

BOARD ORDER NO. MGB 034/10

FILE: AN06/STRA/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 Strathmore, in the Province of Alberta, to annex certain territory lying immediately adjacent thereto and thereby its separation from Wheatland County.

BEFORE:

Members:

L. Patrick, Presiding Officer
J. Acker, Member
W. Gagnon, Member

MGB Staff:

R. Duncan, Case Manager
L. Neeland, Assistant Case Manager

SUMMARY

After careful examination of the submissions from the Town of Strathmore (Town), Wheatland 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, 2010, the land described in Appendix A and shown on the sketch in Appendix B is separated from Wheatland County and annexed to the Town of Strathmore,
- (b) any taxes owing to Wheatland County at the end of December 31, 2009 in respect of the annexed lands are transferred to and become payable to the Town of Strathmore together with any lawful penalties and costs levied in respect of those taxes, and the Town of Strathmore upon collecting those taxes, penalties and costs must pay them to Wheatland County,
- (c) the assessor for Wheatland County must assess the annexed land and the assessable improvements to it for the purposes of taxation in 2010,

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- (d) taxes payable in 2010 in respect of the annexed land and any assessable improvements to it are to be paid to Wheatland County and Wheatland County must remit those taxes to the Town of Strathmore, and
- (e) the assessor for the Town of Strathmore must assess, for the purposes of taxation in 2011 and subsequent years, the annexed land and the assessable improvements to it,

and makes the Order in Appendix C.

Dated at the City of Edmonton, in the Province of Alberta, 16th day of March 2010.

MUNICIPAL GOVERNMENT BOARD

(SGD.) L. Patrick, Presiding Officer

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APPENDIX A

DETAILED DESCRIPTION OF THE LANDS SEPARATED FROM WHEATLAND COUNTY AND ANNEXED TO THE TOWN OF STRATHMORE

THE SOUTH HALF OF SECTION TWENTY-SEVEN (27), RANGE TWENTY-FOUR (24), TOWNSHIP TWENTY-FIVE (25) WEST OF THE FOURTH MERIDIAN.

THE SOUTH HALF OF SECTION TWENTY-SIX (26), RANGE TWENTY-FOUR (24), TOWNSHIP TWENTY-FIVE (25) WEST OF THE FOURTH MERIDIAN.

THE SOUTHWEST QUARTER OF SECTION TWENTY-FIVE (25), RANGE TWENTY-FOUR (24), TOWNSHIP TWENTY-FIVE (25) WEST OF THE FOURTH MERIDIAN.

THE WEST HALF OF SECTION TWENTY-FOUR (24), RANGE TWENTY-FOUR (24), TOWNSHIP TWENTY-FIVE (25) WEST OF THE FOURTH MERIDIAN.

THE WEST HALF OF SECTION THIRTEEN (13), RANGE TWENTY-FOUR (24), TOWNSHIP TWENTY-FIVE (25) WEST OF THE FOURTH MERIDIAN.

ALL THAT PORTION OF THE EAST HALF OF SECTION THIRTEEN (13), RANGE TWENTY-FOUR (24), TOWNSHIP TWENTY-FIVE (25) WEST OF THE FOURTH MERIDIAN LYING WEST OF THE WEST BOUNDARY OF PLAN IRR 67 O AND INCLUDING ALL THAT PORTION OF SAID HALF SECTION LYING SOUTH OF THE NORTH BOUNDARY OF PLAN 24HZ.

ALL THAT PORTION OF THE NORTHWEST QUARTER OF SECTION TWELVE (12), RANGE TWENTY-FOUR (24), TOWNSHIP TWENTY-FIVE (25) WEST OF THE FOURTH MERIDIAN NOT WITHIN THE TOWN OF STRATHMORE.

ALL THAT PORTION OF THE NORTHEAST QUARTER OF SECTION TWELVE (12), RANGE TWENTY-FOUR (24), TOWNSHIP TWENTY-FIVE (25) WEST OF THE FOURTH MERIDIAN INCLUDING THE NORTH-SOUTH ROAD ALLOWANCE ADJACENT TO THE EAST SIDE OF SAID QUARTER SECTION.

ALL THAT PORTION OF THE NORTHWEST QUARTER OF SECTION TEN (10), RANGE TWENTY-FOUR (24), TOWNSHIP TWENTY-FIVE (25) WEST OF THE FOURTH MERIDIAN INCLUDING ALL THAT PORTION OF THE NORTH-SOUTH ROAD ALLOWANCE ADJACENT TO THE WEST SIDE OF SAID QUARTER SECTION AND INCLUDING ALL THAT PORTION OF SAID QUARTER SECTION LYING EAST OF THE PRODUCTION NORTH OF THE WEST BOUNDARY OF SAID ROAD ALLOWANCE AND EXCLUDING PLAN IRR 321 OT.

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ALL THAT PORTION OF THE SOUTHWEST QUARTER OF SECTION FIFTEEN (15), TOWNSHIP TWENTY FOUR (24), RANGE TWENTY-FIVE (25) WEST OF THE FOURTH MERIDIAN NOT WITHIN THE TOWN OF STRATHMORE AND INCLUDING ALL THAT PORTION OF SAID QUARTER SECTION LYING EAST OF THE WEST BOUNDARY OF THE NORTH-SOUTH ROAD ALLOWANCE ON THE WEST SIDE OF SAID QUARTER SECTION.

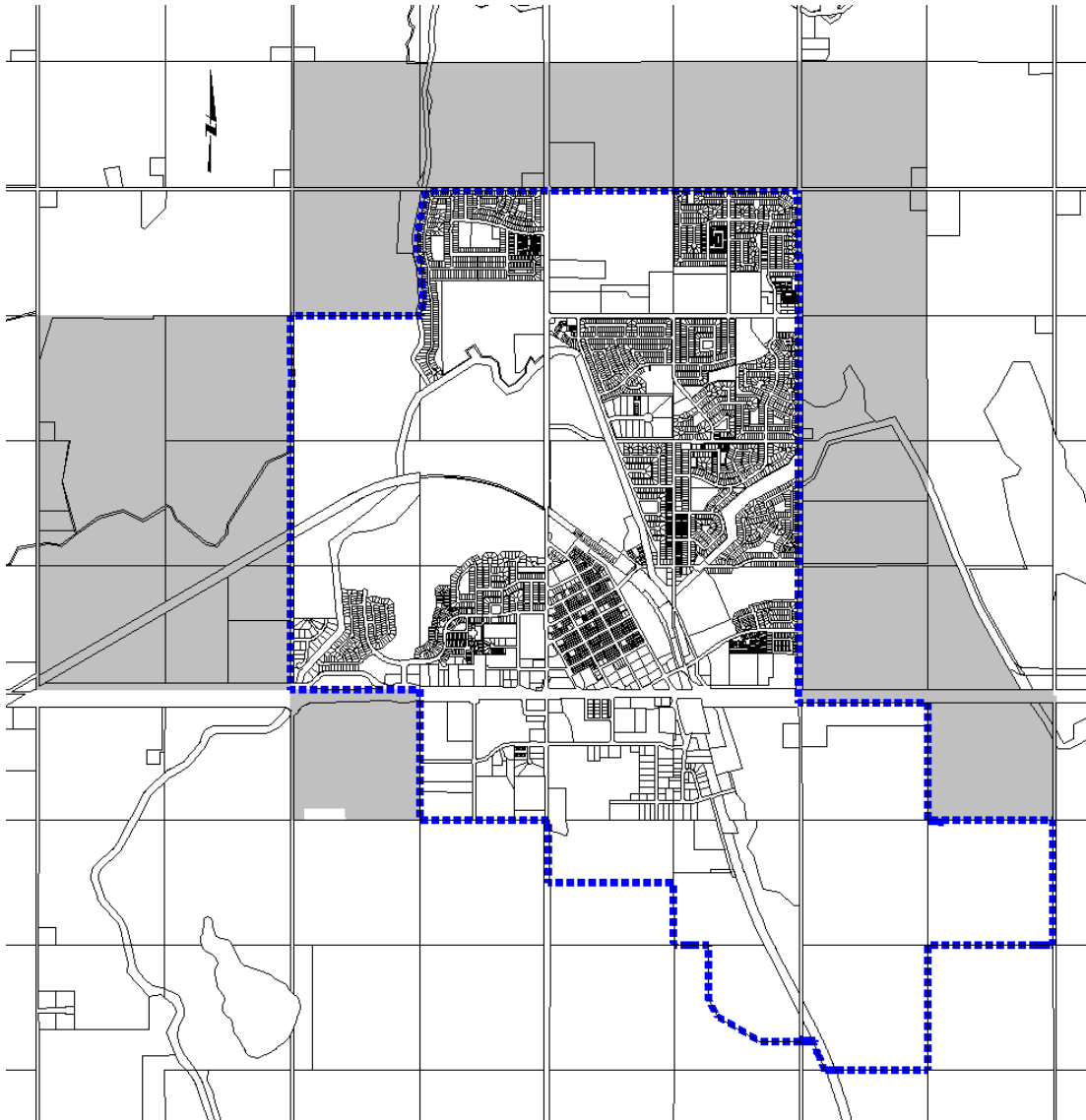
ALL THAT PORTION OF SECTION SIXTEEN (16), RANGE TWENTY-FOUR (24), TOWNSHIP TWENTY-FIVE (25) WEST OF THE FOURTH MERIDIAN NORTH OF THE NORTH BOUNDARY OF PLAN 4974 HX AND EXCLUDING THAT PORTION OF THE NORTH-SOUTH ROAD ALLOWANCE ADJACENT TO THE WEST SIDE OF SAID SECTION LYING SOUTH OF THE PRODUCTION WEST OF THE NORTH BOUNDARY OF PLAN 4974 HX.

ALL THAT PORTION OF THE SOUTH HALF OF SECTION TWENTY-ONE (21), RANGE TWENTY-FOUR (24), TOWNSHIP TWENTY-FIVE (25) WEST OF THE FOURTH MERIDIAN NOT WITHIN THE TOWN OF STRATHMORE.

ALL INTERVENING ROAD ALLOWANCES, ROAD PLANS, HIGHWAY RIGHTS-OF-WAY PLANS, RAILWAY RIGHTS-OF-WAY PLANS AND UTILITY RIGHTS-OF-WAY PLANS.

APPENDIX B

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



Legend



Existing Town of Strathmore Boundary



Annexation Area

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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 2010 and in each subsequent year up to and including 2039, the annexed land and the assessable improvements to it
 - (a) must be assessed by the Town of Strathmore on the same basis as if they had remained in Wheatland County, and
 - (b) must be taxed by the Town of Strathmore 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 Wheatland County for property of the same assessment class.
- 3 Where in any taxation year a portion of the annexed land
 - (a) becomes a new parcel of land created as a result of subdivision or separation of title by registered plan of subdivision or by instrument or any other method that occurs at the request of, or on behalf of, the landowner, or
 - (b) is redesignated at the request of, or on behalf of the landowner under the Town of Strathmore Land Use Bylaw,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, the annexed land or portion and the assessable improvements to it must be assessed and taxed for the purposes of property taxes in the same manner as other property of the same assessment class in the Town of Strathmore is assessed and taxed.
- 5 The Town of Strathmore shall pay to Wheatland County the following:
 - (a) \$101,012.25 on or before June 30, 2010,
 - (b) \$80,809.80 on or before June 30, 2011,
 - (c) \$60,607.35 on or before June 30, 2012,
 - (d) \$40,404.90 on or before June 30, 2013, and
 - (e) \$20,202.45 on or before June 30, 2014.

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EXECUTIVE SUMMARY

On December 15, 2008, the Municipal Government Board (MGB) received a request from the Town of Strathmore (Town) to annex 18.5 quarter sections of land from Wheatland County (County). The documentation provided by the Town stated that the proposed annexation would provide the residential, commercial and industrial land inventory needed for the Town to grow from its current population of approximately 11,000 people to a population of over 50,000 in 50 years.

The MGB was informed that the Town and the County had been involved in formal and informal annexation discussions since 1999. Unfortunately, the two municipalities could not reach an agreement. In accordance with section 121 of the Act, the MGB was required to conduct one or more hearings.

The MGB conducted two hearings with regard to this matter. The preliminary hearing held April 21, 2009 established the document exchange timeline and set the dates for the annexation hearing. The solicitors for the two municipalities, as well as the affected landowners present at the preliminary hearing, assisted the MGB to determine these dates. The annexation hearing commenced on June 22, 2009 and lasted four days.

The MGB notes that this annexation is unusual. In most recent annexations, the two municipalities have agreed with the proposed annexation, but the MGB has been required to conduct a hearing as a result of objections from landowners or the public. In this case, a majority of the affected landowners are in favour of being annexed to the Town, but the MGB is required to conduct a hearing to address objections from the County.

During the June 22, 2009 hearing the MGB received oral and written submissions from the solicitors, experts and elected/non-elected representatives of the two respective municipalities as well as submissions from the affected landowners. The major issues identified by the parties included: annexation process, the land, the need for an Intermunicipal Development Plan prior to a request for annexation, the amount of compensation, and landowner impacts. Each of these issues is summarized below.

Annexation Process

The County raised allegations that the Town acted in bad faith during the negotiations and mediation efforts by unilaterally ending both attempts at mediation and by publishing annexation related articles in the local newspaper in violation of the mediation protocols. Moreover, the County contends that the Town's notice of intent to annex was not based on sound planning and questions the logic of the proposed Master Servicing Study for the proposed annexation area. The Town confirms that it did end the negotiations twice; however, the Town contends that the County was more optimistic than the circumstances warranted. The Town submits that it

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commissioned the Master Servicing Study to determine what land in the vicinity could be efficiently and economically serviced with roads and utilities.

Although the MGB finds the Town shortened the discussions abruptly, it cannot be concluded that simply ending discussions abruptly is acting in bad faith. The MGB also finds that the notice of intent to annex documentation submitted by the Town technically fulfills the requirements of the Act.

Land Need

The focus of the land needs issues revolves around the use of the time horizon, the population projections, the projected residential densities and the amount of existing vacant residential land within the Town. These factors normally have a direct bearing on the size of the annexation area in question. However, the MGB finds the proposal to service the land area put forward by the Town provides for effective, efficient and, more importantly, the required economies of scale to serve an area of this size.

The County suggests the Town's annexation should be limited to an area of three to six quarter sections. The County has calculated this area based on a 25 to 30 year time horizon, a population projection of between 21,308 and 42,326 over that period and a residential density of eight units per acre with an average of three people per unit. The County also contends the proposal by the Town does not deal with the vacant land within its existing boundary. In contrast, the Town argues that it needs 18.5 quarter sections and has calculated this based on a 50 year time horizon, a target population projection of 56,000 and a residential density of 5.6 units per acre.

Considering the evidence of the historical conflict between the two municipalities and the near unanimous support of the affected landowners, the MGB concludes that in this specific case a 50 year time horizon is worthy of consideration. This longer time horizon will provide greater certainty to the municipalities and the affected landowners. As well, the use of a 50 year time horizon was more in harmony with the long term vision being promoted in the Alberta Land-use Framework, the long term planning being proposed in the Calgary Metropolitan Plan, the Rocky View Growth Management Strategy and the increased demands to undertake infrastructure planning for a longer time horizon such as 50 years.

The MGB was faced with very wide ranging population projections from a low of 21,308 in the Nichols Report prepared for the County and a projection of 65,000 based on a town engineering study. The MGB relies on neither extreme. The MGB placed more weight on the Town's Growth Study medium projection (46,731) of the Town and the Preiksaitis Report (51,646) prepared for the County. The MGB notes the variance between these two projections is fairly small considering the 50 year time horizon. Therefore, the MGB accepts the projection provided by the Town.

The MGB accepts the argument of the Town that its existing and proposed housing markets are different from those of the City of Calgary and larger urban centres of Airdrie and Cochrane. The

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MGB recognizes that the distance from Calgary will impact the achievable densities within the Town. The projected residential population density of 6.5 units per acre is higher than the current residential densities achieved in the Town and reflects a trend toward higher densities.

There was little dispute about the projected commercial and industrial land needs projected by the Town. However, the County argued that lands set aside for wastewater spray irrigation could be used in the future for industrial use. The Town stated that they had been informed by Alberta Environment that these lands may not be usable for other purposes until far into the future. The MGB accepts the Town's assertion.

Based on the acceptance of the 50 year time horizon and the residential density of 6.5 units per acre, the accepted population projections and the capacity currently within the Town boundaries, the land need of 18.5 quarters is accepted as reasonable. The acceptance of an annexation based on 6.5 units per acre does not preclude the Town from achieving higher densities in the future should market conditions change and regional policies direct.

Intermunicipal Development Plan Condition Precedent

The County and Town were unable to negotiate an Intermunicipal Development Plan (IDP). The County argued that for good planning an IDP should have been prepared and adopted prior to the submission of the annexation application. The Town contends this is not a condition precedent. The MGB notes that Division 6 Part 4 of the Act dealing with the annexation process does not make the preparation of an IDP a condition precedent to the submission of an annexation application. As well, the MGB observes that the adoption of an IDP is a discretionary act of two municipalities and not a mandatory activity.

Although the MGB recognizes that intermunicipal cooperation is a fundamental and very desirable consideration, not all annexations will be resolved in such a positive manner. The Act anticipates that some annexation applications will only be resolved through the adjudicative process. The historical annexation conflict between the two parties is clear evidence this annexation will not be based on intermunicipal cooperation and thus must be considered by the MGB and ultimately the Minister of Municipal Affairs (Minister) as well as the Lieutenant Governor in Council (LGC) in this context.

Municipal Compensation and Impacts

The MGB notes that the proposed annexation area is largely rural in nature and does not contain any major property tax revenue generators. Expert evidence at the hearing illustrates that both the Town and the County are in sound financial condition and that the proposed annexation of 18.5 quarters would have minimal impact on the financial state of either municipality. The property taxes generated in the area amount to approximately \$101,012.25.

The County argued for compensation which involved an annual payment \$101,012.25 for a 10 year period, while the Town proposed the more historical five year declining balance form of

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compensation. Considering the limited financial impact of the annexation on the County, the MGB is satisfied that the historically accepted five year declining balance will provide the County with sufficient compensation and transition time to adjust to the changes resulting from the annexation. In total the County would receive approximately \$303,036 in compensation over the five years if this recommendation on the annexation is accepted by the LGC.

The County raised concerns about the possible loss of grant revenues as a result of the annexation. The MGB observes that provincial grants are provided in a manner that assists with the provision of services. As a result of the annexation, the area will be serviced by the Town and the County will no longer have expenditures within the area.

One of the major controversial issues in the annexation application was the request of the County to have the Town pay a one-time lump sum payment of approximately \$4.6 million for the upgrading of Oxbow and Acreage Roads, which are in the proximity of the Town. The County argues that historic Town growth and projected growth has and will have a major impact on these roads. In the view of the County, major upgrading of these roads will be required as a result of that growth.

Oxbow Road is an extension of the current north boundary of the Town and extends approximately one mile west of the future west boundaries of the Town. In the absence of a detailed traffic study, the MGB was unable to conclude that the traffic increase occurring on these roads and future traffic increase could be attributed largely to Town growth rather than existing development and future growth in the rural area and region. Therefore, the MGB is recommending that the annexation proceed without this payment as a condition of annexation.

In addition the County raised an argument for revenue sharing; however, the MGB is not convinced that there exists any uses in the annexation area that raise a high degree of interdependence on both municipalities to justify adding a condition of revenue sharing.

The MGB was satisfied that both the growth plans of the Town and the County would be achieved with the approval of the proposed annexation. The County has established a major industrial area structure plan along Highway 1, immediately west of the proposed annexation area. This will provide the County with significant opportunity to achieve its growth objectives. The land uses proposed by the Town within the annexation area adjacent to the County's industrial area will also be of an industrial type that will not create land use conflicts. As well, the Town indicated that it would not be pursuing the same type of onsite serviced industrial development as the County proposes for its adjacent industrial area.

Impact on Landowners

As stated earlier, this annexation application is supported nearly unanimously by the affected landowners. Landowners were assured that the Town's planning bylaws will be adjusted to recognize the rural uses in the area. None of the reports filed with the MGB illustrated any major concerns raised by the public in general.

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The Town had requested that the Order in Council allow the landowners in the annexation area to be taxed at the County rates for 10 years. At the hearing the County and a few landowners suggested that this transition period be increased because of the 50 year time horizon used in the annexation. The MGB agrees and is recommending that the tax condition be extended to 30 years. Other annexations with a time horizon of 30 years have been granted with a tax condition time period of five to 15 years. As well, the MGB is recommending that the triggering event of the issuance of a development permit for non-agricultural uses be eliminated from those events that would result in the loss of the tax condition protection to property owners in the annexation area. This triggering event is too broad, since it could cause the landowners to lose their assessment and taxation protection simply by undertaking minor non-agricultural related improvements to their properties.

Minor Boundary Changes

The Town had requested that a number of roadways and specifically parts of Highway 1 not be included in the annexation; however the MGB is recommending the inclusions of these roadways to ensure the impacts associated with growth are vested in the Town, that access is available from within the Town and that there is no confusion over the municipal and agency jurisdiction over these roadways and highways. Correspondence received by the MGB after the hearing from Alberta Transportation confirms they agree with this change. The MGB finds this change will ensure that the boundaries of the Town are simple, concise and evident.

Summary and Conclusion

With a few minor adjustments, the MGB is satisfied that the annexation of 18.5 quarters will be in the public interest and should be considered for approval by the LGC with the conditions as recommended. The acceptance of the annexation proposal will conclude a longstanding dispute between the Town and the County and give them the opportunity to start their intermunicipal relationships anew. The overwhelming support of the landowners and the resolution of the conflict between the two municipalities makes the acceptance of a 50 year time horizon reasonable in the circumstances. Agencies responding to the annexation application raised no major issues before the MGB.

The MGB is satisfied that the annexation preserves the autonomy of each municipality, allows each municipality to pursue their growth objectives, provides for reasonable compensation considering the minimal financial impacts of the annexation is based on future servicing plans that can be effective, efficient and recognize sufficient economies of scale. As well, the annexation provides for logical extension of growth patterns for both municipalities and the effective administration of the annexation area.

The plans supporting the annexation and the direction of the annexation areas were developed in consideration of the various environmental features surrounding the Town. The overwhelming support of the affected landowners and the resolution of the longstanding conflict on annexation

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overrides any technical questions on the ability of the Town to achieve higher residential densities. The change to the municipal boundaries of the Town does not preclude the Town from being able to achieve higher densities should it be directed to do so in some future mandatory planning documents. Overall, the MGB finds the proposed annexation to be in the greater public interest and worthy of consideration by the LGC.

INTRODUCTION

Located 40 kilometres east of Calgary, the Town of Strathmore (Town) has a population of approximately 11,000 people. The Town's economic base includes agricultural support businesses and oilfield support industries. Its strategic location along the Trans Canada Highway (Highway 1) has made the Town a regional commercial centre for populations east of Calgary. The rural municipality surrounding the Town is Wheatland County (County). With a population of 8,164, the County encompasses a land area of approximately 460,000 hectares (1,137,000 acres). The Villages of Hussar, Rockyford and Standard, as well as the hamlets/urban service areas of Carseland, Chancellor, Cheadle, Cluny, Gleichen, Lyalta, Namaka, Nightingale and Rosebud, are within the County's boundary.

On December 15, 2008 the Town submitted a negotiation report requesting the annexation of approximately 18.5 quarter sections of territory from the County. The proposed annexation would accommodate residential, commercial and industrial growth for a 50 year time horizon. This area is essentially rural in nature, consisting primarily of agricultural uses, with a few County residential subdivisions and a few minor commercial/industrial uses.

The negotiation report submitted by the Town identified that the two municipalities were not able to reach an annexation agreement and that there were a number of matters in which there was no agreement between the municipalities. After reviewing the documentation provided by the Town, the MGB determined that there was "No General Agreement" with the proposed annexation. In accordance with section 121 of the Act the MGB conducted two hearings in respect of the annexation proposed by the Town. The first hearing was orientated to preliminary matters and the second hearing dealt with the positions of all impacted parties.

The following are the three major areas of concern regarding the proposed annexation:

1. **Annexation area too large.** The Town's annexation application requested 18.5 quarter sections whereas at the annexation hearing the County suggested three to six quarter sections would be more appropriate.
2. **Negative financial impact on the County.** The two municipalities do not agree on the amount the Town should be required to pay to compensate the County for the annexation.
3. **Intermunicipal Development Plan condition precedent.** The County and Town disagreed on whether the proposed annexation should proceed without the establishment of an Intermunicipal Development Plan (IDP).

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In most annexation applications received by the MGB, both municipalities support the proposed annexation and the objections are either from the affected landowners and/or the public. This annexation is unusual in that the County objects to the annexation, while the large majority of landowners support the annexation as presented by the Town.

After one or more hearings and after considering the reports and representations made to it, section 123 of the Act requires the MGB to prepare a written report of its findings and recommendations for the Minister of Municipal Affairs (Minister). The following report has been divided into three parts. Part one addresses of the preliminary hearing process. Part two describes the annexation hearing at which the parties articulated their positions regarding the annexation. Part three, summarizes the findings and recommendations of the MGB regarding the proposed annexation. This report fulfills the MGB duties and responsibilities under the Act.

PART 1 PRE-HEARING PROCESS

Part 1 describes the pre-hearing process. This part describes the pre-hearing activities of the municipalities, provides a map showing the proposed annexation area, gives a general description of the annexation process, and summarizes the preliminary hearing held April 21, 2009.

Pre-Hearing Activities

Given the consumption of land for development within the Town over the past decade, initial annexation discussions between the Town and the County began in 1999. At that time, the annexation area being considered included approximately 14.5 quarter sections of land. Since that time, the Town and the County had numerous formal and informal discussions regarding the annexation and the development of an IDP. By 2005, annexation and IDP discussions had become more formalized. A meeting with landowners to discuss a potential annexation was held in October 2005.

In the fall of 2006, the County asked representatives from the Alberta Municipal Affairs (AMA) Intermunicipal Dispute Resolution Initiative and the MGB Secretariat to make presentations with regard to annexations. During these presentations, the representatives of both these bodies identified the benefits of a cooperative approach to an annexation and promoted the advantages of an IDP. As well, the department officials outlined the process to be used if there was no agreement. In accordance with the Act, the MGB would have to conduct a hearing to receive presentations from all parties and make a recommendation to the Minister and the LGC. The LGC is authorized by the Act to make the final decision regarding the annexation.

On November 15, 2006 the Town formally initiated an annexation in accordance with section 116 of the Act by giving written notice to the MGB, the County and the local authorities the Town considered would be affected by the proposed annexation. The councils of both municipalities held an open house meeting in December 2006 to provide an overview of the annexation process and to answer questions. From May to August 2007, the Town and the

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County entered into mediation to discuss the possibility of an annexation and the development of an IDP. These discussions did not result in either the development of an IDP or an annexation agreement.

The protocols agreed to by the parties in 2007 during the mediation process required that the discussions between the two municipalities were to be kept confidential in order to facilitate a free exchange of views. Information disclosed to the public was to be limited to the fact that discussions did occur but did not result in an agreement. The municipalities did agree that the positions proposed during these meetings could not be used as evidence in any other proceedings.

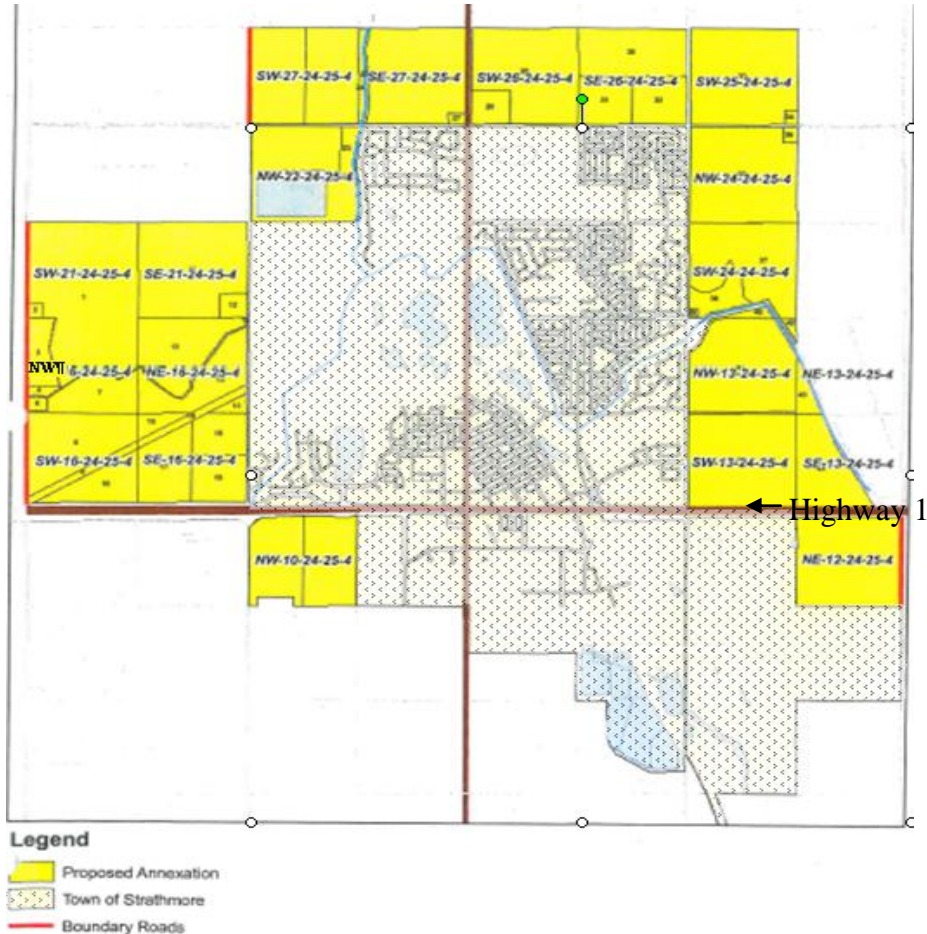
The Town filed a negotiation report with the MGB for the annexation of approximately 18.5 quarter sections on December 15, 2008. The report was not signed by the County. The letter from the Town accompanying the report requested the MGB to proceed with the annexation. In accordance with section 119(2), the negotiation report became the Town's application for annexation. The Town believed the annexation application would provide a specific and comprehensive explanation of the Town's proposal and create the framework for a resolution to the ongoing dispute. The annexation application filed by the Town proposed four quarters more than their notice of annexation in November of 2006. The 18.5 quarter sections of land identified in the Town's annexation application included land to the north, east, west as well as two quarter sections to the south of the current Town boundary.

Following the submission of the negotiation report, the municipalities agreed to make one final attempt at mediation to resolve their differences. Each municipality selected a Negotiation Committee to attend the mediation meetings facilitated by the Manager of the AMA Intermunicipal Dispute Resolution Initiative. Mediation meetings were held between January and April 2009. Despite the efforts of all parties, the two municipalities were unable to resolve their outstanding issues. Believing that further discussion with the County would only sour the relationship between the two municipalities, the Town cancelled the last mediation meeting.

Proposed Annexation Area

Map 1, on the next page, shows the annexation area that proposed by the Town in its annexation application. This area consists of largely unfragmented agricultural land.

Map 1: Annexation Area Proposed by the Town



Source: Town of Strathmore Annexation Application

Description of the Annexation Process

A municipality seeking annexation must first initiate the process pursuant to section 116 of the Act by giving written notice of the proposal to the municipal authority from which the land is to be annexed, to the MGB, and to any local authority considered by the initiating municipality to be affected by the annexation proposal. The notice must describe the land proposed for annexation, set out the reasons for annexation and include proposals for consulting with the public and meeting with the landowners. Once the notice has been given to the other municipality, the municipalities must negotiate in good faith and, if agreement cannot be reached, the municipalities must attempt mediation to resolve the outstanding matters.

At the conclusion of the negotiations, the initiating municipality must prepare a report describing the results of the negotiations. The report must include a list of the agreed to matters, as well as a list of matters in which there is no agreement. If the municipalities were unable to reach agreement, the report must state what mediation attempts were undertaken or, if mediation was

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not attempted, give reasons why there were none. The report must also include a description of the public consultation process and a summary of the views expressed during this process. The report is then to be signed by both municipalities; however, if a municipality does not sign it the municipality that does not sign the report may include in the report its reasons for not signing.

The report is then submitted to the MGB. If the initiating municipality indicates that it wishes to proceed with the annexation, the report becomes the annexation application pursuant to section 119. If the MGB is satisfied that the affected municipalities and public are generally in agreement, the MGB notifies the parties of their findings and unless there are objections to the annexation filed with the MGB by a specific date, the MGB will make its recommendation to the Minister without holding a public hearing. If the MGB finds that there is no general agreement, the MGB must notify the parties of its finding and conduct one or more public hearings. The MGB only has authority to hear from parties to an annexation, make findings and forward a recommendation to the Minister and the LGC. The Minister and the LGC have the authority to accept, reject or modify the findings and recommendations of this report.

Preliminary Hearing

For annexations where the MGB has deemed that there is “No General Agreement, the usual practice is to convene a hearing to address any preliminary matters, establish a document exchange process and set the date(s) to hear the various party positions with regard to the annexation. At the preliminary hearing held April 21, 2009, the solicitors for the Town informed the MGB that the two municipalities had been in discussions regarding the proposed annexation since January 2009. The Town’s solicitors stated that the protocols agreed to by the two municipalities for these negotiations identified that any agreement in principle on any issue was to be tentative until all issues under discussion were ratified. The identification of outstanding issues between the Town and County from the most recent negotiations would have to be coordinated with the Negotiation Committee. The solicitors for the Town stated that a report on the negotiations could be provided to the MGB and the County by May 5, 2009. The Town agreed that it would make copies of the report available for viewing by the public at the Town office and indicated that it may be able to place a copy of the report on its website.

The solicitors for the County advised the MGB that the report on the negotiations that is to be provided by the Town may assist the County in refining the issues to be addressed during the annexation hearing. Upon receipt of the report from the Town on May 5, 2009, the County would provide comments and positions to the MGB and the Town by May 19, 2009.

After receiving the submissions from the solicitors for the Town and the County as well as the landowners that were present, the MGB rendered an oral decision and issued MGB Decision Letter 047/09 to confirm these instructions. MGB Decision Letter 047/09 ordered that the annexation merit hearing was to commence at 10:00 a.m. on Monday, June 22, 2009 and extend, if required, to June 30, 2009. The document exchange timeline established by the MGB was as follows:

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May 5, 2009	Town submits negotiation report
May 19, 2009	County submits a response to the negotiation report
May 19, 2009	Landowners/public may submit comments regarding the negotiation report to the Town, the County and the MGB
May 26, 2009	Town submits legal argument and “will say” statements
June 9, 2009	County submits legal argument and “will say” statements
June 9, 2009	Landowners/public provide written submissions
June 15, 2009	Town submits rebuttal argument.

The MGB notes that concerns were expressed by the landowners with regard to the completeness of the negotiation report; however, this matter was resolved by a secondary negotiation report being made available.

PART 2 ANNEXATION HEARING

Part two describes the annexation hearing notification process, identifies relevant legislation and policies, lists the people that made submissions to the MGB and identifies the issues that were brought before the MGB during that annexation hearing.

Annexation Hearing Notification Process

In accordance with the instructions set out in MGB Decision Letter 047/09, the MGB convened a hearing to investigate the positions of the parties on June 22, 2009. Hearing notification letters were sent to all affected landowners on May 22, 2009 and hearing notices were published in the **Strathmore Standard** Newspaper the weeks of May 25, 2009 and June 3, 2009. The hearing notifications published in the newspaper circulating in the affected area fulfill the requirements of section 122 of the Act.

List of People Making Submissions

The following is a list of the people who provided oral and/or written submissions to the MGB at the June 22-24, 2009 hearing.

For the Town

Hugh Ham, Solicitor, Municipal Counsellors
Jennifer Brown, Planner and Development Officer
Derryl Howery, Applications Management Consulting
Paul Mercer, Brown & Associates Planning Group
Peter A. Truch, AECOM Engineer
Mark E. Ruault, AECOM Senior Municipal Engineer

For the County

Barry A. Sjolie, Solicitor, Brownlee LLP
Joanne Klauer, Solicitor, Brownlee LLP
Shirley Reinhardt, Councillor
John Rusling, Planner
Troy McNeill, BSEI Municipal Consulting Engineers (Project Engineer)
Gerry Fardoe, Nichols Applied Management (Fiscal)

Landowners/Public

Don Knight
Craig Jones
Frances Henrickson
Steve Marshman
Jeff Van Bussel
Jason Danard/Brian Danard and family
Eugene Helfrich on behalf of Grant Klaiber
Ron and Betty Hilton
Ron Roberts
Guy Coldwell (John)
Aime Brassard
Clarence, Karen and Chris Skuter
Dwight Stanford

Annexation Hearing Overview

During the merit hearing, both municipalities provided expert opinions to support their view on various issues. In addition, the MGB also received written submissions and/or oral presentations from thirteen landowners. In order to reduce repetition, this section has been divided into three segments. First, a recap of the major issues identified during the hearing gives context to the scope of the dispute. Second, the landowner's positions are summarized and the responses from the Town and the County are provided. Finally, the issues identified during the hearing are analyzed in detail and the findings of the MGB are provided.

Hearing Summary

The Town's annexation application requested approximately 18.5 quarter sections of land from the County in order to for the Town to achieve a sufficient land inventory to meet its projected need. The Town submitted that calculations for a 50-year land supply take into account the amount of land presently available within its boundary. The Town argues that various regional planning documents, growth management strategies and servicing strategies are now being developed with a 50 year time horizon. The Town's position is that there is a need to annex these lands as soon as possible to ensure orderly growth of the municipality.

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The County contends that the amount of land required should only be in the range three to six quarter sections. The County submits that the 50 year projection is excessive, the density target used by the Town to calculate the amount of land required is too low and the amount of land requested does not account for lands available within the Town's current boundary. The County also requested compensation from the Town for lost grant revenues and municipal taxes as well as impacts to County infrastructure. Specifically, the County requested the Town to contribute to the costs of upgrading Oxbow and Acreage roads, which the County argues would be impacted greatly by traffic generated by the expanded urban area. The County also requested the MGB to direct the two municipalities to complete an IDP within 12 months of the annexation order being passed.

As mentioned previously, in most recent annexations the municipalities support the annexation and the landowners oppose it. The MGB notes that this annexation application was unusual as it was strongly contested by the County and strongly supported by the owners of the land to be annexed.

A summary of the affected landowners' submissions as well as the responses from the two municipalities to the landowner submissions are provided below.

Summary of Landowner Submissions

The following summarizes the submissions of the landowners expressing support for the proposed annexation as well as the submission from the landowner voicing concerns.

Summary of the Submission of Donald Knight, Eugene Helfrich, Ron Roberts

The MGB received separate oral submissions from each of the following landowners: Donald Knight, Eugene Helfrich, and Ron Roberts. These landowners are in full agreement with the Town's annexation proposal. They believe that the unsuccessful and lengthy negotiations between the Town and County have frustrated the landowners. At the hearing, these landowners expressed concerns that the County has lost sight of who truly owns the land and allege that this demonstrates a lack of respect for the true stakeholders in the annexation proposal.

These landowners contend that the costs of the County's objection to the proposed annexation combined with government funding would have covered the paving and upgrading of Oxbow and Acreage Roads. At the hearing, Mr. Knight expressed his frustration toward the County and asked that the MGB approve the Town's long term annexation application in order to avoid more unwarranted spending by the two municipalities for conflict resolution.

Mr. Knight stated that since the Town has a caveat against his land due to a water/effluent line which runs through it, the Town should control the land before enhancements are made to this infrastructure. Mr. Helfrich and Mr. Roberts' presentations were brief and supported Mr. Knight's position.

Summary of the Submission of Steve Marshman

Steve Marshman stated that his family operates a three million dollar manufacturing facility, which employs over 200 locals, on land within the proposed annexation area. Mr. Marshman strongly supports the annexation proposal and believes all 18.5 quarter sections are necessary. In his presentation, Mr. Marshman submitted that the Town has great deal of business and industry potential and that he is confident it will reach the projected population. He indicated that the County has blocked development opportunities in the past. Mr. Marshman noted that his facility was only approved for a three year term by the County Council. He contends that this type of development requires a long term approval and would be better accommodated within the Town.

Mr. Marshman does not believe an IDP is necessary or that it would be in any way helpful for the County and Town to reach an agreement. He explained that Oxbow and Acreage Roads are busy mainly because of the all the acreages that have been approved on the west side of the Town by the County, not because of the Town land.

Summary of the Submission of Clarence and Karen Skuter

The written submission from Clarence and Karen Skuter was presented to the MGB by Clarence Skuter at the hearing. The Skuters support the proposed annexation as they will be developing their land in the near future. They believe the Town can best provide water supply and sewer services and this will enable the land to achieve a higher density.

During the hearing Mr. Skuter indicated the length of the annexation term is not of concern as it will provide a long term guideline for all landowners. Mr. Skuter also noted that no landowners are forced to alter the current use of their land. Mr. Skuter explained that the Marshman conflict with the County is a clear example of County's lack of long term planning. In Mr. Skuter's view, the annexation may in the end preserve farmland by directing more dense developments to the Town of Strathmore. He is of the opinion that this will limit the amount of acreage clustering in the rural areas.

The Skuters believe an IDP is not a substitute for annexation and that it may actually restrict landowners by freezing their land for the next 50 years. In response to the argument that the annexation is not based on sufficiently high density, Mr. Skuter submitted that the Town and other small municipalities attract residents who seek low density housing. He also noted that the County, which is considered to be the best suited to ensure preservation of agricultural land, is permitting many acreages and allowing existing hamlets to be expanded by residential development. He believes this is resulting in the duplication of infrastructure in the region and within an area of prime farmland.

Mr. Skuter identified that he was a former Wheatland County Councillor. He explained that it is difficult to implement urban style development restrictions in a rural municipality. Due to this, he does not believe the development restrictions in an IDP will be adhered to by the County.

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Summary of the Submission of Grant and Dona Klaiber

The written submission from Grant and Dona Klaiber supports the annexation of their lands into the Town and requests that the annexation be completed as expeditiously as possible.

Summary of the Submission of Paul Douglas

Paul Douglas identified that the land development company he represents bought SW 13 24 25 4 two years ago and would like to begin developing it as quickly as possible. Mr. Douglas identified that this land is adjacent to the existing Town boundary and that the proposed annexation of this land would be a logical extension to the Town. The company supports the 50 year time horizon.

Having reviewed the Town's annexation proposal, Mr. Douglas stated that the company he represents is of the opinion that the proposed annexation is rational and well thought out.

Summary of the Submission of Dwight Stanford

Dwight Stanford strongly supports the proposed annexation. His land is near the Town's school, hospital and Community Centre. As a result, Mr. Stanford believes it is appropriate for his land to be annexed by the Town.

Summary of the Submission of Jeff Van Bussel

Jeff Van Bussel is also in support of the Town's annexation proposal as he believes it would be beneficial for the surrounding communities. Mr. Van Bussel stated that the Town supports the businesses established around the community and that the County does not. Mr. Van Bussel identified the short term approval of the Marshman manufacturing facility as an example of this lack of County support. In his presentation, he explained that Marshman operation employs a number of residents from the surrounding area and that if the land is not annexed the facility will relocate, leaving the people unemployed. Mr. Van Bussel stated that the commercial growth north of Highway 1 in the proposed annexation area should not be required to move just to conform to the industrial area structure plan in the County south of Highway 1.

Summary of the Submission of Jason and Brian Danard

Jason and Brian Danard informed the MGB that the Danard family agrees with the proposed annexation. The Danards have owned and operated an auction facility next to the Marshman land for 20 years. This facility employs 50 residents of the area and supports local business.

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Summary of the Submission of Barry Hilton, Ron Hilton and Aime Brassard

Barry Hilton, Ron Hilton and Aime Brassard stated during their joint presentation that they support the Town's proposed annexation. They also stated that they agree with all of Mr. Knight's submission.

The presenters contend that the taxes on the parcels of land adjacent to the Town will not change dramatically once they are within the Town boundary. They also strongly question the motives of the County Council. The presenters believe the County has not been preserving agricultural lands because it has been quick to permit acreages which fragment the better agricultural land and disrupt agricultural operations.

These presenters also stated that as landowners, they were frustrated with the negotiation process and believe the cost to the tax payers of these extended negotiations is unfair.

Summary of the Submission of Guy Coldwell

Guy Coldwell's submission supports the annexation for the same reasons submitted by others.

Summary of the Submission of Francis Henrickson

At the hearing, Francis Henrickson indicated that she is in agreement with the annexation proposal; however, she is concerned about the length of the annexation because of the uncertainty around the timing of development. Ms. Henrickson shares the County's concerns that the annexation proposal be approved without an IDP, which she believes would bring trust and certainty and serve as a tool on which the landowners can rely to plan what to do with their land.

Despite her approval of the proposed annexation, Ms. Henrickson expressed concerns regarding the taxation of her land. It is her understanding that her land will be taxed as agricultural land for the first 10 years, but wonders what will happen for the remaining 40 years. She is worried the taxes on her property will be so high that she will be forced to sell the land prematurely.

Ms. Henrickson does not believe she should be forced to pay for a utility service put onto her property as she already has her own. She also believes that development permits should be determined before the annexation so that there are no 'surprise' levy taxes on the properties.

Ms. Henrickson also expressed concerns that the landowners were not involved in the negotiations between the Town and the County.

Response of Town to Landowners

The Town highlighted the amount of landowner support for the proposed annexation. The Town stated the public spoke as one voice, clearly wanting the proposed annexation to be approved.

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The Town also expressed their disappointment with regard to the landowners being excluded from the negotiation process due to the negotiation protocols. The Town would have preferred the negotiation process to be more open.

The Town was of the view that the ten year assessment and taxation transition period was fair and reasonable considering the benefits to be realized by the landowners after annexation.

Response of County to Landowners

The County agrees with the Town that good public consultation is important, but notes that it is the obligation of the Town to ensure this occurs as it is their annexation. The County suggests that the landowners are generally in favour of the proposed annexation as they stand to benefit greatly from it personally.

As to Ms. Henrickson's concerns about the length of the annexation, the County agrees that a 10 year tax protection to the affected landowners is not appropriate as her land may not be developed until 45 years from now.

The County again stressed the benefits of an IDP which gives certainty to landowners and can identify the sequence of growth. The County noted that if the municipalities had been able to reach an agreement on the IDP, the costs of the process could have been avoided; therefore the County contends that the Town should pay the cost of the annexation.

Specific to the industrial development on the Marshman lands, the County submits it was not aware of this issue prior to the hearing as no indication of this issue was filed. The County stressed that the conflict is not related to the annexation and submits that there is a lack of background on the issue as only one side of the story was presented. There was no opportunity for a balanced picture to be depicted.

Provincial Legislation and Policies

In order to make a report about this annexation, the MGB examined the following relevant portions of the Act, the Land-use Framework, the *Alberta Land Stewardship Act* and the Provincial Land Use Policies. Parts of the legislation referred to below require the MGB to comply with specific policies, principles and legislative mandates.

The Act

The Act is permissive in that it allows municipalities to determine the range of programs and services they will provide to their residents in the manner the municipalities see fit. The MGB must ensure this proposed annexation will enable both municipalities to meet their obligations under the Act. The County contends that the annexation will impact their ability to meet their obligations, while the Town asserts that a smaller annexation will reduce its ability to meet its obligations effectively.

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3 The purposes of a municipality are

- (a) to provide good government,*
- (b) to provide services, facilities or other things that, in the opinion of council, are necessary or desirable for all or a part of the municipality, and*
- (c) to develop and maintain safe and viable communities.*

The MGB recognizes that the municipalities have been given broad mandates and powers. The two municipalities argue the proposed annexation will, to some degree, limit the flexibility given by these powers.

6 A municipality has natural person powers, except to the extent that they are limited by this or any other enactment.

Municipalities have powers to supply services outside of their boundaries and have the ability to enter into tax agreements. In this annexation the County argues there are other mechanisms to address servicing and land use matters rather than a large annexation. The Town contends the annexation is the most effective way to address these issues.

54 A municipality may provide any service or thing that it provides in all or part of the municipality

- (a) in another municipal authority with the agreement of the other municipal authority,*

55(1) A municipality may enter into an agreement with

- (a) another municipality, or ...*

to share grants paid under section 366 or taxes.

(2) The agreement must include a means to settle disputes arising from the agreement.

The MGB must consider any principles, standards and criteria under section 76. However, the MGB notes that at this point in time, there are no such adopted principles, standards or criteria.

76(1) The Minister may establish and publish principles, standards and criteria that are to be taken into account in considering the formation, change of status or dissolution of municipalities and the amalgamation of or annexation of land from municipal authorities.

The report of the MGB to the Minister may consider assessment and taxation transition conditions. In this annexation, a landowner and the County have requested an extension to the transition conditions suggested by the Town.

124(1) A report by the Municipal Government Board to the Minister under this Division must set out

- (a) a recommendation on whether land should be annexed to the initiating municipal authority or other municipal authority;*

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*(b) if it is recommending annexation, a description of the land, whether there should be revenue sharing and any terms, **conditions** (emphasis added) and other things the Board considers necessary or desirable to implement the annexation.*

The LGC in the annexation order may set out the compensation to be paid from the initiating municipality to the responding municipality or may order arbitration. In this annexation the County is requesting consideration of additional compensation. The Town argues against this request.

127 An order to annex land to a municipal authority may

- (a) require a municipal authority to pay **compensation** (emphasis added) to another municipal authority in an amount set out in the order or to be determined by means specified in the order, including arbitration under the Arbitration Act ,*
- (b) dissolve a municipal authority as a result of the annexation, and*

With regard to land use planning, a balance must be struck between the public good with the rights of the individual. Although a decision on an annexation is not a land use planning approval, it does involve examination of the long term planning principles upon which the annexation is based.

617 The purpose of this Part and the regulations and bylaws under this Part is to provide means whereby plans and related matters may be prepared and adopted

- (a) to achieve the orderly, economical and beneficial development, use of land and patterns of human settlement, and*
 - (b) to maintain and improve the quality of the physical environment within which patterns of human settlement are situated in Alberta,*
- without infringing on the rights of individuals for any public interest except to the extent that is necessary for the overall greater public interest.*

The Act provides the opportunity for two or more municipalities to prepare an intermunicipal development plan to deal with future growth in the area. The Town and County differ in their opinion as to whether an IDP is a condition precedent to an annexation.

631(1) Two or more councils may, by each passing a bylaw in accordance with this Part or in accordance with sections 12 and 692, adopt an intermunicipal development plan to include those areas of land lying within the boundaries of the municipalities as they consider necessary.

(2) An intermunicipal development plan

- (a) may provide for*
 - (i) the future land use within the area,*
 - (ii) the manner of and the proposals for future development in the area, and*
 - (iii) any other matter relating to the physical, social or economic development of the area that the councils consider necessary,*

and

- (b) must include*

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- (i) *a procedure to be used to resolve or attempt to resolve any conflict between the municipalities that have adopted the plan,*
- (ii) *a procedure to be used, by one or more municipalities, to amend or repeal the plan, and*
- (iii) *provisions relating to the administration of the plan.*

The Act requires the statutory plans of a municipality to be consistent.

638 All statutory plans adopted by a municipality must be consistent with each other.

Land-use Framework

The Land-use Framework was published by the Province on December 3, 2008. This document is about “smart growth” and consists of seven strategies to improve land-use decision making in Alberta. These strategies are:

- Strategy 1: Develop seven regional land-use plans based on seven new land-use regions.
- Strategy 2: Create a Land-use Secretariat and establish a Regional Advisory Council for each region.
- Strategy 3: Cumulative effects management will be used at the regional level to manage the impacts of development on the land, water and air.
- Strategy 4: Develop a strategy for conservation and stewardship on private and public lands.
- Strategy 5: Promote efficient use of land to reduce the footprint of human activity on Alberta’s landscape.
- Strategy 6: Establish an information, monitoring and knowledge system to contribute to continuous improvement of land-use planning and decision making.
- Strategy 7: Inclusion of aboriginal people in land-use planning.

Priority actions for the Land-use Framework are: the creation of legislation to support the framework, metropolitan plans for the Capital and Calgary regions, the Lower Athabasca Regional Plan and the South Saskatchewan Regional Plan. The MGB notes that the regional plans are not in place as yet.

The County argues that the footprint that will be created by this annexation does not comply with the principle of minimizing the urban footprint as identified in the Land-use Framework.

Alberta Land Stewardship Act

The legislation established by the province to support and implement the Land-use Framework is the Alberta Land Stewardship Act (ALSA). Section 488.01 identifies that the MGB must consider regional plans when carrying out its functions. The MGB identified the following relevant sections of the ALSA.

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The LGC has the authority to establish and amend regional plans. It was established that there is a proposed Calgary Metropolitan Plan (CMP); however this plan has not been approved as yet. Notwithstanding, the County argues specific policies of the plan should be considered when reviewing this proposed annexation.

3(1) The Lieutenant Governor in Council may establish integrated planning regions under this section or as part of a regional plan, describe their boundaries and give them names.

4(1) The Lieutenant Governor in Council may make or amend regional plans for planning regions.

Alberta Provincial Land Use Policy

Goal 3.0 of the Alberta Provincial Land Use Policies (APLUP) emphasizes the need for cooperation and coordination between neighbouring municipalities. Goal 4 of APLUP encourages municipalities to facilitate growth in an orderly and efficient manner. The MGB observes that there is no distinction between the types of growth that may occur in an urban or rural municipality. The MGB also observes that the definition of municipality in the Act refers to a town, city, a municipal district or a specialized municipality and that there is no distinction between urban and rural municipalities in the context of accommodating growth. Although an annexation is not a planning tool under Part 17 of the Act, an annexation is based on long term planning considerations. Therefore, the MGB finds the APLUP is a relevant planning consideration.

Issues

During the annexation hearing, the parties presented numerous reports and submissions for the MGB to consider. The key issues in this annexation have been grouped into seven categories: annexation process, lack of long range planning, land area, municipal servicing, financial impacts, landowner impacts and compliance with the MGB annexation principles. The party positions and the MGB findings for each of these issues are provided below.

ISSUE 1 – Annexation Process

County Position

The County submits that the Town did not fulfill its obligations as the municipality initiating the annexation. The County argues that while the notice of intent to annex filed by the Town on November 15, 2006 technically complied with the annexation initiation process identified in section 116 of the Act it was not based on sound planning. The County asserts that at the time the notice to annex was filed the Town's engineering consultants and Planning Department were undertaking work to support or justify the amount of land requested.

The County also expressed concerns that the Town did not negotiate in good faith as required by Section 117. The County submits that the Town undermined the negotiation process by

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providing information about the annexation to the local newspaper in violation of the mediation protocols, by not supporting the Town's Negotiating Committee, and by unilaterally ending both attempts at mediation. Furthermore, the County contends that although the Town submitted its annexation documentation to the MGB on December 15, 2008, the County did not receive a copy of the documentation as required by section 118 until May 5, 2009. The County states this illustrates the Town's overall uncooperative attitude towards the County throughout the annexation process.

Town Position

In response to concerns about the notice to annex process, the Town states that it commissioned a Master Servicing Study to determine what land in the vicinity could be efficiently and economically serviced with roads and utilities. Projecting the Town's historic growth rate of 6% forward determined that the Town would grow to 52,690 people by 2037. The Town did not regard this projected population as certain: it simply provided a population equivalent number for the study to work with.

The Town denies any bad faith conduct in any dealings with the County. The Town confirms that it did end the negotiations twice; however, the Town contends that the County was more optimistic than the circumstances warranted. The Town asserts that there is no compelling evidence of anything beyond a fundamental disagreement between the parties as to their respective futures. Whereas experts can legitimately disagree with each other, so can members of council and/or municipal administration.

MGB Findings

The MGB finds that the notice of intent to annex documentation submitted by the Town technically fulfills the requirements of the Act. The notice of annexation contained the requirements of section 116(2) of the Act: a description of the lands to be annexed, the reasons for the annexation, as well as proposals for consultation. The Act recognizes that for each annexation the affected lands and processes have specific circumstances and facts that are not necessarily common to other annexations. As a result, the Act does not specify the manner or degree of accuracy required when describing the land proposed to be annexed, nor does it set minimum requirements for public consultation or informing landowners about the progress of the negotiations.

The MGB acknowledges that there was a change in the amount of land from the notice of intent to the formal annexation application. The Town submitted its annexation notification to the County and the MGB on November 15, 2006. The MGB views a notice of intent to annex as simply a starting point. The MGB recognizes that the negotiations between the municipalities, requests from affected landowners and input from the public can shift the location and amount of land within the annexation area. While the MGB expects that there may be some shifts in the annexation area, the MGB considers it good practice for initiating municipalities to have seriously considered all aspects when identifying the land being proposed for annexation and the

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method of landowner/public consultation. In accordance with section 119(2), after the formal annexation application was submitted by the Town, no further changes were submitted to the annexation area.

With regard to the County's concerns about not receiving a completed copy of the annexation application until May 15, 2009, the MGB notes that the County did not bring this matter forward at the preliminary hearing on April 15, 2009. The MGB also notes that the submissions made by both municipalities at the annexation hearings were complete and thorough.

The Act requires the two municipalities to negotiate in good faith to resolve their differences. Should the municipalities not be able to negotiate an agreement on their own, the Act requires the municipalities to attempt mediation. The MGB views these efforts as an opportunity for the municipalities to develop local solutions to local issues. As such, the MGB views the unwillingness of a municipality to conduct negotiations in good faith a very serious matter. The MGB is concerned that the Town abruptly ended the negotiations on two separate occasions. While the Town may have questioned the progress of the negotiations, abruptly ending the process can seriously impair the future relations between the municipalities. While the MGB acknowledges the concerns voiced by the County in regard to the negotiations and mediation, the abrupt withdrawal by the Town is not sufficient for the MGB to conclude the Town acted in bad faith. The Act anticipates situations like this where the municipalities are not able to reach an agreement and has specified the MGB hearing process as the eventual way to resolve the dispute.

ISSUE 2 – Lack of Long Range Planning

County Position

The County argues that the Town has no long range planning in place and that an IDP should have been in place before an annexation application was filed by the Town. The County notes in the fall of 2006 it contacted AMA and the MGB to present information on annexations. The County asserts that the preparation of an IDP was strongly recommended by the provincial representatives during this session. The County also stated that the Minister confirmed that the preparation of an IDP is the preferred first step in the annexation process during a meeting in November 2008.

The County informed the MGB that it conducted a survey of the affected landowners regarding the proposed annexation. The survey found that the majority of the landowners were in favour of having an IDP in place prior to annexation. The County's position is that an IDP is important as it is a long range planning tool which addresses issues such as growth corridors, development densities and regional servicing. The County explained that section 638 requires all statutory plans adopted by a municipality to be consistent with each other. The Town's lack of an up to date Municipal Development Plan (MDP) or approved Area Structure Plans for the existing areas within the existing Town boundary demonstrates a lack of long term planning on the part of the Town.

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The County suggests that in the end, the IDP simplifies the annexation process and gives the landowners certainty in land use. The County stated IDPs can be a mechanism for agreement on cost and revenue sharing, solving intermunicipal disputes, agreements on regional economic development, and intermunicipal long range planning. The development of an IDP requires that the public be involved throughout the process, which gives land owner insight as to when their land will be annexed and what they can expect.

Town Position

The Town argues that an IDP is not a condition precedent to an annexation. In addition, the Town believes that a top down approach to statutory planning is most effective. Annexations, in its view, should happen before an MDP and IDP. Area Structure Plans (ASP) and Area Redevelopment Plans should be followed by the Land Use Bylaw and subdivision. The Town informed the MGB that its Planning Department has been in contact with a number of developers that are attempting to develop or complete ASPs for vacant lands within the Town. In addition, the Town plans to update its MDP once the annexation process has been completed. The Town submits that an annexation should occur before an IDP.

Landowners Position

During one of the affected landowner presentations, Mr. Skuter stated that he believes an IDP is not a substitute for annexation and that an IDP would only restrict landowners by freezing their land for the next 50 years. Instead, the 'bigger picture' should be considered. As a former Wheatland County Councillor, Mr. Skuter explained that it is difficult to follow orders coming from the Town. Due to this, he believes that even if an IDP did exist, the development restrictions included will not be followed.

Francis Henrickson stated that an IDP would provide certainty for landowners and supported the development of the IDP prior to the annexation.

MGB Finding

The MGB finds that the adoption of an IDP by the municipalities is not a condition precedent to the annexation. The MGB notes that section 631 of the Act states that two or more councils **may** (emphasis added by MGB), by each passing a bylaw in accordance with this part or in accordance with sections 12 and 692, adopt an IDP. This makes the development of an IDP discretionary. The MGB also notes that Division 6 of Part 4 of the Act does not specify that an IDP be prepared prior to an annexation. The absence of the requirement for an IDP gives clear direction that the legislators did not intend an IDP to be a condition precedent to an annexation.

The MGB believes it is advisable for municipalities involved in an annexation to have an IDP in place or be in the process of developing an IDP in order to demonstrate cooperation and collaboration as required by the APLUP. However, the MGB recognizes that the discretionary nature of an IDP does not force the municipalities to adopt an IDP prior to an annexation.

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The MGB notes that in contrast to the survey conducted by the County, a number of landowners during the hearing submitted that an IDP was not an effective way to address long range planning because of the continuous conflict between the two municipalities. The Town has advised that it will create a new MDP upon completion of the annexation that will provide certainty to the future planning of the area. The MGB accepts this will address the concerns for long range planning expressed by the County and the one landowner.

ISSUE 3 – Land Area

The dispute over the size of the annexation area is based on five sub issues: planning horizon, growth projections, density projections, existing capacity within the Town and future land needs of the Town. Each of these sub-issues as well as the findings of the MGB are provided below.

Planning Horizon

County Position

The County argues that the annexation term of 50 years is not appropriate or necessary. It states that the use of a 50 year time horizon is appropriate for planning purposes in such planning documents as an IDP, but is excessive for annexations. Instead, the County suggests the annexation be a term of 20 to 30 years. The County explained that as demonstrated in most annexations, 20 to 30 years is an appropriate length for an annexation especially when proceeding in the absence of an IDP. The County also contends that it is best equipped to preserve agricultural land for when the land is actually ready for development avoiding premature fragmentation. The County notes that previous MGB Orders involving the City of Red Deer (MGB 058/04), the City of St. Albert (MGB 123/06), the City of Camrose (MGB 051/01), and the Town of Coaldale (MGB 107/97) support its position regarding a 20 to 30 year time horizon.

Town Position

The Town argues that the appropriate annexation horizon for the Town should be greater than 20 to 30 years and asserts that a 50 year annexation period is appropriate. It indicates that this length is in accordance with the LUF which encourages a long term vision. The Town noted other examples of long term planning such as the Calgary draft Plan-It which plans for the next 50 to 70 years, the Rocky View Growth Management Strategy which looks at a 50 year time horizon and the Calgary planning documents which plan for the next 60 to 70 years. The Town suggests that 50 years is an acceptable timeframe and that it is the new standard of planning for long term growth.

Landowners Position

In his presentation to the MGB at the hearing, Mr. Skuter, an affected landowner, stated that the length of the annexation term is not a concern because no landowner is forced to alter the current use of their land and the annexation will provide a long term guideline for all landowners. Mr. Skuter gave the Marshman conflict with the County as an example of the County's lack of long term planning.

MGB Finding

The MGB agrees that a 50 year annexation period is appropriate in this situation. The MGB accepts that various planning horizons within the Calgary region are considering a longer time horizon. Considering the historical conflict between the two municipalities since 1999, the rural nature of the proposed annexation area and the support of the landowners, the longer time horizon provides greater certainty for the Town and the supporting landowners.

The MGB has stated in numerous orders that the existence of an IDP demonstrates good relations between the municipalities and it strongly encourages municipalities that do not have an IDP to enter into this type of agreement. Moreover, the MGB notes that three of the four MGB orders (Red Deer, Camrose and St. Albert) cited by the County either had IDPs in place or were in the process of completing the IDP at the time the annexation was being considered by the MGB. The MGB has reinforced this view by giving considerable weight to annexations that demonstrate cooperative intermunicipal policies in an IDP. However, in this case, the two municipalities have been less than successful in demonstrating they can plan in a cooperative manner. The use of a 50 year annexation timeframe may reduce the amount of intermunicipal conflict with regard to planning issues by giving each municipality the ability to make necessary planning decisions.

Growth Projections

County Position

The County argues that the growth projections used by the Town to calculate the amount of land required for this annexation are inflated. The "Town of Strathmore Annexation Application: A Planning Report from the Town" (Preiksaitis Report) states that the 7% growth rate being used by the Town during the first 10 years of the projection should be reduced, as the 15 year average is 6.2% and the 20 year average is 6.0%. This report explains that the 7% growth rate is solely based on the high growth years between 2005 and 2007 and that with the dramatic downturn in building permit values in 2008, the high 7% growth rate cannot be justified. The Preiksaitis Report suggests that their recommended growth projections (Table 1) are more appropriate. Cognizant of the historical growth average observed in the Town and the recent downturn in economic activity within the province of Alberta, the assumed growth rate for the period between 2008 – 2018 is consistent with the historical rates (6%) and lower than the growth rates

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observed during the boom period of 2004 – 2007 which was approximately 7%. After 2018 the growth rate declines to 5% for the consecutive decade and gradually decreases to 1% by 2048.

Table 1: Town Population Projection (Preiksaitis Report)

	Year	2018	2028	2033	2038	2048	2058
Strathmore Growth Study Projections	Total Population	22,298	36,321	41,092	46,493	51,358	56,731
	Ave. Annual Growth	7%	5%	2.50%	2.50%	1%	1%
Recommended Growth Projections	Total Population	20,300	33,065	37,410	42,326	46,754	51,646
	Ave. Annual Growth	6%	5%	2.50%	2.50%	1%	1%

Source: Town of Strathmore Annexation Application:
A Planning Response from Wheatland County

A population projection was also submitted as part of the County’s “Financial Analysis of Proposed Annexation: Town of Strathmore – Wheatland County” (Nichols) Report. The Nichols Report explained that the growth projection selected by the Town would in fact cause the Town to exceed the growth achieved in the City of Airdrie, the Town of Okotoks and the Town of Cochrane over the past 20 years. The County submits that these municipalities have been among the fastest growing communities in Canada, and it is unlikely the Town would grow at a faster rate than these larger communities have grown over the past 20 years. The Nichols Report also provided a population projection (Table 2) with six projections based on two alternative approaches: the first based on absolute population projections and the second based on the Town’s share of population growth in the Calgary region. The Report states that both of these approaches are more methodologically sound than applying a relatively high percentage growth rate to a relatively small population base over a long period of time. In response to questions regarding the Nichols Report the County’s witness, Gerry Fardoe, indicated he was not a statistician.

Table 2: Town Population Projection (Nichols Report)

Basis for Estimate	Population Projections at Year	
	2028	2038
Town Growth Study Alternative Projections		
a Based on absolute population growth (last 5 years)*	36,321	46,493
b Based on absolute population growth (last 10 years)**	22,115	27,505
c Based on absolute population growth (last 20 years)***	21,918	27,205
d Based on percentage of Calgary Region's growth (last 5 years)****	19,126	23,022
e Based on percentage of Calgary Region's growth (last 10 years)*****	21,601	26,734
f Based on percentage of Calgary Region's growth (last 20 years)*****	21,308	26,295
	20,101	24,484
* Strathmore's population grew by an average of 539 people from 2003-2008		
** Strathmore's population grew by an average of 529 people from 1998-2008		
*** Strathmore's population grew by an average of 390 people from 1988-2008		
**** Strathmore accommodated 1.83% of the Calgary regions' population growth from 1998-2008		
***** Strathmore accommodated 1.78% of the Calgary regions' population growth from 1988-2008		
***** Strathmore accommodated 1.56% of the Calgary regions' population growth from 2003-2008		

Source: Financial Analysis of Proposed Annexation:
Town of Strathmore – Wheatland County

Town Position

The Town submits that its average growth rate has been 6.5% since 1966. Based on the Growth Study prepared by Brown & Associates Planning Group, the Town contends that the municipality will have a population of 56,731 by 2058 and that it needs approximately 18.5 quarter sections to accommodate this anticipated growth. It is anticipated that twelve of the 18.5 quarter sections would be used in the first 30 years.

The Town notes that in the last decade, commercial service and retail facilities locating along Highway 1 have reinforced the Town as a significant trade centre beyond agricultural services. Recently, large-format retail and services have located within the community to provide for the commercial requirements of a trading area as large as 35,000 people. In addition to this, the Town has encouraged the diversification of its industrial base through development of industrial parks. Current businesses within the industrial area include automotive repair facilities, construction material suppliers and a recycle depot. According to statistics on annual building permit values, there has been strong development activity in Town since 1999. From 1999 to 2007, the annual value of permits has grown from \$22 million to \$80 million. This represents an

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increase of 273%. However, a municipal freeze on development permits in 2008 resulted in a decrease in the total permits.

The Town of Strathmore’s historical population growth rate averages 6.5% based on municipal census data since 1966. Table 3 outlines the Town’s population figures for the last 10 years. The annual growth rate has ranged from 2.1% to 12.4 % over the last 10 years; however the average growth rate during this period of 6.5% is consistent with the historical long-term growth rate average

Table 3: Town of Strathmore Population Growth

Year	Population	Population % Change
2008	11,335	2.1%
2007	11,102	7.4%
2006	10,335	7.1%
2005	9,653	5.9%
2004	9,115	5.5%
2003	8,640	7.7%
2002	8,022	7.6%
2001	7,455	4.1%
2000	7,165	5.5%
1999	6,794	12.4%
Average Annual Rate		6.5%

Source: Town of Strathmore Growth Study 2008

The Town submits that over the past five years, its population has increased by 34%, which is a relatively high growth rate in comparison to other municipal members of the Calgary Regional Partnership (CRP) such as Cochrane (17%), High River (15%), and Canmore (11%). Moreover, the Town’s growth over this period is substantially above the 23% population increase of the region (not including Calgary).

The study looked at a compilation of growth rates and demographic information. A series of trend extrapolation forecasts were developed (Table 4 on next page) that identified three scenarios for low, medium and high population projections. The medium forecast scenario was chosen based on what the Town contends is the most reasonable economic, migration and regional market share assumptions.

Table 4: Town of Strathmore – Long-term Population Projection

Year	2018	2028	2038	2048	2058
Projection #1 (Low)*	18,468	29,775	33,000	33,000	33,000
Projection #2 (Medium)**	22,298	36,321	46,493	51,358	56,731
Projection #3 (High)***	20,299	36,353	65,102	87,492	106,653
* Based on CRP Regional Servicing Study: Population Projections, Prepared by CH2M Hill Canada Limited for the Calgary Regional Partnership, March 2, 2007. ** Population projection applied in the Town of Strathmore Growth Study. *** 6% growth rate derived from historical growth rate for the Town of Strathmore since 1961. This rate was applied for population projections through 2037 for the Town of Strathmore Master Servicing Study – Annexation 2006 prepared by UMA Engineering Ltd. May 2007					

Source: Town of Strathmore Growth Study

The growth study indicated that the Town of Strathmore is projected to grow from 11,335 people in 2008 to 46,493 in 2038 and to 56,731 people by 2058. Based on the last decade’s annual average growth rate, the forecast projects an average annual growth rate of 7.0% for the next ten years. Projections beyond 2018 incorporate a decreasing rate of growth to account for the larger total population number and to recognize regional economic forecasts. The CMP long-term forecast indicates a decreasing rate of growth over 30 and 50 years. This trend is expected to be apparent in the Town. The growth from 2018 to 2028 is projected to be 5%, from 2028 to 2038 is projected to be 2.5% and then 1% through 2058.

In their Engineering Master Servicing Study, AECOM projected the population and growth sequence of the Town using past population data and input from Town staff. AECOM used an annual growth rate of 6.0% to project the future population, based on the growth rates used in reports such as the EPCOR Water Treatment Plant Assessment Report of March 2004, the UMA Bow Tertiary Outfall Pre-design Report of April 2005, the UMA Pipeline feasibility Study of November 2004 and other similar reports. This gave a cumulative population growth of 52,690 in the year 2037. The Master Servicing Study is based on this population projection.

MGB Finding

The MGB finds that the growth projection identified in the Town’s Growth Projection document is reasonable. In order to compare the population projection models, the MGB considered the extremes using the common projection year of 2038. The population projections range from a low of 23,022 (Nichols Report – Based on Town’s Population Growth from 1988 - 2008) to a high of 65,102 (Town Growth Study – Projection 3(High)). The average of these extremes is 44,062. The MGB notes that the average of the two extremes is between the 46,483 selected by the Town for its population projection and the 42,326 suggested by the County in the Preiksaitis

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Report. The MGB also notes that the variance between the Town's selected population projection and the Preiksaitis Report projection is relatively small (4,167) and that the methodologies used to develop the projections by both of these reports were similar. Although economic conditions will create fluctuations in the annual growth rate, the MGB acknowledges that the historical source of the growth, access to a major transportation corridor, is the relevant population growth consideration.

As a result of the MGB accepting the population projection models of the Preiksaitis Report, prepared for the County, the Town's Growth Study, and accepting the 50 year time horizon, the range between the 2058 projections from these two studies is reasonable. The Preiksaitis Report projection for 2058 is 51,646, while the Town's preferred population projection is 56,731. The difference between the two projections is approximately 5,085, which is not a substantial variance.

The MGB did not consider the population projections of the Town's Master Servicing Study when it compared the models. The MGB understands that the target population identified in the Master Services Study is the criteria upon which the Town will make future engineering design decisions and is for a different purpose. As such, the MGB did not consider this projection during the analysis of the population.

Density

County Position

The County argues that the density level set by the Town is too low. The County contends that the Town is part of the CMP and as such, the Town's planning should utilize a density level of 8 to 10 units per acre (UPA) in order to be more in line with the density levels established by the partnership. The CMP also requires municipalities to accommodate 25% of their growth through redevelopment. Moreover, the County position is supported by the LUF which directs the implementation of higher density development. The County asserts that the LUF demonstrates a desire on the part of the Province of Alberta to reduce the human footprint on the land. The County also submits the eight-10 UPA is what municipalities such as Cochrane and Airdrie are attempting to achieve in their residential areas.

Town Position

The Town submits that the density level of 6.5 UPA utilized to calculate the amount of land required for the annexation was based on current Council direction and policy and the analysis of historical and existing development. As such, the Town contends that a density of 6.5 UPA is appropriate considering that its actual density levels are lower at this time. The Town explained that market demands determine density. Even if the Town sets a higher density requirement, if there is a strong demand for single family housing, the Town density requirements will not be reached. The Town stated that it attracts buyers seeking single family homes in less dense neighbourhoods. As a result, a UPA of 6.5 is most appropriate. The Town also explained that the

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CMP is silent on how the eight-10 UPA density is to be calculated and will need to be interpreted. Also, the Town does not know if the eight-10 UPA identified in the CMP includes areas such as wetlands and golf courses that are within the Town and cannot be developed. The Town also implied that Airdrie and Cochrane are working on higher density levels because they were able to develop a market of condo type projects.

Landowner Position

The landowners confirmed the Town's contention that the housing market in the Town and other small municipalities in the area attract residents who seek low density housing. One of the landowners also noted that the County, considered best suited to ensure preservation of agricultural land, is permitting residential development in many acreages and hamlets. He also contends that this is resulting in the duplication of infrastructure in the centre of prime farmland.

MGB Findings

The MGB accepts that the housing market in the Town may be different from markets in Calgary as well as larger centers urban centers like Airdrie and Cochrane that are immediately adjacent to this large metropolitan city. The Town is 40 kilometres east of Calgary. The MGB also observes that the Town acts as a regional commercial centre for populations east of Calgary. While condo type developments may be likely in communities immediately adjacent to a large urban centre like Calgary, the evidence presented at the hearing leads the MGB to question whether this type of housing market will significantly impact the historical single family residence market in the Town. The MGB accepts that over time density levels will increase as a result of future policy direction and general land economics; however, for the purposes of the land projections the density levels of 6.5 is appropriate in that the actual densities are lower at this time.

Existing Capacity within the Town

County Position

The County submits that the Town has significant inventory of developable land within its current boundaries. The County contends that there are several quarter sections within the Town identified in Figure 7 of the Town's Growth Study as wastewater management lands that are not considered suitable for other uses. These lands have been used for spray irrigation purposes over the years. With the development of the Town's new sanitary service system these lands may be available for future development. The BSEI Consulting Engineers report contends there is enough land within the existing Town boundary to accommodate an additional 20,572 people. This is population projection is calculated on the basis of 842 acres of Urban Reserve land, eight UPA and three persons per unit. Furthermore, the CMP calls for 25% of municipal growth to be accommodated through intensification of existing developed areas, which should reduce the amount of required residential land.

Town Position

With regard to the wastewater management lands issue identified by the County, the Town explained that these lands are currently being used for spray irrigation. The Town is in the process of executing an agreement with the Siksika Nation which will make any other use of this land in the foreseeable future extremely difficult and unlikely. The Town also indicated that Alberta Environment has advised the Town that this land should be expected to be used for spray irrigation indefinitely.

To estimate the amount of land needed to meet the Town’s goals highlighted in their MDP, the Growth Study looked at the current vacant developable land inventory existing inside the Town boundary. These are the lands that have no current development. Table 5 below shows the results of digital land use and aerial photographs as well as site visits used by the Town to determine existing land inventory.

Table 5: Town of Strathmore Current Land Inventory

Category	Vacant Developable		Developed		Total	
	Ha.	Ac.	Ha.	Ac.	Ha.	Ac.
Residential	6.2	15.2	283.0	699.1	289.2	714.3
Central Business District	0.0	0.0	8.3	20.4	8.3	20.4
Commercial	36.4	90.0	52.3	129.1	88.7	219.1
Industrial	56.1	138.5	44.3	109.5	100.4	248.0
Urban Reserve (UR)*	340.9	842.0	289.1	714.2	630.0	1,556.2
Public Service	0.0	0.0	244.8	604.7	244.8	604.7
Total Land Inventory	439.6	1,085.7	921.8	2,277.0	1,361.4	3,362.7

* Does not include Waste Water Management Lands

Source: Town of Strathmore Growth Study 2008

The Vacant Developable Land identified in Table 5 is land that is ready to be developed. The Town divided these lands into three categories – residential, commercial and industrial. These are further categorized into lands which have a designated land use, an ASP and lands with anticipated land use (see Table 6).

Table 6: Vacant Developable Land Summary

Land Use	Vacant Developable with Land Use (acres)	ASP/Development Plan Areas (acres)	Vacant Developable Anticipated Land Use (acres)
Residential	15.2	626.6	19.9
Commercial	90.0	24.9	30.6
Industrial	138.5	0.0	132.4

Source: Town of Strathmore Growth Study 2008

Based on the above, the capacity for current residential growth in the Town was identified in Table 9 of the Town’s Growth Study to be 10,284. The anticipated future growth that is not

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accommodated within the Town identifies the future land requirements that extend beyond Strathmore's existing corporate limits. In determining which lands within the Town boundaries are developable, the study focused on assumptions derived from current Council direction and policy, and the analysis of historical and existing development.

The Growth Study also identified the amount of lands available within the Town for commercial uses to be 145 acres and for industrial uses to be 270 acres. From these assumptions, it was found that the existing rate of commercial land provides for 12.3 acres of commercial land for each 1,000 persons in the Town.

MGB Finding

The MGB accepts the Town's statement that Alberta Environment has indicated that the wastewater land should be expected to be used for spray irrigation indefinitely. Thus, the MGB finds it is reasonable to conclude that the wastewater management lands may not be available for development within the 50 year time frame.

The MGB finds that the current residential capacity of the Town's Growth Study of 10,284 is more reliable than the 20,500 projected by the BSEI Consulting Engineering Report. The BSEI Consulting Engineering Report contends that there is approximately 850 acres available for residential development within the current Town boundary. This does not consider land for other land uses, such as commercial and industrial. Moreover, BSEI Consulting Engineering Report utilizes eight UPA rather than the more reasonable 6.5. The Town's Growth Study more appropriately allocates the vacant lands between residential commercial and industrial uses.

Annexation Size

County Position

The County agrees the Town is growing and will need land; however, the County's position is that a 20 to 30 year land supply is appropriate, the Town's minimum density should be set at eight UPA, and that the Town has a large inventory of vacant developable land within its existing boundary. As a result, the County contends that the Town only needs three to six quarter sections at the most. The County does not agree that the Town will grow as fast as the Town's Growth Study predicts or that an annexation should be for a term as long as 50 years. Furthermore, the County submits that an IDP can protect growth corridors.

Town Position

The Town's notice of intent to annex identified 14.5 quarter sections for the annexation. The Town identified that during their negotiations the two municipalities had also discussed an annexation of 12.5 quarter sections. However, during the hearing, the Town asserted that it needed all 18.5 quarter sections in order to accommodate the 50 year growth projection and a population density of 6.5 UPA.

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The Town indicated that its Municipal Development Plan (MDP) outlines the requirement to “identify and protect future long-term growth options in land use”. The Town states this presents them with the responsibility to have a substantial land base within the municipal corporate limits to provide for long-term growth. The Town contends their MDP needs update and review. However, the Town submitted that the current MDP has eight key goals which will be kept as a focus in the updated MDP. These goals are the following.

1. To facilitate growth.
2. To ensure that future development is appropriate in terms of locations, type and quality.
3. To build on the Town’s existing strengths as a trade centre and accommodate new commercial development.
4. To encourage diversified industrial development.
5. To encourage restoration, redevelopment and infill development of sites in the Central Business District.
6. To encourage tourism, tourist facilities and tourism opportunities.
7. To accommodate residential development in Strathmore that uses land and infrastructure in an efficient manner.
8. To maintain flexibility and adaptability and to encourage innovations and improved development forms.

In addition, the Town supports this application with planning, growth and servicing studies. Table 7 identifies the additional land requirements outside the Town boundary.

Table 7: Total and Additional Land Requirements

	Total Land Requirement		Additional Land Requirements	
	30 Year	50 Year	30 Year	50 Year
	Quarters (Acres)	Quarters (Acres)	Quarters (Acres)	Quarters (Acres)
Residential	11.3 (1,803)	14.6 (2,328)	8 (1,276)	11.3 (1,800)
Commercial	2.7(432)	3.5 (558)	1.8 (287)	2.6 (413)
Industrial	2.2 (341)	2.8 (440)	0.4 (70)	1.1 (170)
Other*	3.2 (515)	4.2 (665)	2.0 (327)	3.0 (477)
Total	19 (3,092)	25 (3,992)	12 (1959)	18 (2,860)

* 20% land area is added to the additional residential, industrial, and commercial land requirements to accommodate a broad range of other uses including institutional, public and quasi-public facilities, freeways, regional parks, vacant land, major storm water ponds, drainage systems and land held off the market and unavailable for development at any particular time.

Source: Town of Strathmore Growth Study 2008

MGB Finding

During its deliberations, the MGB considered a number of options for the annexation, ranging from no annexation of land to 18.25 quarter sections.

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The MGB agrees with both the County and Town that there is a need for annexation. However, the municipalities have differing opinions with regard to the population projections, planning horizon, density requirements and the amount of vacant-developable land within the Town and the additional land required. The MGB recognizes that these are all factors essential to determine the size of the annexation.

The MGB has already accepted a planning horizon of 50 years is appropriate in this situation, has accepted a residential density of 6.5 UPA, has concluded the land capacity within the Town will accommodate approximately 10,000 people, and found that a target population of 56,731 is reasonable. Moreover, the MGB has analyzed the land projections of the Preiksaitis Report prepared for the County and, by adjusting the time horizon to 50 years and the residential density to 6.5 UPA, the result reveals additional land requirements similar to the projections produced by the Town. The MGB is not bound to accept any of the land options suggested by the parties. However, after analyzing the various options, the MGB accepts that the amount of land required for this annexation is 18.5 quarter sections.

ISSUE 4 – Municipal Servicing

During the hearing the County and the Town provided experts and reports that offered contrasting opinions with regard to municipal servicing. The MGB was provided with a report and testimony from BSEI Municipal Consulting Engineers to support the County's position, while UMA Engineering was retained to support the Town's position. Generally, the County is of the view that the proposed servicing systems are unnecessary while the Town argues the proposed municipal services are required to achieve future economies of scale. The positions of the County and the Town regarding each of the separate servicing components have been summarized below. The MGB's findings regarding the entire servicing issue are provided thereafter.

Master Servicing Study

County Position

During the hearing the County submitted a report from BSEI Municipal Consulting Engineers to assess municipal services being proposed in the Towns annexation application and to present contrasting expert opinion to the Town's Master Servicing Study. The report notes discrepancies between the Town's Master Servicing Study and the Growth Study. The Growth Study uses a population of 46,493 by 2038 while the Master Servicing Study uses a population of 62,351 by 2037. The County contends that this either results in the Town making improvements much earlier than needed or that the improvements being made that are not required.

The County argues that servicing for water and wastewater utilities can be achieved through joint servicing agreements and does not require an annexation. Moreover, the County argues that the Town's reason for applying for such a large and long annexation is to generate levy contributions to pay for the Town's current infrastructure.

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The County also explained that annexation does not provide ownership to the Town. Utility rights-of-way can be either in the Town or the County.

Town Position

The Town contends that the Master Servicing Study allows services to be looped so they can be designed, constructed and operated with the greatest degree of flexibility and efficiency. Because of this, the servicing capacity exceeds the population projection and equalizes the cost per acre of the trunk lines on both sides of the municipality. The Town stated that the Master Servicing Study also allows for flexibility and can be changed over time as development patterns and regulatory standards change. The Town insists that it would be imprudent to propose any type of infrastructure system without considering how it could be financed.

The Town agrees that annexation does not result in a change of ownership. However, having the lands required for utilities within its boundary allows the Town to acquire the necessary right-of-ways without having to obtain consent from the County in accordance with section 72 of the Act. The Town states that given the recent history between the two municipalities, the County could put major infrastructure projects desired by the Town at risk.

Water

County Position

The County contends that the Town's water transmission mains loop design is not cost effective or efficient for a Town the size of Strathmore, but rather appropriate for larger cities such as Medicine Hat, Edmonton or Calgary. Instead, the County asserts that upgrades to the Town's existing grid system would be best as these would not require the annexation of as much land and would take advantage of developer-funded servicing.

The County also noted that additional licenses are required to accommodate the projected growth in the Town. Water licensing restricts potential for growth and needs to be resolved. The Town's current license from Alberta Environment (AE) provides for withdrawal from the Bow River via the WID.

Town Position

The Town submitted that it commissioned an annexation study to explore the possibility of servicing the proposed annexation lands to the north, west and east of the Town's boundaries north of Highway 1 and a reassessment of the existing infrastructure based on current and anticipated development.

The Town stated that its current water treatment plant requires immediate upgrading. The clarifiers and filters are under capacity as they have not supplied the required calculated demand

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since 2006. The treated water storage capacity will need to be upgraded by the year 2019. The Brentwood and Westmount distribution pumping capacity has needed upgrading since 2008. Also, the distribution system has several areas of inadequate fire flows.

In order to meet the current and projected population water needs, in their Master Servicing Study prepared for the Town, AECOM suggested upgrades be done to the existing water treatment plant until the East Calgary Regional Pipeline is operational. The study also recommended that several of the existing distribution pipes be upsized and that the Brentwood and Westmount reservoirs and pump stations' pipes be modified to increase their supply and distribution capacities. AECOM believes three new reservoirs and distribution pump stations and associated pipes should be constructed, creating a loop around the Town. The estimated costs of the water supply and distribution for the projected population of Strathmore will be of \$35,666,000 (Table 8).

Table 8: Estimated Water Supply and Distribution Costs

Description	Estimated Costs
Distribution Capacity Upgrade Cost	\$5,143,000
Distribution Connection Upgrade Cost	\$3,026,000
Transmission System Cost	\$11,899,000
Treated Water Reservoirs Cost	\$12,400,000
Distribution Pump Stations Cost	\$3,198,000
TOTAL	\$35,666,000

Source: Town of Strathmore Growth Study 2008

To accommodate increasing population, pressure reduction valves will be required for low lying north-west and south-east areas by the year 2037. The Westmount pump station will need significant upgrading to contribute to the distribution system due to its current limited pumping capacity. In addition, pressure reducing stations need to be installed on branch-offs from the transmission main to reduce the pressures in the distribution system. This would enable the loop around the Town to be the designated transmission main.

The Town also stated during the hearing that the existing water treatment and supply are being replaced by a regional water pipeline expected to be completed by the fall of 2009.

Wastewater/Sanitary Sewer System

County Position

The County submits that land on which future Town infrastructure is located does not need to be included in the Town boundaries as agreements between the Town and County through an IDP can easily be reached for this to happen without the land being annexed. The County cites the wastewater trunk on the south side of the Town as an example.

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The County cites the AE license as evidence that the Town's wastewater system needs to be upgraded to meet the required standards. The County states that requirements of AE will restrict future development. The County does not agree that the Town's system which incorporates irrigation is the best choice for a growing municipality as it requires a minimum of seven months of storage and land for treated wastewater disposal. Irrigation can be problematic near developed areas due to restrictions for wind velocity and direction. The County's Master Servicing Study did not, however, provide an alternative.

Town Position

The Town contends having the infrastructure within its boundary is more efficient than attempting to develop joint agreements as suggested by the County. As a result the system has been designed within the Town boundary.

The Town's existing sanitary sewer collection system consists of central and eastern trunks which are at, or over capacity. To improve servicing, the Town will need to service the entire northern part of the annexed area through the eastern sanitary trunks and the western part of the annexed area through the southern sanitary trunks with a resulting cost of \$28,135,000. Another option would be to service three quarter sections of the northern part of the annexed area through the eastern sanitary trunks and the remaining two quarter sections through the western part of the annexed area which is serviced through the southern sanitary trunks. This would cost \$26,864,000. The Town submits that its growth patterns will dictate which option is best. The Town also indicated that it is working with AE to increase wastewater discharge to the Bow River.

Stormwater Management

County Position

The County identified that the Town's stormwater discharge is to Eagle Lake and the WID Main "A" Canal. The proposed requirements for discharges to the WID may restrict the volume of discharge as well as require additional treatment of the stormwater prior to discharge.

Town Position

The Town notes that it releases more stormwater into both the WID Main 'A' Canal and Eagle Lake Ditch than the release rates allowed by WID. There are also areas that currently do not discharge into the Town's storm system. These will need to be directed into the Town's storm system before development begins. The costs of the recommended stormwater system improvements are provided in Table 9 (on next page).

Table 9: Stormwater Improvement Costs

Description	Estimated Costs
Brent Boulevard and Pond 1	\$1,800,000
Strathmore Lake, West Strathmore, and Pond 2	\$1,796,000
Westmount and South Strathmore	\$1,845,000
Area 64 and 65	\$348,000
Ponds 3, 4, 5, 6	\$380,000
TOTAL	\$6,169,000

These improvements will rectify any stormwater limitations.

Roadway Network Planning

County Position

The County contends that the annexation will increase traffic into the County and that specifically Oxbow and Acreage Roads will be significantly impacted. The County stated at the hearing that from 2005 to 2008 the traffic volume on Oxbow Road increased from 811 to 1,104 (36%) and Acreage Road increased from 554 to 705 (27%) while the Town's population increased from 9,653 to 11,335 (17%). As a result, the County argues there should be a requirement as part of the annexation that the Town share the cost of upgrades to these roads. This is further discussed below under the Compensation heading. In response to questions during the hearing, the County was not able to provide an independent study showing the current or future origin of the traffic on these roads.

Town Position

The Town asserts that the Master Servicing Study shows that there will be limited or no traffic volume increase to the County roadway system. The Town contends that the Study shows the 13,000 trips generated will use the Town's roadway system, not the County's system.

To accommodate the needs of the annexation, a transportation plan was included in the Master Servicing Study. The Study shows The Town submits the following roadway network plan which provides a guide for developing the future roadway system for Strathmore for the year of 2037; when the annexation land is anticipated to be fully built out and a population projection of 62,351.

AECOM recommends the Town to upgrade Highway 1 from four to six lanes and that three sets of traffic lights be added in addition to the existing three traffic lights. These two recommendations are to accommodate the planned building of a Highway 1 freeway making the existing road an expressway.

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Highway 817 travels through the centre of Strathmore and the Town has identified that it will be operating at overcapacity. Due to surrounding buildings, widening this highway is difficult and classifying it as a multilane will limit its number of access points primarily through the downtown region.

East, North, South and West Boundary Road would be part of the proposed ring road around the Town. These roads may be classified as a major arterial with the provision for six lanes linking from one road to the other.

Documentation provided by the Town prior to the annexation identifies that Alberta Transportation has indicated that the Highway 1 and Highway 817 rights-of-way should be excluded from the annexation.

During the hearing, the MGB requested the Town and the County to provide a listing of boundary roads for each of the annexation scenarios. The documentation provided identifies that the two municipalities were in disagreement with the Statutory Road Allowance adjacent to the east side of the SE 27-24-25-4 as well as Range Road 250 east of the NE and SE 12-24-25-4. This document also identifies that Highway 1 is not to be included as part of the annexation area.

MGB Findings

The MGB finds that it is not unreasonable for the Town's Master Servicing Study to use a population figure higher than the Growth Study. The MGB acknowledges that it is expensive to install infrastructure. The use of higher population projection target will allow the Town to consider increasing the diameter of a pipe during initial construction, which is far less expensive than having to remove and replace existing infrastructure to accommodate additional demand at a later date. The MGB finds the proposed loop system to provide the Town with the desired flexibility, efficiency and economies of scale. Changes to regulations and/or technology may influence the amount of capacity needed in the future.

The MGB has already accepted the annexation size to be 18.5 quarter sections; therefore the MGB considers it reasonable for the Town to want capacity flexibility in order to ensure future development does not exceed the capacity of the existing infrastructure. Moreover, the MGB notes that the population figure used to develop the Master Servicing Study are reasonably in line with the high projection identified in the Growth Study.

With regard to water system, the MGB was presented with submissions and evidence for two different and contrasting servicing options. The MGB heard no evidence to sway it from accepting that the Town's water servicing plan was inferior to the water servicing plan proposed by the County. The Town's Master Servicing Study demonstrated that as a municipality it had spent time and money towards finding quality systems and good solutions for required upgrades in order to service the existing and expanded community. The MGB finds that any current limitations with regards to the water supply will be rectified with the regional water line.

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The MGB acknowledges that the Town will have to upgrade its wastewater system. The MGB is satisfied that the Town has identified two options to address the collection issues and will work with AE to increase wastewater discharge.

The MGB finds the stormwater management plan developed by the Town addresses the concerns raised by the County. The MGB understands the Town will be working with AE and the WID to address stormwater drainage issues as development occurs.

The MGB accepts that the Town is planning to use an internal road to mitigate the impact of future development to County roads. The proposed roadway network identified in the Town's Master Servicing Study identifies that transportation will be internalized onto major arterial roads within the Town. There was insufficient evidence to convince the MGB that the population increase of the Town would result in abnormal impacts on the Oxbow and Acreage Roads. The MGB notes that Map 2 shows a variety of rural development has occurred adjacent to these roads. The MGB will address the issue of compensation for the Oxbow and Acreage roads as part of its findings under compensation.

Alberta Transportation requested that Highway 1 and Highway 817 be excluded from the annexation. The legal land description documentation provided to the MGB after the hearing by the two municipalities echoes this request by excluding both these highways from the annexation. The MGB notes that the exclusion of these areas would extend the County's jurisdiction over the roadways approximately three quarters of a mile into the Town on the east and approximately half a mile on the west. In order for the Town to extend municipal services across the Highway, it would have to obtain approval from Alberta Transportation as well as the County. Not including these sections of the highways within the proposed annexation area may also require the Town to obtain approval from the County in order to develop access points to the Highways. In light of the conflict between the two municipalities the MGB finds that it would be prudent to include the portion of Highway 1 between the proposed annexation lands on the east side of the Town and that portion of Highway 1 between the existing municipality and the NW 10-24-25 W4 on the west side of the Town as well as the portion of Highway 817 that lies to the east side of SE 27-24-25-4.

In light of the probable effect of not including Highway 1 and Highway 817 in the annexation area on the local authorities and in accordance with section 121(b), the MGB consulted with Alberta Transportation. A letter received by the MGB from Alberta Transportation states that Alberta Transportation has no objection to Highway 1 and Highway 817 being included in the annexation. The MGB concludes that this will simplify the boundaries so there is no confusion as to which municipality has authority over various areas of jurisdiction.

The MGB notes that Highway 817 runs through the centre of the Town to Highway 1. Since the annexation will include lands on both sides of this major road, the MGB finds this section of Highway 817 should be included as part of the annexation in order to simplify the boundaries and reduce confusion as to which municipality has jurisdiction.

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The MGB considered including the portion of Range Road 250 east of the NE and SE 12-24-25-4. The MGB notes that the portion of Range Road 250 lying east of the NE 12-24-25-4 provides access to this quarter section. The MGB also notes that the SE 12-24-25-4 has been in the Town for quite some time and should be able to be accessed through the roadway system within the existing Town boundary. Therefore, the MGB finds that the portion of Range Road 250 lying east of the NE 12-24-25-4 is to be included in the annexation, while the portion of Range Road 250 lying east of the SE 12-24-25-4 is not to be included in the annexation.

ISSUE 5 – Financial Impacts to County

The County contends that the annexation application submitted by the Town does not fully consider the financial impacts to the County. Financial issues identified at the hearing included the loss of municipal property taxes, loss of municipal grants, the associated annexation compensation and the West Highway Area Structure Plan. Each issue along with the MGB findings is covered below.

Municipal Property Tax Impacts

Town and County Position

Both municipalities agree they are in sound financial position. During the hearing, the County and the Town submitted that the amount of municipal taxes generated by the lands within the annexation area would not significantly impact either municipality. Table 10 identifies the assessment and taxation within the proposed annexation area.

Table 10: Annexation Area Assessment and Taxation

Property Type	Total Assessment	Total Taxes	Municipal Taxes
Farmland	407,210	\$ 4,901.55	\$ 3,983.17
Machinery & Equip	531,750	3,679.25	3,679.28
Res. Impr. Nil Rap Allow	513,600	2,927.31	1,768.99
Res Land & Impr.	13,926,620	79,376.16	47,967.46
Res Vacant Land @ MV	229,910	1,310.40	791.68
Com. Land & Impr.	2,778,500	28,698.29	19,225.00
Ind. Land & Impr.	124,300	1,283.86	860.06
Other Muni. Land&Imp. Exempt	66,120	-	-
Muni. Land & Impr. Exempt	2,296,880	-	-
WID Land & Impr. Exempt	858,970	-	-
Rural Res Exemption	349,880	-	-
Farm Building Exempt	336,580	-	-
Sub Total Non-Linear	\$ 22,420,320.00	\$ 122,176.82	\$ 78,275.64
Linear (Aprox Length in Each ID) Pipeline	720,430	\$ 7,441.11	\$ 4,984.80
Linear (Each Well Location) Well	1,223,620	12,638.40	8,466.47
Linear (Prorate by # PARID) Electric Power	1,268,810	13,105.16	8,779.15
Linear (Prorate by # PARID) Telecom	73,130	755.34	506.00
Subtotal Linear	3,285,990	\$ 33,940.01	\$ 22,736.42
Grand Total	25,706,310	\$ 156,116.83	\$ 101,012.06

Source: Wheatland County

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Documentation provided by the County shows that the amount of assessment within the 18.5 quarter section annexation area would result in a 0.7% decrease in the total assessment within the County and an increase of 1.3% in the Town. The municipal property taxes generated by the County in the annexation area is \$101,012.25, which is approximately a 1% of the County's municipal tax revenue. The cost of road servicing within the area is expected to result in a reduction of \$69,600 to \$117,600 for the County and an increase in expenditures to the Town of between \$89,200 to 137,200.

The Town commissioned a Fiscal Analysis by Applications Management Consulting Ltd. which considered the financial impact on both municipalities and their ratepayers. The study found that any financial impact on either the Town or the County would be minimal.

MGB Findings

The MGB accepts the comments of both the Town and the County that there will be minimal fiscal impacts on either municipality in regards to the loss/gain of municipal property taxes and expenditures. The MGB notes that both municipalities seem to be in good financial situations and the annexation will affect neither in a detrimental way from a financial point of view.

Compensation

During the hearing the County stated that it must be compensated for the loss of property tax revenue, expenditures related to road upgrades, the loss of grants and hearing costs. The County also requested revenue sharing. The arguments of both municipalities and the MGB findings for each of these issues are provided below.

Loss of Property Tax Revenue

County Position

The County submits that the Town should be required to pay on the basis of gross tax revenues generated in the annexation area at the time the annexation occurs for a period of 10 years, based on the 2009 tax year. This amount is to include taxes generated in the annexation area from land, improvements and linear assessment. Information from the County identifies that the municipal portion of the taxes generated in the 18.5 quarter annexation area is \$101,012.25 per year for a ten year period. The County contends this is in keeping with the compensation in other annexations, such as the Town of Chestermere.

Town Position

The Town agrees that the compensation for lost tax revenue should be based on the 2009 municipal taxes. However, the Town proposes the amount of compensation be calculated over a five year period, with each year reducing by 20%. The Town estimates that its net operating

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costs will increase by \$57,710 in the provision of services to the annexation area. The Town states that this would result in an increase of their municipal tax rates by an estimated 0.76% but that by year five, the Town ratepayers would start to see a small tax benefit from the annexation. On the other hand, the County would receive a net tax rate decline in the early years following annexation with the compensation payments, equal to a reduction of 0.22% in the first year and 0.11 in the second. However, this is balanced by the County not having to provide services to the annexation area.

MGB Findings

The MGB finds that the compensation for lost municipal property taxes in the annexation area is adequately covered by the five year declining balance compensation formula used in other annexations. In many other annexations where the fiscal impact on the municipalities is limited, specifically the impact on the rural municipality, annexation orders have only provided for a short transition period and a declining yearly compensation. Considering the relatively undeveloped nature of this annexation area and the minimal amount of taxes lost by the County relative to its large tax base, a period of greater than five years is not warranted.

The MGB notes that over the five year transition period, expenditures related to the annexation area will increase for the Town and decrease for the County. In light of this, the MGB finds that the amount of compensation to be paid by the Town to the County as a result of the loss of municipal tax revenue should decline by 20% each year. Assuming an implementation date of January 1, 2010 the base year for tax compensation would be 2009. The MGB understands that the County only retains the municipal portion of the taxes levied in the annexation area. The County has identified that in 2009 it generated \$101,012.25 in municipal taxes from the annexation area. In 2010 the County would receive 100% of \$101,012.25, 80% in the following year, 60% in the next year, 40% in the following years and conclude in the fifth year at 20%. The MGB is satisfied this will provide adequate transition for the County.

In order to ensure certainty, Table 11 shows the amount of compensation to be paid by the Town to the County on or before June 30 each year.

Table 11: Total Compensation Payment

Compensation	
Year	Payment
2010	\$ 101,012.25
2011	80,809.80
2012	60,607.35
2013	40,404.90
2014	20,202.45
Total	\$ 303,036.75

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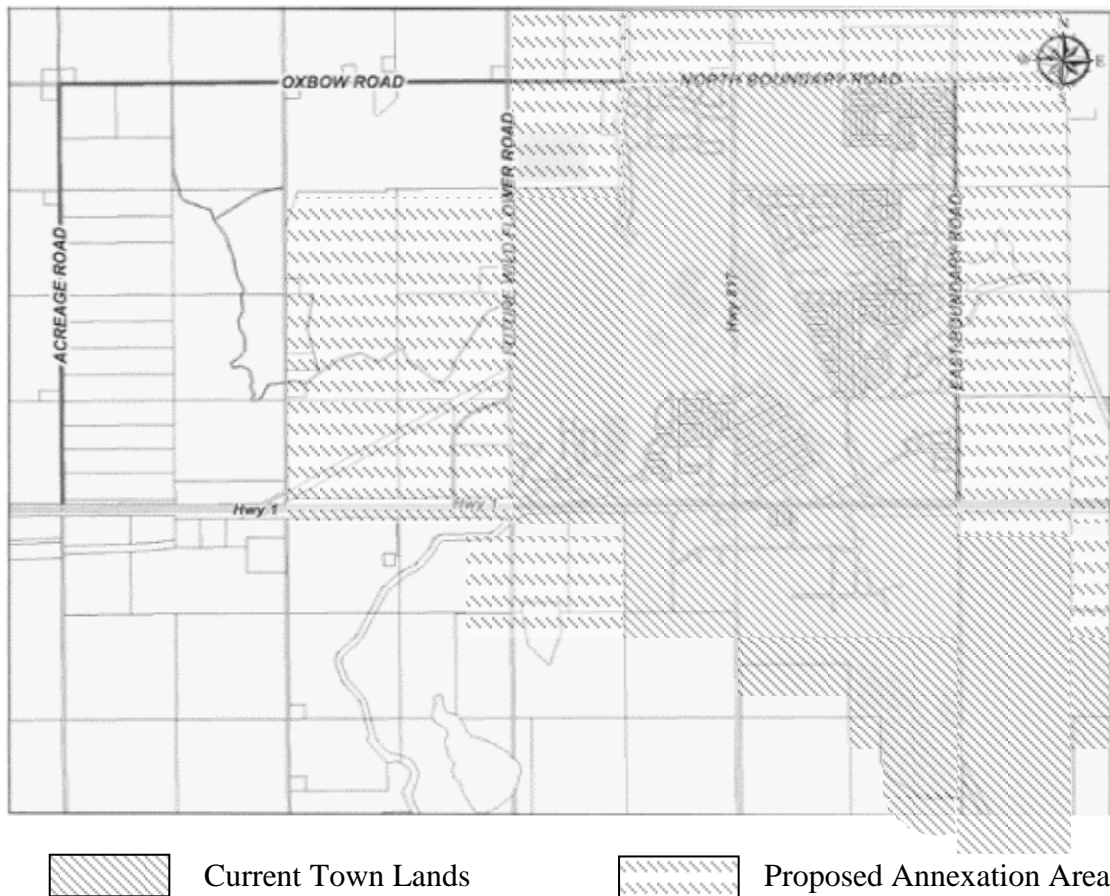
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The MGB is confident that the declining compensation formula will allow for a smooth transition for both municipalities. Town residents will not be burdened for an extended period of time. Moreover, the County will receive \$303,036 over a five year period to assist it with any municipal tax adjustments. In addition, this formula identifies a fixed start date, a fixed term and a fixed end date which provides certainty and predictability. The Town and County have already spent a considerable amount of time and resources on this contested annexation. Thus, the conditions for annexation need to be certain. The County benefits from this method of compensation as it receives five years of direct transitional tax compensation. The County can still pursue its growth strategies and is not faced with the burden of accommodating high density regional residential growth.

Road Upgrade Expenditures

To provide context to the positions of the County and the Town with regard to the Oxbow and Acreage Road upgrade expenditures, the location of these two roads are shown on Map 2.

Map 2: Location of Oxbow and Acreage Roads



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County Position

The County asserted that the Town should pay compensation to upgrade the Oxbow and Acreage Roads located in the County. The County argues that the annexation will impact these two County roads significantly. Oxbow Road extends west from the northerly Town limit and Acreage Road is a north-south road which links Oxbow Road to Highway No.1. Both roads require improvements to bring them to a non-banned status. The Nichols Report submitted by the County identifies that the County has prepared estimates of the work required and estimated cost for these upgrades is \$4.6 million. The County is of the opinion of that the majority of the traffic on these roads in the future will be generated by Town residents, because these roads are the most direct route to Highway No.1 and ultimately to the City of Calgary. The documentation submitted by the County's solicitor requests the MGB to require the Town to pay a one-time lump sum payment in the approximate amount of \$4.0 million to compensate the County for the impact of Town development on County infrastructure. During questioning the County was not able to determine whether the traffic on these roads was as a result of County or Town resident vehicle travel.

Town Position

The Town argues that it should not be required to pay compensation for the roads as both Oxbow and Acreage roads are in the County, not the Town. The Town's position is that the issue of road upgrades outside the annexation area is an issue that should not be discussed at an annexation hearing as these roads are not directly impacted by the annexation. The Town states that the County's control of roadways within its boundary is subject to a trust for the public purpose of transporting people. In addition, the Town contends that even if costs for upgrades of these roads were an annexation issue, the County has not provided any evidence to prove that the Town residents are responsible for the majority of the traffic on Oxbow and Acreage Roads. During the hearing the Town informed the MGB that it plans to use traffic control to divert future traffic down Wildflower Road.

MGB Findings

The MGB finds that it is not appropriate to award compensation with regard to the Oxbow and Acreage Roads. The MGB notes that the Oxbow and Acreage Roads are not boundary roads that define the annexation area. The MGB recognizes that the County has the direction and control of all roads within the municipality. As such, the County sets standards for construction maintenance and upgrading of roads. However, the County provided no engineering study that would substantiate and quantify the amount of compensation being requested for the upgrade of these roads. The MGB acknowledges that an annexation should not cause undue financial burden to either the initiating or responding municipality. However, without the two municipalities having reached an annexation agreement and, in light of the fact that the roads do not form the boundary separating the two municipalities, the MGB would have needed a great deal more evidence showing direct impact in order to recommend compensation for non-boundary roads.

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The MGB noted that Map 2 shows there are already a number of rural subdivisions in the vicinity of these roads.

West Highway Areas Structure Plan

County Position

The County also submits that a portion of the Town's proposed annexation area is adjacent to its West Highway Area Structure Plan (WHASP). The County has adopted the WHASP for the lands south of Highway 1, which includes some 8.3 square miles of land extending from the proposed Town boundary west to the boundary with Rocky View County. The WHASP is intended to accommodate a range of industrial and commercial uses that are initially serviced by on-site water and sewer systems. This area is an important economic generator for the County. The County is concerned that the Town might allow similar uses to locate in the Town with on-site servicing that will negatively impact development in the WHASP. The Preiksaitis Report acknowledges that the Town has assured the County that it will not proceed with industrial uses based on on-site servicing.

The County states that no revenue sharing opportunities have been considered by the Town. The County asks that a revenue sharing condition be part of the annexation as compensation for the newly created competition for lands in the WHASP.

Town Position

The Town contends the County's concern regarding potential industrial development in the south west annexation area competing with the WHASP is not related to the annexation. The Town states that it did not object to the County's implementation of the WHASP and that this demonstrates that the Town does not wish to cause conflicts between land uses within the different jurisdictions. The Town identifies that the Act provides provisions to resolve intermunicipal disputes regarding statutory plans should conflict occur.

With regard to the revenue sharing matter, the Town indicates there are no special properties within the proposed annexation area which generate unique cost or revenues, which was found by the MGB in the annexation of the Edmonton International Airport.

MGB Findings

The MGB observes that both municipalities will be allowing industrial type uses adjacent to each other, which should not result in any land use conflicts. However, it was clarified that the two industrial areas will be differentiated by on-site and municipal servicing. The MGB finds that the municipalities will be trying to attract different markets and will not be competing with each other.

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Section 124(1)(b) of the Act allows the MGB to recommend revenue sharing. The MGB notes that the amount of land within the WHASP will accommodate a vast amount of industrial development when compared to the lands identified for industrial development within the annexation area proposed by the Town. The MGB agrees with the Town that the industrial area identified by the County is not unique, like the Edmonton International Airport. Therefore, the MGB is not prepared to recommend revenue sharing for this annexation.

Grants

County Position

The County argued that the Town should be required to pay compensation for the loss of grants. The Nichols report estimates that the 18.5 quarter section annexation will result in an increase in grant revenue of \$33,234 for the Town and a loss of \$48,681 for the County in 2010 (Table 11). The grant program affected the most for the County is the Municipal Sustainability Grant (MSI). The majority of the MSI funding (98%) is allocated to municipalities based on the following formula – 48% on a per capita basis, 48% on education property tax requisition, and 2% based on the kilometres of roads. Over the life of the MSI program, the County estimates that the Town will benefit by \$193,000, while the County’s funding will decrease by \$340,000

Table 11: Estimated Annual Municipal Grant Program Impact

Program	Town of Stathmore	Wheatland County
MSI Grant Program (2010)	\$ 27,522	\$ (48,681.00)
Municipal Policing Assistance Grant	672	
Rural Transportation Program		N/A
Street Improvement Program	5,040	
Total (2010)	\$ 33,234	\$ (48,681)
MSI Cumulative Over Expected Duration of Program	\$ 192,657	\$ (340,767)

Source: Nichols Report

Town Position

The Town argues that grants are provided to assist municipalities in financially supporting various activities and projects. If the population or other criteria is changed, then the need is reduced. The Town’s opinion is that the County has not provided evidence to show the Province has incorrectly structured the grant criteria and that the reduction in grant funding reflects the reduction in need.

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MGB Findings

The MGB does not recommend any compensation with regard to lost grant revenue. As noted by the Town, the criteria for the MSI, as stated in the Nichols Report, is based on per capita, education property tax requisition and roads. The people and roads within the annexation area are now within the Town's jurisdiction and the County no longer has to provide service to this area.

Hearing Costs

County Position

The County asked the MGB to order the Town to pay for the costs of the annexation hearing. The County believes the costs associated with this annexation process have been excessive due to its contentious nature, which the County argues is largely a result of a breakdown in negotiations on the part of the Town. The Town failed to participate in the negotiations on two occasions while the County states they were more than willing to come to an agreement. The County submits that it would have allowed the Town to annex more land than the County believed was necessary in exchange for the sharing of the costs of roads.

Town Position

The Town did not agree they were responsible for the costs of the application for annexation. The Town contends they negotiated in good faith and explained it did not come to the last meeting for fear of further damaging the municipalities' already fragile relationship. At the hearing, the Town reserved the right to request hearing costs.

MGB Findings

The MGB recognizes that the two municipalities have entered into an adversarial process which can be costly. As explained to the parties at the hearing, the MGB has established a separate process for addressing requests for costs. Should they wish, the parties can make a separate application at a later date. However, the MGB notes that it has already established that the parties negotiated in good faith and did not reach an agreement for reasons specific to each municipality.

ISSUE 6 – Landowner Impacts

County Position

The County submits that the annexation does not adequately address the impact on property owners. The written submission by the County identifies that landowners in the annexation area should be assessed and taxed as if they remained in the County for a period of 10 years or until the land is rezoned or developed to urban use or the land is connected to Town services. However, at the County identified that if a 50 year annexation is allowed, then the taxation and

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assessment protection afforded to the landowners in the annexation area should be in the range of 40+ years. The County states that with a 50 year land inventory, development may not occur until far into the future.

The County requested that the landowners be exempt from paying franchise fees for a period of 10 years. The County estimated that the additional franchise fees for the entire 18.5 quarter sections would be approximately \$3,000 annually.

The County identified that the landowners also need protection for existing agricultural use in the Town's Land Use Bylaw and Noise Bylaw. The County's Preiksaitis Report suggests that the Town ensure the lands within the annexation area continue to be available for agricultural purposes until they are required for urban development and proposes that the Town contact the County's Agricultural Service Board for services such as weed management, disease and pest control. Moreover, the County requests the rural fire hall in the proposed annexation area be exempt from assessment.

Landowner Position

A review of the landowner's positions identifies most of the affected landowners that made submissions to the MGB did not express concerns regarding the proposed annexation. However, one land owner identified that the transition period should be of a longer duration and requested the franchise fees be removed.

Town Position

The Town contends that there will be no significant adverse impact on any of the properties in the Annexation Area. It proposes as follows:

For a maximum of 10 years, property annexed from the County would be taxed based on the Provincially-required assessed value (presently "fair market value") but using the same mill rate as if it remained in the County:

"Upon the earlier of:

- a. 10 years from the effective date of annexation, or
- b. the owner (or agent) of a property annexed from the County making a "planning application" consisting of:
 - i. an application for land use redesignation or a subdivision application;
or
 - ii. a development permit or building permit application for a non-agricultural use;

The Town identified that it is already taking steps to amend its Noise Bylaw to ensure that agricultural activities in the annexation area are appropriately protected. The Town also

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identified that when the annexation area is known it will be able to advertise and commence the process to amend its Land Use Bylaw for the same purpose.

The Town agrees with the County that the rural fire hall should be exempt from taxation to the extent permissible under the Act.

MGB Finding

The MGB finds that the assessment and taxation condition transition period of 10 years is short for an annexation that will provide the Town a 50 year supply of land. In previous annexations, the MGB has allowed transition periods of between five and 15 years for annexations of approximately 30 years. In this case, the MGB is convinced that the transition period should be extended to 30 years. The MGB notes that the Town has already stated that the amount of taxes within the annexation area will have very little impact on its budget; therefore, the MGB trusts that the difference between the County and the Town taxes for these properties will not cause a significant impact on the Town. Moreover, the extension of the transition period may also help to reduce the amount of premature fragmentation of agricultural land.

The MGB recommends that the subject to “removal clauses” that were proposed by the Town be revised. The proposed “triggering events” contained in the annexation application include a clause that would remove the assessment and taxation transition conditions upon the granting of a development permit for non-agricultural purposes. The issuing of a development permit does not necessarily change the population density of a parcel of land, nor does it inevitably lead to a change in the use of the land. The MGB finds the aforementioned triggering provision to be too broad in scope, and recommends its replacement by a provision that would bring an end to the assessment and taxation transition period if a parcel of land is subdivided. Application of the *Matters Related to Assessment and Taxation Regulation* for permitted development can allow the assessed value of the property to increase and will allow the Town to generate the appropriate tax revenue. The recommended clause should help to protect landowners from inadvertently losing their assessment and taxation conditions as the result of a minor improvement to their property. The MGB finds that this clause will also aid in the prevention of premature fragmentation of agricultural lands.

The MGB notes that the franchise fees that will be collected by the Town for the proposed annexation area is minimal, approximately \$3,000. The MGB finds that no special accommodations should be made with regard to the removal of the franchise agreement for those properties being brought into the Town. Section 127.1(3) of the Act does not allow an annexation order to affect the provision of natural gas service if the right is subject to section 23 of the *Gas Distribution Act*. Although the County requested the franchise fee be waived, the utility operators did not provide any written submissions regarding the annexation to the MGB nor did they attend the hearing to speak on this matter. While the MGB appreciates the franchise fees may increase utility costs to the landowners in the annexation area, the MGB did not hear sufficient evidence to fully appreciate the extent of this concern on the utility operators and therefore was not swayed by the argument of the County or the landowner.

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The MGB accepts that the Town will amend its Noise Bylaw and Land Use Bylaw to ensure agricultural operations in the annexation area are protected.

The MGB accepts the Towns' commitment in stating that it will exempt the rural fire hall from taxation to the extent permissible under the Act. This exemption can be provided each year by Town Council.

Effective Date

The Town has requested the effective date to be January 1, 2010. The County did not provide any response. The landowners wanted the annexation to be effective as soon as possible.

MGB Findings

The MGB is recommending that the annexation be effective as of January 1, 2010. Should the Order in Council not be signed by the LGC by this date, the MGB recommends the annexation be made retroactive as per 138(1) of the Act.

ISSUE 7 – MGB Annexation Principles

Due to the overlapping nature of the issues that have already been addressed, the MGB has summarized the arguments brought forward by the parties.

Principle 1: Intermunicipal Cooperation

Annexations that provide for intermunicipal cooperation will be given considerable weight. Cooperative intermunicipal policies in an intermunicipal development plan will be given careful consideration, weight and support so long as they do not conflict with Provincial policies or interests.

The Town submitted that while cooperation between municipalities is desirable, an annexation agreement and/or an IDP is not always achievable. Such agreements cannot be a prerequisite for an annexation or else municipal growth would be effectively determined by surrounding municipalities – not the MGB, the Minister or the LGC. However, the Town noted that there remains an element of cooperation between the two municipalities despite them never coming to an annexation agreement.

The County submitted that the Town does not meet the first principle of annexation as there is no IDP, nor any other agreement in place between the Town and County. The County explained that the Town refused to finalize terms of an IDP before proceeding with its annexation application. The County's opinion is that the Town actually believed an IDP was an impediment to the Town's annexation aspirations.

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MGB Finding

As stated previously, the MGB finds that an IDP is desirable and highly beneficial to the annexation process, but it is not a prerequisite (condition precedent) to an annexation. The MGB notes that the Act provides two procedures for processing annexations: section 120 (General Agreement) and section 121 (No General Agreement). This clearly shows the Act contemplates situations where the municipalities may not be able to negotiate an annexation agreement. This principal encourages cooperation and collaboration and, if the municipalities are able to develop a mutual agreement, the MGB will afford that agreement considerable weight during annexation deliberations. In this case there was no agreement for the MGB to consider.

Principle 2: Rational Growth Directions, Resource Use, Fiscal Accountability and Municipal Purposes

Accommodation of growth by all municipalities (urban or rural) must be accomplished without encumbering the initiating municipality and the responding municipality's ability to achieve rational growth directions, cost effective utilization of resources, fiscal accountability and the attainment of the purposes of a municipality described in the Act.

The Town stated that the Master Servicing Study and Growth Study demonstrates that the proposed annexation allows for growth to continue in a rational direction which protects natural resources in the area and allows for efficient servicing. The Town's Fiscal Analysis confirms that the interest of all affected parties have been considered and protected. Where necessary, tax protection is proposed to those ratepayers in the annexation area who could potentially be negatively impacted by their land moving from one taxation jurisdiction to another.

The Town disagrees with the County's position that the Town should contribute to the costs of \$4.6 million to upgrade Oxbow and Acreage Roads in order to prevent the County's ratepayers from having to carry the burden of these road upgrades entirely.

The County argued that the Town's reason for applying for an annexation with a 50 year projection and 18.5 quarter section is not to accommodate growth but in reality a tax grab. The County asserts the Town is looking to achieve a certain level of land mass which may generate levy contributions to pay for the Town's current required infrastructure upgrades. Moreover, the County contends the Town's analysis of traffic generation does not take into consideration the impact the proposed Town development will have beyond its boundaries and specifically on the County's Oxbow and Acreage Roads.

MGB Finding

The MGB is satisfied that the Town's main reason for seeking a 50 year annexation of 18.5 quarter sections is to ensure the planned long-term growth of the Town. The MGB notes that the maps provided by the parties as part of their submissions show the County lands surrounding the

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Town's boundaries, including those proposed to be annexed, are slowly being developed into acreages, making it increasingly difficult for the Town to plan as the years go by. The MGB has already addressed the issue of Oxbow and Acreage roads in the Compensation section.

The MGB is satisfied that the evidence and expert reports provided by the Town supports that the lands the Town is proposing to annex are best for the rational growth of the Town. The MGB notes that both reports indicate the proposed annexation will have minimal fiscal impacts on the Town and County. The proposed annexation would provide the Town with an opportunity to begin some already needed infrastructure upgrades. Moreover, the MGB notes the County is able to still pursue its growth opportunities in the WHASP lands.

Principle 3: Autonomy of Municipalities

An annexation or annexation conditions should not infringe on the local autonomy given to municipalities in the Act unless provisions of the Act have been breached or the public interest and individual rights have been unnecessarily impacted.

The Town states the proposed annexation does not unduly infringe on the County's autonomy as granted under the Act. The Town attempted to reach an annexation agreement with the County through numerous negotiations, including two sessions of facilitated negotiations. When no agreement was reached, the Town followed the process set out in the Act for an annexation application to be heard by the MGB and determined by Cabinet.

The County is concerned that their local autonomy with respect to governing land use and development within the WHASP area may be impacted by the proposed annexation if the Town proposes a competing or otherwise incompatible land use for the adjacent land areas.

The County contends that the proposed annexation will impact their autonomy as it focuses strictly on jurisdiction and boundary changes to solve issues such as expansion of Town servicing infrastructure. These issues could be addressed instead through an IDP or joint servicing agreement without a boundary change.

MGB Finding

The MGB acknowledges that numerous negotiation meetings were held in attempt to reach an annexation proposal both municipalities could happily agree to. However, the Town and County have also tried to develop an IDP throughout the years and have been unable to reach agreement. This demonstrates that both municipalities had ample opportunity to act autonomously. The MGB finds that the autonomy of the County around the annexation area is not jeopardized. The County retains its ability to exercise its jurisdiction to develop the WHASP.

Both the Town and the County are still able to pass bylaws for their respective municipality regardless of any changes to municipal boundaries. An annexation order does not limit the bylaw passing powers of a municipality within their jurisdiction. The MGB notes that the Act provides

for neighbouring municipalities to appeal statutory plans or amendments that may be detrimental to another municipality.

Principle 4: Supporting Materials Concerning Growth

An annexation must be supported by growth projections, availability of lands within current boundaries, consideration of reasonable development densities, accommodation of a variety of land uses and reasonable growth options within each municipality (initiating and responding municipality).

The Town supported its growth projections with a Growth Study and a Master Servicing Study which determined the Town's projected growth rate, the direction of that growth, and the land that will be required to accommodate that growth. The Growth Study projects growth for the next 50 years, which is in accordance with the time line of the draft Metropolitan Calgary Plan, the Municipal District of Rocky View's new Growth Management Plan and Calgary's new draft municipal development and transportation plans, which all reflect a regional trend towards longer-term planning.

The County argues that the Town's Growth Study and Master Servicing Study were geared toward justifying the annexation instead of being based upon sound planning principles and servicing analysis. The County submits that the Town's growth projections are not sustainable, nor supportable in sound planning principles.

MGB Finding

The MGB has already made findings with regards to the growth projections, density levels, amount of existing land and the annexation size under the heading Issue 2 – Land.

Principle 5: Logical Extension of Growth Patterns and Services

An annexation must achieve a logical extension of growth patterns transportation and infrastructure servicing for the affected municipalities.

The Town's annexation proposal was planned based on historic growth patterns and transportation and infrastructure development proposals. The Master Servicing Study shows that the proposed annexation will allow both the existing developments within the Town and new developments in the annexation area to be efficiently serviced.

The Town explained that the proposed annexation takes into consideration the ongoing construction of a regional water line to provide treated potable water to the Town. As well, the Town has received approval from AE to expand its wastewater plant and approval from the Environmental Appeal Board to discharge treated water into the Bow River. The Master Servicing Study contains a detailed evaluation of future utility water distribution and gathering systems as well as expansion of the Town's transportation network.

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The Master Servicing Study and Growth Study provided by the Town both identify a variety of constraints on the Town's growth which effectively leave only one unrestricted growth corridor - west. Therefore, the proposed annexation focuses on protecting that growth corridor.

The County argues the Town's Master Servicing Study, its Growth Study and legal submissions present different growth corridors. The County does not think the annexation area requires 'loop' servicing. The County's Master Servicing Study demonstrates that annexation has a nominal impact on the ability of the Town to loop servicing as it will not give the Town ownership of the lands.

The County believes that the proposed annexation has no regard for the County's growth patterns or for how the County's interests may be achieved through this annexation. The County believes the annexation application should and fails to identify key regional considerations addressed in both the LUF and CMP including:

- (a) regional landscape,
- (b) regional settlement patters,
- (c) regional infrastructure and servicing,
- (d) regional economic development,
- (e) regional public services and/or public facilities, and
- (f) regional plans for economic, environmental and social considerations.

MGB Finding

The MGB accepts the Town's detailed Master Servicing Study presents servicing options that take into account the already existing services, the services needing upgrades and a solid and efficient plan to accommodate a growing population. The Town's Master Servicing Study covered in detail the issues of water, sanitary sewer systems, stormwater management, and roadway network planning. The MGB found that the proposed annexation does not interfere with the logical extension of the County's growth patterns. The MGB specifically notes the development of the WHASP in the County will not be impeded. The MGB notes that autonomy granted to municipalities by the Act allow them to address regional considerations through local planning documents and agreements.

Principle 6: Administration of Services

Each annexation must illustrate a cost effective, efficient and coordinated approach to the administration of services.

The Town insists their Master Servicing Study considered the current services available in the Town and how those services could be increased to accommodate growth. The annexation allows new and existing developments to be efficiently serviced in a variety of ways, to allow maximum

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flexibility for future growth options while maximizing the use of existing and future infrastructure.

The County states that the proposed annexation does not illustrate a cost effective, efficient or coordinated approach to the administration of services. The County contends that there was a lack of regard to regional issues as outlined above and for joint planning and servicing opportunities. The County notes that the municipalities were unable to agree on plans for transportation upgrades or infrastructure servicing.

MGB Finding

The MGB finds that the Town's studies included in their annexation application illustrate a cost effective, efficient (e.g. looped services) and coordinated approach to the administration of services. The Town's Master Servicing Study was complete and presented forward looking plans for servicing which took into account the existing services, the upgrades needing to be made and the projected population growth.

Principle 7: Key Environmental and Natural Features

Annexations that demonstrate sensitivity and respect for key environmental and natural features will be regarded as meeting provincial land use policies.

The Town submits that the proposed annexation takes into account environmental and natural features of the lands subject to the annexation. The Town identifies topographic constraints in the east and north ends of the Strathmore as well as several wetlands in the area around the Town which constrains the growth of the Town. The proposed annexation includes land that was selected in order to avoid these wetlands.

The Town's MDP includes a clause reaffirming its commitment to conservation of the environment. In keeping with the CMP, the Town's ASP terms of reference provide some indication of the requirements for future developments in the area. Specifically, it encourages transportation oriented development nodes promoting higher density development along transportation corridors.

The Town also has an extensive Wetland Conservation Plan prepared in 2005 and a 2007 Wetland Conservation Policy. The Town intends to continue to work with and update these documents.

The County states the Town did not provide enough documents to prove the proposed annexation will have a limited impact on the wetlands. The County also notes that the Town has not submitted proof of development strategies for the vicinity of these naturally sensitive areas nor has it submitted a copy of its Wetland Conservation Plan or Wetland Conservation Plan or Wetland Conservation Policy.

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MGB Finding

The MGB finds the proposed annexation meets provincial land use policies as it accounts for key environmental and natural features. For wetlands within the proposed annexation area, the Town has a plan and a policy for the conservation of these wetlands. With respect to the wetlands outside the Town, the proposed annexation area has purposely been selected to avoid these wetlands. The MGB notes that the Wetland Conservation Policy was provided in the Town's rebuttal documentation.

Principle 8: Use of Resources

Coordination and cost effective use of resources will be demonstrated when annexations are aligned with and supported by intermunicipal development plans, municipal development plans, economic development plans, transportation and utility servicing plans and other related infrastructure plans.

The Town contends the proposed annexation is aligned with the Master Servicing Study which provides plans for transportation and utilities. The Growth Study was prepared taking into account the Town's existing and draft Municipal Development Plans, existing Area Structure Plans and the County's WHASP. The Town also believes the proposed annexation reflects the principles outlined in the CMP.

The Town argues that it attempted to include the County in the planning. After the formal annexation application, the Town indicated that it wished to re-enter facilitated negotiations with the County for the purpose of continuing to seek a resolution to the growth issues.

The Town is of the opinion that once its new boundaries are determined through the annexation process, it can then finalize its new MDP taking into consideration the Town's Master Servicing Study, Growth Study and Fiscal Analysis and the by then approved CMP. The Town hopes that once its boundaries are finalized, an IDP will be developed between the County and the Town.

The Town states that it presently has a solid foundation of information and analysis for an effective revised municipal development plan by way of the Master Servicing Study, which analyzes both utility servicing and transportation issues in detail, and a Growth Study which, amongst other matters, considers the Town's future land use requirements.

The County argues that the Town's Growth Study and Master Servicing Study were written for the purpose of supporting the initial annexation proposal instead of sound planning principles and a servicing analysis.

As no joint planning, joint economic development plans, joint regional servicing or regional transportation studies have been undertaken, the County believes the Town has made no attempt to coordinate the effective use of resources. The County also notes that the Town's MDP is dated and therefore does not address the impacts of the proposed annexation. The County is of the

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opinion that the Town fundamentally lacks any planning documentation supporting the proposed annexation.

MGB Finding

The MGB recognizes the two municipalities were unable to come to an annexation agreement and that relations between the two municipalities have been strained for a considerable length of time. Given the broad scope of the dispute and the number of issues, the MGB is not surprised the two municipalities have not been able to coordinate the use of resources or develop other types of agreements. In light of this, the MGB is satisfied that there is some degree of alignment between the Master Servicing Study, the Growth Study, and the Town's current MDP. The MGB also acknowledges that the Town's Fiscal Analysis prepared by Applications Management Consulting Ltd. considers the financial resources of the Town and other matters relating to economic development. The MGB is also confident that the Town has all possible planning documents supporting the annexation and that these plans will serve the Town as they develop their MDP.

The MGB believes that the Town and County legitimately attempted to develop an IDP but were unable to do so due to different opinions and different municipal priorities. Issues with regard to the IDP have already been addressed.

Principle 9: Financial Impact

Annexation proposals must fully consider the financial impact on the initiating and responding municipality.

The Town had commissioned a Fiscal Analysis by Applications Management Consulting Ltd. to consider the financial impact on both municipalities and their ratepayers. The study found that any financial effects on both the Town and County would be minimal. Some ratepayers in the proposed annexation area (such as residential/farm) could face higher taxes as a result of the annexation, and the Town has proposed these ratepayers receive tax protection to offset any negative fiscal impacts of annexation.

The County identified that in order to meet Principle 9 the Town's Annexation order should include proper compensation for the County including:

- (1) Compensation to the County calculated on the basis of gross tax revenues generated in the Annexation Area
- (2) A one time lump sum payment to the County in the approximate amount of 4.0 Million to compensate the County for the impact of Town development on the County infrastructure.
- (3) Reimbursement to the County for all reasonable costs incurred by the County in relation to the annexation process commencing from the date that the Notice of Annexation was filed in November, 2006.

MGB Finding

The MGB has already made findings regarding the costs associated with the upgrading of Oxbow and Acreage Roads. The upgrading of these roads is an ongoing issue, not arising as a result of the annexation application. With regard to the other issues, the MGB accepts that the Town considered and addressed all financial impacts the proposed annexation will have on both municipalities. Evidence provided by both municipalities has made the MGB confident that the other revenues and expenditures associated with the annexed lands will not burden either municipality.

Principle 10: Impacts on Other Institutions

Inter-agency consultation, coordination and cooperation is demonstrated when annexations proposals fully consider the impacts on other institutions providing services to the area.

The Town of Strathmore has requested feedback from numerous other agencies and institutions regarding the proposed annexation, whose names and responses are included in the annexation application.

The County contends that the Town has not demonstrated interagency consultation and notes that the feedback from these agencies and institutions was in respect to the Growth Study.

MGB Finding

The MGB notes that the Town conducted a public consultation process and that the agencies did not respond. In addition, the MGB sent notices with respect to the annexation hearing and again, the agencies did not respond. Thus, the MGB concludes that the lack of interest on behalf of the agencies must indicate that they are not significantly impacted by the annexation. A response from the WIC identifies that it does not object to the proposed annexation. The issues identified in the original correspondence from Alberta Transportation regarding Highway 1 and Highway 817 with regard to the exclusion of these highways from the annexation was adhered to by the Town.

Principle 11: Impact on Property Owners

Annexation proposals that develop reasonable solutions to impacts on property owners and citizens with certainty and specific time horizons will be given careful consideration and weight.

The Town submits that there will be no significant adverse impact on any of the properties in the annexation Area. Details on the Town's proposition are found under the Assessment and Taxation Conditions Offered to Affected Landowners heading.

The County states that the Town's proposed annexation does not adequately address the impacts on property owners. The County suggests the taxation and assessment be increased and that

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protection be afforded for existing agricultural use in the Town's Land Use Bylaw and Noise Bylaw. One landowner also requested the assessment and taxation condition period be extended.

MGB Finding

The MGB has already made findings regarding this matter in the Landowner Impacts section and will not be repeated here.

Principle 12: Public Consultation

Annexation proposals must be based on effective public consultation both prior to and during any annexation hearings or proceedings.

The Town's public consultation process included along with significant informal consultation with directly affected land owners, advertisements in the local newspaper the Strathmore Standard and two open houses. Landowners within the annexation area were surveyed, and their responses were included in the annexation application.

The Town notes that pursuant to the agreement between the parties which was encouraged by the facilitator, the negotiations between the Town and County were kept confidential while ongoing. Following the conclusion of those negotiations, the Town first sought the County's concurrence before informing the public about the subject of the negotiations and the positions of the parties.

The County contends the Town has not provided enough information on their public consultation in order for the County to properly assess how meaningful the Town's public and landowner consultation process was.

MGB Finding

The MGB is satisfied the Town made efforts to consult with the public and affected land owners.

Principle 13: Special Properties

Revenue sharing may be warranted when the annexation proposal involves existing or future special properties that generate substantive and unique costs to the impacted municipality(s) as part of the annexation or as an alternative to annexation.

The Town contends that there are no special properties within the proposed annexation. Generally, the lands proposed to be annexed are used for country residential or agricultural purposes. If annexed, they will continue to be used for residential and agricultural purposes, with some commercial and industrial uses in selected areas, pending development to full urban densities.

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The County's position is that no revenue sharing opportunities have been considered by the Town and that there are clearly revenue and cost sharing opportunities available to the municipalities which need to be detailed in an IDP and joint economic development plan.

MGB Finding

This issue is discussed at length under the West Highway Areas Structure Plan heading. The MGB strongly recommends the two municipalities put aside their differences after the annexation is complete and begin IDP discussions.

Principle 14: Financial Impacts on Municipalities

Annexation proposals must not simply be a tax initiative. Each annexation proposal must have consideration of the full scope of costs and revenues related to the affected municipalities. The financial status of the initiating or the responding municipality(s) cannot be affected to such an extent that one or the other is unable to reasonably achieve the purposes of a municipality as outlined in section 3 of the Act. The financial impact should be reasonable and be able to be mitigated through reasonable conditions of the annexation.

The Town's fiscal analysis study considered the financial circumstances of both municipalities and determined that the proposed annexation would not unduly affect either. The Town's proposal also includes compensation for lost tax revenue for the County. Specifically the Town will reimburse the County for lost tax revenues (net of associated expenses) for five years, with each year being reduced by 20% so as to end by year six.

The County argues that the Town's primary basis for the annexation is to generate tax and levy revenue to help pay for the infrastructure construction that the Town is currently engaged in to address its current infrastructure needs. This purpose of annexation is directly contrary to the clearly stated principle of annexation. Furthermore, the Town's Fiscal analysis failed to address the financial impacts to the County's infrastructure and grant revenues.

MGB Finding

Evidence presented during the hearing by the financial experts from both municipalities identifies that the annexed lands will not negatively impact either municipality. The MGB has already made findings with regards to the infrastructure and grant revenues under the Grants heading.

Principle 15: Conditions of Annexation

Conditions of annexation must be certain, unambiguous, enforceable and be time specific.

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The Town contends that their proposed conditions relating to reimbursing the County for lost tax revenues and providing protection for landowners within the annexation area from any adverse tax consequences meet the requirement of principle 15.

The County suggests their own conditions of annexation which they believe are certain, unambiguous, enforceable and time specific.

MGB Finding

The MGB is satisfied that the conditions requested by the Town combined with the recommendations based on the findings of the MGB will make the annexation unambiguous, enforceable and time specific.

PART 3 FINDINGS SUMMARY AND RECOMMENDATIONS

In viewing this annexation and analyzing the various positions, the MGB examined the impact of the proposed annexation would have on the Town, the County and the landowners. The MGB notes that a significant amount of time has elapsed while the Town and the County attempted to negotiate an annexation agreement without success. Thus the MGB is of the view a long term solution is needed.

The evidence throughout the hearing identifies that the impact to the County is minimal. There is no major assessment or tax revenue generating property within the proposed annexation area. The County still has the opportunity to develop its growth nodes and its WHASP. Moreover, the proposed annexation does not jeopardize the growth of the County or impact its autonomy. Both municipalities can still achieve their long term growth.

Unlike other annexations, this annexation has received significant support of the impacted landowners. The minimal impact to the County combined with the support of the landowners outweighed any technical difficulties with the annexation pointed out by the County.

In summary, the MGB finds the population projections and the density levels identified in the Town's annexation application to be reasonable, considering the circumstances described above. The MGB finds that the vacant developable land currently within the Town's boundary is limited. Therefore, the MGB finds that the annexation should be 18.5 quarter sections.

With regard to the provision of water, wastewater and sanitary sewer system, stormwater management and roadway network planning, the MGB finds that the Town has acceptable plans in place and that the Town will be able to provide these municipal services to the annexation area as development takes place.

The MGB considered arguments from both the County and the Town with regard to compensation. The MGB found that the historical five year declining balance compensation

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method used in other annexation recommendations would be adequate for this annexation considering the minimal financial impact on the County.

The MGB did not find that the Town should be required to pay the \$4.6 Million in compensation requested by the County to upgrade the Oxbow and Acreage Roads. There was insufficient evidence to support the claim that these two County roads would be dramatically impacted by the proposed annexation.

The MGB notes that the criteria for the MSI and other grants are calculated based on population, assessment and other factors related to the provision of service to an area. The MGB finds that since the area was removed from the County it no longer has to provide services to the area and therefore should not be further compensated. The five year declining balance municipal tax compensation (\$303,036.75) provides the County with the ability to adjust to any lost revenue.

The MGB finds the diminutive impact of the franchise fee does not warrant a consideration in the annexation order. The MGB is satisfied that the Town will ensure the protection of agricultural lands within the annexation area by passing amendments to its Land Use Bylaw and Municipal Development Plan.

With regard to affected landowner annexation conditions the MGB finds that due to the length of the annexation period, the assessment and taxation transition period should be increased from 10 to 30 years. The MGB recommends that the assessment and taxation condition suggested by the Town be further amended to exclude a development permit from triggering the removal of the assessment and taxation condition to individual property owners.

Conclusion:

The MGB recommends the annexation of 18.5 quarter sections of territory be annexed from the County to the Town with an effective date of January 1, 2010. The MGB also recommends that the assessment and taxation transition period be extended to 30 years and that the amount of compensation the Town is to pay the County be \$303,036.75 over a five year period.

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List of Exhibits

Legend:

T - Town

C – County

L/P – Landowners/Public

Exhibit No. Description

- 1 – T December 15, 2008 Town of Strathmore Annexation Application
- 2 – L/P March 24, 2009, correspondence from Robin Glasier, Western Irrigation District (WID)
- 3 – L/P March 25, 2009 correspondence from Donald Knight.
- 4 – L/P April 2, 2009 correspondence from Paul Douglas/Chris Kolozetti, United Communities
- 5 – L/P April 2, 2009 correspondence from Grant Klaiber and Dona Klaiber
- 6 – L/P April 2, 2009 correspondence from Grant Klaiber, Klaiber Land and Cattle Company Ltd.
- 7 – L/P April 3, 2009 correspondence from Clarence Skuter
- 8 – T April 14, 2009 correspondence from H. Ham updating the negotiations between the Town and the County
- 9 - MGB MGB Decision Letter 047/09
- 10 – T May 5, 2009 correspondence from D. Stanford, CAO for the Town with the “simple negotiation report”
- 11 – C May 7, 2009 e-mail from J. Klauer, solicitor for the County, objecting to the negotiation report being submitted to the MGB prior to the County having an opportunity to comment
- 12 – C May 19, 2009 correspondence from Jennifer Deak, CAO for County, commenting on the negotiation report and releasing the Town’s detailed negotiation report
- 13 – T Town’s detailed negotiation report. (Provided on May 5, 2009 but not opened by the MGB until after May 19, 2009)
- 14 – L/P May 19, 2009 correspondence from C. and K. Skuter
- 15 – T May 26, 2009 Town of Strathmore Written Legal Submission
- 16 – L/P June 5, 2009 correspondence from Nancy Stevenson, solicitor for Donald Knight
- 17 – L/P June 9, 2009 correspondence from Grant and Dona Klaiber
- 18 – L/P June 9, 2009 correspondence from Grant and Dona Klaiber (Note – This seems to be a duplicate)
- 19 – C June 9 2009 Written Submissions on behalf of Wheatland County – Includes County’s Authorities
- 19a – C June 9, 2009 County Evidence to be Presented – A Planning Response from Wheatland County Report - Armin Preiksaitis and Associates Ltd. including CV for John Rusling
- 19b – C June 9, 2009 County Evidence to be Presented – BSEI Municipal Consulting Engineers Report

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- 19c – C June 9, 2009 County Evidence to be Presented – Nichols Applied Management Report
- 20 – L/P June 10, 2009 correspondence from Alberta Transportation
- 21 – T June 15, 2009 Town of Strathmore Rebuttal
- 21a – T June 15, 2009 Town of Strathmore Rebuttal Authorities
- 22 – C Letter June 19, 2009 J. Klauer, Solicitor for County
- 23 – T Town PowerPoint Presentation Package
- 24 – T Town Will Say Statement Listing
- 25 – C County PowerPoint Presentation Package **Note, this exhibit was numbered twice. See Exhibit 35 – C**
- 26 – T David Yee, Palliser Regional Municipal Services, April 08 email to Jennifer Brown, Town Planner
- 27 – C Letter from the Minister of Municipal Affairs to the Reeve of the County – Dec 22, 2008 (Reeve Ben Armstrong)
- 28 – T CV Jennifer Brown, Planner, Town of Strathmore
- 29 – T CV Darryl Howery, Consultant, Town of Strathmore
- 30 – T Map of Roads Identified for Cost Sharing by the County
- 31 – T CV Paul Mercer, Consultant, Town of Strathmore
- 32 – T Town PowerPoint Corrected Slide p.52
- 33 – T C.V. Mark E. Ruault, Consultant, Town
- 34 – T C.V. Peter A. Truch, Consultant, Town
- 35 – C Wheatland County Power Point Presentation
- 36 – C Planning response from Wheatland County
- 37 – C Wheatland County BSEI Engineer report Troy McNeill
- 38 – C Gerry Fargo Report
- 39 – L Frances Henrickson – Landowner
- 40 – L Clarence Skuter - Landowner
- 41 – L E-mail Isobel Pittman, Landowner, to Dwight Stanford
- 42 – L Donald Knight – Landowner
- 43 – L Steve Marshman – Landowner
- 44 – L Jeff Van Bussel
- 45 – TC Legal land descriptions for the annexation options, including the assessment and taxation information and boundary roads.