

BOARD ORDER NO. MGB 019/11

FILE: AN09/PONO/T-01

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

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

BEFORE:

Members:

H. Kim, Presiding Officer
W. Kipp, Member
F. Wesseling, Member

MGB Staff:

R. Duncan, Case Manager

SUMMARY

After examination of the submissions from the Town of Ponoka (Town), Ponoka 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.

The Lieutenant Governor in Council orders that

- (a) effective January 1, 2011, the land described in Appendix A and shown on the sketch in Appendix B is separated from Ponoka County and annexed to the Town of Ponoka,
- (b) any taxes owing to Ponoka County at the end of December 31, 2010 in respect of the annexed land are transferred to and become payable to the Town of Ponoka together with any lawful penalties and costs levied in respect of those taxes, and the Town of Ponoka upon collecting those taxes, penalties and costs must pay them to Ponoka County,
- (c) the assessor for the Town of Ponoka must assess the annexed land and the assessable improvements to it for the purposes of taxation in 2012 and subsequent years,

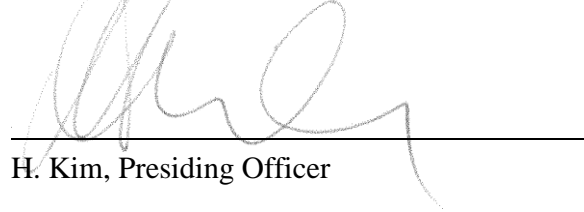
BOARD ORDER NO. MGB 019/11

FILE: AN09/PONO/T-01

and makes the Order in Appendix C.

Dated at the City of Edmonton, in the Province of Alberta, this 3rd day of March 2011.

MUNICIPAL GOVERNMENT BOARD

A handwritten signature in black ink, appearing to read 'H. Kim', is written over a solid horizontal line. The signature is cursive and extends slightly to the right of the line.

H. Kim, Presiding Officer

APPENDIX A

**DETAILED DESCRIPTION OF THE LANDS SEPARATED
FROM PONOKA COUNTY AND ANNEXED TO
THE TOWN OF PONOKA**

PLAN 902 2597, LOT 2.

PLAN 002 0463, Block 1.

ALL THAT PORTION OF THE SOUTHEAST QUARTER OF SECTION ONE (1), TOWNSHIP FORTY-THREE (43), RANGE TWENTY-SIX (26) WEST OF THE FOURTH MERIDIAN INCLUDING ALL THAT PORTION OF PLAN 5252 LZ ADJACENT TO THE NORTH BOUNDARY OF SAID QUARTER SECTION AND EXCLUDING THE EAST-WEST ROAD ALLOWANCE LYING ADJACENT TO THE SOUTH OF SAID QUARTER SECTION.

ALL THAT PORTION OF THE SOUTHWEST QUARTER OF SECTION SIX (6), TOWNSHIP FORTY-THREE (43), RANGE TWENTY FIVE (25) WEST OF THE FOURTH MERIDIAN EXCLUDING THE EAST-WEST ROAD ALLOWANCE LYING ADJACENT TO THE SOUTH OF SAID QUARTER SECTION.

ALL THAT PORTION OF THE NORTHWEST QUARTER OF SECTION SIX (6), TOWNSHIP FORTY-THREE (43), RANGE TWENTY-FIVE (25) WEST OF THE FOURTH MERIDIAN LYING SOUTH OF THE NORTH BOUNDARY OF PLAN 3928 LZ AND INCLUDING ALL THAT PORTION OF THE NORTH-SOUTH ROAD ALLOWANCE ADJACENT TO THE WEST SIDE OF SAID QUARTER SECTION LYING SOUTH OF THE PROJECTION WEST OF THE NORTH BOUNDARY OF PLAN 3928 LZ.

ALL THAT PORTION OF THE NORTHEAST QUARTER OF SECTION THIRTY-SIX (36), TOWNSHIP FORTY-TWO (42), RANGE TWENTY-SIX (26) WEST OF THE FOURTH MERIDIAN NOT WITHIN THE TOWN OF PONOKA EXCLUDING LOT 1, BLOCK 1, PLAN 862-0197.

ALL THAT PORTION OF THE WEST HALF OF SECTION THIRTY-ONE (31), TOWNSHIP FORTY-TWO (42), RANGE TWENTY FIVE (25) WEST OF THE FOURTH MERIDIAN LYING NORTH OF THE LEFT BANK OF THE BATTLE RIVER EXCLUDING THAT PORTION OF THE NORTH-SOUTH ROAD ALLOWANCE ADJACENT TO THE WEST SIDE OF SAID HALF SECTION LYING SOUTH OF THE LEFT BANK OF THE BATTLE RIVER.

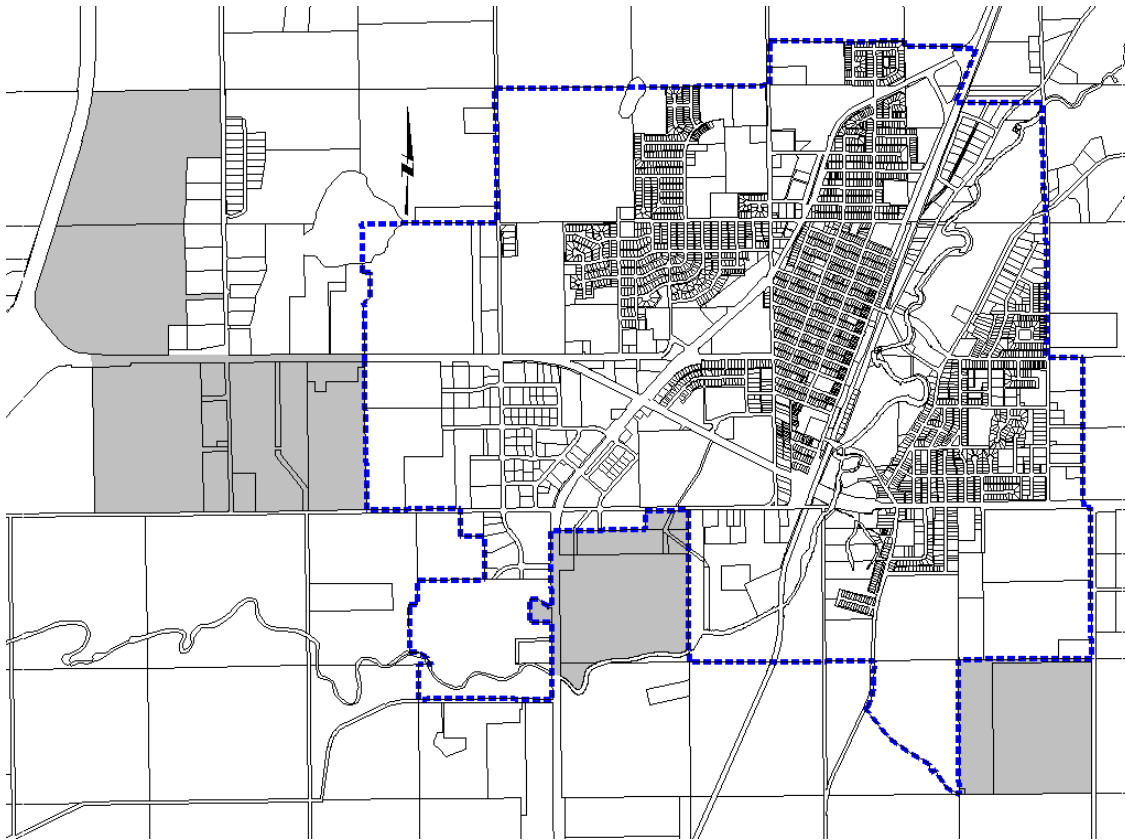
BOARD ORDER NO. MGB 019/11

FILE: AN09/PONO/T-01

ALL THAT PORTION OF THE SOUTHEAST QUARTER OF SECTION THIRTY-TWO (32), TOWNSHIP FORTY TWO (42) RANGE TWENTY-FIVE (25) WEST OF THE FOURTH MERIDIAN LYING WEST OF THE WEST BOUNDARY OF PLAN 2575KS.

APPENDIX B

A SKETCH SHOWING THE GENERAL LOCATION OF THE AREAS
ANNEXED TO THE TOWN OF PONOKA



Legend



Existing Town Boundary



Annexation Area

BOARD ORDER NO. MGB 019/11

FILE: AN09/PONO/T-01

APPENDIX C

ORDER

1 In this Order, “annexed land” means the land described in Appendix A and shown on the sketch in Appendix B.

2 For the purposes of taxation in 2011 and in each subsequent year up to and including 2025, the annexed land and the assessable improvements to it

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

whichever is lower, for property of the same assessment class.

3 Where in any taxation year a portion of the annexed land

- (a) is redesignated at the request of or on behalf of the landowner under the Town of Ponoka Land Use Bylaw, or
- (b) is connected to water or sanitary sewer services provided by the Town of Ponoka section 2 ceases to apply at the end of that taxation year in respect of that portion of the annexed land and the assessable improvements to it.

4 After section 2 ceases to apply to the annexed land or any portion of it in a taxation year, the annexed land or portion and the assessable improvements to it must be assessed and taxed for the purposes of property taxes in the following year in the same manner as other property of the same assessment class in the Town of Ponoka is assessed and taxed.

APPENDIX D

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

Table of Contents

EXECUTIVE SUMMARY	8
Part I Introduction.....	9
Part II Role of the MGB, the Minister and the Lieutenant Governor in Council	9
Part III Annexation Application	10
Intermunicipal Cooperation	12
Statutory Plans	12
Growth Projections	13
Overview of Servicing	15
Environmental Stewardship.....	17
Consultation	17
Fiscal Accountability	17
Assessment and Taxation.....	18
Affected Agencies and Landowners	18
Part IV Public Hearing	19
Town Presentation	19
County Presentation	20
Landowner/Public Submissions.....	21
Part V MGB Recommendation	26
Part VI Reasons	26
Summary	32

BOARD ORDER NO. MGB 019/11

FILE: AN09/PONO/T-01

EXECUTIVE SUMMARY

[1] The Town of Ponoka (Town) is located in central Alberta, approximately 100 kilometres south of Edmonton and 55 kilometres north of Red Deer.

[2] On August 25, 2010, the Municipal Government Board (MGB) received an application from the Town to annex approximately 396 hectares (978 acres) land from Ponoka County (County). The purpose of the proposed annexation is to provide the Town with a 50 year supply of land for residential and non-residential uses. A major objective is to allow the Town exposure to the Queen Elizabeth II Highway.

[3] The annexation area originally envisioned was significantly larger and the initial public consultation generated several letters of objection from landowners. While the application as submitted is substantially scaled back from the original proposal, the application contained an objection from one of the affected landowners. Moreover, additional objections were filed with the MGB. In accordance with section 120(3) of the *Municipal Government Act*, the MGB held a public hearing on October 29, 2010 to receive information, evidence and argument on the annexation proposal. During the hearing the MGB received presentations from the Town, the County and several landowners and members of the public.

[4] The objections and submissions received by the MGB relate to concerns regarding the population/growth projections, the annexation size, the municipal servicing requirements, the consultation process, and environmental protection.

Recommendation

[5] After reviewing the submitted documentation and hearing from the Town, the County and the affected landowners, the MGB finds the annexation application to be reasonable. Therefore, the MGB recommends the annexation of the land identified in the Town's annexation application with an effective date of January 1, 2011.

Reasons

[6] The MGB finds that the purpose of the annexation and amount of land being requested by the Town is reasonable and that the concerns of affected landowners and the public have been given proper consideration.

[7] The detailed analysis and reasons of the MGB are contained in the remainder of this report.

BOARD ORDER NO. MGB 019/11

FILE: AN09/PONO/T-01

Part I Introduction

[8] The Town of Ponoka (Town) is located in central Alberta, approximately 100 kilometres south of Edmonton and 55 km north of Red Deer. Situated on the Battle River just east of Highway 2, the community is known for its Stampede as well as the Centennial Centre for Mental Health and Brain Injury (formerly the Alberta Hospital Ponoka). The 2006 Census identified that the Town's population was 6,576. The average five year growth rate of the Town since 1976 has been 6.8 percent.

[9] On August 25, 2010, the Municipal Government Board (MGB) received the required Negotiation Report and application fee from the Town along with a request to proceed with the proposed annexation of approximately 396 hectares (978 acres) of land from Ponoka County (County). The documentation identified that the purpose of proposed annexation was to provide the Town with a 50 year supply of land for residential and non-residential uses. In particular, the Town placed a high priority on annexing the lands to the west of its current boundary to gain exposure to Queen Elizabeth II Highway for future business and institutional development.

[10] After receiving the Town's application the MGB determined that one of the landowners within the proposed annexation area and some of the adjacent landowners objected to the annexation. In accordance with Section 120(3) of the *Municipal Government Act* (Act), the MGB held a public hearing on October 29, 2010 to receive information, evidence and argument regarding the annexation proposal.

[11] The following report outlines the role of the MGB, provides an overview of the Town's annexation application, summarizes the public hearing held on October 29, 2010 and provides a recommendation to the Minister of Municipal Affairs (Minister) regarding this matter.

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

[12] Pursuant to section 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 MGB 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 and include proposals for consulting with the public and meeting with the landowners. 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.

[13] 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

BOARD ORDER NO. MGB 019/11

FILE: AN09/PONO/T-01

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.

[14] The report is then submitted to the MGB and, pursuant to section 119, becomes the annexation application. If the MGB is satisfied that the affected municipalities and public are generally in agreement, the MGB notifies the parties of its findings and unless objections are filed with the MGB by a specific date, the MGB makes its recommendation to the Minister without holding a public hearing. If an objection is filed, the MGB must conduct one or more public hearings.

[15] The MGB 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 MGB must allow any affected person to appear and make a submission. After hearing the evidence and submissions from the parties, the MGB must prepare a written report of its findings and recommendations and send it to the Minister of Municipal Affairs (Minister). The Minister has the authority to accept in whole or in part or completely reject the findings and recommendations made by the MGB. 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 III Annexation Application

[16] The Town filed its formal notice of intent to annex pursuant to section 116 of the Act with the MGB, the County and the local authorities the Town considered would be affected by the proposed annexation on August 19, 2009. The Town submitted its negotiation report to the MGB on August 25, 2010 along with a request for the MGB to proceed with the proposed annexation.

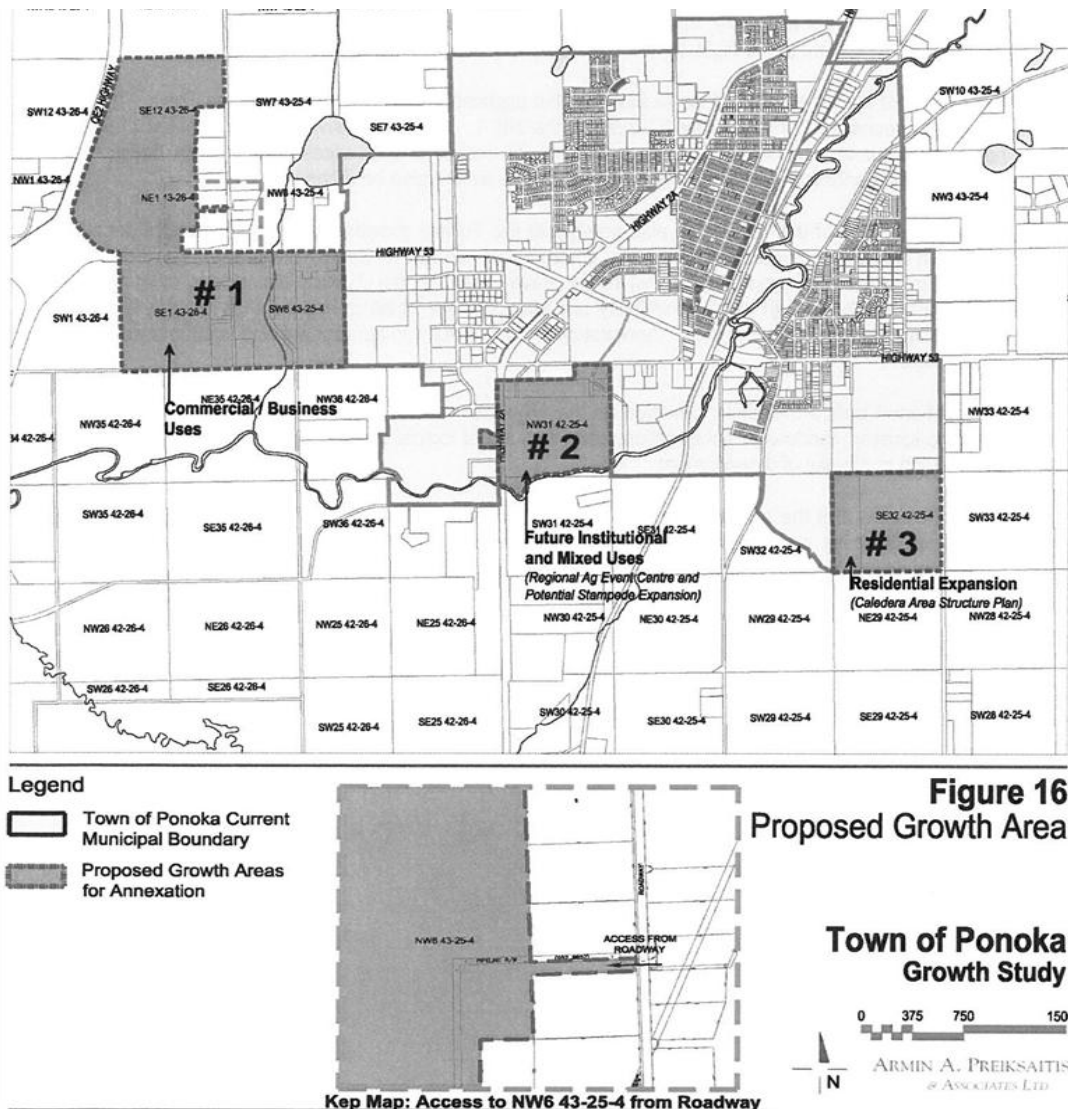
[17] The application submitted by the Town identified three annexation areas:

- Area 1 consists of approximately three quarter sections of land west of the existing Town boundary, extending to the Queen Elizabeth II Highway. These lands are intended for future business and other uses.
- Area 2 includes lands south of the Ponoka Stampede facility. These lands are intended to facilitate a range of uses including development of a regional Agricultural Event Centre and the possible expansion of the Ponoka Stampede Association facility.

- Area 3 is the quarter section at the Town's southeast boundary comprising the land of the Caledera Area Structure Plan adopted by Town Council in 2009. These lands are intended primarily for residential uses.

[18] Figure 1 below provides a map showing the annexation areas proposed by the Town.

Figure 1: Proposed Annexation Area



Source: Town of Ponoka Annexation Application

BOARD ORDER NO. MGB 019/11

FILE: AN09/PONO/T-01

Intermunicipal Cooperation

[19] The Town and County entered into an Intermunicipal Agreement on Development in the Urban Fringe in 1998. This agreement is not an intermunicipal development plan and therefore is not a statutory plan as defined by the Act. However, the agreement was adopted by resolution of both Councils and addresses planning issues in the urban fringe. The goal of the agreement is to ease the transition from agricultural to urban land uses and to ensure that development in the County does not unreasonably interfere with the long term growth of the Town. The agreement includes a map of likely future uses and shows the lands west of the Town to the Highway 53/Queen Elizabeth II interchange as being suitable for industrial and commercial uses. The agreement states that the land should remain in whichever municipality is best able to provide services, the general rule being farmland should remain in the County and land requiring municipal water and sewer should be in the Town. The Town agreed not to annex land until it is ready for urban development or requires urban services. The County agreed not to object to annexation when these conditions were met.

[20] The Town and the County met on July 7, 2009 to discuss the results of the Town of Ponoka Growth Study 2009-2059 and its conclusions on annexation. Further conversations took place after the meeting, and the County attended the Town's meetings with landowners on February 24 and March 22, 2010. On July 20, 2010, County Council passed a resolution supporting the annexation.

Statutory Plans

[21] The Town's Municipal Development Plan (MDP) was passed by Town Council in February, 1997. The proposed annexation is consistent with the goals and policies as identified in the MDP.

[22] A goal of the MDP is to improve business development as well as promote and enhance economic development and tourism opportunities in the community. The Town believes that it is critical to obtain additional lands with exposure to the Queen Elizabeth II Highway for commercial development. Moreover, the Town contends that lands adjacent to the Queen Elizabeth II Highway will provide opportunities for hotel/motel development that will meet the needs of the traveling public. Area 1 of the annexation application is intended to fulfill these two objectives.

[23] Policy 10 of the goal to promote expand and enhance economic development and tourism identified in the MDP notes the significance of the Town's partnership with the Ponoka Stampede Association and the importance of expanding and upgrading the Stampede grounds to host more events that will attract tourists. Area 2 of the annexation application is intended to provide additional land that will accommodate a regional Agricultural Events Centre and

BOARD ORDER NO. MGB 019/11

FILE: AN09/PONO/T-01

Stampede expansion that will promote and expand economic development and tourism opportunities.

[24] Area 3 was the subject of the Caledera Area Structure Plan (ASP) which was approved as Bylaw 256-09 by Town Council in April 2009. The ASP notes that the subject land is within the County but was within the study area of the Master Servicing Study. The ASP recommends that an annexation application be initiated and that the land be placed under the municipal authority of the Town with conformance to the Town's MDP and Land Use Bylaw. The ASP demonstrates that the lands are suitable for development, and proposes a mix of multi-family and single family dwellings with a total of 1,070 units at a density of 6.8 units per acre. The site has good access from McDonald Road to the east and is adjacent to the Ponoka Golf Club. The ASP provides details on servicing and utilities. A Level I environmental site assessment was conducted for the site and no significant concerns were discovered. Open space will comprise about 13.6% of the ASP area, forming a large central neighborhood park, several natural areas near the estate homes in the west and numerous linear parks.

Growth Projections

[25] The 2006 Census set the Town's population at 6,576. The average 5-year growth rate since 1976 was 6.8%. However, the Town experienced a growth of only 3.9% for the period from 2001 to 2006 or just under 1% annually. The Town anticipates there will be a shift back to the higher historical annual rates in the future. The application also notes that Town's growth rate has been slower than neighbouring towns in central Alberta, such as Blackfalds, Innisfail and Lacombe, along the Queen Elizabeth II Highway corridor. The Town believes that the availability of business lands adjacent to the Queen Elizabeth II Highway is an important factor in spurring the highway commercial and industrial development growth of these municipalities.

[26] The 2010 Town of Ponoka Growth Study 2009-2059 considered historical growth rates and analyzed land requirements to develop for low, medium and high growth rate population projection scenarios for 30, 40 and 50 year horizons. Table 1 on the next page provides the projections for each of these scenarios.

BOARD ORDER NO. MGB 019/11

FILE: AN09/PONO/T-01

Table 1: Town of Ponoka Population Projections

Town of Ponoka – Long-Term (50 Year) Population Projections (10 Year Intervals)						
Year	2009	2019	2029	2039	2049	2059
Projection 1 (Low)	6,775	7,484	8,267	9,132	10,087	11,143
Annual Growth Rate	1%	1%	1%	1%	1%	1%
Projection 2 (Medium)	6,792	7,786	9,035	10,486	11,698	12,922
Annual Growth Rate	0.75%	1.5%	1.5%	1.5%	1%	1%
Projection 3(High)	6,775	8,098	9,871	11,512	13,164	14,541
Annual Growth Rate	1%	2	2%	1.5%	1.5%-1%	1%

Source – Town of Ponoka Growth Study 2009-2059

[27] Based on this analysis, the 2010 Growth Study recommended Projection 2, which utilizes the medium growth rate scenario, as the basis for determining the long term land requirements for the Town. This projection assumes an annual growth rate of 1.5% for 2006 and 2007, which is not captured in the last official census, as well as recognizes the current economic downturn and reduced development activity experienced by the Town in 2008 (1.0% growth rate) and 2009 (0.75% growth rate). The projection anticipates the Town will continue the reduced annual growth rate of 0.75% until 2011. Projection 2 predicts the Town’s population will be 12, 922 by 2059. The 2010 Growth Study identifies that this projection is lower than that recommended by the 2005 Master Servicing Study, but close to the Town’s average historical.

[28] In order to determine the amount of land required to accommodate the projected population, the 2010 Growth Study analyzed the Town’s current land inventory. Aerial photographs and site visits were used to categorize the lands. Lands in which there is no development were categorized as “vacant developable lands”, while lands with existing development by their generalized land use were categorized as “developed lands”. After the removal of lands with physical constraints to development, such as flood risk areas, drainage corridors, environmentally sensitive areas, and servicing challenge areas, the Growth Study identifies that the Town has the following “vacant developable land” inventory: Residential – 212 hectares (525 acres), Commercial – 23 hectares (58 acres), Institutional – 0 hectares (0 acres) and Industrial – 88 hectares (234 acres).

[29] The proposed annexation intends to secure a 50 year land supply for the Town. The residential land requirement was calculated using a density of four units per acre with an average of 2.5 people per unit. The density levels used are consistent with the 2005 Master Servicing Study and other Town planning documents, while the average household size is consistent with the 2006 Statistics Canada Census. The commercial, industrial and institutional land requirements were calculated using a ratio that compares the total area of currently developed

BOARD ORDER NO. MGB 019/11

FILE: AN09/PONO/T-01

land for that land classification and the Town's 2006 population. Based on these calculations, the Growth Study concludes that 4.3 quarter sections of land are required to support a projected population of 12,922.

[30] In determining the direction for the proposed annexation, the Growth Study considered the following factors: Strategic location for attracting commercial and industrial development, servicing opportunities and constraints, transportation, developer interest and conflicts, and physical geography and environmental constraints. Each of the three annexation areas identified earlier are discussed below.

[31] A major objective of the proposed annexation is to obtain lands with exposure to the Elizabeth II Highway corridor so that the Town can bring its growth more in line with other municipalities along this highway corridor. Growth to the west of the current Town boundary provides the Town with competitive advantages for attracting new highway commercial and other developments. Moreover, this area is a logical extension of the existing South West Industrial Park that is located on the west of Town to the south of Highway 53.

[32] Growth south of the Town will provide land for future institutional and mixed uses. This will also allow for the logical expansion of the Stampede facilities.

[33] Growth east of the Town will allow the annexation of the Caledera Area Structure Plan (ASP). This ASP was passed by both municipalities in 2009. The plan illustrates that the lands are suitable for development and will provide a wide range of housing types.

[34] Although the growth needs calculations identify the land requirements for the Town's annexation is 4.3 quarter sections, the Growth Study recommends the annexation of approximately 6.1 quarter sections. Natural constraints, such as environmentally sensitive lands and flood risk areas, reduce the amount of developable land within the proposed annexation area to about 5.1 quarter sections. The Growth Study also indicates that the small oversupply is in part due to the lands adjacent to the Queen Elizabeth II corridor consisting of larger land holdings. The Growth Study contends that it is important for the area adjacent to the Queen Elizabeth II Highway be annexed at this time in order to allow the Town to afford comprehensive and coordinated planning. The Growth Study also notes that the population projections are based on historical growth rates, and with business lands available for development adjacent to the Queen Elizabeth II Highway the actual growth rates may be higher than projected, so the small oversupply is not considered to be an important issue.

Overview of Servicing

[35] The Town's annexation application identified that the Master Servicing Study was completed in November 2005 and is being updated to include the proposed annexation area. The

BOARD ORDER NO. MGB 019/11

FILE: AN09/PONO/T-01

Master Servicing Study shows that there are no unusual constraints to servicing the lands proposed for annexation.

[36] The Master Servicing Study population projections were based on the previous three census years. It is anticipated that the Town will sustain its 1% growth rate and easily achieve a 1.5 to 2% growth rate in the future. However, the infrastructure projections are based on a 1.5% annual growth rate.

[37] The Town has a secure water supply as a member of the North Red Deer River Water Services Commission and has been given three connection points and 1.8 times peak day allocation. In 2011 the Town is allocated 5700 m³/day of water while its current average use is 2300 m³/day. Allocation increases will occur in 2011, 2021 and 2028 to a maximum peak day of 8,389 cubic meters per day, which represents a peak day for over 12,000 people. Water will be supplied to the areas proposed for annexation by extensions of servicing lines and reservoirs on adjacent lands. Area 1 can be serviced by the 4600 m³ from the 39th Avenue and Lucas Heights reservoirs. As development proceeds, a new reservoir and pumping station can be built in the northeast quarter of section 1-43-26 W4 near the Queen Elizabeth II Highway to service the land north of Highway 53. Area 2 is already serviced from the 39 Avenue Reservoir and lines can be extended to service the southern portion of that quarter section. Area 3 will initially be serviced from the 900 m³ Riverside Reservoir and pumping station. When sufficient development is committed and built, the Town will implement the planned 5,000 m³ East Hills Water Reservoir and pumping station. The existing and future reservoir capacity and water supply can support a population of up to 15,000.

[38] The Town's waste water treatment facility, located to the northeast in the County, was upgraded in 2001/2002. Additional upgrades were done in 2007 to protect the facility from a 1 in 100 year flood of the Battle River. In 2010, upgrades to the aeration system to accommodate a design population of 10,000 people were being completed and the facility can be further upgraded to service 15,000 people. Storage ponds can serve a population of 10,000 with land capability to expand. The proposed annexation lands can be serviced by extensions of sanitary sewer trunk mains and lift stations. Area 1 naturally slopes south and eastward, and the lift station on southwest quarter of section 6-43-25 W4 would collect all the effluent and pump into the existing South Trunk main. Area 2 will require a new lift station in the southern portion, while the north portion will gravity feed to the existing South Trunk main. Area 3 will gravity feed to lift station B near the Highway 53 bridge crossing, which pumps to the Riverside Trunk main.

[39] The Master Servicing Study also addresses storm water runoff requirements and examines issues that need to be addressed as development proceeds. There are no unusual concerns to addressing storm water issues in the areas proposed for annexation. The Battle River is the primary physical feature that provides the drainage outlet for storm water runoff in the Town. Area 1 is included in the Northwest Storm Water Management Plan for the Battle River, a

BOARD ORDER NO. MGB 019/11

FILE: AN09/PONO/T-01

tributary and two wetlands, which received Alberta Environment approval in October 2009. The northern portion of Area 2 drains into an existing open channel system, while the southern portion will need to have its own storm water management plan. Storm water management in Area 3 is addressed in the Caledera ASP and will be incorporated into the existing natural drainage that crosses the golf course.

[40] The Master Servicing Study includes an overall transportation concept plan. The Town contends that all three annexation areas have good access and the road systems in the annexation areas can be incorporated into the Town's transportation network. The transportation network will focus on Highways 2A and 53 as the primary roadways. All access points onto Highway 53 and Highway 2A are in accordance with the Alberta Transportation Functional Plans.

Environmental Stewardship

[41] The Town's Municipal Development Plan identifies objectives to protect natural land forms and amenities, particularly the Battle River Valley. Included within Areas 1 and 2 are lands that are environmentally sensitive and have risk of flooding. These lands are intended to be preserved in their natural state since they are a part of the natural drainage course culminating in the river, and have been excluded in the calculations when determining the proposed future growth areas due to their minimal development capability. An environmental assessment was completed in Area 3 for the Caledera ASP. No significant environmental concerns were discovered and there were no impediments to further development.

Consultation

[42] The Town solicited public input in developing the annexation application, and amended the proposal after receiving input from affected landowners. The first public meeting was in April, 2008 for a significantly larger area, which generated substantial opposition. The Town then prepared the 2009 Growth Study and revised its proposal which was presented in meetings with property owners in August and September 2009. Some landowners were of the opinion that the area was still excessive, the proposed 10 year taxation transitional period was insufficient and there was a need for more certainty for existing land uses as well as the mandating of utility connections. Subsequent meetings with landowners in February and March 2010 took place and the Town agreed to support a greater transitional period with conditions as noted in the application. With these changes, all but one of the landowners within the annexation area were in agreement or had no opinion on the proposal.

Fiscal Accountability

[43] The Town prepared a Draft Financial Impact Analysis. The proposed annexation consists of three major areas over six quarter sections. Existing development is primarily farmland with or without commercial and residential improvements. The annexation impact was reviewed in

BOARD ORDER NO. MGB 019/11

FILE: AN09/PONO/T-01

terms of impact on the Town. The 2009 property taxes to the County was \$23,785, with the majority from two commercial properties. The 2010 property tax rates are lower in the Town than in the County, so the property tax revenue that will be generated by the Town from the annexation lands is estimated to be only \$17,497. The analysis reviewed the costs of providing services to the annexation area and concluded that the incremental cost of providing services to current County level would be \$6,684 while the value/cost of providing additional Town services to the annexation lands would \$19,436. It was noted that this was not additional cost but the value of existing town services provided to a larger base. The annexation area represents a loss of 0.17% of the 2009 assessment base of the County, and an increase of 0.57% of the assessment base of the Town.

[44] The Town submits that the expenditures required to provide services to the annexation area could be absorbed by the existing service levels without any significant increase in cost or loss of service to existing Town taxpayers.

Assessment and Taxation

[45] The lands within the annexation are assessed as municipal (exempt), Provincial, farmland with no improvement, farmland with residential, and farmland with commercial. The County has a lower tax rate for residential property, and the Town has lower tax rates for commercial and farmland. Property taxes for the annexation lands will be at the lower of the County or Town rate for a period of 15 years, regardless of change in ownership, unless the parcel is redesignated under the Town Land Use Bylaw or is connected to the Town water or sewer services.

Affected Agencies and Landowners

[46] On July 20, 2010, Ponoka County Council passed a resolution to support the Town's annexation proposal. A letter from the Reeve dated July 27, 2010 states that the County appreciated the efforts the Town made in addressing the concerns of the affected landowners.

[47] Local authorities were contacted, including provincial government agencies, utility companies and the two school districts. Alberta Infrastructure submitted a letter dated October 28, 2010 advising that they had no objection to the proposed annexation. Alberta Transportation (AT) stated by letter dated December 15, 2010 that it had no objections to the proposed annexation and asked that as future growth occurs on the properties the Town respect the AT's future plans for Highways 2A and 53, particularly as it pertains to highway access.

[48] The application submitted by the Town states that only one affected landowner is opposed to the proposed annexation. Kenneth Gordon Quast is the owner of a 3.73 acre parcel in Area 2 on the west side of Highway 2A. The landowner consent form submitted to the Town by Mr. Quast on March 17, 2010 identified that he "Do[es] not agree with the Annexation of my

BOARD ORDER NO. MGB 019/11

FILE: AN09/PONO/T-01

lands". Mr. Quast provided no explanation for his objection. Moreover, Mr. Quast did not make a presentation at the public hearing or provide the MGB with a written submission.

Part IV Public Hearing

[49] As a result of the objections, and in accordance with Section 120(3) of the Act, the MGB held a public hearing on October 29, 2010 to receive information, evidence and argument on the proposed annexation. In accordance with section 122 of the Act, notifications were published in the **Ponoka News**, a local newspaper circulating in the area, the weeks of October 4 and 11, 2010. Hearing notifications were also mailed to the affected landowners on September 17, 2010. The notifications advise that copies of the annexation application filed with the MGB were available for viewing at the Town municipal office during normal business hours and that a map showing the proposed annexation area was available for viewing on the Town's website.

Town Presentation

[50] During the hearing the Town presented an overview of the annexation application and provided additional information.

[51] The Town restated that it was requesting the annexation of approximately 396 hectares (978 acres/5.1 quarter sections) of land from the County. The Town declared that this annexation will provide it with enough land inventory to allow it to effectively grow to a population of approximately 12,922 by 2059. The Town explained that the growth projection was based on a historical five year average of 6.8% or an annual growth rate of 1.3%. The Town provided a comparison of the 2001-2006 growth rate between it and other similar municipalities in Central Alberta. During this period the Town grew by 3.8% while Innisfail grew by 6.8%, Blackfalds grew by 38.8% and Lacombe grew by 13.5%. The Town argues that immediate access and exposure to the Queen Elizabeth II Highway contributed to the growth of these other municipalities.

[52] The Town submitted that it considered the following factors in selecting the lands for the proposed annexation: strategic location, contiguous unfragmented land, respect of the natural environment and municipal servicing. However, a major objective of the proposed annexation is to obtain access to land to the west of its current boundary with exposure to the Queen Elizabeth II Highway. The 211 hectares (522 acres/3.2 quarter sections) to the west of the Town that make up Area 1 are intended for business and commercial uses. The 57 hectares (142 acres/0.9 quarter section) south of the existing Town boundary that make up Area 2 are intended for mixed land uses and will allow the future expansion of the Stampede facility. The 63 hectares (157 acre/1.0 quarter section) to the east of the Town that make up Area 3 will accommodate residential uses. The Town confirmed that all the lands being proposed for annexation can be readily serviced and are logical extensions of the Town's present growth patterns. The Town also emphasized the

BOARD ORDER NO. MGB 019/11

FILE: AN09/PONO/T-01

importance of including all the lands within Area 1 in this annexation in order to ensure comprehensive planning.

[53] The Town highlighted that it had conducted an extensive public consultation process. The original annexation area proposed during the April 2008 public meeting was much larger than the annexation area now being requested by the Town and was met with significant opposition. As a result, the Town retained a consultant to undertake a Growth Study and revised its annexation area. Ongoing discussions with affected landowners and other public meetings resulted in: the taxation and assessment transition period being increased from 10 to 15 years. In addition, the Town agreed: that for a 15 year period residents in the annexation area will pay the lower of the Town or County rate for normal residential garbage service, the existing agricultural operations will continue and existing land uses grandfathered, permits for agricultural buildings will only be required in accordance with the Intermunicipal Development Agreement, and snow removal services will be kept at the same level as existed prior to annexation. Moreover, the Town and the County have discussed the possibility of entering into an intermunicipal development plan.

[54] The Town stated that it has positioned itself to handle the expansion of its infrastructure to service the proposed annexation areas. The Municipal Servicing Study examined the adjacent fringe areas for serviceability. The Town has a secured water supply as a member of the North Red Deer River Water Commission. The existing and future reservoir capacity and water supply will be able to support a population up to 15, 000. The existing water distribution infrastructure system can be extended to provide service to the annexation area. Recent upgrades to the wastewater treatment system are capable of handling a population of 14,531 and all three areas can be connected to the existing sanitary service system. Accommodation for stormwater management has been considered for the proposed annexation areas. In particular, the Town has a Master Storm Water Management Plan in place to address issues in the area adjacent to the Queen Elizabeth II Highway. All Highway 53 and 2A access points are in accordance with AT Function Plans.

County Presentation

[55] The County expressed support for the application provided the transitional provisions as agreed to with the landowners were incorporated.

[56] During the negotiation process the County expressed concerns regarding the utility franchise fees. As a result, the Town agreed to exempt the landowners in the annexation area from utility franchise fees for 15 years if the property is not redesignated under the Town's Land Use Bylaw. Documentation provided by the Town at the hearing explained that the Town is an electrical distribution facility owner and that its service area is equivalent to the municipal boundary. For the Town to serve customers in the annexed area there would have to be a physical transfer of the electric infrastructure from FortisAlberta to the Town. However, the

BOARD ORDER NO. MGB 019/11

FILE: AN09/PONO/T-01

Town could consider entering into an agreement that would allow FortisAlberta to continue operating in the annexed portion of its service area. The term of the agreement could be set to enable the pursuit of the physical transfer at a future date. The Town indicated that it would prefer to develop an agreement with FortisAlberta that would allow the annexed customers to remain with their current electrical suppliers with the physical transfer of the infrastructure to occur at a later date. The Town estimated that the waiving of the electrical utility franchise fee for the estimated 20 properties in the annexation area would result in a loss of only \$500.00 per year.

Landowner/Public Submissions

[57] A summary of the correspondence as well as the submissions received by the MGB at the October 29, 2010 hearing is provided below.

Ponoka Stampede & Exhibition Association

[58] Sherry Gummow identified that she was the President of the Ponoka Agricultural Society and business owner in the Ponoka area.

[59] Ms. Gummow indicated that the Ponoka Agricultural Society and the Town have a good working relationship. There had been some discussions regarding the expansion of the stampede facility as well as the possibility of developing an agricultural events centre. Because of this, Ms. Gummow stated the Ponoka Agricultural Society was in favour of the annexation in Area 2.

[60] Ms. Gummow stated that as a resident of the County she enjoyed using the Town's recreation facilities and other infrastructure. As a business owner, she explained that it is vital for the Town to grow so that retail businesses can remain viable within the community. Therefore, she was in support of the annexation

744174 Alberta Ltd. (Operating as the Caledera Residential Development)

[61] Dr. Eric Schmidt, representing 744174 Alberta Ltd. (operating as Caledera Residential Development), made a presentation in support of the annexation proposal. Dr. Schmidt explained that the company owns lands in Area 3 of the proposed annexation. He stated that the Caledera project will be targeted to professionals who work in the Ponoka area, for example at the hospital, but didn't live in Ponoka because the kind of housing in the area didn't fit. The Caledera project is being designed as an integrated community that will bring 1,000 people into Ponoka as the development proceeds. He stated that in order to sustain its culture and lifestyle, the Town needs to grow and that the annexation will provide additional business and commercial land needed to accommodate this growth.

BOARD ORDER NO. MGB 019/11

FILE: AN09/PONO/T-01

Darren Galan

[62] Darren Galan, speaking on behalf of the Ponoka and District Chamber of Commerce (Chamber), identified that the Chamber is in support of the proposed annexation. He stressed the need for new land to accommodate new and expanded businesses. Mr. Galan believes that this would keep the community healthy by creating new jobs and bringing in more residents.

Mary Saunders

[63] Mary Saunders has been a realtor in the area for 22 years and spoke in favour of the annexation. She indicated that first impressions are important and stated that development in the area between the Queen Elizabeth II Highway and Highway 2A would make the Town look more prosperous. Ms. Saunders believes that more businesses and industrial development would be beneficial. She stated she has rental property in other small communities and that there is a lot of positive feeling in Ponoka.

Drew Dougherty

[64] Drew Dougherty, a resident of the Town, spoke in support of the proposed annexation. Mr. Dougherty stated there are weekly livestock auctions in the middle of Town at the Stampede grounds. Mr. Dougherty contends that the residents are familiar with the sights and smells associated with livestock so the annexation of other agricultural operations should not be a concern to the residents.

Grant Jorgenson

[65] Grant Jorgenson is a resident of the County as well as member and representative of the Economic Development Board of Ponoka. Mr. Jorgenson advised that the Economic Development Board of Ponoka fully supports the proposed annexation. Mr. Jorgenson stated that one of the key elements in attracting new businesses is proximity to the Queen Elizabeth II Highway corridor. He indicated the annexation of the lands in Area 1 was vital to the future growth and development of the Town. He believes that proposed annexation will be a positive step for the community.

Norma and Leslie Lloyd

[66] Correspondence received by the MGB from Norma and Leslie Lloyd expressed opposition to the proposed annexation. They believe the Town is requesting to annex too much land, some of which is good agricultural land, and that the annexation period is too long. The correspondence identifies that lands annexed by the Town in the past have not been developed as yet. The Lloyds assert that interested developers wishing to purchase land should deal directly with the landowner. The Lloyds did not make a presentation to the MGB at the hearing.

BOARD ORDER NO. MGB 019/11

FILE: AN09/PONO/T-01

Ed and Pat Zukowski

[67] Correspondence received by the MGB from Ed and Pat Zukowski on September 17, 2009 identifies that they are opposed to the proposed annexation. Ed and Pat Zukowski are the owners of land to the north of Area 3 within the Town boundary, which was the subject of the Country Hills Estates ASP adopted in 1992. Ed and Pat Zukowski advised that their property is already in the Town and has been approved for residential and some commercial development. They questioned why their land (144 acres comprising a portion of NE ¼ 32 42 25 W4) had been deducted from the total available developable lands in the Growth Study. They stated that they had not been approached by any developers and wondered why the Town would want to annex more land. The landowners did not submit further correspondence and did not appear at the public hearing to provide additional information.

Nick Kohlman

[68] Correspondence and a presentation at the hearing confirmed that Nick Kohlman is opposed to the annexation of Area 1. Mr. Kohlman indicated that his property is located in the County between Area 1 and the current Town boundary. Although he does not oppose the annexation of Areas 2 and 3, he is concerned there is the potential that the proposed annexation of Area 1 will affect his land. In particular, he alleges that the Town will drain storm water from Area 1 through his property without his permission or agreement. Mr. Kohlman also contends that the proposed annexation would have an adverse affect on his property value resulting from the possibility that he would be required to contribute to the costs associated with the of construction of water and sewer lines being extended from the Town to the industrial lands in Area 1.

[69] Mr. Kohlman argued the amount of land being requested by the Town is excessive. Using the July 2009 Growth Study he submitted that:

- The 2005 Master Servicing Study estimated that with a 1.5% growth rate, it would be 2046 before development will be started in the area outside the Town's current boundaries. Mr. Kohlman stated that the Town's growth rate has been less than 1% in at least the last 20 years.
- The 2009 Growth Study claimed the existence of 371.8 acres of developed industrial land, which, divided by the 2006 population resulted in a growth requirement of 57 acres per 1,000 population growth. Mr. Kohlman stated this figure is not correct in that it includes the northeast quarter of 36-42-25-W4 as developed industrial land despite the undevelopable flood plain. He argued that this inflated the amount of developed industrial land while it reduced the amount of developable land. As a result, Mr. Kohlman stated that the Town has over 50 years of industrial land within its present boundary.

BOARD ORDER NO. MGB 019/11

FILE: AN09/PONO/T-01

- If Area 2 is annexed, Mr. Kohlman indicated this would provide an additional 100 acres of industrial/commercial land for the Town.
- The Country Hills Estates, immediately north of Area 3, is undeveloped and contains 144 acres of residential and commercial land which has been excluded from the Town's developable land. The Town claims that this is due to a lack of interest in development from the land owners and servicing difficulties. Mr. Kohlman contends that the letter from Ed and Pat Zukowski refuted both of these claims
- The claims that Lacombe has better access to the Queen Elizabeth II Highway resulting in a major growth advantage is a distortion of the facts. Mr. Kohlman argued that the Town has more development along Queen Elizabeth II Highway than Lacombe and that Lacombe's growth is to the east of the municipality away from Queen Elizabeth II Highway where they can provide competitively priced industrial land. Mr. Kohlman contends that extending Town services out to Queen Elizabeth II Highway will render the price of that land prohibitively high.
- Using the 2009 Growth Study to determine land requirements, the Town is proposing to annex sufficient industrial land for a population increase of over 20,000 people over the projection of 13,182 by 2061. Mr. Kohlman remarked that some of the land in the proposed annexation area is very good farm land and stated that it is wrong to annex such land more than 50 years before it is needed. Mr. Kohlman contends that the Town has good developable land that was annexed in 1959 that is still not developed. He argued that since there is no demand, the annexation of more land will not solve the Town's problem.
- The 2009 Growth Study stated that the lands identified for long term growth of the Town will allow for new development to remain contiguous with existing development and allow for a logical extension of the services thereby reducing any "leapfrogging" and associated costs of extending services. Mr. Kohlman asserts that in fact, the Town is doing the exact opposite, requiring extensive servicing costs.

[70] In summary, Mr. Kohlman stated that the Growth Study is based on false and misleading information and requested that the application be sent back to the drawing board. Moreover, Mr. Kohlman stated that the Town has a reputation of being a closed shop.

Lil Sommer

[71] Lil Sommer owns residential lots in a new subdivision within the Town which have been on the market for some time, due to the economic downturn. She noted that there are lands within the Town that are already subdivided and serviced which should be used before annexing any more residential land.

BOARD ORDER NO. MGB 019/11

FILE: AN09/PONO/T-01

Others

[72] Many of the written submissions received by the MGB predated the notice of intent to annex and the annexation application submitted by the Town. In summary, this correspondence identified that the individuals objected to their land being annexed by the Town. Most of the correspondence either did not provide reasons for the objection or cited reasons that have already been identified. None of these individuals made a presentation to the MGB at the hearing.

Response of the Town

[73] The Town stated that the objections raised by Mr. Kohlman are based on the first draft of the Growth Study that was released in July 2009. The Town confirmed that the first draft assumed that the Walberger quarter was developed. The Town stated that the density of the Country Hills Estates ASP is included in the final version of the 2010 Growth Study. This information was subsequently corrected in the final version. The Town informed the MGB that the final draft of the Growth Study, dated August 2010, has been amended to incorporate the required changes.

[74] The Town indicated that the population projections in the 2010 Growth Study were developed by considering the growth experienced by the Town during the thirty year period from 1976 to 2006. Moreover, the population projections consider the development permit spikes that happened within the Town since the last census. The Town contends that the use of the medium population projection (Projection #2) is reasonable.

[75] The Town agrees that no specific study has been done to support the references to advantages associated with exposure to Queen Elizabeth II Highway by the City of Lacombe. However the Town's opinion is that having land adjacent to this important transportation corridor will benefit business development and growth.

[76] With respect to the potential for storm water drainage across Mr. Kohlman's property, the Town reported that the water management plan approved by Alberta Environment on September 28, 2009 under the *Water Management Act* required storm runoff to be at pre-development rates with 24 hour retention. The Town contends there would be zero impact on Mr. Kohlman's property as a result of future development.

[77] The Town affirmed that it did not plan to extend water and wastewater services through Mr. Kohlman's property.

[78] The Town disagrees with the comment that it is a closed shop and expanded on its economic development efforts in order to highlight the activity in the retail and industrial space markets. The Town indicated that five or six years ago it had over 25,000 square feet of vacant

BOARD ORDER NO. MGB 019/11

FILE: AN09/PONO/T-01

retail space. This excess was caused by a downturn in the agricultural sector which was hit particularly hard by drought conditions as well as issues arising from the discovery of Bovine Spongiform Encephalopathy in Canadian cattle. However, since that time the local economy has improved and the Town now estimates that it has only 1,000 square feet of vacant retail space available. The Town also explained that it has taken steps to increase its industrial sector. Approximately five years ago the Town developed 40 acres of industrial land, fully serviced with pavement and gutter. The Town explained that the two remaining parcels in its northeast industrial area had been sold the previous week. The purchaser will build a 6,000 square foot building with 15 employees. This leaves only one parcel of serviced industrial land in the Southwest industrial park available for sale. The Town noted that the area it developed consisted of two to three acre parcels; however, the Town gets inquiries for larger parcels up to 80 acres, which are not available. The Town argues that additional land is key to the growth of the municipality. Moreover, the Town remarked that discussions with businesses that have relocated into Ponoka from other municipalities have identified that the Town to be very open and inviting.

County Response

[79] The County commented that the people in the area all work and live together. When the Town first approached the County, the County's response was that if the affected landowners did not have an objection, neither did the County. The Town has worked hard to satisfy the concerns of all but one affected landowner. Although this application is the minimum of what the Town would like, the County supports the proposed annexation. Aside from developable land, it takes an attitude to attract business.

Part V MGB Recommendation

[80] After reviewing the submitted documentation and hearing from the Town, the County and the affected landowners, the MGB finds the annexation application to be reasonable. Therefore, the MGB recommends the annexation of the land identified in the Town's annexation application with an effective date of January 1, 2011. The MGB also recommends the approval of the conditions requested in the annexation application.

Part VI Reasons

Municipal Growth

[81] The MGB finds that the Growth Projection #2 as provided by the Town's 2010 Growth Study is reasonable. This projection considers the historical growth patterns of the Town over the past 30 years and has been adjusted to account for the higher annual growth rate observed by the Town in 2006 and 2007 as well as the lower annual growth rate expected for the period from 2008 to 2011 inclusive. These projections are below those of the Master Servicing Study. While it was argued that a growth rate of 1.0% should be used, the MGB notes that the Master

BOARD ORDER NO. MGB 019/11

FILE: AN09/PONO/T-01

Servicing Study identified that the Town could easily achieve a 1.5% to 2.0% growth rate in the near future.

[82] The MGB accepts that the amount of residential land being requested by the Town is reasonable. Residential density has been set at 4 units per acre (10 units per hectare) with an average household size of 2.5 people per unit. Although the MGB considers the number of units per acre to be somewhat low, the MGB acknowledges that this density level is consistent with those approved by the Town in other residential developments and conforms with the assumptions of the Master Servicing Study. The MGB recognizes that a requirement for higher residential density levels has not yet been established by the Red Deer Land-Use Framework Region. A concern was expressed during the hearing that the Growth Study did not include the 144 acres within the Country Hills Estate to be vacant developable land. The MGB accepts the submission by the Town that this error was in the first draft (2009) Growth Study and was subsequently corrected in the 2010 Growth Study that was provided to the MGB as part of the annexation application. A submission during the hearing identified that there are a number of vacant residential properties currently available for sale within the Town. The MGB understands that the annexation will increase the amount of land within the Town's jurisdiction, allowing the Town to efficiently plan for the future. Waiting until the development of all the vacant developable residential land could limit competition and may unduly affect the Town's housing market as well as the Town's future growth.

[83] The MGB finds the amount of commercial, industrial and institutional land requested by the Town to be reasonable. The 2010 Growth Study identifies that a land inventory was undertaken to determine the amount of vacant developable and developed lands for each of the land use category types. A concern was expressed regarding the amount of industrial developed land inventory inflating the industrial land requirement to 57 acres per 1,000 population growth. The Town submitted that this was an oversight in the first draft (2009) of the Growth Study that was corrected in the 2010 Growth Study.

[84] The MGB accepts the amount of land requested to accommodate other public uses and lands not available for development, since no concerns were raised in these regards.

[85] The MGB finds that growth to the west of the current Town boundary (Area 1) is reasonable. The MGB accepts that this area will provide the Town with the access to the Queen Elizabeth II Highway corridor and is being proposed for future commercial and business uses by the Town. This is consistent with the goals and objectives as stated in the Town's MDP. The MGB accepts the Town's position that exposure to the Queen Elizabeth II Highway is important for the continued growth objectives of the Town. While there were no detailed studies proving the connection between highway exposure and economic growth, the observations related to growth of other comparable municipalities appear to support the Town's position. The MGB appreciates that annexation into Area 1 could allow the extension of the South West Industrial

BOARD ORDER NO. MGB 019/11

FILE: AN09/PONO/T-01

Park and concludes that this may provide the Town with some flexibility for planning in the future.

[86] The MGB accepts that the Ponoka Stampede is an important economic driver for the community and therefore considers the annexation of the lands south of the Town into Area 2 to be reasonable. The annexation application contained letters from both the Ponoka Ag Event Centre Society and the Ponoka Agricultural Society in support of the proposed annexation and heard that these organizations may be considering expansion in the future. The institutional and mixed uses being proposed for Area 2 could allow this type of expansion. The MGB notes that the only affected landowner opposed to the proposed annexation application resides in this area. Although the consent form contained in the Town's annexation application identifies the affected landowner does not agree with the annexation of his property, it does not provide any reasons. The affected landowner did not make a presentation at the hearing nor did he provide any additional correspondence to the MGB explaining his position. The MGB notes this small acreage is located in the middle of the proposed annexation area. Since there was no evidence submitted, the MGB cannot provide any comments on this objection. During the hearing a concern was expressed regarding the ownership of some of the property within Area 2. The MGB accepts the Town's affirmation that the confusion regarding the ownership of the land was in the first draft (2009) of the Growth Study and was subsequently addressed in the 2010 Growth Study. The MGB notes that the annexation application submitted by the Town contains a signed consent form from the landowner in question identifying that he is in favour of the proposed annexation as well as a copy of the Land Title Certificate for the property.

[87] The Caledera ASP, located east of the existing Town boundary, in Area 3 was adopted in 2009 with the specific intent to be annexed into the Town. The MGB expects that annexation concerns would have been raised in the public hearing prior to the adoption of this statutory plan. Therefore, the MGB considers the annexation of this area to be appropriate.

[88] The MGB heard concerns that the Town allows "leap frog" development. The MGB understands that the timing and location of development within a municipality depends on a number of factors; however these complex factors are best dealt with at the local level. The MGB acknowledges that the Town tried hard to accommodate the County, the affected landowners and the public in identifying a somewhat unorthodox annexation area. However, the MGB is convinced that the Town annexation boundaries have been adjusted to accommodate landowner concerns. In light of this, the MGB finds that the Town has clearly demonstrated that the proposed annexation is a logical extension of the existing Town boundary.

Servicing

[89] The MGB finds that the Town can provide the required municipal services to the proposed annexation area. The MGB accepts that by 2028 the Town will have enough water allocation from the North Red Deer Water Services Commission for over 12, 000 people, the

BOARD ORDER NO. MGB 019/11

FILE: AN09/PONO/T-01

current and planned water storage facilities will accommodate over 15, 000 people and that water lines can be extended from the existing Town distribution system to service the proposed annexation area. The MGB understands that wastewater from the proposed annexation area can be connected to the Town's existing system. The MGB has no reason to believe the Town will be extending water and wastewater lines through Mr. Kohlman's property to provide services to Area 1.

[90] The MGB appreciates the transportation network in the annexation area can be easily incorporated into the Town's existing system and that access points to Highways 53 and 2A will conform with the AT functional plans. With regard to stormwater management, the MGB relies on the Master Servicing Study, the submission of the Town's engineer as well as the water management plan approved by Alberta Environment to conclude that the Town can provide this service. Moreover, the MGB finds it reasonable to accept the Water Management Plan will address drainage issues that may result from any future development of the lands to the west of the Kohlman property.

Public/Landowner/Interagency Consultation

[91] The MGB is pleased with the public consultation process undertaken by the Town. The Town's application identifies that the consultation process started on April 14, 2008 and took over 28 months to complete. During this period the Town conducted two public meetings as well as a number of individual and group meetings with landowners in the proposed annexation area. The Town did not submit its notice of intent to annex until August 19, 2009.

[92] It is noted that many of the written objections received by the MGB predated the notice of intent to annex submitted by the Town. The amount of land identified in the Town's notice of intent to annex was reduced in the annexation application submitted to the MGB on September 1, 2010. The MGB appreciates that the annexation area identified in a notice of intent may be altered as the result of the consultation process as well as the negotiations with the other municipality. Since only one landowner within the annexation area identified by the application was still in opposition to the proposed annexation, the MGB concludes that this demonstrates that the Town seriously considered the submissions of the landowners that objected to the proposed annexation and did not include them as part of the annexation area that was finally requested by the Town.

[93] The MGB understands that during the consultation process the Town agreed to extend a number of concessions to the landowners in the affected area. The MGB heard that the Town agreed to extend the assessment and taxation transition period from 10 to 15 years. The annexation application identifies that the transition period is to stay in effect until such time as the property is redesignated at the request of or on behalf of the landowner or until the property is connected to the Town water or wastewater services. The MGB finds that this transition period condition is certain, unambiguous, enforceable and time specific and has therefore included this

BOARD ORDER NO. MGB 019/11

FILE: AN09/PONO/T-01

condition as part of the recommended Order in Council. Moreover, the 15 year transition period is within the time frame generally found acceptable to the MGB.

[94] The Town also agreed to ensure the continuation of agricultural operations, grandfathering existing land uses, allowing animals to be kept on properties, use of the Town's solid waste transfer station at reduced rates, waste management and maintaining the existing snow removal level. The MGB finds these matters are clearly local in nature. The Act gives municipalities the autonomy to deal with a wide range of matters at the local level. Therefore, the MGB is reluctant to recommend a provincial directive in the form of a condition in an Order in Council that will reduce these powers or recommend a condition that will require the LGC to become involved in the day to day activity of a municipality. While the MGB has no power to enforce the agreements between the Town and affected landowners, the MGB has no reason to believe that the Town will not fulfill its obligations.

[95] During the hearing the MGB was informed that the County's consent was subject to the Town waiving the utility franchise fees for the residents in the annexation area for a period of fifteen years. In previous annexations the MGB has been reluctant to consider this type of request because the utility providers have not been consulted and the impact on these third party utility providers is unknown. In the interest of natural justice, the MGB considers it unfair to recommend a condition in an annexation order that would burden the utility providers without their having an opportunity to make a submission to the MGB. However, in this case the Town is the electrical distributor. Evidence from the Town identifies there are a number of options, including the Town's Electrical Department entering into an agreement with the existing service provider. Since the Town is the electrical distributor, the MGB finds that the Town does have control of the electrical franchise fee process. As such, the MGB considers the waiving of the electrical franchise fee to be a local matter and trusts the Town will fulfill its obligation. As this is a local matter, the MGB will not include this as a condition in an Order in Council. The MGB received no oral or written submissions regarding the natural gas franchise fees from either of the municipalities or the natural gas providers; therefore, the MGB will not provide comment.

[96] The MGB agrees the proposed annexation will have a minimal impact on other institutions. Neither of the school boards responded to the Town's notice of intent to annex or the MGB's notice of hearing. Correspondence from AT identifies that AT has no objection to the proposed annexation.

[97] The MGB finds that the submission by the Town during the hearing demonstrates that a sincere effort was made to revise the 2010 Growth Study to address any inaccuracies that may have been in the 2009 draft. The MGB notes that the 2010 Growth Study was included as part of the annexation application. The MGB required that the entire application be made available for viewing in the Town office during normal business hours from September 17, 2010, when the hearing notices were sent by the MGB to all affected landowners and interested parties, until October 29, 2010.

BOARD ORDER NO. MGB 019/11

FILE: AN09/PONO/T-01

Intermunicipal cooperation

[98] The MGB finds that there was a significant amount of intermunicipal cooperation between the Town and the County. Correspondence within the annexation application and submissions at the hearing confirms the County supports the proposed annexation. The Intermunicipal Agreement on Development in the Urban Fringe contemplates the pattern of future land use around the Town for both municipalities. The MGB accepts that this document provides a framework that allows the Town and the County to resolve potential land use and development differences at the local level. Although not a statutory plan, the MGB notes that this document contains many of the elements of an intermunicipal development plan and clearly demonstrates the level of collaboration envisioned by the Act and the Provincial Land Use Policies. Moreover, the MGB was encouraged to hear that there have been some discussions between the Town and the County regarding the development of an intermunicipal development plan.

Financial

[99] The MGB finds the proposed annexation will have minimal financial impact on either of the municipalities. The Draft Financial Impact Analysis contained in the Town's application identifies that the annexation would result in the Town's assessment base increasing by 0.57% while the County's assessment base would decrease by 0.17%. The resulting loss in municipal tax revenue for the County would be \$23,785 while the Town's municipal tax revenue would increase by only \$17,472 due to the Town's lower municipal tax rate. The MGB finds these amounts to be negligible given the overall size of the budgets of both municipalities and can be efficiently and effectively incorporated into the existing administrative functions of the Town. In light of this, the MGB agrees that no revenue sharing or compensation is warranted. Furthermore, the MGB finds that the minimal tax revenue gain by the Town cannot be construed in any way as simply a tax initiative.

Environmental

[100] The MGB acknowledges the need to protect the environment. The MGB accepts that the Town's policies preserve environmentally sensitive and flood-prone areas from development and require environmental assessments to be conducted as part of the planning process.

[101] The MGB finds that this annexation will not take farmland out of production prematurely. The MGB accepts that the Town will accommodate the farming operations contained within the proposed annexation area. The Town has agreed that the landowners in the proposed annexation area will continue to enjoy the existing land uses.

BOARD ORDER NO. MGB 019/11

FILE: AN09/PONO/T-01

Summary

[102] In conclusion, the MGB finds that the amount of land identified in the Town's annexation application is reasonable and that the joint submission by the Town and the County demonstrates a high level of collaboration and cooperation. The MGB is satisfied that the Town has developed an annexation request that not only responds to a majority of the concerns brought forward during the landowner and public consultation process but also promotes the future growth objectives of the Town. Therefore, the MGB recommends approval of the proposed annexation as requested with an effective date of January 1, 2011.