

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 Bon Accord, in the Province of Alberta, to annex certain territory lying immediately adjacent thereto and thereby its separation from Sturgeon County.

BEFORE:

H. Kim, Presiding Officer
B. Horrocks, Member
D. Thomas, Member

Case Managers:
R. Duncan
C. Miller Reade

SUMMARY

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

Recommendation

That the annexation be approved in accordance with the following:

The Lieutenant Governor in Council orders that

- 1 In this Order,
 - (a) “annexed land” means the land described in Schedule 1 and shown on the sketch in Schedule 2;
 - (b) “farming operations” has the meaning given to it in the *Matters Relating to Assessment and Taxation Regulation, 2018 (AR 203/2017)*” .

- 2 Effective April 1, 2018, the land described in Schedule 1 and shown on the sketch in Schedule 2 is separated from Sturgeon County and annexed to the Town of Bon Accord.

3 Any taxes owing to the Sturgeon County at the end of March 31, 2018 in respect of the annexed land and any assessable improvements to it are transferred to and become payable to the Town of Bon Accord together with any lawful penalties and costs levied in respect of those taxes, and the Town of Bon Accord upon collecting those taxes, penalties and costs must pay them to Sturgeon County.

4(1) For the purpose of taxation in 2018, Sturgeon County must assess the annexed land and the assessable improvements to it.

(2) Taxes payable for the 2018 taxation year in respect of the annexed land and any assessable improvements to it are to be paid to Sturgeon County and upon collecting those taxes Sturgeon County must remit them to the Town of Bon Accord.

5(1) For the purpose of taxation in 2019 and subsequent years, the assessor for the Town of Bon Accord must assess the annexed land and the assessable improvements to it.

(2) For the purpose of taxation in 2019 and in each subsequent year up to and including 2068, the annexed land and assessable improvements to it

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

6(1) Where in any taxation year up to and including 2068 a portion of the annexed land

- (a) becomes a new parcel of land created by any method at the request of or on behalf of the landowner, including, without limitation,
 - (i) subdivision,
 - (ii) separation of title by registered plan of subdivision, or
 - (iii) instrument,
- (b) is redesignated, at the request of or on behalf of the landowner, under the Town of Bon Accord Land Use Bylaw to another designation, or
- (c) ceases to be used for farming operations,

section 5(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.

(2) After section 5(2) ceases to apply to a portion of the annexed land in a taxation year, that portion of the annexed land and the assessable improvements to it must be assessed and taxed for the purposes of property taxes in the same manner as other

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FILE: AN15/BONA/T-001

property of the same assessment class in the Town of Bon Accord is assessed and taxed.

DATED at the City of Edmonton, in the Province of Alberta, this 21st day of November, 2017.

MUNICIPAL GOVERNMENT BOARD

(SGD) H. Kim, Presiding Officer

BOARD ORDER: MGB 049/17

FILE: AN15/BONA/T-001

Schedule 1

**DETAILED DESCRIPTION OF THE LANDS SEPARATED FROM
STURGEON COUNTY AND ANNEXED
TO THE TOWN OF BON ACCORD**

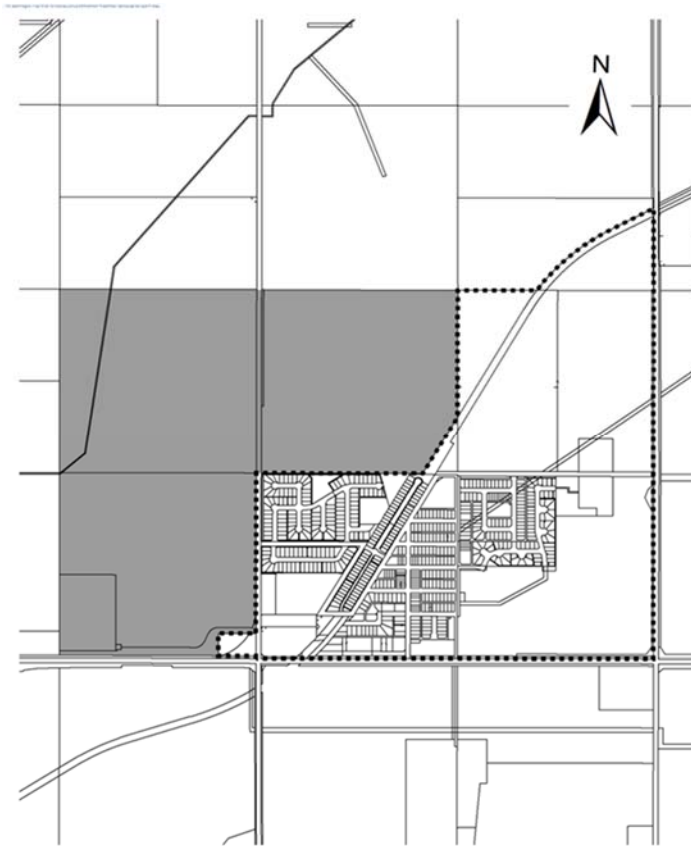
ALL THAT PORTION OF THE NORTHWEST QUARTER OF SECTION EIGHTEEN (18), TOWNSHIP FIFTY-SIX (56), RANGE TWENTY-THREE (23), WEST OF THE FOURTH (4) MERIDIAN NOT WITHIN THE TOWN OF BON ACCORD.

THE NORTHEAST QUARTER OF SECTION THIRTEEN (13), TOWNSHIP FIFTY-SIX (56), RANGE TWENTY-FOUR (24), WEST OF THE FOURTH (4) MERIDIAN.

ALL THAT PORTION OF THE SOUTHEAST QUARTER OF SECTION THIRTEEN (13), TOWNSHIP FIFTY-SIX (56), RANGE TWENTY-FOUR (24), WEST OF THE FOURTH (4) MERIDIAN NOT WITHIN THE TOWN OF BON ACCORD LYING NORTH OF THE PROJECTION WEST OF THE SOUTH-WEST POINT OF PLAN 772-2401.

Schedule 2

A SKETCH SHOWING THE GENERAL LOCATION OF THE AREAS SEPARATED FROM STURGEON COUNTY AND ANNEXED TO THE TOWN OF BON ACCORD



Legend

■■■■■■ Existing Town of Bon Accord Boundary

■ Annexation Areas

Schedule 3

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

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Acronyms/Abbreviations

<i>Act</i>	<i>Municipal Government Act</i>
MGB.....	Municipal Government Board
Applicant for Annexation.....	Town of Bon Accord
Municipality from which land is being annexed.....	Sturgeon County
CRB.....	Alberta Capital Region Board
2016 Growth Plan.....	Edmonton Metropolitan Region Growth Plan, 2016
2010 Growth Plan.....	Capital Region Growth Plan, 2010
LUB.....	Town of Bon Accord Land Use Bylaw
Minister.....	Minister of Municipal Affairs
LGC.....	Lieutenant Governor in Council
MDP.....	Town of Bon Accord Municipal Development Plan
2016 Servicing Study.....	MPE Engineering Annexation Area Servicing Study, December 2016
2015 Fiscal Impact Assessment.....	Applications Management Consulting Ltd, Fiscal Impact Assessment, December 2015

EXECUTIVE SUMMARY

[1] On July 5, 2017, the Municipal Government Board (MGB) received an application from the Town of Bon Accord (Bon Accord) to annex approximately 194.25 hectares (or 480.0 acres) of land from Sturgeon County (Sturgeon). Bon Accord is situated approximately 35 kilometres north of the City of Edmonton on Highway 28. By increasing the amount of land available for commercial and residential development, the annexation facilitates Bon Accord's long-term growth.

[2] Through mediation, the municipalities reached agreement on the amount of land to be annexed and the conditions of the proposed annexation. However, affected landowners raised objections to the proposed annexation. The MGB scheduled a public hearing and published notices in local newspapers about the proposed annexation hearing. After the public hearing, the MGB makes the following recommendation:

Recommendation

[3] The MGB finds the annexation application to be reasonable and recommends the annexation of the land identified in Bon Accord's annexation application with an effective date of April 1, 2018. As this annexation is a longer term annexation, the MGB accepts Bon Accord's recommendation to increase the assessment and taxation transition period from 20 to 50 years.

Annexation Process

[4] Bon Accord and Sturgeon followed a collaborative process to discuss the annexation and the growth prospects for the annexation lands. Consultation on the proposed annexation included several public information and input sessions to encourage discussion with the affected landowners and the public.

Annexation Lands Proposed

[5] It is reasonable for the lands located west and north of the existing boundary of Bon Accord to be annexed from Sturgeon and added to Bon Accord. The landowner in SE13 is proposing commercial development and is willing to install oversize utilities which would allow servicing of the two northerly quarter sections (NE13 and NW18) at a later date. Bon Accord is willing to develop a means of recovering the costs for the landowner of SE13 through a benefitting lands calculation or an offsite levy. Despite Bon Accord obtaining funding for the upcoming expansion of the water storage reservoir, and developing area structure plans, landowners of the existing vacant lands within Bon Accord have been unwilling or unable to proceed with development.

[6] Bon Accord's engineering consultant explained that the additional lands are needed to provide services most efficiently. Extending Bon Accord's existing services is cost prohibitive and

difficult since the utility lines located underneath existing paved streets would need to be excavated and replaced with larger, deeper services. Annexation of 3 quarter sections is necessary since the utility services in SE13 will be oversized to provide service to NE13 and NW18. Servicing can be installed in a clockwise direction from SE13. When connected to existing services, the utilities in the annexation area will benefit the built-up area of Bon Accord. Due to overland drainage patterns, stormwater management requires all 3 quarter sections to capture the volumes of water that will be generated by the proposed development and correct existing drainage problems in the balance of Bon Accord. The MGB accepts this explanation for amount of lands required.

Landowner Concerns

[7] Affected landowners in NE13 and NW18 do not support annexation of their lands into Bon Accord, as they want to continue their farming operations. They argued that this annexation should be delayed until development occurs on the existing vacant lands. Bon Accord's planning consultant explained that, in an effort to develop these lands, Bon Accord has attempted several different strategies. Despite these strategies, the vacant lands remain unserviced and undeveloped. In contrast, the owner of SE13 supports the annexation, has experience in land development and is willing to proceed with development.

[8] The MGB accepts the proposal for annexing 3 quarter sections. This is a long term annexation providing Bon Accord with additional land and oversized services to support future development. With the lands included within its boundaries, Bon Accord will have the ability to enter into agreements or pass bylaws to collect off site levies or reimburse the owner of SE13, which it cannot easily do if the lands in NE13 and NW18 remain in Sturgeon.

Assessment and Taxation

[9] At the hearing, Bon Accord and Sturgeon agreed to extend the municipal assessment and taxation transition period from 20 to 50 years. For 50 years, beginning in 2018, Bon Accord will maintain Sturgeon's municipal tax rate for affected lands in the annexation area. The MGB accepts this transition period since the amount of land is intended to house more than 50 years of population growth based on the 2016 Capital Region Plan.

[10] This 50-year municipal assessment and taxation arrangement is conditional and will be terminated after the 50 years have lapsed, or if a portion of the annexed lands:

- i. Becomes a new parcel of land created as a result of subdivision or separation of the 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;
- ii. Is redistricted at the request of, or on behalf of the landowner under the Bon Accord Land Use Bylaw to another designation; or

- iii. Ceases to be used as a farming operation and is redistricted to a different land use district under the Bon Accord Land Use Bylaw.

Financial Impact

[11] Bon Accord’s financial records show good financial management. Bon Accord has a debt limit of over \$4.5 million, and a debt servicing limit of over \$760,000. Currently, Bon Accord’s debt is approximately \$605,000, and debt servicing is \$149,000. Without a supply of vacant serviced lands for additional development to generate additional revenue, utility replacement and upgrading would be difficult.

[12] This annexation is being undertaken to ensure future growth and viability of the municipality. As noted by Bon Accord, it is a Catch-22 situation: Bon Accord has vacant land within its boundaries but unwilling landowners, and a willing landowner outside of its boundaries. Bon Accord needs serviced lands and in order to service the annexation lands and correct overland drainage in the area, additional lands are needed.

Effective Date

[13] The MGB acknowledges and accepts that both municipalities agree to an annexation effective date of April 1, 2018. The start year for the municipal assessment and taxation arrangement will be 2019.

Conclusion

[14] The MGB recommends the annexation. The proposed annexation complies with the Act and addresses the MGB’s 15 annexation principles of: collaboration; respect for municipal autonomy; financial viability and impacts on the initiating and responding municipalities; growth projections; a logical pattern for growth and the extension of utilities. By extending the timeframe for the assessment conditions from 20 to 50 years will allow the landowners who did not support the annexation to continue their agricultural operations and make plans, and is not undertaken as a tax initiative. The MGB notes that the affected landowners’ concerns have been given proper consideration throughout the annexation process. The conditions of annexation as recommended by the MGB are certain, unambiguous, enforceable and time specific.

PART I INTRODUCTION

[15] Located approximately 35 kilometers north of the City of Edmonton on Highway 28, the Town of Bon Accord (Bon Accord) is in the central portion of Sturgeon County (Sturgeon). Bon Accord's 2016 population is approximately 1,520.

[16] On July 5, 2017, the MGB received an application from Bon Accord to annex approximately 194.25 hectares (480.0 acres) of land from Sturgeon. The application states that the proposed annexation is intended to facilitate long-term growth for Bon Accord by increasing the amount of land available for commercial and residential development. Bon Accord asserts that the annexation application fulfills the requirements under the Act.

[17] In accordance with section 120(3) of the *Act*, the MGB held a public hearing on the annexation proposal to receive information, evidence and argument on September 13, 2017. Notices published in two local newspapers informed the public of the hearing.

[18] This report outlines the role of the MGB, provides an overview of the annexation application, summarizes the public hearing, and provides the MGB's recommendation to the Minister of Municipal Affairs (Minister) regarding this matter.

PART II ROLE OF THE MGB, THE MINISTER, AND THE LIEUTENANT GOVERNOR IN COUNCIL

[19] The MGB is an independent and impartial quasi-judicial board established under the Act to make decisions about land planning and assessment matters. The Act gives the MGB the authority to "deal with annexation". The Act also allows the MGB to "establish rules regulating its procedures". Adopted in 2013, the MGB Annexation Procedure Rules provide information about annexation proceedings, facilitate a fair and open process, and increase the efficiency and timeliness of the proceedings.

[20] Under section 116, a municipality seeking annexation initiates the process by giving written notice to the municipality from which the land is to be annexed, the MGB, and any other affected local authority. The annexation notice must describe the land to be annexed, state the reason for the annexation, include proposals for consulting with the public, and describe proposals for informing and meeting with affected landowners. Once the notice has been filed, section 117 requires both municipalities to negotiate in good faith. If the municipalities are unable to reach an agreement, they must attempt mediation to resolve any outstanding matters.

[21] After consultation and intermunicipal negotiations are complete, the initiating municipality prepares a report. The contents of the report, set out in section 118, must list the agreed-to matters and the matters where there is no agreement. If there was no agreement, the report must describe what attempts at mediation were taken, or if mediation was not attempted an explanation why. The

report must also describe the consultation process used with the public and the landowners, and summarize the views expressed. The report is then signed by both municipalities. Should one of the municipalities not wish to sign, it may explain why.

[22] The report is then submitted to the MGB and, under section 119, becomes the annexation application. If satisfied that the affected municipalities and public are generally in agreement, the MGB notifies the parties of its findings, and makes a recommendation to the Minister without holding a public hearing. If an objection is filed, under section 120 and 121, the MGB must conduct one or more public hearings to investigate, analyze and make findings of fact about the annexation, including the probable effect on local authorities and on area residents. Under section 122(1), notice of the hearing must appear at least once a week for two consecutive weeks in a newspaper or other publication circulating in the affected area. If a public hearing is held, the MGB must allow any affected person to appear and make a submission.

[23] After reviewing the evidence and submissions at the hearing, the MGB must prepare a written report of its findings and recommendations and send it to the Minister. The Minister has the authority to accept in whole or in part or completely reject the findings and recommendations made by the MGB. The Minister may bring a recommendation forward for consideration to the Lieutenant Governor in Council (LGC). After considering the recommendation, the LGC may order the annexation of land from the one municipality to the other.

PART III ANNEXATION APPLICATION

[24] In 2015, Bon Accord's initial Notice of Intention to Annex requested the annexation of only one quarter section (SE13) adjacent to Highway 28 and the western boundary of Bon Accord. After studies and negotiations began, Bon Accord expanded the annexation area to three quarter sections including NE and SE 13-56-24-W4M and NW 18-56-23-W4M, and on March 3, 2016, submitted a second Notice of Intention to Annex to the MGB.

[25] To comply with section 116, Bon Accord provided a complete Notice of Intention to Annex to the MGB, Sturgeon, affected landowners and local authorities. Bon Accord continued negotiations with Sturgeon, and retained Municipal Planning Services to conduct its public consultation and prepare the annexation application. In May 2016, Bon Accord held both a Public Information Meeting, and a separate meeting with the 4 landowners in the annexation area to discuss the proposal. Later, Bon Accord held individual meetings with each landowner. An information brochure was developed to provide general information about the annexation process, its potential impact on the landowners, and frequently asked questions. After concluding negotiations with Sturgeon, Bon Accord held a second Public Information Meeting to inform affected landowners and the public about key elements of the annexation agreement and to provide an opportunity to submit additional comments.

[26] The proposed annexation includes land along Bon Accord's existing western and northern boundary. The area consists primarily of agricultural land, although it also includes a service road running parallel to Highway 28, a portion of Bon Accord's water distribution system and Range Road 240 within the annexation area. The annexation addresses the 15 annexation principles summarized in MGB 123/06, was requested for the following four reasons:

1. To provide additional motivation to landowners holding undeveloped lands within Bon Accord's current boundary to proceed with the development of their lands.
2. To increase the number of landowners to pursue opportunities for future development.
3. To reduce the potential infrastructure costs for the first developer by expanding the contribution area for infrastructure improvements.
4. To more cost effectively plan for the future expansion of municipal services. A small annexation proposal would prevent long range infrastructure planning, and increase the cost of additional planning work.

Upon annexation, all lands within SE 13, NE 13 and NW 18 will be districted as Urban Reserve under the Town of Bon Accord Land Use Bylaw. Extensive agriculture is a listed use in the Urban Reserve district, and the landowners can continue to use the land for a farming operation.

Additional Annexation Conditions

[27] In addition to the assessment and taxation conditions outlined in the Order in Council, and the triggering events described in section 6, Bon Accord included several other annexation conditions for the landowners in the annexation area:

1. **Development Permit Fees.** Subject to a triggering event, Bon Accord agreed to honour the lower of the development permit fees (between Bon Accord and Sturgeon) for developments applied for by the landowners in the proposed annexation area for the duration of the tax protection term.
2. **Solid Waste Management Fees:** Subject to a triggering event, Bon Accord will honour the landfill permits provided to the residents in the annexation area at no additional cost and will reimburse any landfill recycling fees. Landowners will be eligible to receive curbside solid waste collection services for a monthly fee.
3. **Water and Wastewater:** Subject to a triggering event, Bon Accord will not require landowners in the annexation to connect to municipal water and wastewater systems provided there is no change in land use initiated by the landowner.

However, connection could occur if the main lines of the public utility are available adjacent to the parcel, and the landowner makes a request for connection, and pays the applicable connection and construction fees. After connection the monthly water and sewer rates, fees and charges would apply. If the required service connection does not exceed 200 metres in length, Bon Accord will contribute up to 25% of the landowner's costs to connect

the existing residence. The cost contribution is in effect for the duration of the tax protection terms, and also applies if the landowner initiates a change in land use.

Conceptual Plan and Servicing Need

[28] Within MPE Engineering's December 2016 Annexation Servicing Study (2016 Servicing Study), a conceptual plan shows commercial development in the south portion of SE13 and residential uses in the balance of the lands in SE13, NE 13 and NW 18 intended for residential uses. All infrastructure costs will be recovered by levies.

[29] Bon Accord has identified a need to increase the amount of land and opportunities for development, and to ensure that the amount and location of utility servicing is known. For the purposes of developing the servicing study, MPE Engineering used a projected population of 11,000. Currently, Bon Accord is operating at 110% capacity for domestic water, and must expand its water distribution system to ensure that adequate domestic water is available to the existing lands within the municipality and the annexation area.

[30] The 2016 Servicing Study noted that wastewater servicing will require two additional lift stations and other facilities for the annexation area and existing townsite. There are wetlands within the annexation area, and to ensure the continuance of natural drainage, Bon Accord intends to incorporate these into the stormwater management system.

Financial Impact Assessment

[31] The Financial Impact Assessment undertaken by Applications Management Consulting noted that, with annexation, the proportion of Non-Residential/Residential assessment for Bon Accord will improve from 4.2% / 95.8% to 6% / 94%. The Financial Impact Assessment was developed using 2015 as a base year, a 30 year forecast period, and reflected services anticipated in the 2016 Servicing Study.

[32] With annexation, over the forecast period, Bon Accord's taxes will decrease by 15.9%, with a small increase in operating expenses for roadway maintenance by \$3,000 per annum. Sturgeon will reduce its operating expenses by \$5,500 per year. There will be no compensation paid by Bon Accord to Sturgeon.

[33] Bon Accord's debt limit, debt load and servicing costs are acceptable either with or without annexation. With annexation, Bon Accord's assessment will increase by 1.5 million of which 1.38 million is taxable. This number represents a 1% increase in the overall assessment of Bon Accord. Linear assessment will increase by \$38,700, which is a 2% increase in Bon Accord's linear assessment base. Bon Accord's annexation application offers 20 years of tax protection for those affected property owners, which was subsequently expanded to 50 years, who do not trigger the assessment and taxation conditions.

Population Projections and Density Requirements under the Regional Growth Plan

[34] Contained within the Capital Region Board area, Bon Accord and Sturgeon's statutory plans must comply with the Regional Growth Plan. Any new development or redevelopment of existing lands within Bon Accord, and the annexation area must comply with the density targets in the Regional Growth Plan. Bon Accord is considered outside the metropolitan commuter shed and a rural area, and must attain a minimum greenfield residential density of 25 units per net residential hectare. This density target was used to create the 2016 Servicing Study and inform calculations in the Financial Impact Assessment.

PART IV PUBLIC HEARING – SEPTEMBER 13, 2017

Process

[35] As a result of objections from affected landowners, and in accordance with section 120(3) of the *Act*, the MGB held a public hearing to consider Bon Accord's annexation proposal. The MGB published a notice of the hearing in the Morinville Free Press and the Gibbons Free Press, during the weeks of August 21, 28 and September 5, 2017. In response to the notice of hearing, Mr. A. Giesterfer, legal counsel for affected landowners L. Neilson and C. and M. Campbell who were not in favour of the annexation, stated that he would be making a presentation. Mr. T. Strawson, an area resident, also wished to speak, posing questions for the panel.

[36] At the public hearing, Bon Accord introduced its planning, engineering, and finance consultants to review and explain the various reports supporting the annexation application. Bon Accord also noted that since this was a long term annexation, it wished to extend its assessment and taxation conditions from 20 years that were requested in the annexation application to 50 years. In particular, the assessment and taxation provisions would extend from the 2018 taxation year to 2068 taxation year.

Growth and Development

[37] Ms. J. Dauphinee, a registered professional planner with Municipal Planning Services, provided further detail in support of the annexation application explaining that the application was developed because there was a need for serviced lands for expansion. While there are 165 acres of vacant residential and industrial lands in the existing town boundary, there are only 13 serviced residential lots available. The vacant lands must be serviced and offsite improvements constructed, and the owners of the vacant lands are unable to service and develop the lands.

Existing Scenario

[38] Since 2011, Bon Accord's population has grown by 2%. Since 2014, in an effort to encourage development, Bon Accord developed and approved two area structure plans and

updated its municipal development plan. When the 2010 AECOM Study identified that the water storage reservoir was undersized, Bon Accord pursued grant funding to design and construct an expansion which will occur in 2018. Despite these efforts, no development on the vacant lands have occurred.

[39] Bon Accord has experienced little growth due to a small amount of serviced lands, and landowners who are speculators rather than land developers. The last multi-lot residential subdivision, in 2005, prepared and serviced the former railway station lands into 40 residential lots. In developing the annexation application, Bon Accord examined all of the quarter sections adjacent to the existing townsite. The quarter sections west and north of Bon Accord were selected as these had the best connectivity to hard and soft services in the existing townsite. The proposed annexation lands were the most cost effective to service and posed the fewest constraints to development. Although examined, expansion south across Highway 28 nor east across Range Road 235 (Lily Lake Road) was not chosen due to the increased cost of servicing under roadways and into a low lying area.

Growth Scenario

[40] Bon Accord's annexation application used population projections and the development densities drawn from the Capital Region Plan. By 2046, the Regional Growth Plan projects Bon Accord's population to grow to between 2,700 and 3,300 with a development density of 25 units per hectare. Additional lands were included in this annexation application to accommodate lands that cannot be developed and to include area wetlands which will form part of the stormwater management plan for the annexation area and the existing townsite of Bon Accord.

[41] Utility services and offsite improvements in the annexation area can be funded and constructed by having the developer of the commercial lands in SE13 install oversized services providing future capacity to the NE13 and NW18 and future development can reimburse the developer of SE13, or by an offsite levy bylaw. Increasing the annexation area to three quarter sections will increase the catchment area for collecting offsite levy funds or calculating and collecting funds to reimburse the original developer based on an "endeavor to assist" agreement. Bon Accord intends to apply an Urban Reserve district to the annexed lands to allow their continued use for extensive agriculture.

Annexation Servicing Study

[42] Mr. G. Edwards, a professional engineer and author of the MPE Engineering Annexation Servicing Study (2016 Servicing Study) summarized its findings and answered questions about servicing in Bon Accord. The 2016 Servicing Study examined the extension of utilities and streets from the existing built up area, the greenfield area in the NE portion, and the annexation area. Any costs reported in the study are estimates based on 2016 construction costs. The Annexation Servicing Study used the findings of AECOM's 2010 Master Servicing Study for Bon Accord

(2010 AECOM Study) which identified necessary upgrades to the water and sanitary sewer lines within the existing townsite of Bon Accord.

[43] The annexation increases the area of the town to 405 hectares (4.05 square kilometers). The 2016 Servicing Study was prepared using a 100-year time horizon, and assumed a 2% growth rate. Mr. Edwards explained that there are different ways to estimate population for different purposes. In the 2016 Growth Plans, Bon Accord's 2046 population is estimated at 3300 residents. For servicing purposes, Bon Accord's 2117 population is estimated at 11,200 residents. In comparison, if the 2117 population was estimated based on the dwelling units and size of household, Bon Accord would have 9,500 residents. In addition to using a projected population of 11,000 residents, the servicing study assumed that density within other areas of Bon Accord would increase, and that complete build out of the annexation area would occur.

Water Servicing and Storage

[44] While water is provided by the Capital Region North East Water Commission, additional infrastructure is needed to serve the existing vacant lands and annexation area. The 2016 Servicing Study identifies Phase 1 improvements, which would provide servicing to 2046, are estimated at 4.46 million dollars. The Phase 2 improvements, Mr. Edwards explained, would provide servicing to 2117 at a cost of an additional 5.35 million dollars.

[45] As noted in the annexation application, Bon Accord has an existing deficit in its water storage reservoir. In 2018, there is a planned expansion and upgrade to the water reservoir that will increase its capacity by 2100 cubic metres. This expansion would serve an additional population of 2200 and is intended to support 20 to 30 years of growth.

Stormwater Management Facilities

[46] Any existing wetlands in the annexation area will be incorporated into the stormwater management, with the large wetland anchored in NE13. The natural drainage in the annexation area travels both north and south. Mr. Edwards explained that the first stage of the stormwater management plan - which may resolve some of the existing drainage issues - has an estimated cost of 2.73 million dollars. The second stage of improvements have an estimated cost of 4.04 million dollars.

Sanitary Sewer Capacity

[47] Based on the findings of the 2010 AECOM Study and the servicing standards of the Alberta Capital Region Waste Water Commission, the 2016 Servicing Study estimated, with the full build out of the annexation area and the greenfield area, that the amount of wastewater produced by Bon Accord will increase from 19.2 litres per second to 134.4 litres per second. This will require a new lift station and forcemains in the greenfield area, and two additional lift stations and forcemains in

the annexation area. The estimated cost for these upgrades within the annexation area is 1.95 million dollars for the first stage (a lift station and construction of forcemains), and 1.04 million for the second lift station and additional forcemains.

Oversizing and Development Phasing

[48] Mr. Edwards explained that oversizing the infrastructure in SE13 would allow for services to be extended into the balance of the annexation area in a clock wise manner, to take advantage of gravity and elevation. Constructing oversized servicing in the annexation area will reduce the cost for future development, and will increase the catchment area for costs to be recovered for reimbursing the developer or for an off-site levy bylaw. The new services will be connected to Bon Accord's existing services.

[49] In response to panel questions, Mr. Edwards explained that annexing only SE13 was dismissed as an option since the design of Bon Accord's existing servicing was insufficient. These services were designed and installed for the existing Bon Accord boundaries. At installation, the services were not oversized and may be too shallow to serve the annexation area. Upgrading these services would require tearing up the streets in the existing townsite and installing new, deeper services.

Transportation

[50] The 2016 Servicing Study included an interim roadway to provide a pattern for utilities and roads within the annexed area. The annexation area includes two developed roadways. The first is a service road, parallel to Highway 28, which provides access to the parcels in SE13, and will continue to provide access to properties further west. The second, Range Road 240, is an existing developed roadway which lies between NE13 and NW18. Future stormwater management plans will require the realignment of Range Road 240.

[51] Alberta Transportation did not object to the annexation, but advised that there are long term plans to turn Highway 28 into a multi-lane highway. At that point, additional lands will be acquired from the south side of highway.

Financial Impact Assessment

[52] Mr. D. Howery, a chartered accountant with Applications Management Consulting, explained that the financial impact assessment studied the impact with and without annexation on Bon Accord, Sturgeon and landowners in the annexation area. The financial impact assessment was prepared using 2015 financial data, the findings of the 2016 Servicing Study and the population and growth projection numbers in the 2016 Growth Plan.

Current Scenario

[53] Mr. Howery explained that the annexation area is used for farmland, and contains 4 dwellings. Information provided by Sturgeon noted that the total assessment for the annexation area is 1.5 million dollars, of which 1.38 million is taxable. The annexation of these lands would provide a small increase to Bon Accord's 146-million-dollar assessment. While the increase in assessment will be mostly generated through the residential and farmland classes, the annexation will add about \$38,000 in linear assessment.

[54] Mr. Howery noted that Bon Accord has a higher mill rate than Sturgeon for farmland and residential lands, and without tax protection, landowners would see an increase in their taxes. The 50-year tax protection condition proposed by Bon Accord will allow time for the landowners in the annexation area to plan. Tax protection will cease if a property is subdivided, redistricted under the Bon Accord Land Use Bylaw, or ceases to be used as a farming operation.

With Annexation

[55] Until 2020, while the servicing of the annexation lands occurs, Bon Accord's rate of growth was assumed to be 1%. After 2020 and until 2046, all growth in Bon Accord was assumed to be within the annexation area. By 2046, the projected population in the 2016 Growth Plan is 3,300 with growth generating a reduction to the residential mill rate from just over 9 mils to 7.75 mils. This results in a 15% reduction in taxes. Annexation would reduce the projected debt per capita from the current value of approximately \$500 per resident to approximately \$321 per resident in 2046. While growth will generate additional capital expenditures on infrastructure, the increase in population and assessable properties will offset any increases. Bon Accord's debt servicing is currently 15%, but will decrease to 12.5% in 2046 with annexation.

Without Annexation

[56] Without annexation, the 2046 population of Bon Accord will increase slightly to 1700 residents and the assessment base will rise from 144 million to 147 million. The 2046 residential mill rate will remain over 9 mils as the amount of tax revenue generated without annexation will slowly decrease as buildings age and expenses remain constant. The projected debt per capita in 2046 would remain at approximately \$500 per resident. Debt servicing would also remain constant at 15%.

Sturgeon County

[57] Mr. S. Labonne, Sturgeon's General Manager for Integrated Growth advised the panel that Sturgeon County agreed with the proposed annexation, providing a council resolution in support of the annexation. One additional matter that the two municipalities agreed on, which was not

stated by Bon Accord's consultants, was that despite annexation of the service road (Plan 032-2332), access will continue to an adjacent dwelling located in Sturgeon.

[58] Mr. C. Steffes, a registered professional planner and Sturgeon's Manager of Planning and Economic Development, explained that lands contained within the annexation area would have remained agricultural. The Sturgeon MDP contemplates limited growth as this portion of the County is primarily agricultural. Sturgeon has recently adopted a new Land Use Bylaw, and the annexation lands are all contained within the Agriculture District with no current plans for development or redistricting the lands. Sturgeon has no plan for servicing and development of these lands and does not require the oversized services proposed in SE 13. Sturgeon County understands that there is adequate capacity in the Capital Region water and wastewater lines connected to Bon Accord.

Landowner Presentations

L. Neilson and C. and M. Campbell (Owners of NE13 and NW18)

[59] Mr. Geisterfer, legal counsel for landowners of the two northern quarter sections, reiterated that the landowners do not want to be annexed, and are concerned about the impact that annexation would have on family members who would take over the farming operations.

[60] Bon Accord has provided no assurance that growth will occur and cannot meet the 15 annexation principles. Mr. Geisterfer remarked that the annexation request is grandiose, and the additional lands unnecessary. The studies presented by Bon Accord are misleading and incorrect due to the rate of growth. Mr. Geisterfer observed that, if Bon Accord had a growth rate of 2% per year, the population should have grown from 1418 residents in 1996 to 2262 residents in 2017. Instead, Bon Accord's 2017 population is 1518. While Bon Accord has stated that they have tried to get these lands to develop, including preparing plans, it's unclear if any other measures or incentives have been used. Bon Accord should be required to develop the existing vacant lands before annexing more lands.

[61] As an example, lands previously owned by Mr. Neilson's family were annexed to Bon Accord over 25 years ago, and are still undeveloped. Taxes on the lands have increased. Perhaps instead of filing an annexation application for 3 quarter sections, Bon Accord should have explored other options including annexing only one quarter section, or entering into a standstill agreement with the owner of SE13 and Sturgeon. With a standstill agreement, oversized services could be installed and after SE13 was developed, Bon Accord could apply to annex additional lands from Sturgeon and the owner of SE13 would still be paid.

J. Tighe for MMT Development

[62] MMT Development owns SE13 and intends to develop commercial property adjacent to Highway 28. It is willing to install oversized services in SE13 so that services can be extended into NE13 and NW18.

[63] Mr. Tighe explained that, in his opinion, the existing greenfield lands have not been developed because the landowners are not interested in servicing and developing the lands. The lands are also being incorrectly marketed. Mr. Tighe explained that previous councils adopted policies to have Bon Accord remain a small town and residential taxes have increased. Within the existing townsite, there are only 10 serviced residential lots and one commercial lot available. If there were serviced land available, there would be growth.

[64] Mr. Tighe commented that the extension of the assessment and taxation conditions from 20 to 50 years is a gift to other landowners. With an additional 30 years, the current landowners and their families have time to consider and pursue different plans.

T. Strawson

[65] Mr. Strawson is an adjacent landowner in Sturgeon, whose lands are not within the annexation area. He raised concerns about the amount and location of land proposed for annexation. Three quarter sections are excessive, suggesting that the annexation could be scaled back to only one or two legal subdivisions (LSD). Instead of annexing lands to the north, Bon Accord could annex the lands south of Highway 28 since those lands had visibility and access.

PART V MGB RECOMMENDATION

[66] After reviewing the written and oral submissions from Bon Accord, Sturgeon, and affected landowners, the MGB finds the annexation request to be reasonable. The MGB recommends the annexation of the land identified in Bon Accord’s annexation application with an effective date of April 1, 2018. The Board also recommends the approval of a 50-year timeframe within which municipal assessment and taxation of the annexed lands will be maintained as if the lands were within Sturgeon, until 2068, unless one of the following actions occurs:

- The creation of a new parcel or a new title through the subdivision process, by separation of title by registered plan of subdivision, or by instrument at the request of or on behalf of the landowner,
- Redistricting of the land under Bon Accord’s Land Use Bylaw to a different district than that which was in place at the time of annexation, or.
- The land ceases to be used as a farming operation, and is redistricted to a different land use district under Bon Accord’s Land Use Bylaw.

PART VI REASONS

[67] The MGB finds the annexation application and the further detail provided in the parties’ oral presentations provided sufficient information to evaluate the proposed annexation. The MGB’s reasons for its recommendation are identified below.

Annexation Process

[68] The Act requires the initiating municipality to meet and negotiate in good faith with the municipality from which the land is being annexed. Bon Accord and Sturgeon engaged in discussion and negotiation and were able to reach agreement on the annexation. There were indications of strong cooperation between the municipalities and that there was an apparent mutual respect in terms of each municipalities’ duties, roles, and responsibilities in the annexation process and moving forward with the annexation.

[69] The MGB finds that both municipalities acted reasonably and openly communicated with affected landowners. Bon Accord satisfied the Act’s requirements for public participation by conducting public information sessions and engaging residents. Bon Accord also held one-on-one meetings with the affected landowners and provided written responses to any questions, and extended funding for the affected residents to retain legal counsel to review the annexation application.

Annexation Lands Proposed

[70] Bon Accord pursued this annexation to generate growth, provide needed commercial lands and non-residential assessment, and as a means to develop new and upgraded utility services. Bon Accord explained that it abandoned its original proposal to annex one quarter section because it did not meet long term utility servicing plans or needs, or contain enough lands for a benefitting lands (or cost contribution) agreement. After determining that additional lands were needed, Bon Accord undertook the servicing and financial impact assessment studies and made application for three quarter sections.

[71] The rationale for expanding the annexation area from one to three quarter sections was not evident in the application. However, at the hearing, presentations by Bon Accord's consultants corrected deficiencies in the application, revealing that servicing was the primary reason for expanding the annexation area to three quarter sections. Bon Accord's existing utility services, due to their design and capacity, cannot be extended. Any new development in Bon Accord, including that which could occur on the existing vacant lands, requires the design and construction of new utility servicing. The cost of such servicing has been a barrier to the development of the vacant lands, as the landowners have been unwilling or unable to pay for the necessary piping, lift stations and pumps.

[72] While Bon Accord's existing infrastructure appears to have some capacity for the proposed commercial development in SE13, it does not have enough capacity to provide servicing to all of SE13. Lack of capacity is but one issue. The existing utility infrastructure is too shallow, and the diameter of the pipes too narrow to simply extend the existing services. And, since the utilities are located underneath Bon Accord's paved streets, it would be costly to excavate the streets to remove the existing utilities and replace them with larger diameter pipes deeper underground.

[73] Since new and upgraded utility services would be required for any growth, the 2016 Servicing Study examined and considered all needed utilities for SE13, NE13 and NW18. All three quarter sections are required for stormwater management due to amount of ground water, overland flows, and area drainage patterns. While there are plans to service and develop SE13 initially, utilities were designed and oversized to allow for the future connection of NE13 and NW18. Depending on the outcome of discussions between Bon Accord and the landowner, financing for the necessary utilities will require the adoption of a bylaw for either a cost contribution agreement or an offsite levy. Since bylaws are of no effect outside of the municipality, Bon Accord must annex all three quarter sections to ensure the financing of the quarter sections.

[74] The MGB accepts Bon Accord's proposal for annexation of all three quarter sections. The MGB finds that the amount of land being requested by Bon Accord is reasonable given the intent of the annexation was to expand the tax base of Bon Accord and to provide additional lands and opportunities for development. All three quarter sections are necessary for the proposed servicing plans.

[75] While the lawyer for the Campbell and Neilson families suggested, in lieu of annexation of NE 13 and NW 18 at this time, that a standstill agreement be developed between Bon Accord, Sturgeon and the landowners, no details were provided about such an agreement. The MGB observes that, if Bon Accord and Sturgeon had intended to enter into such agreement, this would have been reflected in Bon Accord's application or in its presentation. The MGB acknowledges the landowners' concerns and considered them during the review of the written materials, and in its deliberations. To allay some of the concerns that taxes would be increased and the lands would not be developed, Bon Accord has increased the timeframe for its assessment and taxation conditions to 50 years to allow the lands to continue to be farmed prior to development.

[76] As Bon Accord expressed its position, this annexation is a Catch-22 situation. Without annexation, Bon Accord needs serviced land which can be developed. Within its existing boundaries, it has vacant lands that could be serviced, but landowners who are unwilling or unable to pay for the design and construction of services and for the lands. Bon Accord has attempted several initiatives to assist these landowners to market or develop their lands, but these have thus far been unsuccessful. With annexation, Bon Accord's land area will increase, and there is a promise of immediate development on SE13. To appropriately service the area, 3 quarter sections are required. Given the location of Alberta's Industrial Heartland within commuting distance, there is a market for additional residential land, and a need for local and highway commercial services.

Other Landowner Concerns

[77] Legal counsel for Neilson and Campbell raised concerns at the public hearing about Bon Accord arbitrarily changing the land use district of their properties once they are included within Town boundaries. However, the assessment and taxation provisions in the annexation order note that Bon Accord must continue to assess the lands as if in Sturgeon unless it is triggered at the request of, or on behalf of the landowners through premature development, town water and sewer network connection, or subdivision of the annexation area. The lands will be considered Urban Reserve and so long as an agricultural use continues it will be assessed as a farming operation and the assessment and taxations conditions will apply.

[78] Although change in land use districts is not imminent according to Bon Accord, land use re-districting would also undergo the legislated public consultation and public hearing process prior to implementation. This would allow landowners the opportunity to raise their concerns and cooperate with Bon Accord. In correspondence with the landowners, Bon Accord addressed all the other concerns raised by the landowners about fees for development permits, waste management and recycling, and connection to utilities after annexation.

Assessment and Taxation

[79] In consideration of the affected landowners' concerns regarding the uncertainty of future development on their property, and in consideration of specific development or network expansion

timeframes, the MGB finds it reasonable to expand the municipal assessment and taxation arrangement suggested by Bon Accord from 20 years to 50. This will reduce some of the landowners' concerns of increasing taxes. This timeframe allows an opportunity for the affected landowners to plan for their future and collaborate with Bon Accord.

Financial Impact

[80] The MGB reviewed Bon Accord's financial information provided in its annexation application. Bon Accord appears to be in good financial standing with an adequate debt limit. Bon Accord is attempting to increase its supply of serviced land, the number of landowners and areas in which development could occur, with a view to attracting different types of development. This will benefit Bon Accord and the surrounding area.

[81] The proposed annexation will benefit Bon Accord's tax base in the long-term. This will allow growth, and additional tax revenue for Bon Accord. Currently, nearly 95% of its tax revenue comes from residential properties. Annexation provides additional land for commercial development, and provides an opportunity for Bon Accord to extend and improve its utilities by working with the developer of SE13.

[82] The MGB recognizes that the proposed annexation affects mainly agricultural land, and concludes that this will have a minor financial impact on both municipalities. This is not simply a tax initiative. The assessed value of the proposed annexation area was 1.5 million of which 1.38 million is taxable. The loss of this amount of assessment on Sturgeon County is negligible and represents 0.002% of the overall tax revenue. Given this amount, both municipalities have agreed compensation is unnecessary.

Effective Date

[83] The MGB acknowledges that both municipalities are in agreement with an annexation effective date of January 1, 2018, with a start year for the municipal assessment and taxation arrangement of 2019. After consulting with the municipalities, an effective date of April 1, 2018 was recommended by the MGB.

BOARD ORDER: MGB 049/17

FILE: AN15/BONA/T-001

CONCLUSION

[84] The MGB finds that the proposed annexation complies with the Act and addresses the MGB's 15 annexation principles. The MGB finds the conditions of annexations as recommended to be certain, unambiguous, enforceable and time specific. Furthermore, the proactive intent of the annexation and the amount of land agreed to by the municipalities is reasonable. The MGB notes that the affected landowners' concerns have been given proper consideration throughout the annexation process. Therefore, the MGB recommends the annexation.