOWNSHIP TWENTY-FOUR (24) RANGE TWENTY-EIGHT (28) WEST OF THE FOURTH MERIDIAN WHICH LIES SOUTH AND WEST OF THE SOUTH WESTERLY LIMIT OF ROAD PLAN 1691 L.K. (HIGHWAY NO. 1) AND NOT WITHIN THE TOWN OF CHESTERMERE

ALL THAT PORTION OF SECTION FIFTEEN (15) TOWNSHIP TWENTY-FOUR (24) RANGE TWENTY-EIGHT(28) WEST OF THE FOURTH MERIDIAN NOT WITHIN THE TOWN OF CHESTERMERE

ALL THAT PORTION OF THE EAST HALF OF SECTION TWENTY-TWO (22) TOWNSHIP TWENTY-FOUR (24) RANGE TWENTY-EIGHT (28) WEST OF THE FOURTH MERIDIAN WHICH LIES SOUTH OF THE SOUTHERLY LIMIT OF ROAD PLAN 7307 J.K. (HIGHWAY NO. 1) AND NOT WITHIN THE TOWN OF CHESTERMERE

THE MOST EASTERLY 33 FEET IN PERPENDICULAR WIDTH THROUGHOUT OF THE WEST HALF OF SECTION TWENTY-TWO (22) TOWNSHIP TWENTY-FOUR (24) RANGE TWENTY-EIGHT (28) WEST OF THE FOURTH MERIDIAN WHICH LIES SOUTH OF THE SOUTHERLY LIMIT OF ROAD PLAN 7307 J.K. (HIGHWAY NO. 1)

ALL THAT PORTION OF THE NORTHWEST QUARTER OF SECTION TWENTY-THREE (23) TOWNSHIP TWENTY-FOUR (24) RANGE TWENTY-EIGHT (28) WEST OF THE FOURTH MERIDIAN WHICH LIES SOUTH WEST OF THE SOUTH WESTERLY LIMIT OF ROAD PLAN 7307 J.K. (HIGHWAY NO. 1) AND NORTH WEST OF THE NORTHWESTERLY LIMIT OF PLAN I.R.R. 72 AND ITS PRODUCTION SOUTH WESTERLY

ALL GOVERNMENT ROAD ALLOWANCES INTERVENING AND ADJOINING THE ABOVE DESCRIBED LANDS

APPENDIX "B"

A SKETCH SHOWING THE GENERAL LOCATION OF THE AREAS
RECOMMENDED FOR ANNEXATION TO THE TOWN OF CHESTERMERE

AFFECTED AREA(S)

